

OFFICE OF THE SUPERVISOR

Town of Somers

WESTCHESTER COUNTY, N.Y.

Telephone
(914) 277-3637
Fax
(914) 276-0082

SOMERS TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589

RICK MORRISSEY
SUPERVISOR



**SOMERS TOWN BOARD
SPECIAL MEETING/WORK SESSION
THURSDAY, JUNE 2, 2016 6:30pm**

www.somersny.com

6:30pm – Executive Session

7:00pm Work Session

6:30pm – Executive Session – Personnel

A. PLEDGE OF ALLEGIANCE:

7:00pm **SPECIAL MEETING:**

1. Authorize the Supervisor to execute the following five agreements for Avalon Somers LLC:
 - a. Bond Agreement among Somers Realty Corp., Avalon Somers LLC, Town of Somers and Travelers Insurance Company
 - b. Loop Water System Agreement between Somers Realty Corp. and Town of Somers
 - c. Security Agreement between Avalon Somers, LLC and Town of Somers
 - d. Public Water Main Easement Agreement
 - e. Stormwater Management System Maintenance and Easement Agreement
 - f. Authorize Supervisor Morrissey to open an Escrow Account for Avalon Somers LLC., to pay for construction of Water Loop System per request from Robert Kehoe, Director of Finance.
2. Somers Crossing Draft Findings Statement - discussion.
3. Authorize Supervisor to execute Easement with NYSEG for installation of pole at the Angle Fly Preserve.

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PUBLIC COMMENT

Please limit your comments to no more than 3 minutes.

WORK SESSION:

B. PARKS & RECREATION:

1. Request permission to go to bid for replacement of the "Omni" tennis court surface, to be paid from Rec Fees per May 25, 2016 memo from Steven Ralston, Superintendent of Parks & Recreation.
2. Authorize hiring of Day Camp and Tusker (teen travel) Trax staff beginning June 25, 2016 – August 5, 2016 and to continue hiring as needed per May 25, 2016 memo from Steven Ralston, Superintendent of Parks & Recreation.
3. Request permission to create the position of Assistant Superintendent of Recreation per May 26, 2016 memo from Steven Ralston, Superintendent of Parks & Recreation.

C. TOWN BOARD:

1. Discussion with Robert Kehoe, Director of Finance.
2. Stone House – discussion with Ms. Nicole Mata.
3. Chapter 74: Building Construction of the Code of the Town of Somers – authorize all sheds regardless of size be required to have a building permit, per May 23, 2016 memo from Building Inspector Efrem Citarella.
4. Modify resolutions adopted May 18, 1995 and December 12, 1996 providing Part Time Police Officers Health, Life, Dental and Vision Insurance to only include PT Police Officers hired prior to May 1, 2016.

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5. Authorize replacement of entire roof at the Wright Reis House in the amount of \$22,800 by Salem Preservation. Additional monies will be needed as Historical Properties Board have only allocated \$10,000.

D. FINANCIAL: - No additional business.

E. HIGHWAY: - No additional business.

F. PERSONNEL:

1. Current Vacancies:

Somers Energy Environment Committee
Affordable Housing Board (5 –unexpired 2 year terms ending
7/11/2017)

2. Upcoming Vacancies:

Assessment Board of Review (1 – 5 year term ending 9/30/2021)

3. Acknowledge retirement of Barbara J. Sherry, Secretary to the Supervisor effective Wednesday, June 29, 2016.

G. PLANNING & ENGINEERING

1. For review and comment:

- a. The Crossroads at Baldwin Place Site Plan.
- b. Deutsch Wetland, Steep Slope, Stormwater Management and Erosion & Sediment Control & Tree Preservation Application.

H. POLICE: - No additional business.

I. PROPOSED CONSENSUS AGENDA:

1. Authorize Supervisor to execute the following:

- a. Addendum to the 2016 Agreement with Garden State Fireworks for Annual Fireworks on June 25, 2016 to add rain date of June 26, 2016
- b. AAA Transportation Program agreement for the period April 1, 2016 through March 31, 2017 in the amount of \$2,224.00.

2. Adopt resolution for standard work day reporting for elected and appointed officials for the NYS Retirement System.

**SOMERS TOWN BOARD
SPECIAL MEETING/WORK SESSION
THURSDAY, JUNE 2, 2016 6:30pm
www.somersny.com**

I. PROPOSED CONSENSUS AGENDA: (continued)

3. Authorize return of the following:

- a. \$300.00 Crook - Erosion Control Bond – 47.12.1.18

2016 CALENDAR

May 12, 2016	7:00pm	Town Board Regular Meeting
June 2, 2016	7:00pm	Town Board Work Session
June 9, 2016	7:00pm	Town Board Regular Meeting
July 14, 2016	7:00pm	Combined Work Session & Regular Meeting
August 4, 2016	7:00pm	Combined Work Session & Regular Meeting

5/27/2016 2:21 PM

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**SOMERS TOWN BOARD
SPECIAL MEETING/WORK SESSION
THURSDAY, JUNE 2, 2016 6:30pm
www.somersny.com**

I. PROPOSED CONSENSUS AGENDA: (continued)

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5/27/2016 2:21 PM

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a.

AGREEMENT made as of this ____ day of May, 2016 by and between SOMERS REALTY CORP., with an address at c/o AMH CPAs, 83 Calvert Street, Harrison, New York 10528 (“Somers Realty”), AVALON SOMERS, LLC, 1499 Post Road, Fairfield, CT 06824 (“Avalon”) and the TOWN OF SOMERS, 335 Route 202, Somers, New York 10589 (the “Town”).

WHEREAS, Somers Realty is the owner of certain property located at Mahopac Avenue and Route 6 in the Town of Somers, known as Sheet 4.20, Block 1, Lot 15 on the tax maps of the Town of Somers (the “Property”); and

WHEREAS, Somers Realty has received conditional Final Subdivision Approval from the Town of Somers Planning Board (Resolution 2016-01) (the “Somers Realty Final Subdivision Approval”), which includes requirements for the construction of certain public infrastructure, including roads and utilities, identified and defined as the “Public Infrastructure” in the Purchase Agreement dated August 28, 2013 between Somers Realty Corp. and AvalonBay Communities, Inc., as amended (the “Purchase Agreement”), which was assigned to Avalon by Assignment of Purchase Agreement dated May __, 2016, and which for purposes of this Agreement does not include the looped water main connection extending from Hidden Meadows, and further requires that one or more bonds (each a “Bond” and collectively, the “Bonds”) be posted with the Town prior to the signing of the final Somers Realty Planned Hamlet Phase 3 subdivision map (the “Subdivision Map”) to secure completion of the Public Infrastructure; and

WHEREAS, pursuant to the Purchase Agreement, Avalon will purchase Lots 3A, 3B, 3C, and 3D (the “Avalon Lots”) as shown on the Subdivision Map; and

WHEREAS, Avalon has received conditional Site Plan Approval from the Town of Somers

Planning Board (Resolution 2016-02) for the residential development of the Avalon Lots (the "Avalon Site Plan Approval"); and

WHEREAS, the Purchase Agreement further provides that Avalon will construct the Public Infrastructure required to be constructed pursuant to the Somers Realty Final Subdivision Approval, because construction of the Public Infrastructure is necessary for the intended residential development of the Avalon Lots, and is also a condition of the Avalon Site Plan Approval; and

WHEREAS, the Purchase Agreement also provides that Avalon will post with the Town all required Bonds and pay all required Town engineering inspection fees in connection with the Public Infrastructure; and

WHEREAS, in order for the Town to accept such Bonds from Avalon as the Obligor, the Town has requested an agreement evidencing the obligation of Avalon to construct the Public Infrastructure.

NOW, THEREFORE, in consideration of the covenants herein and other good and valuable consideration, the parties hereto agree as follows:

1. Avalon hereby acknowledges that it is obligated to construct the Public Infrastructure.
2. The parties agree that all required Bonds for the Public Infrastructure may be posted by Avalon as obligor, for the benefit of the Town.
3. Avalon agrees that in the event the Town makes a claim against any Bond, it will not interpose as a defense that: (i) Somers Realty Corp., and not Avalon, is the subdivider/obligated party under the Somers Realty Final Subdivision Approval; or (ii) Avalon is not obligated to construct the Public Infrastructure.
4. Notwithstanding any provision of this Agreement to the contrary, this Agreement and

Avalon's rights and obligations hereunder are in all respects subject to, and conditioned upon, the closing of the acquisition by Avalon of the Avalon Lots in accordance with the Purchase Agreement.

5. This Agreement may be executed by the parties hereto individually or in any combination in one or more counterparts, each of which shall be original and all of which shall constitute one and the same Agreement. Facsimile or .pdf signatures shall be accepted and considered to be an original.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

AVALON SOMERS, LLC
By: AvalonBay Communities, Inc., its sole member

By: _____
Matthew Whalen, Senior Vice President

SOMERS REALTY CORP.

By: _____
Seth Capozza, President

TOWN OF SOMERS

By: _____
Rick Morrissey, Supervisor

Acknowledged by:
Travelers Casualty and Surety Company of America
By: Mark W. Edwards, II
Mark W. Edwards, II, Attorney-in-Fact
05/20/16



POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 228829

Certificate No. 006346210

KNOW ALL MEN BY THESE PRESENTS: That Farmington Casualty Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company are corporations duly organized under the laws of the State of Connecticut, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc. is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Robert Paul Davis of Atlanta, Georgia, Robert M. Verdin of Metairie, Louisiana, Mark W. Edwards, II, Ronald B. Chasnovich, Jeffrey M. Wilson, William M. Smith, Evelyn H. Wassner, Robert R. Proel, Alica B. Frank of Birmingham, Alabama, and Christopher C. Gardner

of the City of Union State of Mississippi, their true and lawful Attorneys-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF the Companies have caused this instrument to be signed and their corporate seals to be hereon affixed, this 23rd day of July 2015

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut
City of Hartford is

By [Signature]
Robert L. Rowy, Senior Vice President

On this 23rd day of July 2015, before me personally appeared Robert L. Rowy, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I have set my hand and official seal My Commission expires the 30th day of June, 2016.



[Signature]
Marie C. Tetreault, Notary Public

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Board of Directors of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guaranty Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-In-Fact and Agents to act for and on behalf of the Company and may give such appointees such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal and bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may revoke any such appointment and revoke the power given him or her and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed under seal, if required, by one or more Attorneys-In-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-In-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the same with respect to any bond or undertaking to which it is attached.

I, Kevin E. Hughes, the undersigned, Assistant Secretary of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guaranty Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 20th day of May, 2010.


Kevin E. Hughes, Assistant Secretary



To verify the authenticity of this Power of Attorney, call 1-800-421-3880 or contact us at www.aonattest.com. Please refer to the Attorney-In-Fact number, the above-named individuals and the details of the bond on which the power is attached.

SECURITY AGREEMENT

THIS SECURITY AGREEMENT (this "Agreement") is made and entered into as of the ___ day of June, 2016, by and between by and between Avalon Somers, LLC, a Delaware limited liability company having its offices at 1499 Post Road, Fairfield, Connecticut 06824 ("Avalon"), and the Town of Somers, a municipal corporation having its offices 335 Route 202, Somers, New York 10589 (the "Town"). Avalon and the Town may be referred to in this Agreement individually as a "party" and jointly, as the "parties."

RECITALS:

WHEREAS, Somers Realty is the owner of certain property located at Mahopac Avenue and Route 6 in the Town of Somers, known as Sheet 4.20, Block 1, Lot 15 on the tax maps of the Town of Somers (the "Property"); and

WHEREAS, Somers Realty has received conditional Final Subdivision Approval from the Town of Somers Planning Board (Resolution 2016-01) (the "Somers Realty Final Subdivision Approval"), which includes requirements for the construction of certain public infrastructure, including roads and utilities, identified and defined as the "Public Infrastructure" in the Purchase Agreement dated August 28, 2013 between Somers Realty Corp. and AvalonBay Communities, Inc., as amended (the "Purchase Agreement"), which was assigned to Avalon by Assignment of Purchase Agreement dated May ___, 2016, and which for purposes of this Agreement does not include the looped water main connection extending from Hidden Meadows, and further requires that one or more bonds or other security be posted with the Town prior to the signing of the final Somers Realty Planned Hamlet Phase 3 subdivision map (the "Subdivision Map") to secure completion of the Public Infrastructure; and

WHEREAS, pursuant to the Purchase Agreement, Avalon will purchase Lots 3A, 3B, 3C, and 3D (the "Avalon Lots") as shown on the Subdivision Map; and

WHEREAS, Avalon has received conditional Site Plan Approval from the Town of Somers Planning Board (Resolution 2016-02) for the residential development of the Avalon Lots (the "Avalon Site Plan Approval"); and

WHEREAS, the Purchase Agreement further provides that Avalon will construct the Public Infrastructure required to be constructed pursuant to the Somers Realty Final Subdivision Approval, because construction of the Public Infrastructure is necessary for the intended residential development of the Avalon Lots, and is also a condition of the Avalon Site Plan Approval; and

WHEREAS, the Purchase Agreement also provides that Avalon will post with the Town all required bonds and pay all required Town engineering inspection fees in connection with the Public Infrastructure; and

WHEREAS, Avalon has delivered to the Town: (i) an unconditional, irrevocable letter of credit (the "Clayton Boulevard Letter of Credit") for the benefit of the Town in the amount of

\$150,000.00, to secure Avalon's performance of obligations to repair damage to and/or restore any portions of Clayton Boulevard damaged during the construction of the Project, as required by condition no. 10 of the "Conditions Required Prior to Signing of Plat" of the Somers Realty Final Subdivision Approval, and condition no. 14 of the "On-going Conditions Required After Signing of Site Plan" of the Avalon Site Plan Approval (the "Clayton Boulevard Restoration Work"); and (ii) an unconditional, irrevocable letter of credit (the "Soil and Erosion Control Letter of Credit") (each a "Letter of Credit" and collectively, the "Letters of Credit") for the benefit of the Town in the amount of \$157,962.00, to secure Avalon's implementation and performance of all required temporary soil erosion and sedimentation control measures, and stabilization and/or restoration of all areas disturbed as a result of construction of the Project, as required by condition no. 13 of the "On-going Conditions Required After Signing of Site Plan" of the Avalon Site Plan Approval (the "Site Stabilization Work", and collectively with the Clayton Boulevard Restoration Work, the "Work").

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

I. EFFECTIVE DATE

- A. This Agreement shall become effective upon its execution by the parties (the "Effective Date").
- B. The term of this Agreement shall commence on the Effective Date and terminate upon the date (the "Termination Date") the Town Engineer issues to the Town of Somers Planning Board a written certification that either: (i) the Project is completed, and no Work is required to be performed; or (ii) all required Work has been satisfactorily completed.

II. SECURITY

- A. As security for the implementation and performance of the Work, Avalon agrees to provide the Letters of Credit to the Town. Each of the Letters of Credit shall have a term which will initially expires on a date which is not earlier than the first (1st) anniversary of the date thereof, and provide for automatic renewals for periods of not less than one (1) year unless notice of non-renewal is given by the issuer to the Town at least thirty (30) days prior to the expiration date thereof, permit multiple drawings, and otherwise be in form and substance reasonably satisfactory to the Town.
- C. The Town hereby agrees that it will draw under the applicable Letter of Credit and undertake the Work only if Avalon does not perform, implement, or complete the Work within ten (10) days after written notice of such default is given by the Town to Avalon, or, with respect to defaults not reasonably capable of cure within ten (10) days, fails to commence to cure such default within ten (10) days or thereafter fails to diligently prosecute such cure to completion. The Letters of

Credit shall not be drawn under except as provided in this Agreement, and only to pay costs of the Work undertaken by the Town.

D. Nothing herein shall prevent the Town and Avalon from mutually agreeing to extend the time for performance of the Work. Notwithstanding any provision of this Agreement, if a default by Avalon creates an imminent threat to the environment or public health, safety, and welfare, as determined by the Town in its sole but reasonable discretion, the Town shall have the right to draw under the applicable Letter of Credit to undertake the Work without waiting for any cure period to expire.

E. The Letter of Credit shall be returned to Avalon on the Termination Date.

III. MISCELLANEOUS

A. Notices. All notices required under this Agreement will be in writing and will be served by personal delivery, or by prepaid, express mail (next day) via a nationally known courier service, or by prepaid, registered or certified mail, addressed to the respective parties at their addresses set forth below. Any such notice will be deemed to be given and effective: (i) if personally delivered, then on the date of such delivery; (ii) if sent via express mail (next day) then one (1) business day after the date such notice is sent; or (iii) if sent by registered or certified mail, then three (3) business days following the date such notice is deposited in the United States mail addressed as aforesaid. For purposes of this Agreement, "business day" shall be deemed to mean a day of the week other than a Saturday or Sunday or other holiday recognized by banking institutions of the State of New York. Copies of all notices shall be sent to the following:

If to Avalon: Avalon Somers, LLC
1499 Post Road
Fairfield, Connecticut 06824
Attn: Todd Nicotra

With a Copy To: Delbello, Donnellan, Weingarten, Wise &
Wiederkehr, LLP
1 North Lexington Avenue
White Plains, New York 10601
Attn: Peter J. Wise

If to the Town: Town of Somers
335 Route 202
Somers, New York 10589
Attn: Town Supervisor

With a Copy To: Town of Somers
335 Route 202
Somers, New York 10589

Attn: Town Attorney

B. Parties in Interest. All of the terms and provisions of this Agreement will be binding upon and inure to the benefit of and be enforceable by the heirs, legal representatives, successors and permitted assigns of the parties hereto.

C. Entire Agreement. There are and were no verbal or written representations, warranties, understandings, stipulations, agreements, or promises pertaining to the subject matter of this Agreement made by the parties or any agent, employee, or other representative of the parties or by any broker or any other person representing or purporting to represent the parties, not incorporated in writing in this Agreement, and neither this Agreement nor any of the terms, provisions, conditions, representations, or covenants contained in this Agreement can be modified, changed, terminated, amended, superseded, waived, or extended except by an appropriately written instrument specifically referencing this provision duly executed by the parties.

D. Originals. This Agreement may be executed in counterparts, each of which will be an original, and a digital copy showing execution shall be given the same force and effect of an original.

E. Section and Other Headings. The section and other headings contained in this Agreement are for reference purposes only and will not in any way affect the meaning or interpretation of the text of this Agreement.

F. Governing Law. This Agreement will be construed and enforced in accordance with the laws of the State of New York, without giving effect to any conflict of laws or choice of law rules to the contrary.

G. Assignment of Agreement. Avalon shall not assign any interest in this Agreement or the Reclamation Security or Landscape Survival Security without the prior written consent of the Town.

H. No Third Party Beneficiaries. This Agreement is for the sole benefit of Avalon and the Town and their respective legal representatives, successors, heirs and permitted assigns, and no other person or entity shall be entitled to rely upon or receive any benefit from this Agreement.

[Nothing further on this page.]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

AVALON SOMERS, LLC

By: AvalonBay Communities, Inc., its sole member

By: _____

Name: Matthew B. Whalen

Title: Senior Vice President

TOWN OF SOMERS

By: _____

Name: Rick Morrissey

Title: Supervisor

[LETTERHEAD OF BANK]

IRREVOCABLE LETTER OF CREDIT NO. _____

DATE: _____

APPLICANT
AVALON SOMERS, LLC
1499 POST ROAD
FAIRFIELD, CT 06824

ISSUING BANK
BANK OF AMERICA, N.A.
FLEET WAY
PA6-580-02-30
SCRANTON, PA 18507-1999

AMOUNT
USD \$ _____ .00
**NOT EXCEEDING _____ DOLLARS
AND NO CENT.**

EXPIRATION
_____, 2017 AT OUR COUNTERS

BENEFICIARY
TOWN OF SOMERS
335 ROUTE 202
SOMERS, NEW YORK 10589

GENTLEMEN/LADIES:

WE HEREBY OPEN OUR IRREVOCABLE LETTER OF CREDIT NO. _____ IN YOUR FAVOR.

CREDIT AVAILABLE WITH BANK OF AMERICA, N.A. BY PAYMENT OF BENEFICIARY'S DRAFT(S) DRAWN ON BANK OF AMERICA, N.A. AT SIGHT IN THE FORM OF ANNEX 1 ATTACHED HERETO, WITH BLANKS APPROPRIATELY COMPLETED AND SIGNED BY YOUR AUTHORIZED SIGNATORY.

DRAFTS MUST BE ACCOMPANIED BY:

1. THE ORIGINAL LETTER OF CREDIT AND ALL AMENDMENTS, IF ANY.
2. A DATED STATEMENT ~~PURPORTEDLY~~ SIGNED BY AN AUTHORIZED SIGNATORY OFFICER/ ~~REPRESENTATIVE~~ OF THE BENEFICIARY ON BENFICIARY'S LETTERHEAD READING AS FOLLOWS.

QUOTE

THE UNDERSIGNED IS ENTITLED TO DRAW UPON THIS LETTER OF CREDIT IN ACCORDANCE WITH THE TERMS OF THAT CERTAIN SECURITY AGREEMENT BETWEEN AVALON SOMERS, LLC AND THE TOWN OF SOMERS, DATED AS OF JUNE ___, 2016.

UNQUOTE

PARTIAL DRAWINGS ARE PERMITTED.

REFERENCE TO ANY DOCUMENT, INSTRUMENTS OR AGREEMENTS OTHER THAN THE CREDIT FACILITY IS FOR IDENTIFICATION PURPOSES ONLY AND SUCH DOCUMENT, INSTRUMENT OR AGREEMENT WILL NOT BE INCORPORATED INTO THE TERMS OF THE LETTER OF CREDIT.

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE DEEMED AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR PERIOD(S) OF ONE (1) YEAR EACH FROM THE CURRENT EXPIRY DATE HEREOF, OR ANY FUTURE EXPIRATION DATE, UNLESS AT LEAST SIXTY (60) DAYS PRIOR TO ANY EXPIRATION DATE, WE NOTIFY YOU BY REGISTERED MAIL OR OVERNIGHT COURIER AT THE ABOVE LISTED ADDRESS THAT WE ELECT NOT TO CONSIDER THIS LETTER OF CREDIT ~~RENEWED~~ EXTENDED FOR ANY SUCH ADDITIONAL PERIOD.

ANY SUCH NOTICE SHALL BE EFFECTIVE WHEN SENT BY US AND UPON SUCH NOTICE TO YOU, YOU MAY DRAW AT ANY TIME PRIOR TO THE THEN CURRENT EXPIRATION DATE, UP TO THE FULL AMOUNT THEN AVAILABLE HEREUNDER, AGAINST YOUR DRAFT(S) DRAWN ON US AT SIGHT AND THE ORIGINAL OF THIS LETTER OF CREDIT AND ALL AMENDMENTS THERETO, ACCOMPANIED BY YOUR ~~PURPORTEDLY~~ SIGNED STATEMENT ON YOUR LETTERHEAD STATING THAT YOU ARE IN RECEIPT OF BANK OF AMERICA, N.A.'S NOTICE OF NONEXTENSION RENEWAL UNDER LETTER OF CREDIT NO. _____ AND THE APPLICANT'S OBLIGATION TO YOU REMAINS.

DRAFT(S) MUST STATE "DRAWN UNDER BANK OF AMERICA, N.A., STANDBY LETTER OF CREDIT NUMBER _____ DATED _____, 2016."

WE HEREBY AGREE WITH YOU THAT DRAFT(S) DRAWN UNDER AN IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT SHALL BE DULY HONORED UPON DUE PRESENTATION TO US. PRESENTATION OF DRAFTS DRAWN HEREUNDER MAY BE MADE IN PERSON, BY NATIONALLY RECOGNIZED OVERNIGHT COURIER SERVICE, OR BY FACSIMILE (570-330-4186) (IF PRESENTED BY FAX IT MUST BE FOLLOWED UP BY A PHONE CALL TO US AT 800-370-7519 TO CONFIRM RECEIPT) AT ANY TIME ON OR BEFORE _____ 2017 (THE "EXPIRY DATE") AT OUR OFFICES LOCATED AT 1 FLEET WAY, SCRANTON, PA 18507, ATTN: GLOBAL TRADE OPERATIONS - STANDBY UNIT. ANY SUCH FACSIMILE DOCUMENTATION NEED NOT BE ~~SHALL PROMPTLY BE~~ FOLLOWED BY ORIGINAL DOCUMENTATION BY MAIL OR NATIONALLY RECOGNIZED OVERNIGHT COURIER SERVICE.

COMMUNICATIONS WITH RESPECT TO THIS LETTER OF CREDIT SHALL BE IN WRITING AND SHALL BE ADDRESSED TO US AT, ONE FLEET WAY, SCRANTON PA 18507, ATTN: TRADE SERVICES DEPARTMENT - STANDBY UNIT, PHONE: 1-800-370-7519, SPECIFICALLY REFERRING TO THE NUMBER OF THIS LETTER OF CREDIT.

EXCEPT AS OTHERWISE EXPRESSLY STATED HEREIN, THIS CREDIT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK, AND IS ISSUED SUBJECT TO THE INTERNATIONAL STANDBY PRACTICES (ISP98), INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 590.

IF YOU REQUIRE ANY ASSISTANCE OR HAVE ANY QUESTIONS REGARDING THIS TRANSACTION, PLEASE CALL 800-370-7519

ANNEX 1
LETTER OF CREDIT
SIGHT DRAFT

DATE: _____

FOR VALUE RECEIVED:

PAY ON DEMAND TO TOWN OF SOMERTS \$_____. CHARGE TO ACCOUNT OF BANK OF AMERICA, N.A. DRAWN UNDER BANK OF AMERICA, N.A. STANDBY LETTER OF CREDIT NO. _____, DATED _____, 2016.

TO:
BANK OF AMERICA, N.A.
1 FLEET WAY
PA6-580-02-30
SCRANTON, PA 18507-1999

NAME OF BENEFICIARY:

TOWN OF SOMERS

BY: _____
NAME:
TITLE:

d

PUBLIC WATER MAIN EASEMENT AGREEMENT

THIS PUBLIC WATER MAIN EASEMENT AGREEMENT (this "Agreement") is made as of the day of June, 2016, by and between Avalon Somers, LLC, a Delaware limited liability company with offices at 1499 Post Road, Fairfield, Connecticut 06824 ("Grantor"), and the Town of Somers, a municipal corporation duly organized and existing under the laws of the State of New York, and having its principal place of business at offices 335 Route 202, Somers, New York 10589 ("Grantee").

RECITALS:

A. Grantor is the owner of certain real property in the Town shown as Lots 3A, 3B, 3C, and 3D on that certain map filed in the Office of the County Clerk, County of Westchester on _____, 2016, as Map No. _____ (the "Map"), and described in Exhibit A attached hereto (the "Site").

B. Grantor intends to develop the Site as a residential community known as "Avalon Somers" (the "Project").

C. On March 23, 2016, the Planning Board of the Town of Somers (the "Planning Board") adopted Resolution No. 2016-02 (the "Approval"), granting conditional site plan approval, a steep slopes protection permit, and stormwater management and erosion and sediment control permit, for the development of the Project.

D. As part of the Project, Grantor has constructed certain public infrastructure, including public water mains and appurtenances (collectively, the "Water Main"), which will require maintenance, repair, restoration and replacement from time to time. The Water Main is located within the portions of the Site described in Exhibit B annexed hereto and shown and designated as "Water Easement" on the Map (the "Easement Area").

NOW, THEREFORE, in consideration of the sum of Ten and 00/100 Dollars (\$10.00) paid by Grantee to Grantor, receipt of which is hereby acknowledged, and other good and valuable consideration received by Grantor from Grantee, the parties hereto agree as follows:

I. Grantor has constructed and installed the Water Main in accordance with the following plans approved by the Planning Board:

Drawing No.	Title	Prepared By	Dated
UT-1	Site Plan - Utilities	Milone & MacBroom, Inc.	3/23/16
UT-2	Site Plan - Utilities		3/23/16
UT-3	Site Plan - Utilities	Milone & MacBroom, Inc.	3/23/16
UT-4	Site Plan - Utilities	Milone & MacBroom, Inc.	3/23/16
UT-5	Site Plan - Utilities	Milone & MacBroom, Inc.	3/23/16
UT-6	Site Plan - Utilities	Milone & MacBroom, Inc.	3/23/16

negligence or willful misconduct of Grantee, its officers, employees, agents, representatives or contractors.

4. Grantor shall not authorize, undertake, or permit any material alteration, abandonment, modification or discontinuation of the Water Main except in accordance with the prior written approval of Grantee, or erect any permanent buildings, structures, walls or obstructions of any kind or nature on, in or over the Easement Area without Grantee's prior consent, except that Grantor shall be permitted to: (a) plant and maintain within the Easement Area turf grasses and non-woody annual and perennial ornamental plants; and (b) construct and install on, over and across the Easement Area asphalt, concrete or other permanent pavement and construct and install curbing, stormwater drainage conveyances and facilities, and other utilities and "street" improvements, and appurtenances.

5. Ownership of the Easement Area (but not the Water Main) shall remain in all respects vested in Grantor and its successors and/or assigns, and the use and enjoyment of the Easement Area is retained in perpetuity by and for Grantor, its successors and/or assigns, subject to the provisions of the Easement granted hereby.

6. Any notice required under this Agreement shall be deemed duly given when made in writing and mailed by certified mail return-receipt requested to the party at the following address (or to such other address as that party may give notice of in writing from time to time):

Grantor:

Avalon Somers, LLC
1499 Post Road
Fairfield, Connecticut 06824

And to:

AvalonEly Communities, Inc.
Ballston Tower
571 North Glebe Road - Suite 800
Alexandria, Virginia 22203
Attention: General Counsel

Grantee:

Town of Somers
335 Route 262
Somers, New York 10589
Attention: Supervisor

7. This Agreement and all rights and easements hereunder granted shall run with the land and shall be binding upon the successors, legal representatives and assigns of Grantor and Grantee.

8. The failure of any person to enforce any provision of this Agreement and/or the easements and rights granted hereby shall not be deemed a waiver of such person's right to do so thereafter.

9. The parties hereby irrevocably submit to the exclusive jurisdiction of the Supreme Court of the State of New York over any suit, action or proceeding arising out of or relating to this Agreement, and to Westchester County as the exclusive venue of any such suit, action or proceeding. The parties hereby irrevocably waive, to the fullest extent permitted by law, any objection they may now or hereafter have to such venue as being an inconvenient forum.

10. If any provision of this Agreement or the application thereof to any person or circumstance is determined by a court of competent jurisdiction to be invalid, the remainder of the provisions of this Agreement and the application of such provisions to persons or circumstances other than those as to which it is found to be invalid shall not be affected thereby.

11. Nothing expressed or implied in this Agreement is intended or shall be construed to give any person other than the parties hereto any right, remedy or claim under or with respect to this Agreement. This Agreement is intended for the sole and exclusive benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

[Nothing further on this page.]

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto the day and year first written above.

AVALON SOMERS, LLC

By: AvalonBay Communities, Inc., its sole member

By: _____

Name:

Title:

TOWN OF SOMERS

By: _____

Name:

Title:

STATE OF _____)

COUNTY _____) ss.:

On the ___ day of _____ in the year 201_, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signatures on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK)

COUNTY OF WESTCHESTER) ss.:

On the ___ day of _____ in the year 201_, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signatures on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

EXHIBIT A

Legal description of the Site

EXHIBIT B

Legal description of the Easement Area.

e

**STORMWATER MANAGEMENT SYSTEM MAINTENANCE AND EASEMENT
AGREEMENT**

THIS STORMWATER MANAGEMENT SYSTEM MAINTENANCE AND EASEMENT AGREEMENT (this "Agreement") is made and entered into the ___ day of June 2016, by and between Avalon Somers, LLC, a Delaware limited liability company having its offices at 1499 Post Road, Fairfield, Connecticut 06824 ("Grantor"), and the Town of Somers, a municipal corporation having its offices 335 Route 202, Somers, New York 10589 ("Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner of certain real property in the Town of Somers shown as Lots 3A, 3B, 3C, and 3D on that certain map filed in the Office of the County Clerk, County of Westchester on _____, 2016, as Map No. _____, and described in Exhibit A attached hereto (the "Site"); and

WHEREAS, Grantor intends to develop the Site as a residential community known as "Avalon Somers" (the "Project"); and

WHEREAS, on March 23, 2016, the Planning Board of the Town of Somers (the "Planning Board") adopted Resolution No. 2016-02 (the "Approval"), granting conditional site plan approval, a steep slopes protection permit, and stormwater management and erosion and sediment control permit, for the development of the Project; and

WHEREAS, the Planning Board approved the construction and installation of a stormwater management system serving the Project (the "Stormwater Management System"), and coverage for the Project under New York State Department of Environmental Conservation ("NYSDEC") SPDES General Permit for Stormwater Discharges from Construction Activities (Permit No. GP-0-15-002); and

WHEREAS, Grantee and Grantor desire that the Stormwater Management System be built and installed in accordance with the approved Project Documents (as defined below) and all applicable NYSDEC regulations, standards and guidelines for the Project and thereafter be maintained, cleaned, repaired, replaced, and continued in perpetuity in order to ensure optimum performance of the components of the Stormwater Management System.

NOW THEREFORE, Grantee and Grantor hereby agree as follows:

1. Grantor shall construct and install the Stormwater Management System in accordance with the approved Project Documents and all applicable NYSDEC regulations, standards and guidelines.
2. Grantor shall repair and maintain the Stormwater Management System, as needed, to ensure that it shall remain fully operational.

3. Grantor represents and ensures that the following design documents (the "Project Documents") contain all necessary information to construct, operate, and maintain the Stormwater Management System for the lifetime of the facility, as required by NYSDEC for compliance with the conditions of NYSDEC SPDES General Permit No. GP-0-15-002, as may be amended from time to time:

(a) Plans approved by the Planning Board consisting of the following drawings, among others, prepared by Milone & MacBroom, Inc. and Insite Engineering, Surveying & Landscape Architecture, P.C. ("Insite Engineering"):

Drawing No.	Title	Prepared By	Dated
UT-1	Site Plan - Utilities	Milone & MacBroom, Inc.	3/23/16
UT-2	Site Plan - Utilities	Milone & MacBroom, Inc.	3/23/16
UT-3	Site Plan - Utilities	Milone & MacBroom, Inc.	3/23/16
UT-4	Site Plan - Utilities	Milone & MacBroom, Inc.	3/23/16
UT-5	Site Plan - Utilities	Milone & MacBroom, Inc.	3/23/16
UT-6	Site Plan - Utilities	Milone & MacBroom, Inc.	3/23/16
SP-1	Stormwater Pollution Prevention Plans	Milone & MacBroom, Inc.	2/5/16
SP-2	Stormwater Pollution Prevention Plans	Milone & MacBroom, Inc.	2/5/16
SP-3	Stormwater Pollution Prevention Details	Milone & MacBroom, Inc.	11/6/15
SP-4	Stormwater Pollution Prevention Details	Milone & MacBroom, Inc.	3/28/16
SD-4	Site Details	Milone & MacBroom, Inc.	2/5/16
SD-5	Site Details	Milone & MacBroom, Inc.	3/23/16
SD-6	Site Details	Milone & MacBroom, Inc.	3/23/16
PR-1	Road Plan and Profile - Road 1	Milone & MacBroom, Inc.	2/6/16
PR-2	Road Plan and Profile - Road 1 Cont., Road 3	Milone & MacBroom, Inc.	2/8/16
PR-3	Road Plan and Profile - Road 4	Milone & MacBroom, Inc.	2/5/16
DP-1	Storm Drainage Profiles	Milone & MacBroom, Inc.	2/5/16
DP-2	Storm Drainage Profiles	Milone & MacBroom, Inc.	2/5/16
DP-3	Storm Drainage Profiles	Milone & MacBroom, Inc.	2/5/16
DP-4	Storm Drainage Profiles	Milone & MacBroom, Inc.	2/5/16
OP-1	Overall Plan	Insite Engineering	3/24/2016
SP-1.1	Layout & Landscape Plan	Insite Engineering	3/24/2016
SP-1.2	Layout & Landscape Plan	Insite Engineering	3/24/2016
SP-1.3	Layout & Landscape Plan	Insite Engineering	3/24/2016
SP-2.1	Grading & Utilities Plan	Insite Engineering	3/24/2016
SP-2.2	Grading & Utilities Plan	Insite Engineering	3/24/2016
SP-2.3	Grading & Utilities Plan	Insite Engineering	3/24/2016
SP-3.1	Sediment & Erosion Control Plan	Insite Engineering	3/24/2016

SP-3.2	Sediment & Erosion Control Plan	Insite Engineering	3/24/2016
SP-3.3	Sediment & Erosion Control Plan	Insite Engineering	3/24/2016
PR-1	Road Profiles	Insite Engineering	3/24/2016
PR-2	Sewer Profiles	Insite Engineering	3/24/2016
PR-3	Drainage Profiles	Insite Engineering	3/24/2016
PR-4	Drainage Profiles	Insite Engineering	3/24/2016
PR-5	Water Profiles	Insite Engineering	3/24/2016
D-1	Details	Insite Engineering	3/24/2016
D-2	Details	Insite Engineering	3/24/2015
D-3	Details	Insite Engineering	3/24/2016
D-4	Details	Insite Engineering	3/24/2016
D-5	Details	Insite Engineering	3/24/2016
D-6	Details	Insite Engineering	3/24/2016
D-7	Details	Insite Engineering	3/24/2016
D-8	Details	Insite Engineering	3/24/2016

(b) Final Storm Water Pollution Prevention Plan (“SWPPP”) for the Project, prepared by Milone & MacBroom, Inc. and Insite Engineering, Surveying & Landscape Architecture, P.C., and dated January 4, 2016.

(c) Any amendments to the Project Documents that may hereafter be approved by the Planning Board.

4. Grantor shall provide for inspections of the Stormwater Management System in accordance with the SWPPP to determine the condition and integrity of the system. Such inspections shall be performed not more frequently than every five (5) years by a professional engineer licensed by the State of New York or anyone else certified or authorized by the State of New York to conduct such inspections (the “Inspecting Engineer”). The Inspecting Engineer shall prepare and submit to Grantee within thirty (30) days of the inspection a written report of the condition of the Stormwater Management System, including recommendations for those actions necessary to ensure the system will remain fully operational. The Inspecting Engineer’s report shall be certified to both Grantor and Grantee.
5. Grantor shall undertake all necessary repairs and replacement of the Stormwater Management System in accordance with the recommendations of the Inspecting Engineer. Grantor is responsible for all related expenses.
6. Failure to properly maintain the Stormwater Management System could potentially result in a violation of the New York State Environmental Conservation Law.
7. Grantor hereby grants an easement to Grantee to enter onto the Site at reasonable times and in a reasonable manner, upon not less than three (3) days’ notice, for the purposes set forth in this Agreement including, without limitation, inspecting the Stormwater Management System. Inspections may include, but are not limited to: reviewing maintenance and repair

records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

8. If ever the Grantee determines that Grantor has failed to construct or maintain the Stormwater Management System in accordance with the Project Documents and all applicable NYSDEC regulations standards and guidelines, or has failed to undertake corrective action specified by Grantee or by the Inspecting Engineer, and the Grantee has provided written notice of such failure and a reasonable opportunity to remedy the failure to Grantor (which, for all non-emergency conditions shall be a period of not less than 30 days), Grantee is authorized to enter onto the Site to undertake such steps as reasonably necessary for the preservation, continuation, or maintenance of the Stormwater Management System. In the event Grantee, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, or materials, Grantor, its successors and assigns, shall reimburse Grantee upon demand, within thirty (30) days of receipt of written demand specifying in reasonable detail the actual costs incurred by Grantee. If Grantee is not reimbursed within the prescribed time, Grantee is authorized to affix the expenses thereof as a lien against the Site. Any work undertaken by Grantee shall be performed in a good and workmanlike manner, and Grantee shall repair any damage to the Site outside of the Stormwater Management System (or to the system itself) caused by Grantee's activities.
9. The easement granted hereby shall not confer unto Grantee any duty or obligation to fix or maintain the Stormwater Management System. Further, Grantee's acceptance of any rights pursuant to this Agreement shall not be deemed as the acceptance of any duty or obligation to fix or maintain the Stormwater Management System
10. Grantor shall not authorize, undertake, or permit any material alteration, abandonment, modification or discontinuation of the Stormwater Management System except in accordance with written approval of the Planning Board.
11. Any notice required under this Agreement shall be deemed duly given when made in writing and mailed by certified mail return-receipt requested to the party at the following address (or to such other address as that party may give notice of in writing from time to time):

Grantor:
Avalon Somers, LLC
1499 Post Road
Fairfield, Connecticut 06824

And to:

AvalonBay Communities, Inc.
Ballston Tower
671 North Glebe Road - Suite 800
Alexandria, Virginia 22203
Attention: General Counsel

Grantee:

Town of Somers
335 Route 202
Somers, New York 10589
Attention: Supervisor

12. Grantor shall disclose this Agreement to any successor or assign.
13. This Agreement is binding upon Grantor and its successors or assigns in accordance with its terms, and the provisions hereof shall be deemed to run with the land.
14. This Agreement may not be altered except in a writing signed by Grantor and Grantee (or their successors or assigns).

[Nothing further on this page.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly signed and made effective as of the day and year first above written.

AVALON SOMERS, LLC

By: AvalonDay Communities, Inc., its sole member

By: _____

Name: Matthew B. Whalen

Title: Senior Vice President

TOWN OF SOMERS

By: _____

Name: Rick Morrissey

Title: Supervisor

STATE OF NEW YORK)
) ss:
COUNTY OF)

On the day of June in the year 2016, before me, the undersigned, personally appeared Matthew B. Whalen, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK)
) ss:
COUNTY OF WESTCHESTER)

On the day of June in the year 2016, before me, the undersigned, personally appeared Rick Morrissey, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

EXHIBIT A

Legal description of the Site

ESCROW AGREEMENT – WATER MAIN EXTENSION

ESCROW AGREEMENT (“Agreement”), dated as of June __, 2016 by and between Somers Realty Corp., a New York Corporation with an address at c/o AMH CPA’s, 83 Calvert Street, Harrison, NY 10528 (“Somers Realty”) and the Town of Somers, a New York municipal corporation having an address at 335 Route 202, Somers, NY 10589 (the “Town”).

WHEREAS, Somers Realty is the owner of that certain parcel of land located at Route 6 and Mahopac Avenue in the Town of Somers, which is shown and designated on a certain Subdivision Map entitled “Final Subdivision Plat known as the Somers Realty PH Zone Phase III Re-Subdivision of Lot 3 as Shown on Filed Map 28375” filed in the office of the Westchester County Clerk on _____ as Map Number _____ (the “Subdivision Map”), and also shown and designated on the Town of Somers Tax Assessment Map as Section 4.20, Block 1 Lot 15, (the “Property”); and

WHEREAS, Lot 3A, Lot 3B, Lot 3C, and Lot 3D shown on the Subdivision Map (collectively, “Lot 3”) are being developed as a multifamily residential community (the “Community”); and

WHEREAS, Lots 4, 5 and 6 shown on the Subdivision Map are intended for future development; and

WHEREAS, pursuant to the Town of Somers Planning Board Resolution #2016-01 granting conditional approval of the Subdivision Map, Somers Realty has agreed to fund the cost of the design, permitting and construction of the water main extension creating a looped system (the “Project”); and

WHEREAS, the parties have agreed that the Project will be undertaken directly by the Town, utilizing its Consulting Town Engineer, Woodard and Curran (the “Town Consulting Engineer”) for the design, permitting and oversight of the Project; and

WHEREAS, Somers Realty and the Town hereby agree that Somers Realty will providing the funding for the Project through an escrow fund to be established and administered in accordance with the provisions set forth herein.

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. Somers Realty has agreed to pay the design, permitting and construction costs for the water main extension from Mahopac Avenue to the Hidden Meadows subdivision to complete the loop of the water main system (the Project as defined above). Hidden Meadows shall be responsible for the extension of the water main from Windsor Farms and across Route 6. The parties agree the Project shall be undertaken as a Town project and funded by Somers Realty through an escrow account to be funded as set forth herein.

2. Somers Realty shall deposit the amount of \$770,000.00 with the Town as an initial deposit to the escrow account no later than ten (10) days after the closing of the sale of Lot 3 to Avalon Somers. The escrow account shall be established by the Town as a segregated interest bearing account (the "Escrow Account"). All invoices submitted for payment from the Escrow Account shall be forwarded to Somers Realty for review upon receipt.

3. The Town Consulting Engineer shall promptly begin work on the design of the Project. Design work shall include survey work and investigative work including borings to the extent necessary. The plans shall be consistent with the design for other water main extensions being undertaken within Somers Realty Phase 3 with respect to material, methods of construction and design, and the Town shall use its best efforts to value engineer the Project while meeting the standard of care for similar projects. The Town Consulting Engineer may consult with the Somers Realty engineer, Insite Engineering, Surveying & Landscape Architecture, P.C. ("Insite") in relation to the design as well as coordination with the design for the Hidden Meadows water main extension. Upon completion of the design and prior to submitting the plan to any permitting authority, the Town Consulting Engineer shall provide the plans to Insite for review and input into the final design.

4. Upon completion of the design, the Town Consulting Engineer on behalf of the Town shall submit to the applicable regulatory agencies, including NYS Department of Transportation, NYS Department of Environmental Conservation and the Westchester County Department of Health (the "Permitting Agencies"). Upon receipt of any comments from any of the Permitting Agencies, the Town Consulting Engineer shall provide a copy of such comments to Insite, and Insite and the Town Consulting Engineer shall jointly review how to respond to the comments and any changes to the plans to address the comments.

5. Upon receipt of all required permits and approvals from the Permitting Agencies, the Town Consulting Engineer shall prepare the bid packages incorporating the final approved plans and all conditions of the approvals together with standard municipal bid provisions. The bid package shall be provided to Insite for review and comment prior to being issued. Upon the opening of the bids, the bids shall also be provided to Insite and shall be jointly reviewed by the Town Consulting Engineer and Insite to determine conformance with the bid packages.

6. Upon the final award of the bid by the Town, the Town shall advise Somers Realty of the balance then in the Escrow Account. The Escrow Account shall then be adjusted by either additional deposit from Somers Realty or a refund such that the amount in the Escrow Account shall equal at the start of construction the contract bid amount plus 10%, and an additional amount for construction oversight by the Town Consulting Engineer equal to \$8083 per week for the estimated construction period.

7. All requisitions for payment by the contractor shall be forwarded to Insite and the Town Consulting Engineer prior to payment, and promptly reviewed by the Town Consulting Engineer. Approval of the Town Consulting Engineer shall be required prior to any payment to the contractor.

8. Should any Change Order be necessary after the Town enters into a contract, such Change Order shall be submitted to the Town Consulting Engineer and to Insite and Somers Realty's Attorney for review and comment. If any Change Order shall result in the Escrow Account having less than the balance due on the contract together with funds for the remaining construction oversight, Somers Realty will deposit the amount of the Change Order with the Town to be added to the Escrow Account.

9. The Town may also pay from the Escrow Funds the Town's Finance Department administrative costs in the amount of \$7,500.00.

10. Upon completion of construction to the satisfaction of the Town Consulting Engineer and final payment of all amounts due in relation to the Project from the Escrow Account, any remaining funds in the Escrow Account shall be promptly paid to Somers Realty.

11. All notices, requests and other communications hereunder must be in writing and will be deemed to have been duly given if delivered personally or mailed by certified or registered mail or overnight delivery by a recognized carrier, or by email with confirmation of receipt to the parties at the following addresses:

If to Somers Realty:

Seth Capozza, President
c/o AMH CPA's

With a copy to:

Linda B. Whitehead, Esq.
McCullough Goldberger & Staudt

If to the Town:

Supervisor Rick Morrissey

Town of Somers
335 Route 202
Somers, New York 100589
E-mail roland@somersrealty.com
With a copy to:

Roland Baroni, Esq.
Stephens, Baroni, Reilly & Lewis

12. Nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or give any person or entity other than Somers Realty and the Town any rights or remedies under or by reason of this Agreement.

13. This Agreement constitutes the entire agreement between Somers Realty and the Town concerning the Project and the Escrow Account.

14. This Agreement shall be construed in accordance with the laws of the State of New York, without regard to its conflicts of laws principles.

15. If any provision of this Agreement is deemed unenforceable, all other provisions shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as the date first above written.

Somers Realty Corp.

**By: _____
Seth Capozza, President**

Town of Somers

**By: _____
Rick Morrissey, Supervisor**

- 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, 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 by 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 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 project SWPPP will be updated as site design development advances during review of the project 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*

[THIS IS A DRAFT FOR REVIEW - this file drafted by F Wells, includes edits by S Dym, R Baroni, B Chisen, R Wasp thru 5/2/16.]

**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: _____

DRAFT: May 6, 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

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

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
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

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.

Environmental Impact Statement (DEIS) on August 1, 2013, whereupon a Notice of Public Hearing 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;
- 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

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.

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 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.

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.

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

- 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 ±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, 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 by 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~~ *and the Watershed Inspector General* for final approval of the SWPPP and issuance of necessary regulatory permits. 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. *(Pending receipt of favorable site infiltration test data) [need to state the following is demonstrated in the latest information: no net increase in phos loading, appropriate levels of stv treatment, and _____ re groundwater mounding.]*

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 is predicted with the proposed development. 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 Work 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.

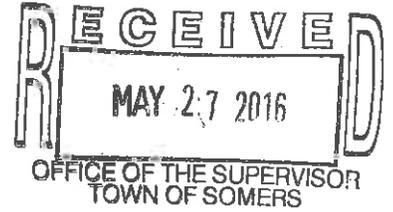
NOW THEREFORE, BE IT RESOLVED, that the foregoing SEQRA Findings Statement is hereby adopted.

BY ORDER OF THE TOWN BOARD

Signed: _____
Rick Morrissey, Supervisor

Date: _____

June Agenda
EC - TB TA
TC - original
5/27/16 bys



May 16, 2016

Town of Somers
Attn: Denise Schirmer
335 Route 202
Somers, NY 10589

RE: New Service, Pole Installation
49 Route 139
Town of Somers
County of Westchester
Tax Map ID: 37.08-1-2

Dear Town of Somers:

Please find the revised easement enclosed in regards to the above-referenced property. We ask that the easement be signed by both, the Town Executive of the Town of Somers and the County Executive of Westchester County. This easement grants NYSEG permission to install a pole, numbered 5584-1, on your property as shown on the enclosed sketch.

If you are agreeable to our facilities as shown, we ask that you both please sign the enclosed easement in the presence of a Notary Public and return along with the enclosed resolution document, at your earliest convenience. We request your courtesy in making sure black ink is used by all.

I am enclosing a self-addressed, stamped envelope for returning the easement and the resolution.

If you have any questions, please feel free to contact me

Sincerely,

Andre Emanuel
Analyst - Right of Way
Brewster Division

Enc.



JOB TITLE: New 200A Res Svc

DATE: 4/27/16

49 Rt 139

REVISION:

DRAWN BY: Bill M

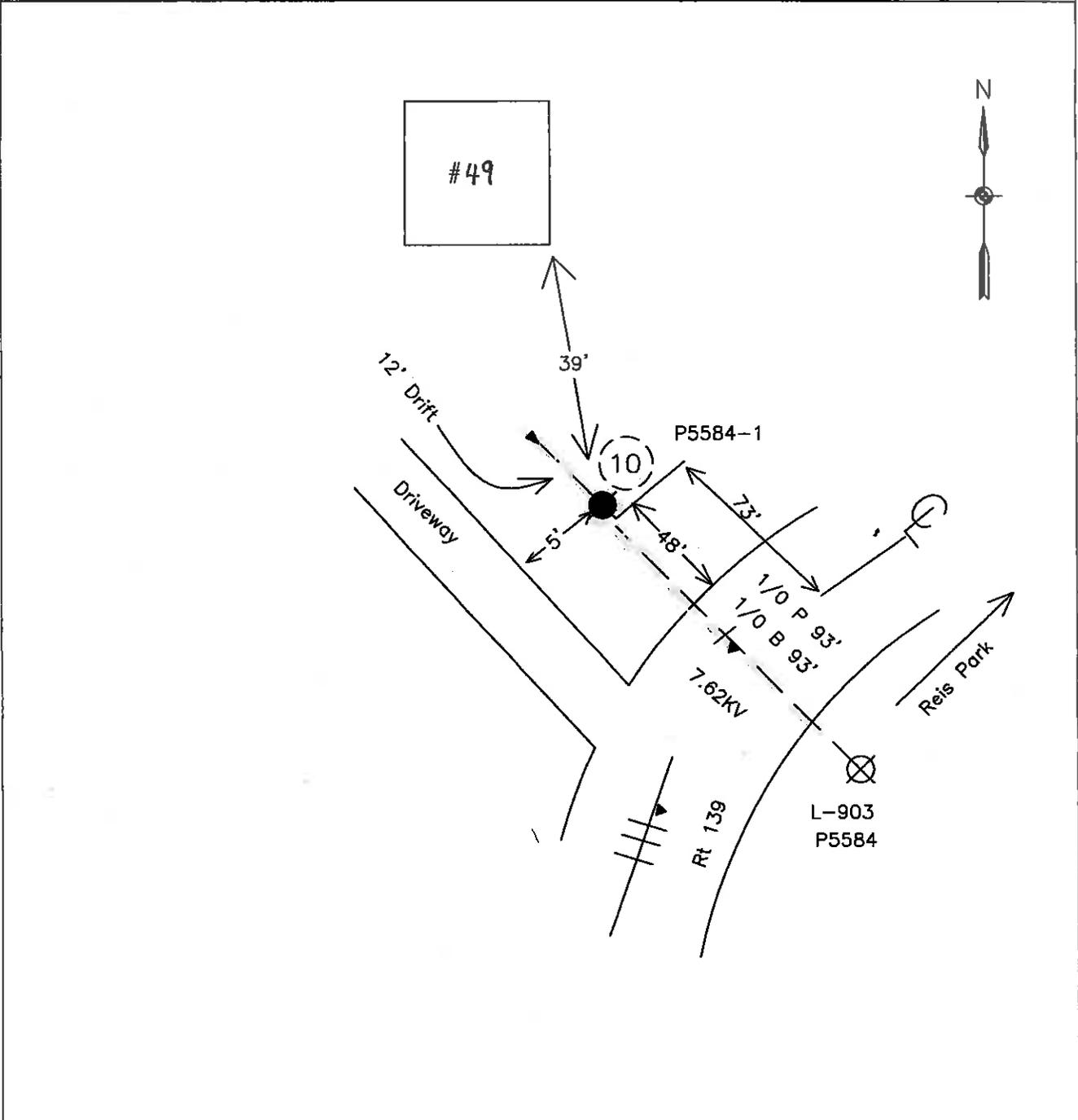
COUNTY: Westchester

NOTIFICATION #10300225520

TOWN: Somers

WORK ORDER #801000088886

SUB/CKT: 61/08



RESOLUTION

BE IT RESOLVED that the _____
_____ shall authorize
_____ to execute an easement to **New York**
State Electric & Gas Corporation for the purpose of installing _____
_____ located _____
_____ and more fully described in the easement being presented.

DATE

THIS is to certify that the above resolution is an exact copy of a resolution made and entered in
the minutes of _____ and
duly passed at a regular meeting of the _____
on the _____ day of _____, 20____.

(Seal)

EASEMENT

THIS INSTRUMENT WITNESSETH THAT _____

hereinafter called the Grantor(s), being the owner(s) of or having an interest in land situate in the TOWN of SOMERS, County of WESTCHESTER, State of New York, fronting on the street or highway known as NYS ROUTE 139, bounded EASTERLY by lands of NYS ROUTE 139 and WESTERLY

by lands of N/F TOWN OF SOMERS & WESTCHESTER COUNTY, for and in consideration of the sum of One and No/100 Dollars (\$1.00), the receipt of which is hereby acknowledged, does hereby grant and release unto NEW YORK STATE ELECTRIC & GAS CORPORATION, a corporation organized under the laws of the State of New York, having an office at 18 Link Drive in the Town of Kirkwood, County of Broome, State of New York, hereinafter called the Grantee, its lessees, licensees, successors and assigns forever, a permanent easement and right of way, with the right, privilege and authority to construct, reconstruct, relocate, extend, operate, inspect, maintain, repair, replace, and at its pleasure, remove any poles or lines of poles, supporting structures, cables, crossarms, overhead and underground wires, guys, braces, communications facilities and other fixtures and appurtenances which the Grantee shall require now and from time to time for the transmission and/or distribution of electric current and/or for communication purposes, for public or private use, in, upon, over, under, and across said land and/or the highways abutting or running through said land.

The easement and right of way hereby granted and released is - 30 - feet in width throughout its extent, situate, lying and being as follows:

THE CENTERLINE OF SAID EASEMENT AND RIGHT OF WAY TO BEGIN AT GRANTEE'S POLE NUMBERED 5584 OF LINE NUMBER 903; SITUATE OFF THE SOUTHEASTERLY SIDE OF NYS ROUTE 139; THENCE EXTENDING IN A NORTHWESTERLY DIRECTION UPON AND OVER SAID STATE HIGHWAY AND GRANTOR'S LAND A DISTANCE OF APPROXIMATELY NINETY-THREE (93) FEET TO A POINT; SAID POINT BEING GRANTEE'S POLE NUMBERED 5584-1; SITUATE APPROXIMATELY SEVENTY-THREE (73) FEET NORTHWESTERLY FROM THE CENTER OF NYS ROUTE 139 AND FIVE (5) FEET NORTHEASTERLY OF GRANTOR'S DRIVEWAY. TOGETHER WITH THE RIGHT FOR GUYING FACILITIES AND SERVICE EXTENSIONS TO BE LOCATED OUTSIDE OF THE STATED EASEMENT WIDTH.

THE GRANTEE, its successors and assigns, are hereby expressly given and granted the right to assign this easement and right of way, or any part thereof, or interest therein, and the same shall be divisible among two or more owners, as to any right or rights created hereunder, so that each assignee or owner shall have the full rights and privileges herein granted, to be owned and enjoyed either in common or severally.

TOGETHER with rights for free ingress and egress over the easement and right of way and other lands of the Grantor(s) for all of the above purposes and the right now and from time to time to trim, cut, burn, treat and/or remove by manual, mechanical and chemical means trees, brush, structures and other obstructions within said easement and right of way and such other trees adjacent to the right of way that, in the opinion of the Grantee, may interfere with the construction, operation and maintenance of its line or lines.

PROVIDED, however, that any damage (other than for trimming, cutting, treating, burning and/or removing trees, brush, structures and other obstructions as above provided) to the property of the Grantor(s), caused by the Grantee in the exercise of its rights under this instrument shall be borne by the Grantee.

RESERVING, however, to the Grantor(s) the rights to cultivate the ground between said poles, towers and supporting structures and beneath said wires and fixtures, and the right to cross and recross said easement and right of way provided that such use of said ground shall not interfere with, obstruct or endanger any rights granted as aforesaid and shall not disturb the grade of said ground as it now exists, and provided that no structure shall be erected, no trees shall be grown, cultivated or harvested, and no excavating, mining or blasting shall be undertaken within the limits of the easement and right of way without written consent of the Grantee. Grantor(s) in said use of said ground shall maintain a clearance of - 10 - feet or more from Grantee's aerial wires with vehicles, machinery and equipment.

This Instrument shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, the Grantor(s) ha _____ hereunto set _____ hand(s) and seal(s) this _____ day of _____.

IN PRESENCE OF:

Town of Somers, please sign here _____ (L.S.)
Address: * _____
County of Westchester, please sign here _____ (L.S.)
Address: * _____
_____ (L.S.)
Address: _____

Nothing is to be on reverse

EASEMENT

Line 903 POLE 5584-1 NS
Auth. 94000020264 Parcel No.
Area Cost Center No. RC2J0000034
Construction W. O. No. 801000088886

TO
NEW YORK STATE ELECTRIC
& GAS CORPORATION

Dated
STATE OF NEW YORK
COUNTY OF ss:

Recorded on the day of
at o'clock M.
In Book of Deeds at
Page and examined.

(Clerk)

Consideration on this document
is less than \$100.00

Notarize

Notarize

(Personal or Corporate Acknowledgment)

STATE OF NEW YORK
COUNTY OF ss:
On the day of
before me, the undersigned, a Notary
Public in and for said State, personally appeared

personally known to me or proved to me on the
basis of satisfactory evidence to be the
individual(s) whose name(s) is (are) subscribed to
the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their
capacity(ies), and that by his/her/their signature(s)
on the instrument, the individual(s) or the person*
upon behalf of which the individual(s) acted,
executed the instrument.

Notary Public

(Personal or Corporate Acknowledgment)

STATE OF NEW YORK
COUNTY OF ss:
On the day of
before me, the undersigned, a Notary
Public in and for said State, personally appeared

personally known to me or proved to me on the
basis of satisfactory evidence to be the
individual(s) whose name(s) is (are) subscribed to
the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their
capacity(ies), and that by his/her/their signature(s)
on the instrument, the individual(s) or the person*
upon behalf of which the individual(s) acted,
executed the instrument.

Notary Public

(Subscribing Witness Acknowledgment)

STATE OF NEW YORK
COUNTY OF ss:

On this day of
before me personally came

the subscribing witness to the foregoing
instrument, with whom I am personally acquainted,
who being by me duly sworn, did depose and say
that he reside(s) at

In the
that he knew
to be the individual described in and who
executed the foregoing instrument that he, said
subscribing witness, was present and saw
execute the same, and that said witness, at
the same time, subscribed h name as witness
thereto.

Notary Public

TAX MAP NUMBER

Section 37.08 Block 1 Lot 2

RETURN TO
PROPERTY MANAGEMENT
RECORDS CENTER
NEW YORK STATE ELECTRIC & GAS CORP.
POST OFFICE BOX 5224
BINGHAMTON, NEW YORK 13902-5224

* For the purposes of this section, the term
"person" means any corporation, joint stock
company, estate, general partnership (including
any registered limited liability partnership or foreign
limited liability partnership), limited liability
company (including a professional service limited
liability company), foreign limited liability company
(including a foreign professional service limited
liability company), joint venture, limited
partnership, natural person, attorney in fact, real
estate investment trust, business trust or other
trust custodians, nominee or any other individual
or entity in its own or any representative capacity.

* For the purposes of this section, the term
"person" means any corporation, joint stock
company, estate, general partnership (including
any registered limited liability partnership or foreign
limited liability partnership), limited liability
company (including a professional service limited
liability company), foreign limited liability company
(including a foreign professional service limited
liability company), joint venture, limited
partnership, natural person, attorney in fact, real
estate investment trust, business trust or other
trust custodians, nominee or any other individual
or entity in its own or any representative capacity.

Somers Department of Parks & Recreation

PO Box 46 Somers, New York 10589

OFF: (914)-232-8441

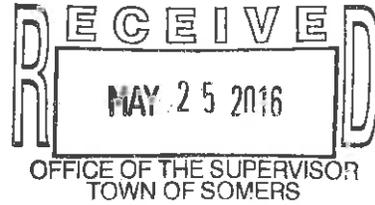
FAX: (914)-232-8548

Steven Ralston
Superintendent

*June Agenda
EC - TBTCTA
5/25/16 DR*



May 25, 2016



To: Town Board

From: Steven Ralston
Superintendent of Parks and Recreation

Re: Request for Approval

Request permission to go to bid for replacement of the "Omni" tennis court surface.
This project was reviewed and unanimously approved by the Park Board at their March 30 meeting.

Thank you for your consideration

C: Town Clerk
Director of Finance
Park Board

Somers Department of Parks & Recreation

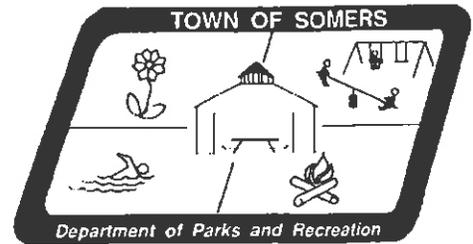
PO Box 46 Somers, New York 10589

OFF: (914)-232-8441

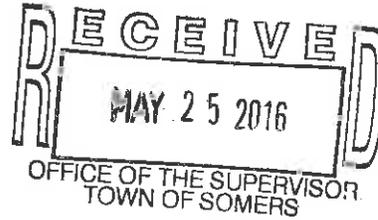
FAX: (914)-232-8548

Steven Ralston
Superintendent

*June Agenda
EC - TB OTC TA
5/25/16 SR*



May 25, 2016



To: Town Board

From: Steven Ralston **SR**
Superintendent of Parks and Recreation

Re: Request for Approval

Request permission to hire the attached Day Camp and Tusker (teen travel) Trax staff from June 25 – August 5, 2016 and continue to hire for these programs on an as-needed basis pursuant to County Health counselor-to-camper ratio regulations.

Thank you

C: Park Board
Director of Finance
Town Clerk

Somers Department of Parks & Recreation

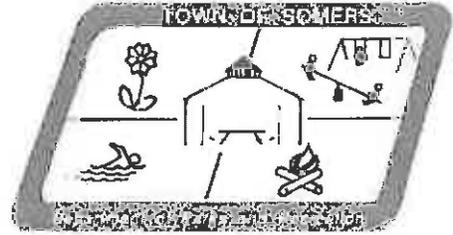
PO Box 46 Somers, New York 10589

OFF: (914)-232-8441

FAX: (914)-232-8548

Steven Ralston
Superintendent

EC - TB
TC
TA 5/27/16
bjo



May 26, 2016

To: Town Board

From: Steven Ralston
Superintendent of Parks and Recreation

Re: Promotion

I respectfully request that the position of Assistant Superintendent – Recreation be created. The intent would be for Andrew Johnson, Recreation Supervisor to fill the position once he can be reached on the Civil Service list.

During Andrews eleven years of dedication to the department he has taken on additional responsibilities included in the Assistant Superintendent title but has not had the opportunity to be placed in the position that accurately reflects his work on a day to day basis. Upon appointment additional duties included in the job description will be added to his responsibilities.

This position would fall under Grade VIIA of the CSEA Salary Schedule consistent with Assistant Building Inspector.

Thank you for your consideration.

OFFICE OF THE SUPERVISOR

Town of Somers

WESTCHESTER COUNTY, N.Y.

Telephone
(914) 277-3637
Fax
(914) 276-0082

SOMERS TOWN HOUSE
385 ROUTE 202
SOMERS, NY 10589

RICK MORRISSEY
SUPERVISOR



May 24, 2016

Resident letter

RE: Stone House
413 Route 202
Somers NY 10589

Dear Resident,

On June 2, 2016 at 7:00pm at the monthly Town Board Work Session, Ms. Nicole Mata will be presenting to the Board a proposal for the Stone House to be used as an event venue. This is a change of use and would require further Public Hearings and notifications to you. As this is the first time an informal presentation will be conducted, I want you to have an opportunity to hear of the potential future use of the Stone House.

We invite you to attend this meeting as it will prove to be very informative.

Please contact me office at (914) 277-3637 if you have any questions in advance of the meeting.

The Town Board looks forward to hearing from you.

Sincerely,

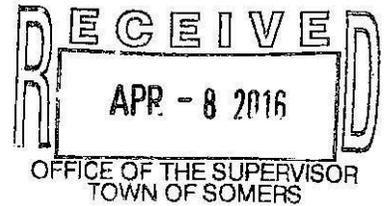
Rick Morrissey
Rick Morrissey
Supervisor

C: Town Board
Town Clerk
Town Attorney

*June E
Ager*

2/5

Mrs. Nicole A. Mata



April 6, 2016

Mr. Rick Morrissey
Town Supervisor
Town of Somers, NY
335 Route 202
Somers, NY 10589

Dear Mr. Morrissey,

I am writing to present you with my proposal for a local historical property in Somers, NY. Upon viewing this property I feel that it and the town would both benefit from opening it up to the public and serve as an event venue.

In the attached proposal, please find a detailed description of the history of the property, along with how I envision the new use of it. What an amazing treasure this home and property is to the town of Somers! I would love to see it get the appreciation it deserves in retaining its rich history as a staple of Somers.

It would be wonderful if you could look over my proposal with an open heart and mind, and give me a second of your time to discuss this matter. I would greatly appreciate any insight you have on the prospect of a venture of this manner.

Sincerely,

A handwritten signature in cursive script that reads "Nicole A. Mata".

Nicole A. Mata



**Vision for the Reuse of the Historic
Gerard Crane House/Stone House Farm**

413 Route 202 Somers, NY

by

Nicole A. Mata

Overview

This submission outlines the history of this historic property and the proposed development of the property into an event venue that would enable sharing this wonderful local historic asset with business, nonprofit, and private clients in and around Somers, NY. This document includes our vision for the adaptive reuse of the property, as well as a discussion of the impacts this approach would have on the community, environment, traffic, and tourism. All costs associated with the development of this property and its maintenance would be managed privately, at no cost to the town.

History of the Property

The Gerard Crane House is located on Somerstown Turnpike opposite Old Croton Falls Road in Somers, New York, United States. It is a stone house dating to the mid-19th century, built by an early circus entrepreneur in his later years.

The house itself is an unusually sophisticated late application of the Greek Revival architectural style. The interior features a high level of decoration, particularly English Renaissance-style plaster moldings on the ceilings that are not commonly found in rural Greek Revival houses. It is the center of a 30-acre (12 ha) estate that includes not only the original outbuildings but an original section of Somerstown Turnpike and one of its mileposts.

It remains largely as it was originally built. In 1985 the area was designated a historic district and listed on the National Register of Historic Places. It is the northernmost such listing in Westchester County.

Crane and his brother Thaddeus, descendants of a colonel in the Revolutionary War, moved to Somers from their hometown, nearby North Salem, in 1823. They had become active in the new business of exhibiting exotic animals, and records show that they had taken a lion to the Carolinas three years earlier. They bought land from Hachaliah Bailey, whose exhibition of Old Bet at the building now known as the Elephant Hotel is considered the beginning of the circus in America, that they would later build on.

They added to their menagerie, got partners, and exhibited as far as west as the Mississippi River. They were among the founders of an early trade organization called the Zoological Institute, which collapsed in the Panic of 1837. Crane himself was more fortunate; he served as a director, and later president of a local bank, and had just concluded four years as town supervisor at the outset of the panic.

In 1849, having married Roxana Purdy, he had the house built. Its extensive detailing and finely crafted stonework are features of a country manor house in the highest Greek Revival tradition. The English Renaissance-style molded plasterwork on the first floor ceilings, common in urban homes of this type but rare in rural variants, reflects Crane's cosmopolitan tastes.

The next year's census shows the Cranes at that address, with their six children and one other woman. He died in 1872. The house and estate have remained a private residence since then. Other than the barn's gambrel roof and the conversion of the main house's music room into a kitchen during the 1980s, there have been no significant alterations to the property.

(Site source: https://en.wikipedia.org/wiki/Gerard_Crane_House)

Concept

Stone House Farm is planned to be a local event venue serving business, nonprofit and private clients in Somers, NY and the surrounding towns within a fifty-mile radius. The venue will offer on-site catering, event management, event design and other event services for upscale events in the region. Stone House Farm would also serve as a community meeting place for local organizations, school groups, and other non-profit organizations allowing the use of the grounds and the buildings on off times during the week, when there are no private events. We would also love to open the grounds to local farmers on Sunday mornings for a farmers market and hand-made items. It is of utmost importance to us to maintain the historic integrity of the home, out buildings, land, and the properties place in the history of the town of Somers. It is our dream that the home and grounds are allowed to be enjoyed by not only the town of Somers, but to all of Westchester. Opening our doors for tours, so everyone can appreciate what was built by Mr. Crane and maintained through the generations that have taken the Stone House Farm from 1849 to the present day.

Mission

It is Stone House Farm's mission to offer a community-focused event venue where local residents can celebrate special occasions, and also gather together as members of the community to enjoy the house and grounds. In this way, Stone House Farm can continue its legacy as an important historic property while beginning a new chapter in the long history of Somers, NY.

Property Usage

Main House - The main house will be used during the week as offices, meeting space, tours, community outreach, private tastings, and private client walkthroughs. Private events will have the use of the house for smaller intimate events; which will be held on the first floor and sub-basement levels. No more than 70 guests will occupy the house at any one time. Brides, bridal parties and family members will be allowed use of the bedrooms on the chamber floor for wedding preparation. There are no major changes planned to the exterior or interior structure of the home, with the exception of possibly replacing the existing kitchen with an antique mahogany bar. Water, septic, sewer usage would be limited.

Two Car Garage - Temporary catering kitchens can be housed in the two two-car garages. The caterer will be storing equipment in these areas, and using them for food preparation during private events. No water or sewage will be used from the property for these structures.

Barn - The barn will be host to the private events and serve as a glorified tent. The main part of the barn can hold sit-down catered events, wedding ceremonies, or cocktail parties. The lower level of the barn will be used as a cocktail reception area for the larger events. No water, sewage or septic will be used in the barn. The barn will remain unchanged visually. No more than 200 guests will occupy the barn at any one time.

Grounds - Grounds will remain unchanged, incorporating the natural elements and topography to enhance the natural beauty of the property. To the east of the barn sits a flat patch of yard, between the barn and the stone walled wildflower garden. This area would be designated as the ceremony site, and will occasionally house a tent if there is inclement weather.

Parking - We will hire a private valet company to manage parking during private events. We anticipate that there will be ample parking along the eastern corner of the property that runs along Rt. 202. We do not plan to pave this area, instead leaving it a grassy meadow.

Event Restrooms - Tasteful, portable restroom trailers will be used during events to minimize the impact on existing septic and sewer utilities. The trailers will be replaced frequently.

Hours of Operation

The Stone House Farm will be open during normal business hours during the week for the use of our offices housed in the main house. Larger private events will be held Friday, Saturday Evenings and Sunday afternoon.

Products and Services

Stone House Farm will offer the following products and services:

- Event management
- Coat-check, door check, and restroom attendants
- Valet parking
- Event design/decor
- Film/photo Shoots
- Meeting space for non-profit and community organizations
- Venue rental

Through subcontractors, Stone House Farm offers:

- Floral design
- Musicians and DJs
- Event equipment and furniture rentals
- Cakes
- Catering
- Non-alcoholic, wine, beer, and liquor beverage service
- Wait staff

Through referrals, Stone House Farm offers:

- Lighting
- Audio-visual rentals and support
- Event security
- Valet service

Other ideas for the community outreach at Stone House Farm:

- Farmers market
- Classic car show
- Summer movies on the lawn
- Local artist gallery in Main House
- Craft fair

Community Impact

Traffic - The event business has minimal impact on the current daily traffic patterns. The bulk of the traffic would be Friday evenings and Saturday Evenings.

Environmental – The event business has minimal environmental impact on this historic property. Stone House Farm is committed to using sustainable methods for managing and maintaining the property.

Employment - We will draw from the local Westchester Communities in hiring our full-time employee's. Events require a large amount of day of staffing for preparation, set-up, event service, break down, and clean up. We plan on providing the young adults and underemployed in Somers and the surrounding areas additional work, and income.

Historic Tourism - With only five Somers historical properties open to the public (Wright Reis Homestead, Mount Zion Church and Burial Ground, Tomahawk Chapel as well as the Elephant Hotel and the Annex, known as the "Old Bet House). Our plan is to add The Stone House Farm to that list, in so doing allowing the community and its people the enjoyment and wonder of the amazing grounds and the rich architectural details that abound in the house and barn.

Leadership Background

Nicole A. Mata

I have been in the event industry for 20 years, having crossed all aspects of the industry from catering, party rentals, to opening my own company Delamata Designs in 2003 focusing on event planning/event & floral design. I have extensive knowledge of the industry and all that is entailed in making a event successful. If you would like to take a look at my current company's website you can visit it at: delamatadesigns.com. I have a passion for history and the preservation of historical homes. Bringing communities together and helping people is of great importance to me.

Dane Atkinson

Dane is a successful entrepreneur with 25 years of funding and operating experience. He has built a number of internet companies, most recently SquareSpace and SumAll raising over 100M and creating over a billion in shareholder value. Dane has owned and operated several physical businesses including restaurants and cafes throughout NYC.

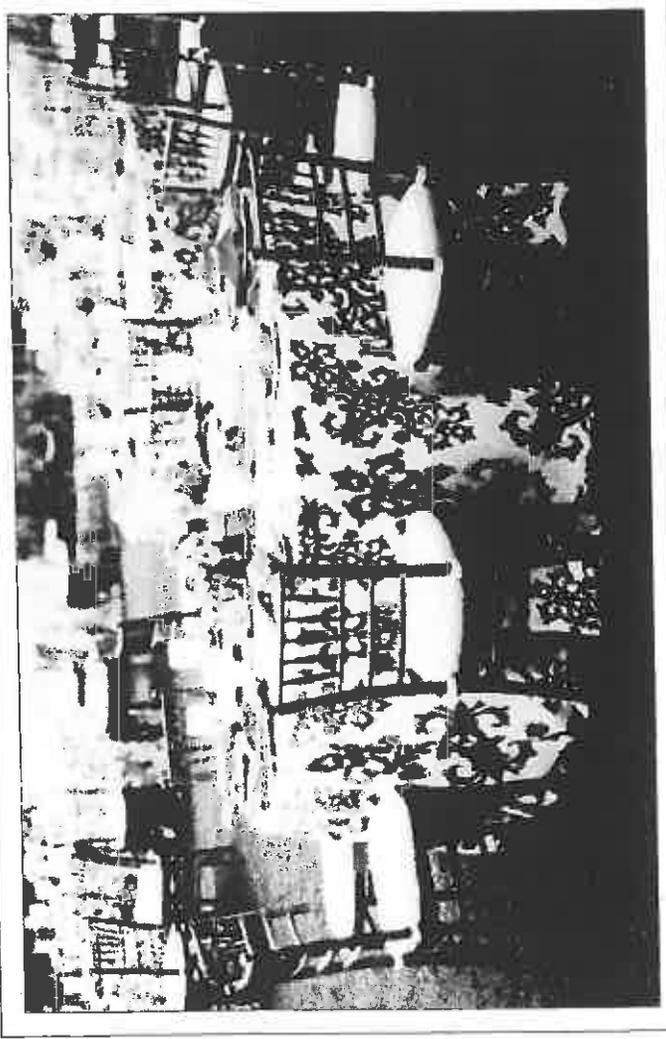
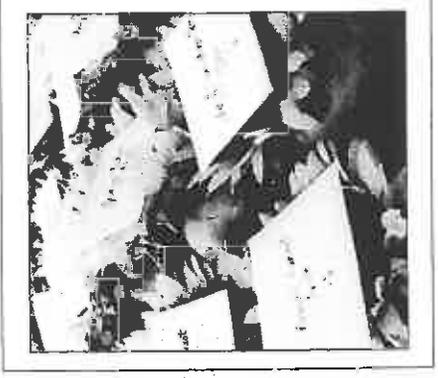
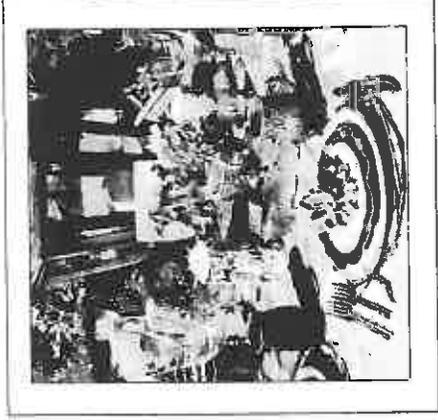
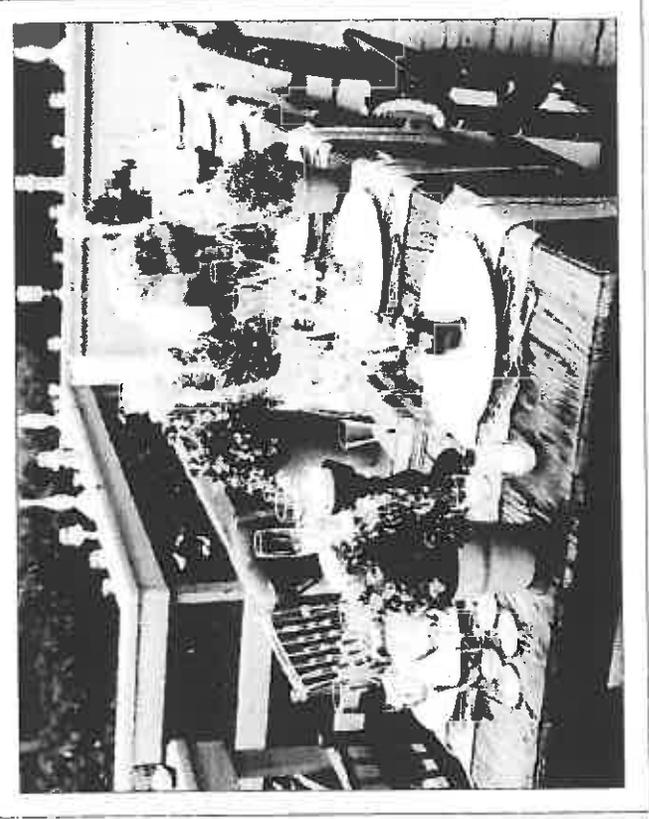
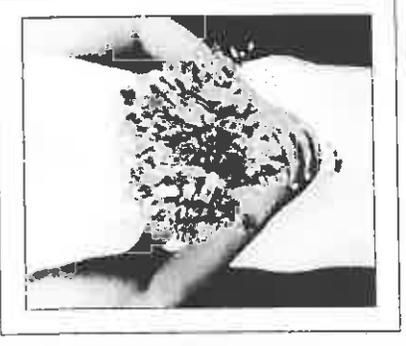
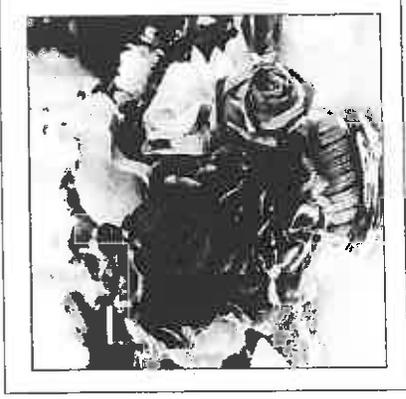
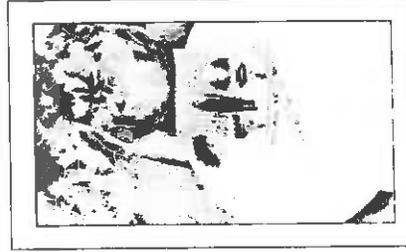
Dane has always been active in charitable and community efforts from being a trustee for the NY Public library, to his current non-profit add-on at sumall.com.

Summary

As stewards of this amazing historic property, we at Stone House Farm feel a strong need to open it up to the larger community. Our vision is that this house and property, which has long been such an important local landmark, will continue to create history as a wonderful community-centered gathering place.

Delamata Designs

HOME ENTERTAINING • BOUTIQUE EVENTS • FLORAL DESIGN

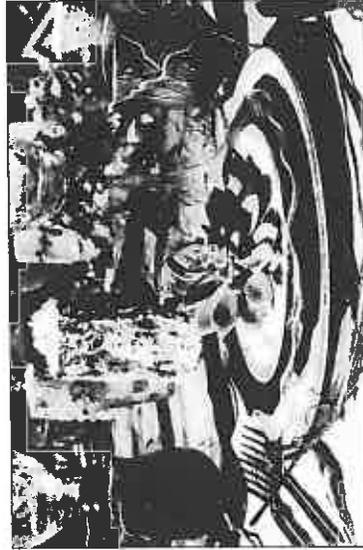


Whether you are entertaining in your own home, or your favorite venue, Delamata Designs will artfully style, diligently plan, and thoughtfully execute your event to create a memorable experience for you and your guests.

Located on the border of picturesque Westchester & Fairfield Counties, Delamata Designs uses only the finest quality of goods and services to create your event.

Intimate Weddings • Fundraisers/Galas • Holiday Parties • Dinners/Cocktail Parties
Milestone Events • Children's Parties • Garden & Backyard Parties • Brunches
Client Relations • Tea Parties • Gallery Openings • Equestrian Events

EVENT DESIGN



- Concept & Design
- Floor Plans
- Tablescapes
- Lighting
- Custom Furniture
- Linens & Accessories
- Specialty Tablewares

EVENT PLANNING



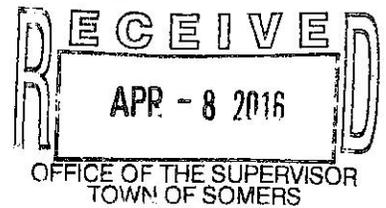
- Vendor Recommendations
- Contract Review & Negotiation
- Budget Development
- Production
- Rental Coordination
- Day of Execution
- Breakdown & Set Up

FLORAL DESIGN



- Personals
- Table Arrangements
- Holiday
- Entrancesways
- Canopies
- Floral Accents
- Chuppahs

215
Mrs. Nicole A. Mata



April 6, 2016

Mr. Rick Morrissey
Town Supervisor
Town of Somers, NY
335 Route 202
Somers, NY 10589

Dear Mr. Morrissey,

I am writing to present you with my proposal for a local historical property in Somers, NY. Upon viewing this property I feel that it and the town would both benefit from opening it up to the public and serve as an event venue.

In the attached proposal, please find a detailed description of the history of the property, along with how I envision the new use of it. What an amazing treasure this home and property is to the town of Somers! I would love to see it get the appreciation it deserves in retaining its rich history as a staple of Somers.

It would be wonderful if you could look over my proposal with an open heart and mind, and give me a second of your time to discuss this matter. I would greatly appreciate any insight you have on the prospect of a venture of this manner.

Sincerely,

A handwritten signature in cursive script that reads "Nicole A. Mata".

Nicole A. Mata



**Vision for the Reuse of the Historic
Gerard Crane House/Stone House Farm**

413 Route 202 Somers, NY

by

Nicole A. Mata

Overview

This submission outlines the history of this historic property and the proposed development of the property into an event venue that would enable sharing this wonderful local historic asset with business, nonprofit, and private clients in and around Somers, NY. This document includes our vision for the adaptive reuse of the property, as well as a discussion of the impacts this approach would have on the community, environment, traffic, and tourism. All costs associated with the development of this property and its maintenance would be managed privately, at no cost to the town.

History of the Property

The Gerard Crane House is located on Somerstown Turnpike opposite Old Croton Falls Road in Somers, New York, United States. It is a stone house dating to the mid-19th century, built by an early circus entrepreneur in his later years.

The house itself is an unusually sophisticated late application of the Greek Revival architectural style. The interior features a high level of decoration, particularly English Renaissance-style plaster moldings on the ceilings that are not commonly found in rural Greek Revival houses. It is the center of a 30-acre (12 ha) estate that includes not only the original outbuildings but an original section of Somerstown Turnpike and one of its mileposts.

It remains largely as it was originally built. In 1985 the area was designated a historic district and listed on the National Register of Historic Places. It is the northernmost such listing in Westchester County.

Crane and his brother Thaddeus, descendants of a colonel in the Revolutionary War, moved to Somers from their hometown, nearby North Salem, in 1823. They had become active in the new business of exhibiting exotic animals, and records show that they had taken a lion to the Carolinas three years earlier. They bought land from Hachaliah Bailey, whose exhibition of Old Bet at the building now known as the Elephant Hotel is considered the beginning of the circus in America, that they would later build on.

They added to their menagerie, got partners, and exhibited as far as west as the Mississippi River. They were among the founders of an early trade organization called the Zoological Institute, which collapsed in the Panic of 1837. Crane himself was more fortunate; he served as a director, and later president of a local bank, and had just concluded four years as town supervisor at the outset of the panic.

In 1849, having married Roxana Purdy, he had the house built. Its extensive detailing and finely crafted stonework are features of a country manor house in the highest Greek Revival tradition. The English Renaissance-style molded plasterwork on the first floor ceilings, common in urban homes of this type but rare in rural variants, reflects Crane's cosmopolitan tastes.

The next year's census shows the Cranes at that address, with their six children and one other woman. He died in 1872. The house and estate have remained a private residence since then. Other than the barn's gambrel roof and the conversion of the main house's music room into a kitchen during the 1980s, there have been no significant alterations to the property.

(Site source: https://en.wikipedia.org/wiki/Gerard_Crane_House)

Concept

Stone House Farm is planned to be a local event venue serving business, nonprofit and private clients in Somers, NY and the surrounding towns within a fifty-mile radius. The venue will offer on-site catering, event management, event design and other event services for upscale events in the region. Stone House Farm would also serve as a community meeting place for local organizations, school groups, and other non-profit organizations allowing the use of the grounds and the buildings on off times during the week, when there are no private events. We would also love to open the grounds to local farmers on Sunday mornings for a farmers market and hand-made items. It is of utmost importance to us to maintain the historic integrity of the home, out buildings, land, and the properties place in the history of the town of Somers. It is our dream that the home and grounds are allowed to be enjoyed by not only the town of Somers, but to all of Westchester. Opening our doors for tours, so everyone can appreciate what was built by Mr. Crane and maintained through the generations that have taken the Stone House Farm from 1849 to the present day.

Mission

It is Stone House Farm's mission to offer a community-focused event venue where local residents can celebrate special occasions, and also gather together as members of the community to enjoy the house and grounds. In this way, Stone House Farm can continue its legacy as an important historic property while beginning a new chapter in the long history of Somers, NY.

Property Usage

Main House - The main house will be used during the week as offices, meeting space, tours, community outreach, private tastings, and private client walkthroughs. Private events will have the use of the house for smaller intimate events; which will be held on the first floor and sub-basement levels. No more than 70 guests will occupy the house at any one time. Brides, bridal parties and family members will be allowed use of the bedrooms on the chamber floor for wedding preparation. There are no major changes planned to the exterior or interior structure of the home, with the exception of possibly replacing the existing kitchen with an antique mahogany bar. Water, septic, sewer usage would be limited.

Two Car Garage - Temporary catering kitchens can be housed in the two two-car garages. The caterer will be storing equipment in these areas, and using them for food preparation during private events. No water or sewage will be used from the property for these structures.

Barn - The barn will be host to the private events and serve as a glorified tent. The main part of the barn can hold sit-down catered events, wedding ceremonies, or cocktail parties. The lower level of the barn will be used as a cocktail reception area for the larger events. No water, sewage or septic will be used in the barn. The barn will remain unchanged visually. No more than 200 guests will occupy the barn at any one time.

Grounds - Grounds will remain unchanged, incorporating the natural elements and topography to enhance the natural beauty of the property. To the east of the barn sits a flat patch of yard, between the barn and the stone walled wildflower garden. This area would be designated as the ceremony site, and will occasionally house a tent if there is inclement weather.

Parking - We will hire a private valet company to manage parking during private events. We anticipate that there will be ample parking along the eastern corner of the property that runs along Rt. 202. We do not plan to pave this area, instead leaving it a grassy meadow.

Event Restrooms - Tasteful, portable restroom trailers will be used during events to minimize the impact on existing septic and sewer utilities. The trailers will be replaced frequently.

Hours of Operation

The Stone House Farm will be open during normal business hours during the week for the use of our offices housed in the main house. Larger private events will be held Friday, Saturday Evenings and Sunday afternoon.

Products and Services

Stone House Farm will offer the following products and services:

- Event management
- Coat-check, door check, and restroom attendants
- Valet parking
- Event design/decor
- Film/photo Shoots
- Meeting space for non-profit and community organizations
- Venue rental

Through subcontractors, Stone House Farm offers:

- Floral design
- Musicians and DJs
- Event equipment and furniture rentals
- Cakes
- Catering
- Non-alcoholic, wine, beer, and liquor beverage service
- Wait staff

Through referrals, Stone House Farm offers:

- Lighting
- Audio-visual rentals and support
- Event security
- Valet service

Other ideas for the community outreach at Stone House Farm:

- Farmers market
- Classic car show
- Summer movies on the lawn
- Local artist gallery in Main House
- Craft fair

Community Impact

Traffic - The event business has minimal impact on the current daily traffic patterns. The bulk of the traffic would be Friday evenings and Saturday Evenings.

Environmental - The event business has minimal environmental impact on this historic property. Stone House Farm is committed to using sustainable methods for managing and maintaining the property.

Employment - We will draw from the local Westchester Communities in hiring our full-time employee's. Events require a large amount of day of staffing for preparation, set-up, event service, break down, and clean up. We plan on providing the young adults and underemployed in Somers and the surrounding areas additional work, and income.

Historic Tourism - With only five Somers historical properties open to the public (Wright Reis Homestead, Mount Zion Church and Burial Ground, Tomahawk Chapel as well as the Elephant Hotel and the Annex, known as the "Old Bet House). Our plan is to add The Stone House Farm to that list, in so doing allowing the community and its people the enjoyment and wonder of the amazing grounds and the rich architectural details that abound in the house and barn.

Leadership Background

Nicole A. Mata

I have been in the event industry for 20 years, having crossed all aspects of the industry from catering, party rentals, to opening my own company Delamata Designs in 2003 focusing on event planning/event & floral design. I have extensive knowledge of the industry and all that is entailed in making a event successful. If you would like to take a look at my current company's website you can visit it at: delamatadesigns.com. I have a passion for history and the preservation of historical homes. Bringing communities together and helping people is of great importance to me.

Dane Atkinson

Dane is a successful entrepreneur with 25 years of funding and operating experience. He has built a number of internet companies, most recently SquareSpace and SumAll raising over 100M and creating over a billion in shareholder value. Dane has owned and operated several physical businesses including restaurants and cafes throughout NYC.

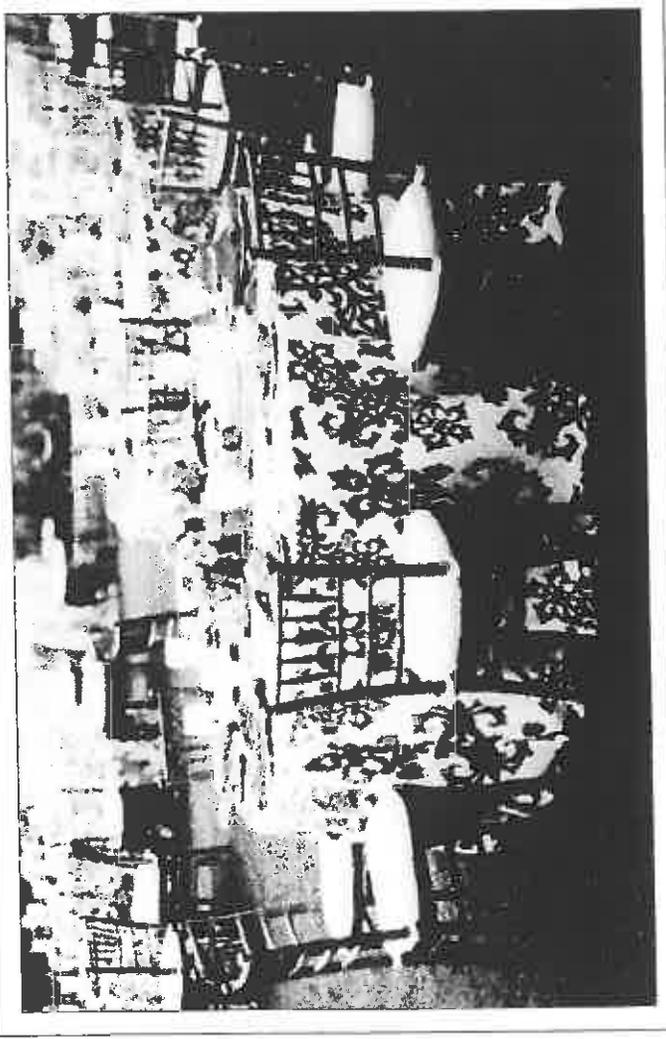
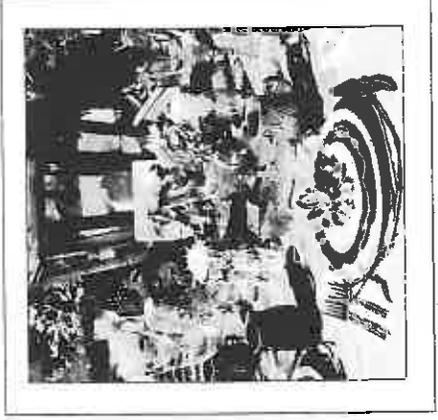
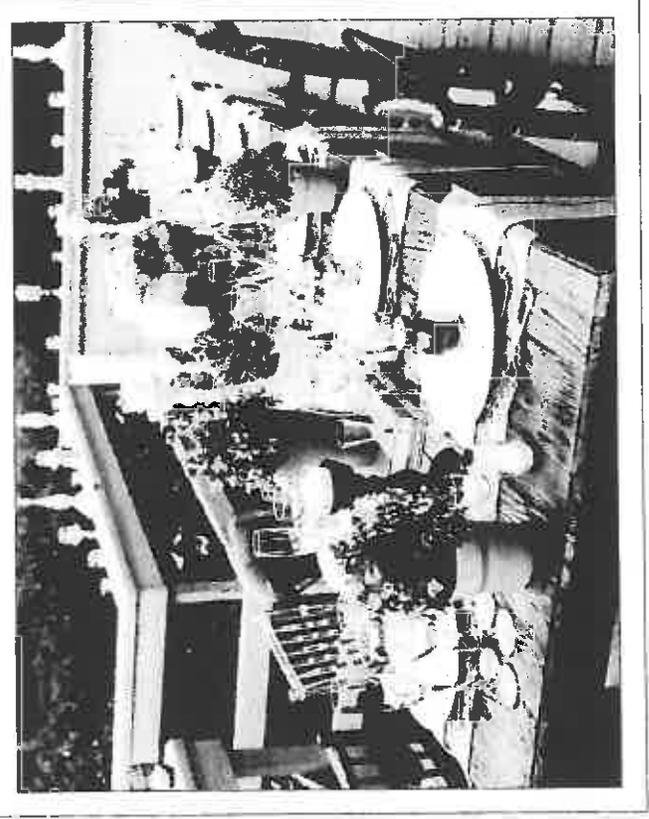
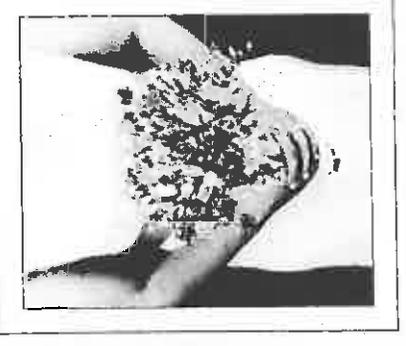
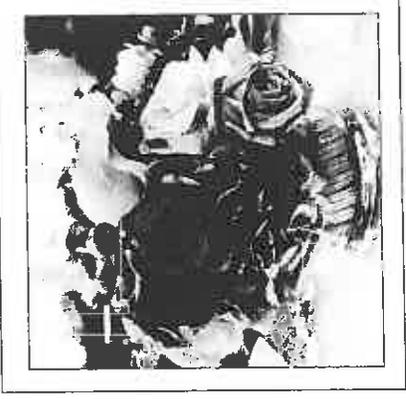
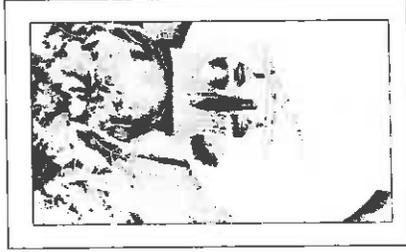
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T 914-277-3323
FAX: 914-277-3960

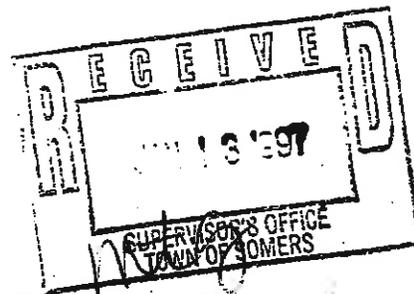
TOWN CLERK'S OFFICE

TOWN HOUSE
P.O. BOX 284
SOMERS, N.Y. 10589-0284

Town of Somers

WESTCHESTER COUNTY, N. Y.

MARGARET M. QUARTIRONI
Town Clerk

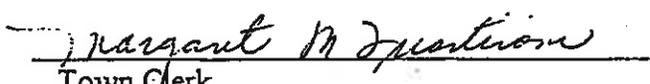


RESOLUTION:

RESOLVED, that the Town Board does hereby amend the Personnel Policies of the Town of Somers so as to include Family Dental and Vision coverage for the 14 members of the Somers Part-time Police Department, and further does hereby modify the 1997 Preliminary Budget of the Town of Somers in order to include Family Dental and Vision coverage for the 14 members of the Somers Part-time Police Department, at a monthly cost of \$857.00 for Dental and \$108.00 for Vision, effective January 1, 1997.

I hereby certify that the foregoing copy of resolution was unanimously adopted by the Town Board of the Town of Somers at a Regular Meeting held on Thursday evening, December 12, 1996.

Dated: December 30, 1996

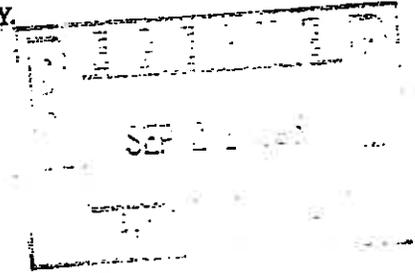

Town Clerk

cc: Supervisor
Accountant
Police

Town of Somers

WESTCHESTER COUNTY, N. Y.

MARGARET M. QUARTIRONI
Town Clerk



RESOLUTION:

RESOLVED, that the Town Board does hereby authorize the following Amendments to the Town of Somers Personnel Policy No. 15 -- Benefits Administration by adding a new sub section 6:

POLICE -- PART TIME

These are employees hired by the Town of Somers as Part-time Police Officers who work on a regularly scheduled basis for 12 months per year, up to 20 hours per week. Paid for hours worked.

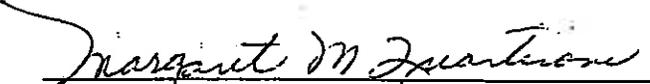
Benefits include:

Health Insurance - pursuant to Personnel Policy No. 14

Life Insurance

I hereby certify that the foregoing copy of resolution was unanimously adopted by the Town Board of the Town of Somers at a Regular Meeting held on Thursday evening, May 18, 1995.

Dated: September 20, 1995


Town Clerk

cc: Supervisor
Police
Accountant

Please note that the above item was adopted at the May 18, 1995 Regular Meeting of the Town Board and through an error was inadvertently incorrect in the Minutes of said Meeting..

HISTORIC PROPERTIES BOARD

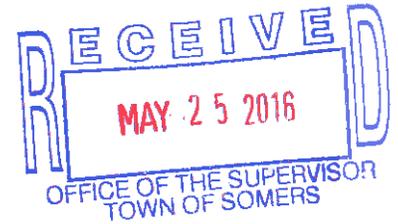
Telephone
(914) 277-5582
Fax
(914) 277-3790

Town of Somers

WESTCHESTER COUNTY, N.Y.

SOMERS TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589

EMIL ANTONACCIO
CHAIRMAN



*June Agenda
SC - TBCTA DofZ
5/25/16*

MEMO TO: Town Board

FROM: Historic Properties Board

RE: RFP for Wright-Reis Homestead Roof

DATE: May 25, 2016

At your regular meeting on March 14, 2016, you authorized the Historic Properties Board to solicit Requests for Proposals to replace the half of the Wright-Reis Homestead wood shingled roof that faces south, as it has suffered deterioration as a result of weather, causing numerous leaks.

Proposals were sent to the following:

Franzoso Contracting
Mand Restoration Corp.
Salem Preservation LLC

Salem Preservation LLC is the only company that submitted a proposal. He gave two quotes, one to replace the south side of the roof only in the amount of \$12,000 and the other to replace the entire roof for \$22,800. This company has done other roof work for the Town and we have always been most satisfied with the quality of his work.

After giving careful consideration, the Historic Properties Board strongly urges that the Town Board approve replacing the entire roof. Additional funds will be needed as only \$10,000 was budgeted for the Homestead and there is only \$8,913 left in that line.

June Agenda - TB TC TA
22 - TB TC TA
5/27/15 DP

RECEIVED
MAY 26 2016

PLANNING AND ENGINEERING DEPARTMENTS

Town of Somers
WESTCHESTER COUNTY, N.Y.

OFFICE OF THE SUPERVISOR
TOWN OF SOMERS
SOMERS TOWN HOUSE
885 ROUTE 202
SOMERS, NY 10589
www.somersny.com

Telephone
(914) 277-5366
Fax
(914) 277-4093

Steven Woelfle
Principal Engineering Technician
swoelfle@somersny.com



Syrette Dym, AICP
Town Planner
sdym@somersny.com

Please note:
Plans are on
file in the
Supervisor's
office.
BJS

Date: May 26, 2016
To: Town Board
ARB
Fire Prevention Bureau
Open Space Committee
Highway Superintendent
Water Superintendent

File
Director of Planning
Consultant Town Engineer
Consultant Town Planner

From: Planning Department

Re: The following is submitted for your review and comment.

Project Name: The Crossroads at Baldwin Place
Plan: See Cover Letter
Dated: May 25, 2016
Prepared by: Insite Engineering

Referral is made under the provisions of the following regulations:

- 1. Informal Discussion: _____
- 2. Final Subdivision Approval: _____
- 3. Preliminary Subdivision: _____
- 4. Site Plan: _____ X _____
- 5. Wetland Activity Permit: _____
Administrative _____
Planning Board _____
- 6. Steep Slope Permit: _____
Administrative _____
Planning Board _____



May 25, 2016

Town of Somers Planning Board
335 Route 202
Somers, New York 10589

RE: The Crossroads at Baldwin Place
57 U.S. Route 6
Tax Map # 4.20-1-3.1



Dear Chairman Currie and Members of the Board:

Enclosed please find fourteen (14) copies of the following in support of the site plan application and associated permits for the above referenced project:

- Drawing EX-1, "Existing Conditions and Removals Plan," last revised May 25, 2016.
- Drawing SP-1, "Layout and Landscape Plan," last revised May 25, 2016. (Stormwater Planters were added to the layout, but a revision cloud was not added to maintain the readability of the drawings.)
- Drawing SP-2, "Grading Plan," last revised May 25, 2016. (A revision cloud was not added to the drawings as the proposed contour lines throughout the site were revised.)
- Town of Somers Wetland Buffer / NYSDEC Adjacent Area Enhancement Report, dated May 25, 2016.
- Proposed Action Comparison to Previously Issued Negative Declaration, dated May 25, 2016.

As requested at the May 11, 2016 Planning Board meeting, attached is the Town of Somers Wetland Buffer / NYSDEC Adjacent Area Enhancement Report. This Report serves to quantify the decrease in wetland buffer activity proposed by the project as well as quantify the additional mitigation provided. The Report demonstrates the proposed project will not result in a significant adverse impact, but will result in a benefit to the wetland and buffer area above and beyond what currently exists.

With respect to the review comments offered in the May 6, 2016 memorandum from FP Clark Associates, Inc., we offer the following:

1. As discussed at the previous Planning Board meeting the grading was being revised to reduce the amount of import that would be required for the project. Attached is a revised grading plan which illustrates 30,000 c.y. of net import to the site. The *Proposed Action Comparison to Previously Issued Negative Declaration* was revised to reflect the proposed import.
2. On Page 5, 1a, the second and third paragraphs were revised to provide additional discussion on the two existing pipes that run through the property. The following points were added to the discussion:
 - a. The site does not contribute stormwater runoff to the culvert pipe that runs along the western property line.
 - b. The site and US Route 6 currently discharge untreated runoff to the pipe that runs through the center of the property. Both the existing parking lot and tributary portions of US Route 6 are now proposed to be captured and treated and not contribute to the pipe that runs through the center of the property. This results in a benefit to stormwater quality beyond what was proposed in the previous project.

3 Garrett Place, Carmel, New York 10512 (845) 225-9690 Fax (845) 225-9717
www.insite-eng.com

- c. Due to the existing slopes of the pipes, shortening the pipes will result in shallow standing water being created closer to the buildings. That is because the existing pipes are currently submerged, and shortening them will extend the water line of the wetland to the shortened edge of pipe. As such stormwater will still discharge directly into the wetland. While shortening the pipes will not offer a benefit, they will create a non-complying regulated activity under the NYCDEP Rules and Regulations. A discussion regarding the impact of creating a non-complying regulated activity has been added.
3. Page 6, 2a was revised to quantify the disturbance in the adjacent area.
4. As a result of the additional Town concerns with stormwater quality, as well as changes to the NYSDEC Design Manual, additional area is required for stormwater treatment. Part of the additional stormwater area is being used to treat portions of US Route 6 that currently discharge directly to the wetland untreated. These offsite areas are currently proposed to be treated in addition to the stormwater treatment previously contemplated in the Negative Declaration, providing an improved stormwater condition.

As noted in Response #3, Page 6, 2a was revised to quantify the mitigation provided. Currently the adjacent area / Town wetland buffer is comprised of fertilized / maintained lawn directly on the edge of the wetland. The project is proposing to reduce the amount of fertilized / maintained lawn area in the adjacent area / Town wetland buffer by 63%, and reduce the amount of impervious surfaces in the adjacent area / Town wetland buffer by 83%. In addition 0.6 acres of mitigation areas proposed to be established, 0.3 acres of currently fertilized maintained lawn will be reconstructed as a pocket wetland, and 0.38 acres of fertilized / maintained lawn will be reconstructed as a sand and vegetated swale creating a physical barrier and transition area to the wetland where currently lawn exists.

Based on the reduction in existing disturbance in the adjacent area / Town wetland buffer, treatment of stormwater runoff from offsite areas tributary to the wetland, and the mitigation proposed, the proposed project will not result in a significant adverse impact, but will serve to enhance the quality of the wetland and the adjacent area / Town wetland buffer.

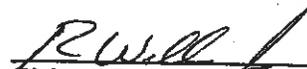
5. The area of contamination has been identified on the existing conditions plan as requested.
6. Page 12 (now page 13), 1a, 4 was revised to include additional discussion on the ratio of commercial to residential floor area proposed.

If you have any questions or comments regarding this information, please do not hesitate to contact our office.

Very truly yours,

INSITE ENGINEERING, SURVEYING & LANDSCAPE ARCHITECTURE, P.C.

By:


Richard D. Williams, Jr., PE
Senior Project Engineer

RDW/amh

cc: K. Kearney, The Kearney Realty and Development Group, Inc., w/enclosures
R. Noonan, Housing Action Council, Inc., w/enclosures
C. Martabano, w/enclosures
L. Whitehead, McCullough, Goldberger & Staudt, LLP, w/enclosures

Insite File No. 15335.100

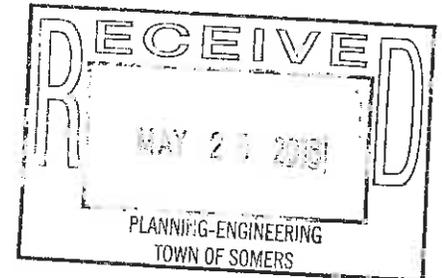


TOWN OF SOMERS WETLAND BUFFER / NYSDEC ADJACENT AREA ENHANCEMENT REPORT

For

**Crossroads at Baldwin Place
57 US Route 6
Town of Somers, New York**

May 25, 2016



Introduction:

The Crossroads at Baldwin Place is proposing to redevelop the existing golf driving range at 57 US Route 6 into a mixed use development. The total property is 11.1 acres with 10.54 acres in the Town of Somers and 0.53 acres in the Town of Carmel. Located in the Town of Somers NS Zone the property is identified as Town of Somers Tax Map # 4.20-1-3.1 and Town of Carmel Tax Map #86.14-1-6. No development is proposed within the Town of Carmel.

The proposed redevelopment program consists of:

1. A 2 story, 24,000 square foot building consisting of 12,000 square feet of retail/professional service and 12,000 square feet of professional office.
2. 52 Senior Affordable Housing rental apartments located in two, 2 ½ story buildings.
3. 12 non-age restricted rental apartments in a 2-story building.

Sixty-two of the above units will meet either the Town of Somers or Westchester County affirmatively furthering fair and affordable housing (AFFH) requirements.

On February 13, 2013 the Town of Somers Planning Board adopted a Negative Declaration for The Green at Somers Project. The previous project initially studied, and upon which some of the studies are based, is more intense in use than both the current project and the project for which the Negative Declaration was adopted.

This existing golf driving range was constructed within the NYSDEC Adjacent Area / Town of Somers Wetland Buffer (Buffer). As part of this project, disturbance is proposed within the Buffer in order to construct wetland mitigation and stormwater management practices. This report will quantify the current level of activity within the buffer, and identify the proposed mitigation to be constructed within the buffer. As a result of the proposed improvements the function of the buffer will be improved beyond the current condition.

Existing Conditions:

NYSDEC Wetland ML-12 is located on the subject property. There is approximately 2.8 acres of 100' buffer associated with ML-12 on the subject property. Of the 2.8 acres of buffer area 2.2 acres or 79% are developed. 1.9 acres are currently developed as fertilized / maintained lawn and 0.3 acres are impervious surfaces associated with the onsite parking lot and building. The 0.3 acres of impervious surfaces currently discharge stormwater runoff directly to the NYSDEC wetland untreated. The remaining 0.6 acres, located in the northern portion of the site, is forested.

The developed portions of the buffer area are developed right up to the edge of the wetland. Thus in the areas where there is currently buffer disturbance there is no natural buffer between the existing development and the wetland.

Proposed Disturbance and Mitigation:

The project is proposing 1.9 acres of disturbance within the buffer area for buffer enhancement. All of the proposed disturbance is proposed within areas of the buffer that are already developed.

The following is a summary of the proposed buffer disturbance:

1. The amount of lawn is proposed to be reduced from 1.9 acres to 0.7 acres. This represents a 63% in the amount of fertilized / maintained lawn in the buffer.
2. The amount of impervious surfaces within the buffer is proposed to be reduced from 0.3 acres to 0.05 acres. This represents an 83% reduction in impervious surfaces in the buffer.
3. 0.6 acres of buffer area will be reconstructed as wetland mitigation areas. The wetland mitigation areas will consist of appropriate wetland / buffer plantings consisting of native / non-invasive species.
4. 0.3 acres of existing fertilized / maintained lawn will be reconstructed as a pocket wetland.
5. 0.14 acres of existing fertilized / maintained lawn will be reconstructed as a sand filter.
6. 0.24 acres of existing fertilized / maintained lawn will be reconstructed as a vegetated swale and mitigation areas.
7. 0.15 acres of impervious surfaces will be reconstructed as permeable pavement.

Items 1 through 6 above will result in 1.28 acres of planted green space and a physical buffer where currently lawn exists. In addition, 1.2 acres of existing impervious surface from the existing parking lot and US Route 6 currently discharging untreated stormwater directly into the wetland will receive treatment. This runoff will pass through a Green Infrastructure Practice followed by two NYSDEC standard stormwater management practices (SMP's) in series.

As a result of the proposed buffer disturbance re-naturalization of the existing lawn areas will occur, resulting in the creation of a natural buffer area. Also 0.3 acres of wetland, through the pocket wetland construction, will be created within the buffer area that is currently lawn. These SMP's will create a physical barrier / transition area to the wetland where currently lawn exists.

Town of Somers Mitigation Policy

For disturbance in a wetland buffer Section 167-9 of the Town Code states the following mitigation policy:

1. Implementation of preventative practices to protect the natural condition and functions of the wetland; and/or,
2. Restoration or enhancement (e.g., improving the density and diversity of native woody plant species) of remaining or other upland buffer to offset the original buffer.

This project is unique in that the existing buffer consists of fertilized / maintained lawn and impervious surfaces. As indicated above the proposed disturbance to the wetland buffer will enhance the function of the buffer over the existing condition. This will be accomplished by providing restoration or enhancement through a diversity of native plant species in areas currently maintained lawn. As such the proposed project is consistent with the Town of Somers mitigation policy.

NYSDEC Compatibility Analysis

As required by Section 663.4 of the New York Codes Rules and Regulations any activity identified as P(C) or P(N) in Section 663.4(d) shall have a compatibility test applied. The compatibility test has three parts as follows:

1. The activity would be compatible with preservation, protection and conservation of the wetland and its benefits.
2. The activity would result in no more than insubstantial degradation to, or loss of, any part of the wetland.
3. The activity would be compatible with public health and welfare.

There are two activities in the activities chart in Section 663.4(d) that are applicable to this project. The first is activity #1 which is "Continuing lawfully existing uses and continuing all activities normally and directly associated with any such use,..." This activity is assigned an exempt status. As stated above 1.9 acres of the existing 2.2 acres of current buffer area disturbance are proposed. There is approximately 0.3 acres of lawn area between buildings 3 and 4 which is proposed to remain as passive recreation space. The preservation of this area is exempt from NYSDEC permitting.

The second activity applicable to this project is #21, "Installing or crating a dry well, retention basin, filter, open swale, or pond." The creation of the sand filter and pocket wetland are classified under this activity. This activity is assigned a rating of P(N) for disturbance proposed in the buffer. P(N) indicates that a permit from the NYSDEC is required and that the proposed activity is usually incompatible, or that the activity is usually incompatible with a wetland and its functions and benefits, although in some cases the proposed action may be insignificant enough to be compatible. Please note that it is this office's experience that stormwater improvements located in the adjacent area have been routinely permitted by the NYSDEC within the NYCDEP watershed due to the heightened stormwater management requirements.

Since the creation of the sand filter and pocket wetland are categorized as a P(N) activity the compatibility test must be applied. The following is a summary of the three parts to the compatibility test.

1. The activity would be compatible with preservation, protection and conservation of the wetland and its benefits. The creation of the sand filter and pocket wetland will be constructed on areas that currently exist as a lawn. Between the edge of the wetland and the proposed SMP's wetland mitigation areas are being provided. In addition the pocket wetland will replicate the function and plantings of the wetland. The proposed SMP's will also provide stormwater treatment of 1.2 acres of existing impervious surfaces that are currently discharging directly to the wetland untreated. As such the proposed SMP's will enhance the water quality of the adjacent wetland and also provide a physical barrier to prevent encroachment into the wetland and wetland buffer.
2. The activity would result in no more than insubstantial degradation to, or loss of, any part of the wetland. No disturbance to the wetland is proposed. The only disturbance proposed is to the wetland buffer. As indicated above the creation of the SMP's in the wetland buffer will replace existing fertilized and maintained lawn which will result in a benefit to the wetland. Further, the SMP's will provide a physical barrier to prevent further encroachment into the wetland. Finally, the proposed SMP's will provide treatment for 1.2 acres of impervious surfaces that currently discharge to the wetland untreated.
3. The activity would be compatible with public health and welfare. The proposed improvements will create a wetland buffer where currently none exist. As the proposed improvements to the buffer will enhance the function of the existing buffer and water quality discharging to the wetland the proposed activity is compatible with the public health and welfare.

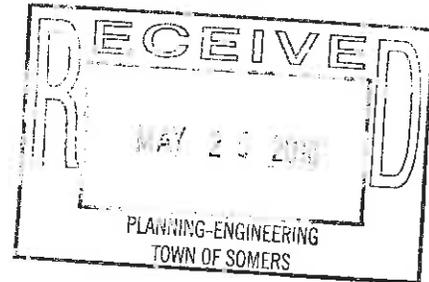
In conclusion the proposed improvements will provide a significant improvement to the wetland and adjacent area.

PROPOSED ACTION COMPARISON TO PREVIOUSLY ISSUED NEGATIVE DECLARATION

For

**Crossroads at Baldwin Place
57 US Route 6
Town of Somers, New York**

Dated: May 25, 2016



Introduction:

On February 13, 2013 the Town of Somers Planning Board adopted a Negative Declaration for the action known as The Green at Somers Project. The previous project initially studied, and upon which some of the studies are based, is more intense in use than both the current Proposed Action and the project for which the Negative Declaration was adopted. The previous project for which the Negative Declaration was adopted was revised to:

1. 8,000 square feet of commercial development.
2. 72 non-age restricted rental apartments meeting the Town of Somers definition of Affordable and also counting towards the Westchester County Housing Settlement.

Since the adoption of the Negative Declaration The Kearney Realty & Development Group, Inc. have become the contract vendee on the property. The new applicant is proposing a similar project now known as Crossroads at Baldwin Place. The project has been further developed to address several concerns raised by the Town as it relates to the associated Zoning Text Amendment. Specifically the ratio of the commercial development to residential development has been increased and the number of dwelling units has been decreased to address the concern to develop commercial uses in the NS zone.

The intent of this document is to provide a summary of the potentially significant adverse impacts cited in the previously adopted Negative Declaration and demonstrate that the Crossroads at Baldwin Place project either:

1. results in a smaller potential impact for which a negative declaration was already adopted, or
2. results in a slightly larger potentially significant impact but, provides adequate mitigation, or documents a project change that has been made such that the potential impact has been mitigated and the Negative Declaration can be re-affirmed.

For each section below, the text in *italics* is taken directly from the previously issued Negative Declaration. A discussion comparing the current project to the statement in the Negative Declaration follows each statement from the Negative Declaration.

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Impact on Land

1. From Negative Declaration: Any construction on slopes of 15% or greater. Site work is proposed in a limited number of areas having slopes greater than 15%. One area is located at the base of the "tee boxes" on the existing driving range and comprises 6,525 square feet; the other area is located along the easterly property line of the Site and comprises 5,925 square feet. Construction activity on the steep slopes associated with the tee boxes would be limited to the deposition and grading of fill material. Due to the location of these existing steep slopes, it is not possible to further reduce the impact by alteration of the site plan. This area of steep slopes is limited, not naturally occurring, and the area would be filled, thereby reducing concerns about potential erosion. Within the sloped area along the easterly property line, some grading would take place as part of the grading operations during construction of the outer loop road that encircles the proposed residential buildings. The potential impacts related to the grading of the steep slopes would be minimized by the design and layout of the site; however, road geometry and desired road gradients would not entirely eliminate disturbance to existing or the creation of new steep slopes in this area. Therefore, mitigation of any potential impacts related to grading activities within the steep slope areas or the creation of new steep slopes would be provided by implementation of soil and erosion controls, including permanent erosion protection by installation of stone rip rap as shown on the Sediment and Erosion Control Plan (Sheet 7 of 17), vegetative slope stabilization, and minimizing the extent and steepness of new steep slopes, which should limit the magnitude of any impacts. The Applicant will be required to design and implement a Stormwater Pollution Prevention Plan (SWPPP) that complies in all respects with the requirements of Somers Town Code Chapters 93 and 148, as well as the "New York State Stormwater Management Design Manual," dated August 2010, and the "New York State Standards and Specifications for Erosion and Sediment Control," dated August 2005, both published by the NYSDEC. Based upon the foregoing, there will be no significant adverse impacts to steep slopes.

- a. **Proposed Action:** There is no change being proposed to the quantity of construction on slopes 15% or greater. With a similar overall layout the reasons for the slope disturbance remain unchanged as well. The Crossroads at Baldwin Place will be designed to similar updated standards as the previous project, conforming to the *New York State Standards and Specifications for Erosion and Sediment Control*, dated August 2005 (Blue Book), and the new version of the *New York State Stormwater Management Design Manual*, dated January 2015 (Design Manual). Similar to the previous project, the Proposed Action will provide stone rip rap, vegetative slope stabilization, minimization of steepness of new slopes, and will also provide erosion control blankets on slopes in excess of 3 horizontal to 1 vertical.

2. From Negative Declaration: Construction on land where the depth to water table is less than 3 feet. Based upon the results of soil borings completed by Carlin-Simpson & Associates on behalf of the Applicant (which are summarized in a report dated May 31, 2012), it has been determined that the Proposed Action would not involve any construction where the depth to ground water is 3 feet or less. However, it is anticipated that some of the proposed site work will encounter the groundwater table at a depth of more than 3 feet in a limited number of locations. In the event that further soil investigations indicate that dewatering will need to be undertaken, the water will not be discharged directly into the existing wetlands and all dewatering activities will be performed in accordance with the "New York State Standards and Specifications for Erosion and Sediment Control," dated August 2005, published by the NYSDEC. Based upon the foregoing, there will be no significant adverse impacts to areas of shallow water table or where the groundwater table may be encountered during construction, and

procedures will be in place to avoid negative impacts to the adjacent wetland in the event that groundwater is encountered.

- a. **Proposed Action:** The overall site layout and grading is similar to the previous application in that the building pads will be constructed primarily in fill. Similar to the previous project it is anticipated that that construction in the groundwater table will occur in a limited number of locations, such as for stormwater management practice (SMP) construction and building footing construction. The same mitigation will be provided in that should dewatering need to be undertaken it will not be discharged directly in the existing wetlands and all dewatering activities will be performed in accordance with the Blue Book.

Additional information has also been obtained relative to the soil contamination on the site. The applicant has drilled monitoring wells and approximated the extents of the contamination (See Project Drawing EX-1). There is an isolated area of contaminated soil in the south eastern corner of the site. A NYSDEC compliant remediation plan has been developed. Located under the existing parking lot, the contamination is thought to have originated from a gas station that is reputed to have existed on the site. Any contaminated soils that are encountered, including the associated groundwater if located in the groundwater table, will be mitigated by removing and properly disposing of the soil and groundwater in accordance with local, state, and federal regulations. The identification and removal of any contaminated soil / groundwater during construction will provide mitigation that results in a net benefit to the overall groundwater supply in the area.

3. From Negative Declaration: Construction of paved parking area for 1,000 or more vehicles. *The Proposed Action would not involve the construction of 1,000 or more parking spaces, but would involve the construction of approximately 187 parking spaces. The number of required parking spaces is directly related to the amount of floor area and the number of dwelling units that are proposed. The use of underground parking garages will reduce the amount of impervious surfaces that would otherwise be created on the Site if all proposed parking spaces were located in outdoor surface parking lots. The proposed parking does not exceed the amount required for the proposed land uses by the applicable off-street parking requirements of the Town of Somers Zoning Ordinance and the Applicant is also proposing the shared use of one parking space. Stormwater runoff generated by paved parking spaces will be handled by multiple practices to be incorporated into an approved Stormwater Pollution Prevention Plan (SWPPP) that fully complies with all applicable requirements of the New York State Stormwater Management Design Manual, dated August 2010, published by the NYSDEC. These practices, which will include vegetated swales, a bioretention filter area, other water quality treatment areas, stormwater planters, and permeable pavement, will be designed to promote the removal of pollutants from stormwater while controlling the peak rate in runoff after construction of the proposed development. Based upon the foregoing, there will be no significant adverse impacts associated with the proposed construction of 187 parking spaces.*

- a. **Proposed Action:** Similar to the previous project, the Proposed Action would not involve the construction of 1,000 or more parking spaces, but is proposing to construction 201 parking spaces (182 impervious and 19 pervious). The Proposed Action will result in 3.0 acres of paved / building surfaces as follows, 2.2 acres of new impervious surfaces, 0.1 acres of permeable pavement and 0.7 acres of existing impervious surfaces being redeveloped. This is more than the previous project, which proposed a total of 2.8 acres of paved / building surfaces as follows 1.7 acres of new impervious surfaces, 0.4 acres of permeable pavement and 0.7 acres of existing impervious surfaces to be redeveloped. A SWPPP will be developed that will capture and treat the proposed impervious

Proposed Action Comparison To Previously Issued Negative Declaration

surfaces. The project SWPPP will conform to a later version of the Design Manual than the previous project, and will also meet the requirements of the NYCDEP *Rules and Regulations from the Contamination, Degradation and Pollution of the Water Supply and Its Sources*, dated April 2010 (Rules and Regulations). The project SWPPP will include vegetated swales, water quality swales (NYSDEC Design O-1), porous pavement, a surface sand filter (NYSDEC Design F-1), and a Pocket Wetland (NYSDEC Design W-4).

4. From Negative Declaration: Proposed Action Involves importation of 24,289± cubic yards of fill. *Based on the results of preliminary soil investigations undertaken by Carlin-Simpson & Associates on behalf of the Applicant, it has been determined that several areas of the Site contain fill material that cannot provide structural support for the proposed buildings and certain other structures. For that reason, it will be necessary to remove the unsuitable material where encountered and replace it with structural fill that will need to be imported to the Site to create the proposed finished grades. In its current condition, the Site slopes down from U.S. Route 6 towards the rear of the property. The proposed site improvements would be located in the southern half of the Site. Based on the proposed grading plan, most of the fill would be placed in areas closest to the Site's U.S. Route 6 frontage, thereby providing for considerable separation between areas of fill and the State- and Town-regulated wetlands. The Site is not located in the 100-year flood zone. Therefore, the proposed filling operation should not affect neighboring or downstream properties due to displacement of flood storage areas. During the construction phase of the project, a sediment and erosion control plan will be implemented in accordance with the "New York State Standards and Specifications for Erosion and Sediment Control," dated August 2005, published by the NYSDEC and the NYSDEC's Best Management Practices (BMP) to prevent mud and silt from entering into existing and proposed drainage facilities and to protect the receiving waters from contamination. Based upon the foregoing, there will be no significant adverse impacts associated with the proposed importation of 24,289 cubic yards of fill.*

- a. **Proposed Action:** The proposed action is similar to the previous project in that the building pad will be constructed primarily in fill. Based on the proposed grading plan a similar quantity of fill is anticipated to be imported than analyzed in the previous project. It is estimated that 30,000 c.y. of fill will need to be imported to the site. As the site design advances the amount of fill will be further reduced where possible to minimize importation and construction costs.

The construction techniques are similar to that of the previous project in that unsuitable material may need to be removed, and structure fill imported under structures. Also similar to previous project is that the proposed action would be placing fill in the southern half of the property in the portion of the site closest to US Route 6. The site is still not located in a 100-year flood zone, therefore no downstream flooding impacts area anticipated as a result of the fill importation. Finally, during the construction phase of the project, erosion controls designed in accordance with the Blue Book will be implemented and include, silt fence, dust control, stabilized construction entrances, inlet protection, stabilization of disturbed areas and construction of a temporary sediment trap.

Impact on Water

1. From Negative Declaration: The Proposed Action involves the removal of two existing drainage pipe(s) and a 50-foot high chain link fence that currently defines the perimeter boundary of the of a State-regulated wetland (identified as Wetland "A" on the site plan). *As part of the proposed Site redevelopment, the Applicant is proposing to remove two existing drainage pipes that are located in the 100-foot buffer of the State regulated wetland on the Site. One of these drainage pipes runs along the*

westerly boundary of the Site; the other runs through the center of the Site. Both pipes currently discharge to the State wetland. Under the proposed site plan, stormwater would continue to be discharged to the same wetland, but it would be done in accordance with an approved Stormwater Pollution Prevention Plan (SWPPP) that meets all applicable requirements of Somers Town Code Chapter 93 and the New York State Stormwater Management Design Manual, dated August 2010, published by the NYSDEC. The Applicant is also proposing to install new plant material in the 100-foot buffer of the State-regulated wetland. Plant materials selected will be suited to the expected hydrologic conditions where they are proposed to be planted, will be native species, and will not include invasive species. While these activities technically involve disturbance within the 100-foot buffer of the State-regulated wetland and are likely to require approval of a State wetland permit, they are intended to provide for enhancements to the functioning of that wetland buffer. During the construction phase of the project, a sediment and erosion control plan will be implemented in accordance with the "New York State Standards and Specifications for Erosion and Sediment Control," dated August 2005, published by the NYSDEC and the NYSDEC's Best Management Practices (BMP) to prevent mud and silt from entering into existing and proposed drainage facilities and to protect the receiving waters from contamination during construction. Other disturbances in the 100-foot buffer of the State-regulated wetland that were previously proposed and/or under consideration are no longer part of the Proposed Action, such as the construction of a stormwater mitigation area substantially within the 100-foot buffer, the installation of a new pipe discharging from the proposed pocket wetland to the State-regulated wetland, and the establishment of a wetland creation area. Based upon the foregoing, there will be no significant adverse impacts to the State regulated wetland.

- a. **Proposed Action:** The proposed action is no longer proposing to remove / shorten portions of the existing piping. Similar to the previous project, the Proposed Action will continue to discharge stormwater into the same NYSDEC wetland, but will do so under an approved SWPPP designed to the latest standards. Part of designing to the latest standards involved additional Green Infrastructure Practices (GIP's) to be located upstream of the permanent SMP's. While the amount of impervious surfaces proposed, and general locations of the SMP's are similar between the previous and proposed action (3.0 acres versus 2.8 acres), the results of the 2015 revision to the Design Manual and latest General Permit have resulted in the proposed action's SMP's extending beyond what was previously proposed. The increased size of the proposed SMP does not allow the existing pipe in the center of the site be shortened. However, a portion of the second drainage pipe previously proposed to be shortened will still be eliminated.

It should be noted that the two existing drainage pipes were not previously proposed to be removed in their entirety, but shortened.

- **Existing drainage pipe that flows through the center of the site.** The one existing pipe that runs through the center of the site was proposed to be replaced and relocated. This pipe, which conveys runoff from US Route 6 is still proposed to be replaced and relocated, but it will also be increased in size. As determined in the Somers Realty Phase 3 SWPPP the existing drainage line in the center of the subject property currently limits the capacity of the upstream NYSDOT Drainage System. The proposed application will increase the size of this drainage line so the NYSDOT system can flow at its design capacity which is equal to the 50-year storm event. This improvement being undertaken by the Proposed Action will improve the safety of US Route 6, by reducing the potential for flooding, and will improve the existing NYSDOT collection system.

This drainage line currently receives treated stormwater runoff from the Somers Realty Planned Hamlet and untreated runoff from portions of US Route 6 and the existing onsite parking lot. As part of the site's

Proposed Action Comparison To Previously Issued Negative Declaration

redevelopment the currently untreated portions of the parking lot and US Route 6 will be captured and treated. Thus this pipe will convey only treated stormwater runoff. This is an improvement over the existing condition where as there are currently untreated impervious surfaces discharging directly to the wetland.

As a result of the additional area required for stormwater to address the requirements of the Town, the NYCDEP and the latest version of the NYSDEC's General Permit shortening this pipe as previously contemplated would limit the necessary area for stormwater treatment.

- **Existing drainage line along the western edge of the property.** This pipe currently runs along the western property line and serves as the outlet to an offsite pond. No part of the site is tributary to the pipe, and as such the proposed action does not have an impact associated with the water discharging from this pipe. Shortening the pipe will result in the creation of a non-complying regulated activity under the NYCDEP *Rules and Regulations from the protection from Contamination, Degradation and Pollution of the New York City Water Supply and its Sources*. This would preclude create a unnecessary permitting hardship and prevent the creation or relocation of an impervious surface in the future for impervious surfaces on the entire site. For example, if at some point in the future the gazebo needs to be reconstructed, and the applicant comes to the Board for a different size or shape gazebo, because of the non-complying regulated activity, a variance would be required from the NYCDEP for the gazebo. As there is limited, if any benefit, to shortening the pipe, i.e. stormwater will still discharge directly into the water's edge, but shortening the pipe will create hardships and limit the ability for future improvements or modifications to the property the pipe is not proposed to be shortened.

Similar to the proposed action the area between the proposed SMP's and the NYSDEC wetland will be reclaimed as natural buffer landscape. A total of three wetland mitigation areas are provided, all located within the Town / NYSDEC Wetland Buffer. These areas comprise 26,400 s.f. total, are currently lawn, and will be planted with wetland mitigation planting. As a result, the performance of the existing wetland buffer will be improved by the Proposed Action. Another benefit to the receiving wetland is that the SWPPP will not only treat the new development, but also the onsite existing impervious surfaces being redeveloped, as well as portions of US Route 6 which currently untreated (see discussion above).

Finally, due to the elevations of the pipes, which are long flat pipe runs, shortening the pipes will result in shallow standing water closer to the development. As a result the stormwater will still discharge into water that is directly connected to the wetland, and will not filter or slow down the discharge of pollutants into the wetland. In lieu of shortening the pipe as mitigation (which will have limited benefit and create potential safety issues), additional offsite impervious surfaces are being captured and treated before discharging to the wetland. As such there will be an improvement in stormwater quality being discharged to the wetland.

2. From the Negative Declaration: The Proposed Action involves the removal of existing site features (pavement, structures, drainage pipes), new grading, construction of a stormwater management system, installation of portions of the Site's vehicular circulation system, and addition of plantings within the 100-foot buffer of Town-regulated Wetland "B," located in the southwesterly portion of the Site. The Proposed Action also involves the removal of an existing equipment

storage shed and portions of a 50-foot high chain link fence that currently defines the perimeter boundary of the existing golf driving range within the 100-foot buffer of Town regulated Wetland "C," located along the easterly property line of the Site. To offset the proposed disturbance to the 100-foot buffer of Town-regulated Wetland "B," the buffer area will be enhanced with diversified plantings suited to the hydrologic regime expected to be found where such plants will be installed. In addition, the proposed site plan involves the use of permeable pavement in selected locations as a means of further reducing potential adverse impacts on Town-regulated wetlands and their 100-foot buffers resulting from an increase in impervious surface areas. The final details of any walking trail to be established on the Site will be designed to prevent residents from encroaching into Town regulated wetland buffer areas. During the construction phase of the project, a sediment and erosion control plan will be implemented in accordance with the "New York State Standards and Specifications for Erosion and Sediment Control," dated August 2005, published by the NYSDEC and the NYSDEC's Best Management Practices (BMP) to prevent mud and silt from entering into existing and proposed drainage facilities and to protect the receiving waters from contamination during construction. Based upon the foregoing, there will be no significant adverse impacts to Town-regulated wetlands.

- a. **Proposed Action:** The proposed action is similar to the previous project in that wetland mitigation is still proposed throughout the site, and within the wetland buffers of Wetland A and B. In addition permeable pavement is proposed within the Wetland B 100' buffer area. A summary of the existing and impervious surfaces has been presented in 3a above. Further an erosion control plan has been prepared for the project which is consistent with the Blue Book and will prevent mud and silt from entering the wetlands during construction. The Proposed Action will result in decrease buffer area disturbance from what exists today.

Currently there are 1.9 acres of fertilized / maintained lawn and 0.3 acres impervious surfaces located within the adjacent area and directly on the edge of the wetland. It is proposed to reduce the amount of lawn area along the edge of the wetland from 1.9 acres to 0.7 acres. This represents a 63% decrease in the amount of fertilized / maintained lawn in the adjacent area. The proposed project will reduce the quantity of impervious surfaces from 0.3 acres to 0.05 acres. This is an 83% reduction in impervious surfaces within the adjacent area. Further the remaining 0.5 acres (which is currently not treated) will receive stormwater treatment. This is in addition to offsite impervious surfaces currently not being treated and directly discharging to the wetland that will also receive treatment.

In addition to providing the reduction in buffer area activity and stormwater treatment cited above, the proposed project will also create a buffer to the wetland where currently lawn exists. 0.6 acres of lawn will be reconstructed as wetland mitigation areas. 0.3 acres of lawn will be reconstructed as a pocket wetland. 0.15 acres of impervious surfaces will be reconstructed as permeable pavement. 0.14 acres of lawn will be reconstructed as a sand filter. 0.24 acres of pavement will be reconstructed as a vegetated swale. The majority of these features will result in 1.28 acres of planted green space and a physical buffer where currently none exist.

In addition the SWPPP will not only treat the new impervious surfaces but will also provide treatment for the redeveloped onsite impervious areas, as well as portions of US Route 6 which are currently untreated. As such the Proposed Action still results in no significant adverse impacts to Town regulated wetlands.

3. From Negative Declaration: Proposed Action will adversely affect groundwater.

The addition of impervious surfaces to the Site will create additional runoff that could contain pollutants that may adversely affect the groundwater. To promote the removal of pollutants from stormwater while controlling the peak rate in runoff after development, a Stormwater Pollution Prevention Plan will be prepared for the Site in accordance with the New York State Stormwater Management Design Manual, dated August 2012, published by the NYSDEC (the "Design Manual"). The Design Manual provides a wide range of acceptable practices which are to be incorporated into the required Stormwater Pollution Prevention Plan (SWPPP). These practices are designed to promote the removal of pollutants from the stormwater stream while controlling the peak rate in runoff after development. For this project, the SWPPP will include such practices as vegetated swales, a pocket wetland, a bioretention filter area, other water quality treatment areas, stormwater planters, and permeable pavement. In addition, slow release fertilizers will be applied by hand to horticultural plantings as part of regular horticultural maintenance program and will be limited to a single spring application. During construction, petroleum products will be stored in tightly sealed containers that are clearly labeled and all vehicles on the Site will be monitored for leaks and receive regular preventive maintenance to reduce the chance of leakage. The use of road salt for maintenance of driveway and parking lot areas will be minimized on the Site. Based upon the foregoing, there will be no significant adverse impacts on groundwater.

- a. **Proposed Action:** The Proposed Action will create slightly more impervious surfaces than previously proposed. The Proposed Action will result in 3.0 acres of paved / building surfaces as follows, 2.2 acres of new impervious surfaces, 0.1 acres of permeable pavement and 0.7 acres of existing impervious surfaces being redeveloped. This is more than the previous project, which proposed a total of 2.8 acres of paved / building surfaces as follows 1.7 acres of new impervious surfaces, 0.4 acres of permeable pavement and 0.7 acres of existing impervious surfaces to be redeveloped. The SWPPP prepared for the Proposed Action will be designed in accordance with the latest addition of the Design Manual, and will be designed to capture and treat the proposed impervious surfaces. Similar to the previous project the Proposed Action will provide a wide range of SMP's including vegetated swales, water quality swales (NYSDEC Design O-1), porous pavement, a surface sand filter (NYSDEC Design F-1), and a Pocket Wetland (NYSDEC Design W-4). Also fertilizers will only be used as necessary and will be applied in accordance with the New York State *Dishwasher Detergent and Nutrient Runoff Law*. During construction, petroleum products will be stored in tightly sealed containers that are clearly labeled. Fueling and maintenance of vehicles will occur in specific staging areas as discussed in the project SWPPP. The project SWPPP also requires the routine inspection of vehicles to minimize the change of leakage throughout the site. The use of road salt for maintenance of driveway and parking areas will be minimized. Based on the above the Proposed Action results in no change from the previous project's determination.

4. From Negative Declaration: Proposed Action would use water in excess of 20,000 gallons per day. The Proposed Action would use water but it involves the projected consumption of 12,900 gallons of water per day upon completion of proposed development. The proposed development will receive water from the Amawalk-Shenorock Water District, which is expected to provide an ample supply of water to the Site. Based upon the foregoing, there will be no significant adverse impacts associated with the proposed consumption of water.

- a. **Proposed Action.** The Proposed action will also receive water from the Amawalk- Shenorock Water District. The Proposed Action's design flow of 10,720 gpd is less than the previous project's design flow of 12,900 gpd, and as such no there will still be no significant adverse impacts associated with the

Crossroads at Baldwin Place
Proposed Action Comparison To Previously Issued Negative Declaration

proposed consumption of water. The proposed water demand for the project is calculated as follows:

Proposed Use	Hydraulic Loading Rate ¹	Average Daily Design Flow (gpd)
24,000 Square feet of Commercial Space (retail, professional service, professional office)	0.08 gpd/ s.ŕ.	1,920 gpd.
48 –One Bedroom Apartments	110 gpd/bedroom	5,280 gpd
16 –Two Bedroom Apartments for a total of 32 bedrooms.	220 gpd/dwelling	3,520 gpd
Total		10,720 gpd

¹ Hydraulic Loading Rates taken from *New York State Design Standards for Intermediate Sized Wastewater Treatment Systems, 2014*.

² A 20% reduction has been applied to the Commercial Design Flow as permitted by *New York State Design Standards for Intermediate Sized Wastewater Treatment Systems, 2014*.

5. From Negative Declaration: Proposed Action will require the storage of petroleum or chemical products greater than 1,000 gallons. The Proposed Action will require the use of Bioxide for odor control as part of the operation of the proposed Sewage Pump Station, but the amount of Bioxide to be stored on the Site will be less than 1,100 gallons. Bioxide will be handled and stored in accordance with "Recommended Standards for Wastewater Facilities 2004 Edition," published by the Great Lakes – Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers ("10 States Standards Wastewater Design Manual") and with "Design Standards for Wastewater Treatment Works Intermediate Sized Sewerage Facilities 1988", dated 1980, revised 1988, published by the NYSDEC. Based on the foregoing, there will be no significant adverse impacts associated with the storage of petroleum or chemical products on the Site.

- a. **Proposed Action:** There is no change from the previous project, except that the use of Bioxide may no longer be required based on other offsite improvements to the sewer district. If Bioxide is determined to be required than less than 1,100 gallons will be stored on site and it will be stored in accordance with the previously cited requirements in #5.

6. From Negative Declaration: Proposed Action involves site dewatering activities in areas of proposed central drainage pipe removal and proposed building foundations during construction. Based upon the results of soil borings completed by Carlin-Simpson & Associates on behalf of the Applicant (which are summarized in a report dated May 31, 2012), it has been determined that the Site has a shallow groundwater table that is likely to be encountered during the construction phase. The Carlin-Simpson & Associates report also notes, however, that its findings are based on only seven borings completed in May 2012 and that additional sub-surface soil investigation will be necessary to determine the elevation of the water table in all areas to

be disturbed. The Applicant will be required to complete the additional soil investigations prior to the Planning Board granting final site plan approval. Depending on the elevation of the water table, dewatering of the Site during construction may be required. At a minimum, these locations are expected to include the area where an existing drainage pipe to be removed in the central portion of the Site is now located as well as the location of one or more proposed building foundations. Any groundwater that may be encountered during the normal course of construction is proposed to be piped or pumped via a low head "trash pump" into the temporary sediment basin in accordance with the requirements of the "New York State Standards and Specifications for Erosion and Sediment Control," dated August 2005, published by the NYSDEC and will be part of the approved Stormwater Pollution Prevention Plan (SWPPP) that will be prepared in accordance with the requirements established by the NYSDEC SPDES General Permit. The Applicant will also be required to submit a dewatering plan that complies with the "New York State Standards and Specifications for Erosion and Sediment Control," dated August 2005, published by the NYSDEC, prior to the Planning Board granting final site plan approval. The required dewatering plan will identify the proposed collection and conveyance routes of intercepted groundwater, and will detail the quantity and duration of the dewatering, discharge points, and erosion and sediment control measures. The Applicant will not be permitted to discharge any water associated with dewatering operations into any State- or Town-regulated wetland on the Site. Based on the foregoing, there will be no significant adverse impacts associated with site dewatering activities.

- a. **Proposed Action:** The proposed action is similar to the previous project with respect to the overall limits of disturbance, elevations of construction, and removal of the existing drainage line in the center of the site. Therefore there is no change in what was previously studied and discussed above with one exception. The area of the potential for contaminated soil / groundwater in the south eastern corner of the site previously mentioned was further studied and the area / extents of contamination identified (See Project Drawing EX-1). Further a remediation plan has been developed in accordance with NYSDEC standards.

Located under the existing parking lot, the contamination is thought to have originated from a gas station that is reputed to have existed on the site. Any contaminated soils that are encountered, including the associated groundwater if located in the groundwater table, will be mitigated by removing and properly disposing of the soil and groundwater in accordance with local, state, and federal regulations. The identification and removal of any contaminated soil / groundwater during construction will provide mitigation that results in a net benefit to the overall groundwater supply in the area.

7. From Negative Declaration: Proposed Action may cause substantial erosion.

Proposed grading activities on the Site and areas stripped of vegetation during and after construction may result in erosion on the Site. During the construction phase of the project, a sediment and erosion control plan will be implemented in accordance with the "New York State Standards and Specifications for Erosion and Sediment Control," dated August 2005, published by the NYSDEC and the NYSDEC's Best Management Practices (BMP). The primary goals of the sediment and erosion control plan are to prevent the tracking of dirt and mud onto adjacent roads, to prevent mud and silt from entering into existing and proposed drainage facilities, to protect the receiving waters from contamination during construction, and to provide proper site stabilization. Based upon the foregoing, there will be no significant adverse impacts resulting from erosion.

- a. **Proposed Action:** The proposed action has a similar limit of disturbance as the previous project. An Erosion and Sediment Control Plan designed in accordance with the Blue Book will be prepared for the project, and similar to the previous

Proposed Action Comparison To Previously Issued Negative Declaration

application will offer adequate mitigation such that there will be no significant adverse impacts resulting from erosion.

Impact on Open Space and Recreation:

1. From Negative Declaration: Proposed Action involves elimination of existing privately-owned golf driving range. According to the Applicant, the existing golf driving range is no longer considered a viable commercial enterprise. The loss of a privately-owned recreation facility is a relatively small and unavoidable impact. Based upon the foregoing, there will be no significant adverse impacts resulting from elimination of the existing golf driving range.

a. **Proposed Action:** There is no change from the determination made above.

Impact on Transportation

Proposed Action involves the generation of up to 254 vehicle trips per hour upon completion. The Applicant completed a Traffic Report on the basis of the originally proposed development concept, which included approximately 24,760 square feet of retail space, a 4,000 square-foot restaurant and 71 residential units. According to the Applicant's Traffic Consultant, the proposed development was originally estimated to generate 69, 125 and 180 vehicle trip ends during the weekday morning, weekday afternoon and Saturday midday peak hours, respectively, based on trip rates provided by the Institute of Transportation Engineers (ITE). The analysis was based on full occupancy in 2015 and accounts for other planned or approved developments along the U.S. Route 6 corridor. Based upon the findings of the Applicant's Traffic Report, the proposed multi-use commercial/residential development would not have a significant adverse impact on the overall traffic operation along U.S. Route 6, based upon implementation of the following recommended transportation improvements:

1. U.S. Route 6 at Curry Street/New York State Route 6N – Traffic Signal Timing Improvements.
2. U.S. Route 6 at Mahopac Avenue – Traffic Signal Timing Improvements.
3. U.S. Route 6 at Somers Commons Access (South) – Traffic Signal Timing Improvements.
4. U.S. Route 6 at New York State Route 118/Baldwin Place Road – Traffic Signal Timing Improvements.
5. U.S. Route 6 at Proposed Site Access Drive/Planned Hamlet Site Access Drive – Recommend signalization of this intersection and the construction of separate left turn lanes on U.S. Route 6 at the location of the proposed access drive.

Each of the recommended improvements along U.S. Route 6 requires approval from the New York State Department of Transportation (NYSDOT). Therefore, the Applicant will be required to obtain a Highway Work Permit for the proposed improvements at the Site access drive, which includes signalization and left turn lane construction. Modification to traffic signal timing plans upstream of the Site will also require an approval by the NYSDOT or findings that the NYSDOT will implement the traffic signal timing improvement plans, as needed. Subsequent to the completion of the Traffic Study by the Applicant's Traffic consultant, the development concept for the Site continued to evolve. The Proposed Action now includes 6,000 square feet of retail floor area, 2,000 square feet of restaurant floor area, and 72 multifamily dwelling units (36 one-bedroom and 36 two-bedroom). Because the scale of the proposed development has been reduced, projected trip generation would be slightly lower than originally estimated. However, the findings remain the same. Based upon the analysis completed by the Applicant's Traffic Consultant and the recommended improvements to be provided by the Applicant, the proposed development will not result in an adverse impact on the overall traffic operations along U.S. Route 6 along the Site frontage and at upstream traffic signals. Based upon the foregoing, there will be no significant adverse impacts resulting from the generation of additional Site traffic.

Proposed Action Comparison To Previously Issued Negative Declaration

- a. **Proposed Action:** The use for which the above traffic report was prepared was more intense than the Proposed Action and as such results in a higher traffic generation rate. Thus there is no change from the determination made above.

For comparison purposes:

- The Traffic Report analyzed 24,760 square feet of retail plus a 4,000 square foot restaurant.
 - The Proposed Action only has 24,000 square feet of commercial space with 12,000 s.f. of retail / professional service and 12,000 s.f. of office. Thus the Proposed Action will generate less traffic for the commercial component of the development.
- The Traffic Report analyzed 71 market rate residential units.
 - The Proposed Action has a total of 64 residential units with only 12 non-age restricted units, and 52 age-restricted units. Thus the Proposed Action will generate less traffic for the residential component of the development.

Similar to the findings above, the Proposed Action will result in less traffic than contemplated in the Traffic Study prepared for the project. However, while the impact is less than previously studied, the mitigation proposed above will still be implemented, and as such there will be no significant impacts resulting from generation of additional site traffic.

2. From Negative Declaration: Proposed Action involves generation of traffic during construction phase, including that associated with importation of fill to the Site. *During the initial phases of site work, earthwork activities will require the importation of fill. Because of constraints that would limit the availability of on-site staging areas, the Applicant has projected that no more than 40 truckloads of fill could be imported to the Site on a daily basis. This represents a total of 80 truck trips per day that could be expected to result from filling operations, probably over the course of an 8-hour work day for approximately 5 weeks. This could result in short-term delays along U.S. Route 6 since trucks of this type and size are typically slow-moving vehicles. To reduce potential impacts associated with this type of construction traffic, the Applicant will employ a flag person to direct traffic at the Site entrance drive and will use standard signing along U.S. Route 6. Prior to the Planning Board granting final site plan approval, the Applicant will also be required to submit a construction management plan that accounts for the projected amount of delivery truck activity generally. In addition, the final approved Sediment and Erosion Control Plan will be designed to ensure that dirt and mud from trucks transporting fill and as well as other construction vehicles will not be deposited onto U.S. Route 6 and other area roads during the construction phase. Based upon the foregoing, there will be no significant adverse impacts associated with construction traffic.*

- a. **Proposed Action:** It is estimated that 30,000 c.y. of fill will need to be imported to the site. As the site design advances the amount of fill will be further reduced where possible to minimize importation and construction costs. This equates to approximately 2 additional weeks of import. For comparison purposes approximately 45,000 c.y. were recently exported from the Somers Realty Stockpile in 10 weeks of which limited to no traffic impacts were observed or reports.

Impact on Growth and Character of Community or Neighborhood:

1. From Negative Declaration: Proposed Action will conflict with officially adopted plans or goals. *The Proposed Action is consistent with Town Development Plan policies, but does not comply with existing zoning policies concerning the specific location of residential and retail uses in the NS District. Under existing zoning provisions, apartments are not permitted on the first floor of any building in an NS District and, when proposed,*

such apartments must be located over stores (i.e., retail uses) but may not be located over other permitted nonresidential uses, such as but not limited to restaurants. The Proposed Action includes the proposed adoption of supplementary zoning provisions that seek to create more flexibility in the permitted location of apartments in an NS District. If all applicable criteria can be satisfied, the supplementary zoning text provisions would allow apartments to be located on any floor of a building that is set back more than 100 feet from the road frontage. The proposed zoning provisions would have limited applicability because they could only be applied to a property larger than 8 acres in size, with road frontage of less than 500 feet, and located on the same road as and within 2,000 feet of property in the CS District, and then only if at least 50% of the proposed residential units would qualify as "affordable dwelling units." Before the normally applicable provisions of the NS District could be modified and replaced with the supplementary zoning provisions, the approval authority would also be required to make a specific finding that nonresidential uses located in the rear portion of a development site would not be marketable. Based upon the foregoing, there will be no significant adverse impacts associated with the proposed zoning text amendments.

- a. **Proposed Action:** Similar to the previous project the Proposed Action requires a text change to the zoning code. The text changes are summarized as follows:
- i. For mixed commercial and affordable residential developments the commercial and residential units may be located in separate buildings provided:
 1. There is a minimum lot size of 8 acres. The property is 11.1 acres.
 2. The lot has less than 500 feet of frontage. The property has 382 feet of frontage.
 3. The lot is serviced by public water and sewer. The project is seeking to be placed in the public water and sewer district.
 4. The minimum ratio of commercial floor area to residential floor area is 0.27 (refer to discussion in following paragraph regarding development of the commercial to residential floor area ratio). The project provides a ratio of 0.27 for commercial floor area to residential floor area.
 5. The project shall include at a minimum, residential units where at least 50% of the total number of residential units are considered affordable dwelling units as defined in Section 170-3 of the zoning code. The project is proposed 62 affordable units and 64 total units. That is 97% affordable.
 6. The maximum building footprint is 12,500 s.f. The maximum building footprint is approximately 12,000 s.f.
 7. Except as modified above the dimensional standards applicable to a mixed commercial and affordable residential development project shall be governed by provisions of Section 170-20.3.
 8. Section 170-20.3(H) required a minimum front yard of 20 feet, which shall be landscaped and/or maintained in its natural state except for necessary access drives and walkways. The Proposed Action will maintain the limits of the existing parking lot which is approximately 10 feet from the right-of-way of US Route 6.

As stated in Section 170-19 of the Town Code, "it is the purpose of the NS District to provide the opportunity and encouragement for the creation of economically healthy, functionally efficient, environmentally sound and attractive neighborhood business areas design to primarily serve the local convenience and personal service needs of the residents of the Town of Somers..." As part of the previous Negative Declaration a Retail Market Study, dated May 9, 2014 was submitted to the Town. It concluded that the market could support 8,000 s.f. of additional retail space, but could not support 40,000 s.f. Based on balancing the

Proposed Action Comparison To Previously Issued Negative Declaration

market and the unique development costs associated with developing a residential community at least 50% affordable, with the NS objectives to provide neighborhood business areas, the developer determined a minimum ration of commercial to residential floor area of 0.27 could be provided.

As indicated above the approval authority would need to make the same specific finding that nonresidential uses located in the rear portion of a development site would not be marketable. Based on the above, the determination that there will be no significant adverse impacts associated with the proposed zoning text amendments can be reaffirmed.

2. From Negative Declaration: Proposed Action will cause a change in the density of land use. *The Proposed Action involves the construction of approximately 72 multifamily dwelling units and approximately 8,000 square feet of commercial floor area (to be occupied by retail and restaurant uses) in place of an existing golf driving range. In comparison to the character of the existing golf driving range, the proposed development would clearly represent a change in the density of land use. However, the proposed number of dwelling units and amount of commercial floor area are permitted by the existing provisions of the NS District, in which the Site is located. Based upon the foregoing, there will be no significant adverse impacts related to changes in the density of land use.*

- a. **Proposed Action:** Similar to the previous application the project density is permitted by existing provisions of the NS District. When compared to the previous project, the Proposed Action's ratio of commercial to residential development has been increased so there is 24,000 square feet of commercial development and less residential units with 64 units proposed. The ratio of commercial to residential was increased to address the concern to develop commercial uses in the NS zone. While the ratio of commercial to residential development was increased, the overall project density is similar to the previous project such that the previous finding can be reaffirmed.

3. Development will create a demand for additional community services (e.g., schools, police and fire, etc.). *Because the approximately 72 proposed residential dwelling units would not be age-restricted, and because 50% of the proposed dwelling units would have two bedrooms, the Proposed Action is expected to attract some families with school-age children. In addition, the construction of new residential and nonresidential buildings where a golf driving range previously existed would create a demand for additional police and fire protection services. However, Somers Central School District has sufficient capacity to accommodate additional students. Additionally, according to the Applicant, the Somers Fire District has indicated that its fire apparatus would be able to access the Site based upon the currently proposed site layout. Any new development with residential dwelling units would also generate a demand for recreation facilities. To offset the increased demand for those facilities by residents of the proposed dwelling units, the Proposed Action includes payment of a \$400,000 recreation fee. To the extent that the recreation fee required by Somers Town Code § 55-3 would be higher than \$400,000, the Applicant will be seeking a Town Board waiver of the normally applicable requirements pursuant to Somers Town Code § 55-5. Based upon the foregoing, there will be no significant adverse impacts related to the creation of additional demand for community services.*

- a. **Proposed Action:** The Proposed Action will result in less school age children than the previous project because 52 of the 64 residential units proposed will be senior age restricted units. As such there will be less demand for community services. The applicant will review the recreation fee with the Town Board as it relates to Section 55-3 of the Somers Town Code.

4. *Proposed Action will create or eliminate employment.* *The Proposed Action involves the creation and elimination of jobs, but would result in a net increase in employment. Closure of the existing golf driving range would eliminate 3 jobs. The proposed development of residential, retail, and restaurant uses would create 30-35 jobs during construction and approximately 15 jobs once the proposed development is occupied. Based upon the foregoing, there will be no significant adverse impacts associated with employment.*

- a. **Proposed Action:** The Proposed Action proposes more commercial development than the previous project and as such will result in a greater amount of long-term employees at the site, particularly when compared to the existing golf driving range. As the project is of similar size and nature to the previous application the jobs created during construction are expected to be similar. As such the previous finding can be re-affirmed and there will be no significant adverse impacts associated with employment.

June Agenda
EC-15TC
TH
5/19/16 kyp

PLANNING AND ENGINEERING DEPARTMENTS

Town of Somers

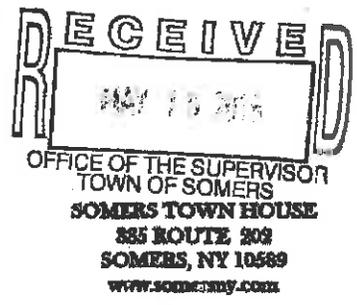
WESTCHESTER COUNTY, N.Y.

(914) 277-5366
Fax
(914) 277-4093

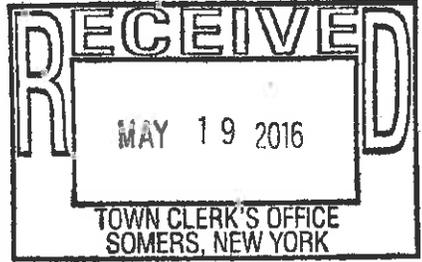
Steven Woelfle
Principal Engineering Technician
swoelfle@somersny.com



Syrette Dym, AICP
Town Planner
sdym@somersny.com



Date: May 19, 2016
To: Town Board
Planning Board
Open Space Committee
From: Engineering Department



Re: The following is submitted for your review and comment:

Project Name: Deutsch Wetland, Steep Slope, Stormwater Management and Erosion and Sediment Control and Tree Preservation Application
Plan: See Cover Lett
Dated: April 22 2016
Prepared by: Insite Engineering

Referral is made under the provisions of the following regulations:

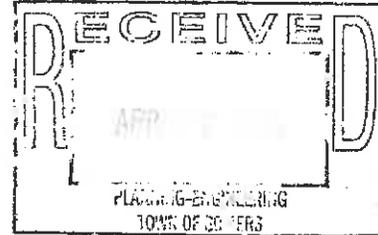
- 1. Informal Discussion: _____
- 2. Final Subdivision Approval: _____
- 3. Preliminary Subdivision: _____
- 4. Site Plan: _____
- 5. Wetland Activity Permit: _____ 48.09-1-24
Administrative _____
Planning Board _____ X
- 6. Steep Slope Permit: _____ 48.09-1-24
Administrative _____
Planning Board _____ X
- 7. Other _____ SMESC & Tree Preservation



April 21, 2016

Mr. John Currie
Town of Somers Planning Board Chairman
335 Route 202
Somers, New York 10589

RE: Deutsch Property
3 Hageman Court
Somers, NY 10536
TM# 48.09-1-24



Dear Mr. Currie and members of the Planning Board:

Enclosed please find fourteen (14) copies of the following information:

- Drawing OP-1, "Overall Plan," dated April 21, 2016.
- Drawing SP-1, "Site Plan," dated April 21, 2016.
- Drawing TR-1, "Tree Removal Plan," dated April 21, 2016.
- Drawing EC-1, "Erosion and Sediment Control Plan," dated April 21, 2016.
- Drawing CM-1, "Constraints and Soils Map," dated April 21, 2016.
- Wetland and Watercourse Protection Permit, dated February 24, 2016.
- Stormwater Management and Erosion and Sediment Control Permit, dated February 24, 2016.
- Tree Removal Permit, dated February 24, 2016.
- Steep Slopes Permit, dated April 15, 2016.
- Applicant Acknowledgement Form, dated February 24, 2016.
- Application Processing Restrictive Law Certification, Dated February 24, 2016.
- Affidavit of Title, dated April 15, 2016.
- Short EAF, dated April 21, 2016.

Also enclosed are the required fees associated with the permits listed above:

- \$300.00 fee, Check# 1011, Wetland and Watercourse Protection Permit
- \$425.00 fee, Check# 1012, Tree Removal Permit
- \$100.00 fee, Check# 1013, Erosion and Sediment Control Permit
- \$225.00 fee, Check# 1016, Steep Slopes Permit

The above referenced information has been submitted in support of a site plan, wetland permit, steep slopes permit and stormwater and erosion and sediment control permit applications for the property located at 3 Hageman Court in the Town of Somers. The applicant proposes a single family, four-bedroom residence with onsite wastewater treatment system, well and driveway.

3 Garrett Place, Carmel, New York 10512 (845) 225-9690 Fax (845) 225-9717
www.insite-eng.com

We respectfully request being placed on the May 11th Planning Board agenda or the next available agenda for review of the before mentioned permits. If you have any questions or comments regarding this information, please do not hesitate to contact our office.

Very truly yours,

INSITE ENGINEERING, SURVEYING & LANDSCAPE ARCHITECTURE, P.C.

By:

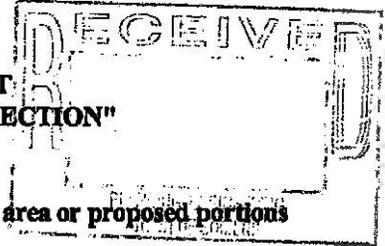

John M. Watson, PE
Principal Engineer

JMW/jl

cc: J. Deutsch
Insite File No. 15148.100

7/02

TOWN OF SOMERS
WESTCHESTER COUNTY, NEW YORK
APPLICATION FOR ENVIRONMENTAL PERMIT
CHAPTER 167 "WETLAND AND WATER COURSE PROTECTION"



APPLICATION FEE:

Alteration of Wetlands: \$200 minimum fee plus \$100 per 5,000 S.F. of regulated area or proposed portions thereof to be disturbed.

Annual Maintenance Permit Renewal Fee: Administrative Permit: \$25.00, Planning Board Permit: \$75.00

OWNER: Joseph Deutsch Tel.#: _____
Mailing Address: 36 Culver Drive, New City, NY 10956
APPLICANT: Insite Engineering Tel. #: _____
Mailing Address: 3 Garrett Place, Carmel, NY 10512
State authority: _____ If other than owner, authorization must be submitted in writing.

PREMISES: Sheet: 48.09 Block: 1 Lot: 24
Situated on the South side of Hageman Court (Street), 475 feet from the intersection of Wood Lane (Street)

DESCRIPTION OF WORK AND PURPOSE: Proposed Single-family Dwelling

SIZE OF ACTIVITY AREA: 0.12 Acres
Is work proposed in Wetland: No or Wetland Control Area: Yes
Is there an existing house located on the site: No
Is pond, lake or detention basin proposed to be cleaned: No
Functions provided by Wetland: Drainage
Wetland Expert delineating Wetland: Ecological Analysis, LLC
ESTIMATED QUANTITY OF EXCAVATION: 500 C.Y. CUT X FILL
ESTIMATED TOTAL VALUE OF WORK: _____
PROPOSED STARTING DATE: Summer 2016 PROPOSED COMPLETION DATE: Summer 2017
PLANS PREPARED BY: Insite Engineering DATED: _____

Plans must be submitted with application.

LIST OF APPLICABLE COUNTY, STATE, OR FEDERAL PERMITS: SSTS and Well Construction Permit

LIST OF PROPERTY OWNERS OF RECORD OF LANDS AND CLAIMANTS OF WATER RIGHTS WITHIN 100 FEET OF SUBJECT PROPERTY

NAME	ADDRESS	BLOCK	LOTS
De Paolo	5 Hageman Court	48.09-1-23	
Fraloff	25 Wood Street	48.09-1-2	
Deutsch	2 Hageman Court	48.09-1-14	

APPLICANT'S SIGNATURE: John M. Watson, P.E. DATE: 4/20/16
OWNER'S SIGNATURE: Joseph Deutsch DATE: 2/24/2016

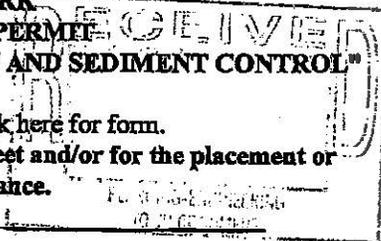
*APPLICATION MUST BE ACCOMPANIED WITH A COMPLETED ENVIRONMENTAL ASSESSMENT FORM, COMPLETE PLANS FOR LOT IMPROVEMENTS, AND LOCATION MAP OF WETLANDS AS THEY EXIST IN THE FIELD OR AS SHOWN ON SOMERS ENVIRONMENTAL MAPS.

.....Office Use Only.....

Administrative Permit: _____
Planning Board Permit: _____

11/08

**TOWN OF SOMERS
WESTCHESTER COUNTY, NEW YORK
APPLICATION FOR ENVIRONMENTAL PERMIT
CHAPTER 93 "STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL"**



Application Processing Affidavit must also be completed. Click here for form.
APPLICATION FEE: \$100 for disturbances of five thousand (5,000) square feet and/or for the placement or removal of 50 cubic yards of soil, plus \$500 for each additional acre of disturbance.

OWNER: Joseph Deutsch **Tel.#:** _____
Mailing Address: 36 Culver Drive, New City, NY 10956
APPLICANT: Insite Engineering **Tel.#:** _____
Mailing Address: 3 Garrett Place, Carmel, NY 10512
State authority: If other than owner, authorization must be submitted in writing

PREMISES: Sheet: 48.09 Block: 1 Lot: 24

DESCRIPTION OF WORK AND PURPOSE: Proposed single-family dwelling

SIZE OF ACTIVITY AREA: 170 feet by 150 feet
 (include all construction activity area)

VOLUME OF EXCAVATED MATERIAL: Approx. 700 C.Y. Cut, Approx 700 C.Y. Fill
 (leave blank if not known)

IN CONJUNCTION WITH:
Wetland Permit: X **Steep Slopes Permit:** X **Tree Preservation Permit:** X
Site Plan: Deutsch/Hageman **Subdivision:** Hills Lot #11

PROPOSED STARTING DATE: Summer 2016 **PROPOSED COMPLETION DATE:** Summer 2017

PLANS PREPARED BY: John M. Watson, P.E. **DATED:** Insite Engineering

****Plans and copy of Stormwater Pollution Prevention Plan must be submitted with application.****

LIST OF APPLICABLE COUNTY, STATE, OR FEDERAL PERMITS: OWTS and Well Construction Permit

LIST OF PROPERTY OWNERS OF RECORD OF LANDS AND CLAIMANTS OF WATER RIGHTS WITHIN 100 FEET OF SUBJECT PROPERTY

NAME	ADDRESS	
De Paolis	5 Hageman Court	
Fraoli Deutsch	25 Wood Street Hageman Court	48.09-1-14

APPLICANT'S SIGNATURE: John M. Watson, P.E. **DATE:** _____
OWNER'S SIGNATURE: Joseph Deutsch **DATE:** _____

***APPLICATION MUST BE ACCOMPANIED WITH A COMPLETED ENVIRONMENTAL ASSESSMENT FORM, A VICINITY MAP, A DEVELOPMENT PLAN, EROSION AND SEDIMENT CONTROL PLAN, AND THE PROPOSED PHASING OF DEVELOPMENT OF THE SITE.**

.....Office Use Only.....

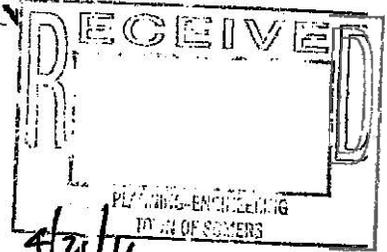
Administrative Permit: _____

Planning Board Permit: _____

3/9/2012

**TREE REMOVAL PERMIT APPLICATION
SECTION 156, TREE PRESERVATION**

SUBMIT TO: Town of Somers, Engineering Department
335 Route 202, Somers, New York 10589



DATE: 4/21/16

1. APPLICATION FEE:

Tree Removal - \$50.00 for the first five (5) trees to be removed. \$15.00 for each additional tree to be removed.

2. IDENTIFICATION OF APPLICANT:

OWNER: Joseph Deutsch Tel.#: _____
Mailing Address: 36 Culver Drive, New City, NY 10956

APPLICANT: (if other than Owner)
Insite Engineering Tel. #: _____
Mailing Address: 3 Garrett Place, Carmel, NY 10512
Professional preparing site plan: John M. Watson, P.E.
State authority: _____ If other than owner, authorization must be submitted in writing.

3. IDENTIFICATION OF SUBJECT PROPERTY

Address 3 Hageman
PREMISES: Sheet: _____

4. NUMBER OF TREES TO BE REMOVED (12-INCHES OR GREATER)

Zoning District: RI0 R40 **(R80)** R120 Other (Circle)

29 **Quantity of trees to be removed (Must be tagged/identified to evaluate permit requirements)**

5. PURPOSE FOR TREE REMOVAL

Proposed dwelling and driveway
Proposed onsite wastewater treatment system

6. SKETCH OR SITE PLAN *

* A site plan shall be provided if the tree removal activity involves clearing and must be certified by an arborist, landscape architect or professional forester.

The Town Engineer or other duly authorized representative shall inspect the property to assure satisfactory completion of the requirements of the approved tree removal permit, and, upon such completion, the approving authority shall require documentation from such official stating that all required conditions of the tree removal permit have been satisfactorily completed. If, upon inspection, it is found that any of the required conditions have not been addressed in accordance with the approved permit and/or plans, the applicant shall be responsible for addressing all conditions of approval pursuant to the original conditions of approval. Failure of the Town Engineer or other duly authorized representative to carry out inspections of required improvements during the tree removal shall not in any way relieve the applicant or the bonding company of their responsibilities. The Town Engineer, his designee, and the Town Environmental Enforcement Officer shall have access to all parts of the work area at all times during tree removal.

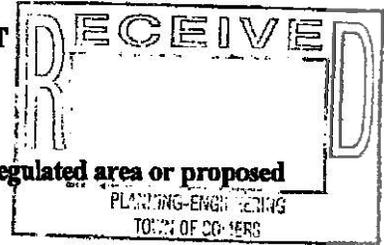
APPLICANT'S SIGNATURE: John M. Watson DATE: 4/21/16
John M. Watson, P.E.

OWNER'S SIGNATURE: Joseph Deutsch DATE: 2/24/2016
Joseph Deutsch

By submitting this application I understand, allow and agree to a Town inspector making a site visit to the exterior of my property.

(Initial)

TOWN OF SOMERS
WESTCHESTER COUNTY, NEW YORK
APPLICATION FOR ENVIRONMENTAL PERMIT
CHAPTER 148 "STEEP SLOPE PROTECTION"



APPLICATION FEE:

Alteration of Steep Slopes: \$150.00 minimum fee plus \$75.00 per 10,000 S.F. of regulated area or proposed portions thereof to be disturbed.

OWNER: Joseph Deutch Tel. #:

Mailing Address: 36 Colver Drive, New City, NY 10956

APPLICANT: Insite Engineering Tel. #:

Mailing Address: 3 Garrett Place, Carmel, NY 10512

State authority: If other than owner, authorization must be submitted in writing.

Premises: Sheet: 48.09 Block: 1 Lot: 24

Situated on the South side of Hageman Court (Street) 475 feet from the intersection of South Street (Street)

Description of Work and Purpose: Proposed Single-Family Dwelling

Estimated Quantity of Excavation: C.Y. 700 CUT 700 FILL

Size of Activity Area: 0.12 Acres

Total Value of Work: TBD

Slope Category: 15% < 25% 1,194 sf or 25% < 35% 3,114 sf or > 35%:

Soil Types: Chatfield-Hollis-Rock outcrop Complex, Chatfield-Charlton complex, & Golden muck

Proposed Starting Date: 10-01-16 Proposed Completion Date: 12-31-17

Plans Prepared by: John M. Watson, PE Dated:

****Plans must be submitted with application.****

List of Applicable County, State, or Federal Permits:

OWTS and Well Construction Permits

List of Property Owners of Record of Lands and Claimants of Water Rights within 100 feet of Subject Property.

NAME	ADDRESS	BLOCK	LOTS
DePaola	5 Hageman Court	48.08-1-23	
Fraklil	25 Wood Street	48.08-1-2	
Deutch	2 Hageman Court	48.08-1-14	

Applicant's Signature: [Signature] Date: 4/22/16
Owner's Signature: [Signature] Date: April 15, 2016

***APPLICATION MUST BE ACCOMPANIED WITH A COMPLETED ENVIRONMENTAL ASSESSMENT FORM, COMPLETE PLANS FOR LOT IMPROVEMENTS, AND LOCATION AND SIZE OF SLOPE CATEGORIES.**

..... Office Use Only

Administrative Permit:

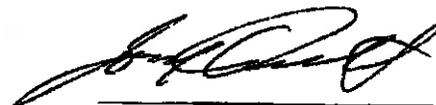
Planning Board Permit:

AFFIDAVIT OF TITLE

State of New York)
) ss.:
County of Rockland)

Joseph Deutsch, being duly sworn deposes and says:

I and my wife Lynn Deutsch are the owners in fee of lots 1, 9 and 11 as shown on a subdivision map titled "Subdivision Map known as Hageman Hills" which was filed in the office of the Westchester County Clerk on November 20, 1992 as map no. 24785. Deponent acquired title to the said premises by deed from Sonoma Development Corp. dated December 31, 2001 and recorded in the office of the Clerk of Westchester County on March 27, 2002 as Control Number 420820067. The statements contained herein are is true to the best of deponent's knowledge and belief and are made for the purpose of obtaining the approval of the submitted application for a steep slopes permit.



Joseph Deutsch

Sworn to before me this
15th day of April 15, 2016



MARY-CATHERINE CARTER
Notary Public, State of New York
Qualified in Rockland County
No. 01CA8028555
Commission Expires 08/02/2017

APPLICANT ACKNOWLEDGEMENT

By making this application, the undersigned Applicant agrees to permit Town officials and their representatives to conduct on-site inspections in connection with the review of this application.

The applicant also agrees to pay all expenses for the cost of professional review services required for this application, as referred to in §133-1 of the Code of the Town of Somers. As such, an Escrow Account, according to §133-2 of the Code of the Town of Somers, may be required.

It is further acknowledged by the Applicant that all bills for the professional review services shall be mailed to the Applicant, unless the Town is notified in writing by the Applicant at the time of initial submission of the application that such mailings should be sent to a designated representative instead.

Signature of Applicant: _____ Date: _____
Signature of ^{Applicant} Property Owner: Joseph Deutsch Date: 2/24/2016
(if different from applicant) Joseph Deutsch

**TOWN OF SOMERS
WESTCHESTER COUNTY, NEW YORK
CHAPTER 67 "APPLICATION PROCESSING RESTRICTIVE LAW"**

CERTIFICATION

I hereby certify that to the best of my knowledge no outstanding fees are due and owing to the Town of Somers for the following property:

Section 48.09 Block 1 Lot 24

Property Address 3 Hageman Court

Permit Applying For Wetlands, Steep Slopes, Erosion Control, Tree Removal

Furthermore, I hereby certify that to the best of my knowledge no outstanding violation (as that term is defined for the purposes of the Application Processing Restrictive Law, Paragraph 4D) of local laws or ordinances of the Town of Somers exist with respect to the above cited property or any structure or use existing thereon.

Signed *Joseph Deutsch*
(Owner of Record)

Joseph Deutsch
(Print Name)

Date 2/24/16

Signed *John M. Watston*
(Applicant for Permit)

John M. Watston, P.E., Insite Engineering, Surveying &
Landscape Architecture, P.C.
(Print Name)

Date 4/21/16

CONFIRMATIONS

Zoning Enforcement Officer Date: _____

Director of Finance for Fees Date: _____

Engineering Department Date: _____

Receiver of Taxes Date: _____

Town of Somers

WESTCHESTER COUNTY, N.Y.

SOMERS TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589

Telephone
(914) 277-3637
Fax
(914) 276-0082



RICK MORRISSEY
SUPERVISOR

June Agenda
EC-TB
TC
TA
5/16/16
RM

ADDENDUM

TO AGREEMENT with Garden State Fireworks and the Town of Somers for the 2016 Annual Fireworks display at Reis Park, Route 138, Somers NY to be held on Saturday, June 25, 2016.

In the event of inclement weather, both parties agree to add a rain date of Sunday, June 26, 2016 with no changes from the original contract.

WITNESS:

GARDEN STATE FIREWORKS, INC.

BY: _____

WITNESS:

Barbara J Sherry

TOWN OF SOMERS

BY: *Rick Morrissey*

June
Agenda
5/25/16
JTs

Memorandum

To: Rick Morrissey, Town Supervisor and Town Board Members
CC: Town Clerk and Finance Director
From: Barbara Taberer, Program Director
Date: 5/25/2016
Re: AAA Transportation Services contract

The Nutrition Program Director respectfully requests the Town Supervisor execute the AAA Transportation Program agreement for the period April 1, 2016 through March 31, 2017 in the amount of \$2224.

Standard Work Day and Reporting Resolution

BE IT RESOLVED, that the Town of Somers, Location Code 30038 hereby establishes the following as standard work days for elected and appointed officials and will report the following days worked to the New York State and Local Employees' Retirement System based on record of activities maintained and submitted by these officials to the Clerk of this body:

Title	Name	Standard Work Day (Hrs/Day)	Term Begins/Ends	Participants in Employers' Time Keeping System (Y/N)	Days/Months (based on Record of Activities)	Tier 1 (Check only if member is in Tier 1)	Not Submitted (Check box if no record of activities completed or timekeeping system)
Elected Officials							
Town Clerk	Kathleen R. Pacella	6	1/1/12-12/31/15	N	26.67		
Town Board	Thomas A. Garrity, Jr	6	1/1/12-12/31/15	N	11.67		
Town Board	Anthony J Cirieco	6	1/1/14-12/31/17	N	5.25		
Town Board	William G. Faulkner	6	1/1/14-12/31/17	N	4.03		
Highway Superintendent	Thomas E. Chiaverini	6	1/1/12-12/31/15	N	29.50		
Tax Receiver	Joan Ribaldo	6	1/1/14-12/31/17	N	31.50		
Judge	Michael J. McDermott	6	1/1/12-12/31/15	N	17.00		
Appointed Officials							
Assessor	Teresa Stegner	7	10/1/13-9/30/19	Y			
Parks & Rec Board Chair	James Papa	7	1/3/14-12/31/14	N	1.26		
Director of Finance	Robert Kehoe	7	1/1/13-12/31/14	Y			
Deputy Town Clerk	Patricia Kalba	7	1/1/14-12/31/14	Y			
Deputy Highway Superintendent	Louis Noto	7	1/1/14-12/31/14	Y			
Deputy Receiver of Taxes	Michele A. McKearney	7	1/1/14-12/31/14	Y			

On this 13 day of June, 2014

Signature: Kathleen R. Pacella Date enacted: June 12, 2014

I, Kathleen R. Pacella, Clerk of the governing board of the Town of Somers, of the State of New York, do hereby certify that I have compared the foregoing with the original resolution passed by such board, at a legally convened meeting held on 12th day of June, 2014, on file as part of the minutes of such meeting, and that same is a true copy thereof and the whole of such original.

IN WITNESS WHEREOF, I have hereunto
Set my hand and the seal
Of the Town of Somers.

I further certify that the full board, consisting of 5 members, that and 5 of such members were present at such meeting as that 5 of such members voted in favor of the above resolution.

(SEAL)

cc - all
5/26/16
BPO

PLANNING AND ENGINEERING DEPARTMENT

RECEIVED
MAY 26 2016

Telephone
(914) 277-5366
Fax
(914) 277-4098

Town of Somers
WESTCHESTER COUNTY, N.Y.

SOMERS TOWN HOUSE
OFFICE OF THE SUPERVISOR
TOWN OF SOMERS
335 ROUTE 202
SOMERS, NY 10589
www.somersny.com

Steven Woelfle
Principal Engineering Technician
swoelfle@somersny.com



Sylvia Dym, AICP
Town Planner
sdym@somersny.com

Date: May 26, 2016
To: Town Board
From: Steven Woelfle *SW*
Principal Engineering Technician
RE: Crook Wetland Permit #AW2016-18
TM: 47.12-1-18
Release of Erosion Control Bond
Check Received April 6, 2016

This office has no objection to the return of the Erosion Control Bond in the amount of \$300.

Please return to:

Robert Roy Crook III
4 Sun Hill Road
Katonah, NY 10536

SW/wg
cc: Town Clerk
Director of Finance
Robert Roy Crook III