APPENDIX A

SEQRA Documentation

FINAL Scoping Outline
For Preparation of a Supplemental Draft Environmental Impact Statement (SDEIS)
For Hillcrest Commons, and the expansion of the existing ShopRite Supermarket,
NYS Route 52, Towns of Carmel and Kent, New York
Adopted December 3, 2008

Name of Project:	Hillcrest Commons
Location of Project:	Hillcrest Commons: located on the east side of NYS Route 52, with an entrance approximately 300 feet north of the intersection of NYS Route 52 and Dykeman Road, Town of Carmel/ Town of Kent, Putnam County
Classification:	Type I Action
Lead Agency:	Town of Carmel Planning Board Town Hall 10 McAlpin Avenue, Mahopac, NY

DESCRIPTION OF THE PROPOSED ACTION

The project involves a Subdivision and Site Plan application as well as a Special Exception Use Permit for a total of 150 senior housing units in eight buildings and associated infrastructure. The Site Plan includes a separate clubhouse building with an outdoor swimming pool and a separate water control building. A new public road from New York State (NYS) Route 52 would provide access to the 107.76 acre project site. The prior SEQRA review also included a potential 10,000 square foot expansion, and 50 new parking spaces for the existing Shoprite supermarket, located adjacent to the proposed residential development. No plans have been developed at this time for the Shoprite expansion. A Special Exception Use Permit is required from the Town of Carmel Planning Board for the construction of residential housing in the C-Commercial zone.

The proposed Hillcrest Commons project is located mostly in the Town of Carmel. A small portion of the site is in the Town of Kent. The project site is comprised of five tax lots. Three of these tax lots, totaling 99.38 acres, are located in the Town of Carmel. Two lots, totaling 8.38 acres, are located in the Town of Kent. The portion of the project site located in the Town of Carmel is designated on the Town of Carmel Tax Maps as Tax Map #44.10-1-4, 44.09-1-9, 44.09-1-51 and the two lots located within the Town of Kent are identified as 44.09-2-27, 44.10-2-1 on the Town of Kent Tax Maps.

Zoning of the project site is Commercial (C) in the Town of Carmel and split between the Commercial (C) and R-40 Residential zoning districts in the Town of Kent. Multi-family dwellings for seniors are a use permitted by Special Permit in the Town of Carmel Commercial District, similar to the Residential District, and subject to approval by the Planning Board.

BRIEF HISTORY OF THE PROPOSED PROJECT AND SEQRA PROCESS

A Draft Environmental Impact Statement (DEIS) was previously submitted to the Carmel Planning Board, the Lead Agency. It reviewed an application that included 60,000 square feet of office space, with supporting parking lots and stormwater management facilities and 150 senior housing units. The Site plan was modified to reduce potential impacts, following comments on the plan from the Lead Agency, the public and involved and interested agencies resulting in the office component of the project being eliminated (hereinafter the “Site Plan”). The Site Plan and its potential impacts were described in the Final Environmental Impact Statement (FEIS). After the acceptance of the FEIS and the adoption of Finding and during the Site Plan review process some minor modifications were made to the Site Plan (hereinafter the Revised Site Plan) at the request of the Planning Board.

The Hillcrest Commons Findings Statement was adopted by the Lead Agency on August 23, 2006. The Findings Statement was challenged pursuant to Article 78 of the CLPR in the Supreme Court of the State of New York. The legal judgment regarding the Article 78 challenge annulled the Findings Statement and remitted the matter to the Lead Agency for further environmental review of the issues outlined in the judgment. The judgment indicated that the evaluation of wetlands and archeological resources were deferred by the Lead Agency, and that these two issues warranted further evaluation. Therefore, the project's potential effects upon wetlands and archeological resources are the focus for this SDEIS.

GENERAL GUIDELINES:

This is a supplemental DEIS. The existing conditions of the subject environmental topics were described within the pages of the DEIS and for this reason, may be omitted from or summarized in this SDEIS. Each environmental impact issue (e.g., soils, water resources, etc.) shall be presented in a summary section entitled; *Review of Plan Changes Subsequent to FEIS in* instances where plan changes may be significant and alter the conclusions in the previously adopted findings statement. For those topics where there is no substantive change to any prior disclosed or analyzed impact, then no further discussion of that subject area is needed.

Narrative discussions will be accompanied by appropriate tables, charts, graphs, and figures whenever possible. If a particular subject can be most effectively described in graphic format, the narrative discussion should merely summarize and highlight the information presented graphically. All plans and maps showing the site should include adjacent properties (if appropriate), neighboring uses and structures, roads, and water bodies. Information should be presented in a manner, which can be readily understood by the public. Efforts should be made to avoid the use of technical jargon.

Discussions of mitigation measures should clearly indicate which measures have been incorporated into project plans, versus measures that may mitigate impacts, but have not been incorporated into project plans. Mitigation measures that are not incorporated into the proposed action should be discussed as to why the applicant considers them unnecessary.

The document and any appendices or technical reports should be written in the third person (i.e., the terms "we" and "our" should not be used). The applicant's conclusions and opinions, if given, should be identified as those of "the applicant."

Any assumptions incorporated into assessments of impact should be clearly identified. In such cases, the "worst case" scenario analysis should also be identified and discussed.

I. Introductory Material

Cover Sheet: The SDEIS must begin with a cover sheet that identifies the following:

1. That it is a Supplemental Draft Environmental Impact Statement.

2. The name and description of the project.

3. The location of the project.

4. The Town of Carmel Planning Board as the Lead Agency for the project and the name and telephone number of the following person to be contacted for further information: Town of Carmel Planning Board

5. The name and address of the project sponsor, and the name and telephone number of a contact person representing the applicant.

6. The name and address of the primary preparer(s) of the SDEIS and the name and telephone number of a contact person representing the preparer.

7. Date of acceptance of the SDEIS (to be inserted later).

8. Deadline for comments on the SDEIS (to be inserted later).

List of Consultants Involved With the Project: The names, addresses and project responsibilities of all consultants involved with the project should be listed.

Table of Contents: All headings, which appear in the text, should be presented in the Table of Contents along with the appropriate page numbers. In addition, the Table of Contents should include a list of figures, a list of tables, a list of appendix items, and a list of additional SDEIS volumes, if any.

II. SUMMARY

The SDEIS must include a summary. The summary should only include information found elsewhere in the main body of the SDEIS and should be organized as follows:

1. Brief description of the proposed action including proposed access road and profile.

2. List of Involved and Interested Agencies and required approvals/permits, including status of these approvals.

3. Brief listing of the anticipated impacts and proposed mitigation measures for each impact issue discussed in the SDEIS. The presentation format should be simple and concise.

4. Brief description of issues and potential controversy, if any.

5. Listing of matters to be decided, including listing of permits and approvals.

III. DESCRIPTION OF THE PROPOSED ACTION

A. Introduction. The reasons for and purpose of the SDEIS and the nature of the proposed action.

B. Approvals and Involved Agencies. A complete listing of all Involved Agencies along with their addresses and required approvals/permits they may grant.

C. Interested Parties. A listing of agencies, persons, and groups who have expressed interest in reviewing the SDEIS.

D. Project Location, Description and Environmental Setting.

1. Description of access to the site, including any special features unique to the site.

2. Brief Description of the site including existing zoning, topography, site characteristics, and land use.

E. Project Description and Layout (references can be made to Plans and studies provided in the DEIS and FEIS).

1. Characteristics of the site and surrounding area.

2. Structures and Site, including a description of proposed:

   a. Building Layout(s)
   b. Floor area(s)
   c. Building use(s)
   d. Drainage and Stormwater management plans
   e. Parking area and traffic circulation layout
   f. Landscaping Plan
   g. Lighting Plan
   h. Erosion and Sedimentation Control Plan
   i. Setbacks and Buffer treatments

IV. IMPACT ISSUES

The sub-headings presented under each impact issue below represent items of specific interest, which shall be addressed. The discussion under each impact area will highlight potential impacts caused by the revised project and any mitigation measures that minimize or eliminate adverse impacts.

A. Review of Plan Changes Subsequent to FEIS:

Description of the proposed physical changes to the Site Plan subsequent to the FEIS and Findings, which are the elimination of one building measuring 170' that was to be located closest to a neighboring residential community and the expansion of four other buildings by approximately 44' so that the total number of proposed residential units remains the same but the number of individual project buildings decreases.

Complete the Environmental Impacts Comparison Chart, attached as Schedule A, to provide a direct comparison of the specific impacts associated with the Site Plan that were studied in the DEIS and FEIS and the same impacts as associated with the Revised Site Plan. Determine whether those specific impacts will decrease, increase or remain unchanged with the Revised Site Plan. In the event that any impact is expected to increase, mitigation measures will be discussed.

B. Wetlands:

1. Existing Conditions.

   a. Delineation, survey and mapping of existing Town of Carmel, Town of Kent, New York State DEC, and Federally regulated wetlands and watercourses, and mapping of all appropriate setback areas.

   b. For each wetland identified, indicate:

      (1) Location (including updated mapping, if applicabl)
      (2) Wetlands type and classlification (NYSDEC, NYCDEP, Town of Kent)
      (3) Wetland and wetland buffer functions
      (4) Wetland and wetland acreage
      (5) Description of wetland and wetland buffer function
      (5) Description of wetland vegetative cover
      (7) Wetland Jurisdiction
      (8) Wetland hydrology, input and discharge information
      (9) Rare and endangered species associated with wetland

(10) Identify any testing done proximate to wetlands or stormbasins
(11) Identify any modifications to regulations since DEIS was prepared

2. Potential Impacts.

a. Acreage of direct and indirect wetlands and wetlands adjacent area disturbances, as regulated by the Town of Carmel, the Town of Kent, New York State DEC and the Army Corps of Engineers, if applicable.

b. Short-term and long-term modifications of water budgets, pollutant loading, wetlands functions, including impacts to vegetative cover.

c. Amount of fill to be removed or placed in wetland and wetland buffer

c. Description of permits required.

d. Summary of Proposed wetland restoration/mitigation (detailed description and analysis provided in Mitigation Measures).

(1) Size and location of proposed treatment.
(2) Effectiveness.
(3) Capacity and capabilities.
(4) Proposed maintenance including removal of invasive species.

e. Qualitative analysis of construction-related impacts, including long-term impacts to wetlands or wetland buffer resulting from project.

f. Alternatives to avoid or reduce wetland impacts
g. Other impacts as may be applicable.

3. Mitigation Measures.

a. Proposed Wetland and watercourse Mitigation and discussion as to how replacement and enhancement of wetlands for loss of wetlands areas and/or functions will offset identified impacts.

(1) Size and location of proposed treatment.
(2) Effectiveness.
(3) Capacity and capabilities.
(4) Proposed maintenance including removal of invasive species.
(5) Planting plans and conceptual cross sections of mitigation areas

b. An Erosion and Sedimentation Control Plan and SWWPP that incorporates best management practices (BMPs) for control of erosion and sedimentation during construction.

(1) Principle elements
(2) Implementation technique
(3) Monitoring and maintenance of mitigation areas and stormwater basins

c. Special construction techniques.

C. Cultural Resources

1. Existing Conditions

a. Summary of all Cultural Resource Investigations. Full report to be provided in Appendix as it was submitted to New York State Office of Parks Recreation and Historic Preservation.

2. Potential impacts

3. Mitigation Measures

V. ADVERSE ENVIRONMENTAL EFFECTS THAT CANNOT BE AVOIDED IF THE PROJECT IS IMPLEMENTED

VI. OTHER ISSUES

VII. SOURCES AND BIBLIOGRAPHY

VIII. APPENDICES

A. All SEQR documentation, including a copy of the Environmental Assessment Form (EAF), the Positive Declaration, and the SDEIS Scoping Outline.

B. Copies of all official correspondence related to issues discussed in the SDEIS.

C. Copies of all new or revised technical studies, in their entirety.

To commence the statutory time period for appeals as of right [CPLR 5513(a)], you are advised to serve a copy of this order, with notice of entry upon all parties.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

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CROTON WATERSHED CLEAN WATER COALITION, INC. and PUTNAM COUNTY COALITION TO PRESERVE OPEN SPACE, INC.,

Petitioners,

ORDER

For a judgment pursuant to Article 78 of the CPLR

-against-

Index No. 18263/06

PLANNING BOARD OF THE TOWN OF CARMEL and BBJ ASSOCIATES, LLC,

Respondents..

----------x

NICOLAI, J.

The following papers numbered 1 to 17 were read on the petition brought by Croton Watershed Clean Water Coalition, Inc. (CWCWC), Putnam County Coalition to Preserve Open Space, Inc. (PCCPOS), and Vanessa Longo, for a judgment annulling the SEQRA Findings Statement adopted by the Planning Board of the Town of Carmel (the Board) on August 23, 2006, and on two separate motions by the respondents, the Board and BBJ Associates, LLC, (the Applicant) respectively, for an order dismissing the petition as not ripe for judicial review.

Notice of Petition-Petition	1-2
Exhibits	3-8
Notice of Motion-Affirmation	9-10
Memo of Law	11
Notice of Motion-Affirmation	12-13
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Upon the foregoing, the petition and the motions are determined as follows:

Introduction

This is an Article 78 proceeding brought to annul, vacate and void the Findings Statement issued by the lead agency, the Board on August 23, 2006, which determined that all environmental impacts from the proposed Hillcrest Commons project in Carmel and Kent would be mitigated to the extent possible pursuant to SEQRA.

The proposed project involves the construction of a total of 150 units of senior housing in nine buildings and a separate community center on a total of approximately 107 acres of land. The majority of the land is located in the Town of Carmel and about nine acres are located in the Town of Kent.

The Petition

The petition alleges that the Board failed to take a hard look at the project's potentially significant environmental impacts insofar as it: (1) failed to identify and mitigate potential impacts to a New York State (NYS) endangered plant species (galium concinnum also known as shining bedstraw) found on the project site; (2) failed to mitigate pollutant loadings of phosphorus to the Croton Falls reservoir; (3) failed to address archaeological impacts; and, (4) failed to analyze a reasonable range of alternatives consistent with the Town's Comprehensive Plan.

The petitioners are not-for-profit, open-membership, organizations. The first petitioner, CWCWC, is an alliance of organizations and individuals dedicated to maintaining, protecting and improving the quality of the waters in the New York City Croton Watershed which comprises 10% of the drinking water needs of nine million New Yorkers. The second petitioner, PCCPOS, is composed of residents of the towns in Putnam County, including Carmel, united to ensure the protection in perpetuity of environmentally sensitive, endangered, threatened or rare species and habitat, and historically, educationally and culturally significant lands and structures. The third petitioner, Vanessa Longo, is a member of CWCWC and PCCPOS and lives on property located about 80 feet from the project site. The Applicant is the owner of the project site.

At first, the proposed project involved 150 senior housing units and 60,000 square feet of office space in five buildings on a 107.76 acre parcel of land along with 50 new parking spaces and a 10,000 square feet expansion for an existing supermarket.

The Board, as lead agency, accepted a Draft Environmental Impact Statement (DEIS) as complete on June 1, 2005, and held a public hearing on July 6, 2005, and allowed for a 30-day written comment period. The petitioners submitted comments detailing certain deficiencies in the DEIS. These deficiencies were also noted by Riverkeeper and the New York City Department of Environmental Protection (NYCDEP). Accordingly, the Applicant altered the project design in its Final Environmental Impact Statement (FEIS). Nonetheless, significant issues remain unexamined regarding wetlands, endangered species, storm water and pollutant

loadings and archaeological impacts. Thus, the Board failed to take a "hard look" at the project's impacts and its adoption of the SEQRA Findings Statement must be annulled.

Regarding the New York State endangered plant species known as shining bedstraw, the petition alleges that the Board was advised that 24 separate locations of the species were discovered on the proposed site, 15 of which will be eliminated by the project of which 10 are located on a trail within the site.

The petition further alleges that the project will remove .39 acres of wetlands and displace .72 acres of wetland buffers. No wetland mitigation plan was included in the DEIS and neither the DEIS nor the FEIS contained a jurisdictional determination from the US Army Corp of Engineers concerning the wetlands.

Regarding pollutant loadings into the Croton Falls reservoir, the petition alleges that the petitioners submitted to the Board, NYCDEP studies conducted on the Croton Watershed in Putnam County showing baseline phosphorous export levels of .0446 pounds per acre per year for forested areas. However, the Applicant used .10 pounds per acre per year relying on a 1992 New York State Department of Environmental Conservation (NYSDEC) publication. The FEIS dismisses the .0446 figure.

The petition also alleges that at the time the Findings Statement was issued, the studies on the project's significant adverse archaeological impacts had not been completed.

In support of their petition, the petitioners have annexed to their moving papers, among other documents, a proposed Preliminary Biodiversity Assessment, dated July 29, 2005, prepared by Erik Kiviat, PhD and Tanessa Hartwig, MS, of Hudsonia, Ltd., a non-advocacy scientific research institute. Regarding the wetlands issue, the report recommends that the Applicant's "wetland delineations should be checked by the US Army Corp of Engineers, corrected as necessary..."

The Hudsonia report also discusses the effect of the proposed project on shining bedstraw, a small and inconspicuous herbaceous plant. Kiviat collected a specimen from the site that was subsequently examined by a botanist who could not definitively identify the plant as shining bedstraw. Additional samples were collected and forwarded to the botanist for further examination. This report noted that shining bedstraw was found at several locations on the site and that it may be present at additional site areas. The report advocated that all locations where shining bedstraw occurs, and a suitable buffer zone, should not be developed.

Also annexed to the moving papers is another document , dated July 27, 2005, prepared by Eugene Boesch, PhD, an archaeologist. He noted that the proposed project site may have been a camp site for Native Americans and urged the Board to ensure proper archaeological evaluation of the proposed project prior to commencement of construction and that all studies be submitted for review by the New York State Office of Parks, Recreation and Historic Preservation (OPRHP).

By letter dated September 7, 2006 (following the Board's acceptance of the SEQRA Findings Statement), the NYCDEP noted that the proposed project may result in a net increase in phosphorus loading by as much as 11%. Given the project's location in a basin that already does not meet its phosphorus TMDL the burden for reducing any additional phosphorous loading would fall on the Town of Carmel.

Respondents' respective Motions for Dismissal

The Applicant has presently moved for an order pursuant to CPLR 7804 (f), dismissing the petitioners' claims as not ripe for judicial review. The Applicant notes that the adoption of the Findings Statement does not serve as authorization for the construction of the project. It further notes that the petitioners have not suffered any concrete injury as a result of the Board's adoption of the Findings Statement since neither preliminary nor final project approval have been granted. The injuries alleged by the petitioners may only be inflicted by potential future agency action.

Likewise, the Board has moved for an order pursuant to CPLR 7804 (f), dismissing the petitioners' claims as not ripe for judicial review. The Board notes that it has only issued a Findings Statement but has not taken any action authorizing construction and/or development of the project. The adoption of the Findings Statement is an interim step in a decision-making process that has yet to be completed. Neither preliminary nor final project approval have been granted.

Opposition to the Motions

The dismissal motions are opposed by the petitioners. They note that the Findings Statement alleges that no bedstraw specimens are located in areas to be disturbed and that the endangered species was not positively identified on the site. With the failure to even conform the existence of this species, the destruction of its habitat will not be prevented by further administrative action. In regards to their challenges to the archaeological and phosphorous impacts, respectively, the petitioners further add that the Board erred in declining to undertake review of environmental remediation measures simply because another involved agency will address the matter in its own permit application proceedings.

Findings Statement dated August 23, 2006

The project involves a total of 150 units of senior housing on a total of 107.76 acres of land in nine multi-family residential buildings. The proposed commercial portion of the development plan consisting of 60,000 square feet of office space, has been removed by the Applicant. Although the DEIS provided for an expansion of 10,000 square feet and 50 new parking spaces for an existing Shop Rite supermarket adjacently located to the proposed residential development, no plans have yet been developed at this time for that expansion.

(1) Endangered Plant Species

Regarding the shining bedstraw habitat the Findings Statement notes that although environmental consultants believed that they observed shining bedstraw on the site, a conclusive determination as to the presence of this species of bedstraw was not made. The Board, however, further noted that "prior to construction" all occurrences of bedstraw will be identified in the field and located on the site plan. If any construction is proposed within 50 feet of bedstraw specimens, snow fencing will be placed between the bedstraw habitat and the proposed construction limited.

(2) Wetlands

The Findings Statement notes that the proposed development involves .39 acres of disturbance to a wetland (wetland A) which is unavoidable due to access restrictions to the property. A proposed crossing would disturb .72 acres of wetland buffer (wetland B). A preliminary Wetland Mitigation Plan has been provided in the appendix to the FEIS. However, the Findings Statement provides that "the proposed Mitigation Plan may be modified based upon comments by the three agencies responsible for permits for the wetland disturbance: Town of Carmel, Town of Kent, and the US Army Corps of Engineers."

(3) Pollutant Loadings

Regarding water resource issues and storm water management, the Findings Statement notes that the Applicant submitted plans confirming to criteria established by NYSDEC and NYCDEP for storm water management. These plans include the use of grass swales, drain inlets, storm water basins, erosion controls and phased site development. Given the proposed Storm Water Management Plan, no significant adverse storm water or flooding-related impacts are anticipated.

(4) Archaeological Resources

The Findings Statement also notes that an archaeological evaluation is being conducted. "The Lead Agency will require that the Applicant secure a letter from OPRHP stating that this project will not adversely affect cultural resources".

Analysis

An Article 78 proceeding brought to review a determination by a body or officer must be commenced within four months after the determination to be reviewed becomes final and binding upon the petitioner. This time period begins to run when the petitioner has suffered a concrete injury not amenable to further administrative review and corrective action (Matter of Eadie v Town Bd. of the Town of Greenbush, 7 NY3d 306, 312). The moment that an action

becomes ripe for review is generally the same moment that the statute of limitations begins to run (see, 2-7 Environmental Impact Review in New York § 7.02). The first issue to be decided here is whether the petitioners have suffered a "concrete injury" from an alleged SEQRA violation on August 23, 2006, when the SEQRA process culminated in the issuance of a Findings Statement.

The respondents rely on Matter of Eadie v Town Bd. of the Town of Greenbush (7 NY3d 306), to support their contention that the instant matter is not ripe for judicial review. In Eadie, the Court found that the statute of limitations began to run not on the day that the lead agency adopted its Findings Statement but rather, at the time that the rezoning, provided for in the Findings Statement, was adopted. Accordingly, the petitioners' challenge in Eadie, commenced more than four months after the issuance of a Findings Statement but less than four months after the rezoning was enacted, was timely. The Court in Eadie held that an Article 78 proceeding brought to annul a zoning change may be commenced within four months of the time the change is adopted. However, the court noted that this "does not mean that, in every case where a SEQRA process precedes a rezoning, the statute of limitations runs from the latter event, for in some cases it may be the SEQRA process, not the rezoning, that inflicts the injury of which the petitioner complains".

In the instant case the petitioners are challenging the SEQRA process, itself. Insofar as the Findings Statement authorized and committed the Board to future action necessary for the project, its adoption was a final determination and this matter is ripe for review (see, Stop-The-Barge v Cahill, 1 NY3d 218; Matter of Jones v Amicone, 27 AD3d 465).

Generally speaking, SEQRA represents an attempt to strike a balance between social and economic goals on the one hand with concerns about the environment on the other (see, Jackson v New York State Urban Dev. Corp., 67 NY2d 400). In the present case, the lead agency, the Board, was charged with the responsibility of considering the social and economic merits of the proposal to build senior housing while considering the effects of this project on the environment. A lead agency may rely upon the advice it receives from others. Lead agencies are likely to be non-expert in environmental matters and will often need to draw on others. SEQRA and its implementing regulations not only provide for this but strongly encourage it (Matter of Halperin v City of New Rochelle, 24 AD3d 768). However, while a lead agency may solicit technical information and suggestions from involved agencies that are more expert in particular scientific areas than it is, a lead agency must coordinate environmental review with those agencies, and may not decline to undertake review of environmental remediation measures simply because another involved agency will address it in its own permit application proceedings (Matter of Riverkeeper v Planning Board of Town of Southeast, 32 AD3d 431, appeal granted 8 NY3d 808). The lead agency is charged with the responsibility of identifying relevant areas of environmental concern, taking a hard look at them, and making a reasoned elaboration of the basis for its determination (see, Matter of WEOK Broadcasting Corp. v Planning Bd. of the Town of Lloyd, 79 NY2d 373, 383).

The Board, here, has deferred the evaluation of the possible effects of the project on wetlands and archaeological resources. Although a preliminary wetlands mitigation plan was made available for the FEIS, nothing in the record suggests that such a plan was available after the Board accepted the DEIS, for review and comment by the public. An archaeological evaluation was in the process when the Findings Statement was adopted. Such deferral does not constitute the required "hard look" based upon "reasoned elaboration" (see, Matter of Penfield Panorama Area Community, Inc. V Town of Penfield Planning Bd., 253 AD2d 342; Matter of County of Orange v Vill. of Kiryas Joel, 11 Misc 3d 1056A, 815 NYS2d 494; Town of Red Hook v Dutchess County Resource Recovery Agency, 146 Misc 2d 723).

The Board however did consider the report prepared by the petitioners' expert on the issue of the project's possible threat to certain endangered plant life. The petitioners' experts had more than one year before the Board adopted its Findings Statement to analyze, and comment upon, specimens they acknowledged collecting and forwarding for further examination and determination as to the precise type of bedstraw present on the site. Also, although the petitioners assert that the Applicant erred in using a phosphorous loading coefficient of .10 lbs/acre/year, by their own admission, the applicant used a coefficient approved by the NYSDEC. Indeed, in its Findings Statement the Board noted that the Applicant's plans for storm water management confirmed to data established by the NYSDEC and the NYCDEP.

Conclusion

The respondents' respective motions for dismissal are denied. The petition is granted to the extent that the Findings Statement dated August 23, 2006, is annulled and the matter is remitted to the Board for further environmental review with due consideration to the matters set forth herein above. The Court notes that because the dispositive facts in this matter were undisputed by the parties; that is, regarding the deferment of certain environmental issues to agencies other than the Board and for determination after the issuance of the Findings Statement, the petition may be granted without first providing the movants the opportunity of serving an answer pursuant to CPLR 7804 (f) (see, Matter of Laurel Realty, LLC v Planning Bd. of Town of Kent, ___AD3d___ [May 15, 2007]; Matter of Dougherty v Mammina, 261 AD2d 400).

Dated: White Plains, New York
June 19, 2007

FRANCIS A. NICOLAI
A.J.S.C.

JAMES BACON, ESQ.
Attorney for Petitioners
P.O. Box 575
New Paltz, New York 12561

PLANNING BOARD of the TOWN of CARMEL
60 McAlphin Avenue
Mahopac, New York

SHAMBERG, MARWELL, DAVIS
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Attorneys for Respondent
BBJ ASSOCIATES, LLC
55 Smith Avenue
Mount Kisco, New York 10549

APPENDIX B

Correspondence

TIM MILLER ASSOCIATES, INC.

10 North Street, Cold Spring, NY 10516 (845) 265-4400 265-4418 fax www.timmillerassociates.com

October 21, 2008

TO: All Involved & Interested Agencies

RE: Draft Scoping Outline - Hillcrest Commons Supplemental DEIS
Senior Residential Project - Subdivision, Site Plan Application, Special Exception Use Permit

Enclosed, please find copies of a Draft Scoping Outline regarding the Hillcrest Commons Senior Residential Project, NYS Route 52, Town of Carmel and Town of Kent. The Planning Board of the Town of Carmel requested that this be circulated to you and if you have any comments to provide them to the Planning Board by November 14, 2008.

Sincerely,

Jon P. Dahlgren
Vice President/ Senior Geologist
TIM MILLER ASSOCIATES, INC.

c: Circulation list, as attached
D. Post
S. Blakely
J. Marwell

Agency Address: **Town of Carmel Planning Board**
Town Hall – 60 McAlpin Road
Mahopac, New York 10541
Tel. (845) 628-1500

Contact Person: Peggy Moore, Planning Board Secretary

A Copy of this Draft Scoping Outline shall be sent to:

Hillcrest Commons Involved and Interested Agencies

Town of Carmel
Planning Board
60 McAlpin Avenue
Mahopac, New York 10541

Mr. Brian Orzell
US Army Corps. of Engineers
26 Federal Plaza
New York, New York 10278

Mr. Pat Cleary
Town of Carmel Planning Consultant
Town Hall
60 McAlpin Avenue
Mahopac, New York 10601

NYS Department of Environmental Conservation
50 Wolf Road
Albany, New York 12233-1750

Town of Carmel
Zoning Board of Appeals
60 McAlpin Avenue
Mahopac, New York 10541

Putnam County Planning & Development
Putnam County Transit Facility
841 Fair Street
Carmel, New York 10512

Town of Carmel
Environmental Conservation Board
60 McAlpin Avenue
Mahopac, New York 10541

Lee Kassin
New York State DEC Region 3
21 South Putt Corners Road
New Paltz, New York 12561

Town of Carmel Architectural Review Board
60 McAlpin Avenue
Mahopac, New York 10541

Town of Kent Town Board
25 Sybil's Crossing
Lake Carmel, New York 10512

Arthur Singer, Chairman
Town of Kent Planning Board
25 Sybil's Crossing
Kent Lakes, New York 10512

Ms. Margaret O'Connor
NYC Dept. of Environmental Protection
Engineering & Operations
465 Columbus Avenue
Valhalla, New York 10595-1336

Mr. Neil Wilson, Kent Planner
Land Resource Consultants
4326 Albany Post Road, Suite 1
Hyde Park, New York 12538

Mr. Mike Soyka
Rohde, Soyka, & Andrews
40 Garden Street
Poughkeepsie, New York 12601

Town of Kent
Environmental Conservation Board
25 Sybil's Crossing
Kent Lakes, New York 10512

Putnam County Department of Health
1 Geneva Road
Brewster, NY 10509

Reed Memorial Library
1733 Route 6
Carmel, New York 10512

NYS Department of Transportation
4 Burnett Blvd.
Poughkeepsie, New York 12603

Ms. Edith Schanil, Town Clerk
Town of Kent Town Hall
25 Sybil's Crossing
Kent Lakes, New York 10512

Ms. Ann Garris, Town Clerk
Town of Carmel Town Hall
60 McAlpin Avenue
Mahopac, New York 10541

Mahopac Public Library
668 Route 6
Mahopac, New York 10541

Kent Public Library
17 Sybil's Crossing
Kent Lakes, New York 10512

JAMES BRYAN BACON, ESQ., P.C.

Attorney and Counselor at Law

P.O. Box 575
New Paltz, New York 12561
(845) 255-2026
Fax (845) 255-8925

November 7, 2008

Harold Gary, Chairman
Planning Board of Carmel
60 McAlpin Avenue
Mahopac New York 10541

By Facsimile and Regular Mail

Re: Scoping Comments Hillcrest Commons SDEIS

Dear Mr. Gary,

I represent the Croton Watershed Clean Water Coalition (CWCWC), the Putnam County Coalition to Preserve Open Space (PCCPOS) and individuals from the Hill & Dale community. As you know, we received a favorable ruling from the Supreme Court annulling the original SEQRA findings for the above project some time ago.

While we applaud your revisiting the project's environmental impacts, we were unaware of the Board's October 15th decision to establish a 30-day comment period on the draft SDEIS scope until I spoke with your secretary this week. I have now obtained a copy of the draft scoping document along with its cover correspondence from Jon Dahlgren of Tim Miller Assoc.

Considering the history of this application and subsequent legal challenge, we believe the lead agency had an obligation to notify CWCWC (as well as Riverkeeper and the Watershed Inspector General), along with the other interested parties to allow full consideration of the draft scope.

In the absence of notification and due to the significant impact posed by this project, we respectfully request that the public comment period on the draft scope be extended from November 14, 2008 to December 14, 2008. The extension will ensure that the Board complies with the letter and spirit of SEQRA. Please advise at your earliest convenience as to your decision.

Sincerely,

James Bacon

Cc: Jay Simpson, Esq. Riverkeeper
Philip Bein, Esq. Watershed Inspector General

TOWN OF KENT
PLANNING BOARD
25 SYBIL'S CROSSING
KENT LAKES, NEW YORK 10512

(845) 225-7802

Fax (845) 306-5283

November 13, 2008

VIA FAX: 845-628-7085

Hon. Harold Gary, Chairman
Town of Carmel Planning Board
Town Hall
60 McAlpin Road
Mahopac, New York 10541

Re: Hillcrest Commons Supplemental DEIS
Draft Scoping Outline - Request for Comments

Dear Chairman Gary:

The Town of Kent Planning Board appreciates the opportunity to comment on the Draft Scoping Outline for the Hillcrest Commons Supplemental DEIS. Upon review of the Draft Scope dated August 7, 2008 we request that the document be amended to include examination of the following issues:

1) Wetlands: Existing Conditions.

   a) Updated wetland delineations will be conducted to reflect current site conditions in accordance with current Town of Carmel, Town of Kent, NYSDEC and ACOE requirements. Watercourses shall be reviewed by NYCDEP for jurisdictional determination. Wetland and watercourse boundaries and appropriate setbacks shall be indicated on an updated wetland and watercourse map. Town of Kent wetland and watercourse delineations made by the applicant shall be verified by the Town of Kent.

   b) For each wetland indicate

      (1) Description of wetland and wetland buffer functions using a recognized methodology.

      (2) Analysis in tabular form of present pollutant loadings (TSS, TP, TN, BOD) to the wetlands using the simple method.

      (3) Source of wetland hydrology, watershed area and hydrological connections.

      (4) Existing water budget with annualized hydrographs.

   II) For each watercourse indicate:

      (1) NYSDEC classification.

      (2) NYSDEC 303d listing.

      (3) Discharge to NYSDEC/NYCDEP regulated water body.

      (4) Town of Kent jurisdiction.

iii) An updated report from NYS Natural Heritage regarding the presence of threatened and endangered species on the site shall be provided. The location of all threatened and endangered species located in and/or supported by wetland, wetland buffers and/or watercourses shall be shown on the updated wetland map.

2) Wetlands: Potential Impacts.

a) Narrative analysis of alternatives that would avoid or reduce wetland and wetland buffer impacts. Details and rationale of the location of a storm water basin within a wetland area shall be provided.

b) Watercourses as regulated NYCDEP and the Town of Kent shall be identified and analyzed.

c) Impacts to hydrology, water budget, hydrological connections and pollutant loading (TSS, TP, TN, BOD), on habitat function will be demonstrated based on recognized functional analysis methodology.

d) Amount of fill introduced or removed from the wetland area shall be quantified in cubic yards and cross sections shall be provided. Details of the watercourse proposed to be piped shall be provided.

e) Details of the proposed access road including a road profile shall be provided.

f) Site specific details including deep and percolation tests of the soils in the area of the proposed access road and storm water basin shall be provided. Impacts to watercourses shall be identified and quantified.

g) Impacts to threatened and endangered species shall be identified.

h) Including new or modified Town of Kent, Town of Carmel, NYSDEC, ACOE and NYCDEP wetland and storm water regulations that were not in effect at the time of acceptance of the DEIS by the lead agency.

i) An analysis of wetland and wetland buffer area and functional loss in the Town of Kent and opportunities to replace lost wetland and wetland buffer area and functions in the Town of Kent. Please provide narrative long-term maintenance program necessary for mitigation areas. Include detailed methods of removal of invasive species.

j) An updated threatened and endangered species survey from NYS Natural Heritage shall be provided.

k) An updated location map of impacted wetland and wetland buffer areas shall be provided.

l) The location map of wetland and wetland buffer mitigation area shall be provided.

3) Wetlands: Mitigation

a) Loss of wetland buffer area and function shall be addressed.

b) Indicate how mitigation will replicate identified lost function as well as impacts to hydrology, water budget, habitat, hydrological connections.

c) Details regarding treatment of post-construction pollutant loadings to the wetlands (TN, TP, BOD, TSS) shall be addressed.

d) Detailed mitigation plan including planting plan, cross sections, soil and hydrological analysis shall be provided.

e) Detail mitigation measures for impacted watercourses.

f) An updated full storm water pollution prevention plan (SWPPP) reflective of current NYSDEC, NYCDEP and Town of Kent requirements shall be provided.

g) Include detailed maintenance schedules of the storm water infrastructure and the identity of the parties responsible for maintenance. Include in the SWPPP a map indicating all outfall locations.

4) Cultural Resources:

a) Proposed section IV.C. of the draft Scoping Outline simply states that a summary of cultural resource investigations would be provided. This section should be amended to state that the cultural resources investigation will be performed in accordance with established protocol, namely that a Phase I Cultural Resource Investigation will be performed and the results presented in the SDEIS. This section should also state that a Phase II or a Phase III will be prepared, and the results of those investigations presented in the SDEIS, as indicated by the results of the Phase I investigation.

5) Traffic:

a) Although the focus of the SDEIS is limited the traffic count information used in the Traffic Impact Study in the original FEIS was collected in or about late 2003 or early 2004 making that data at least four years old. Because the proposed ingress and egress for the site is located on Route 52 in the Town of Kent the potential impact of the project on the local transportation network as a result of changes in traffic volumes and distribution patterns over the intervening four years should be examined. Accordingly, the SDEIS Scoping Outline should be amended to include an updated Traffic Impact Study that examines current (2008) and projected future traffic conditions at the proposed site driveway and at the intersections examined in the original FEIS.

6) Zoning Compliance:

a) The Town of Kent is currently in the process of adopting amendments to its zoning law. During this process the Town Board has worked to clarify portions of the Zoning Law about which questions were raised during the Zoning Board's review of the Hillcrest Commons access through the Town of Kent. If adopted, the proposed amendments may have the effect of making the proposed road access to Hillcrest Commons through the Town of Kent illegal. Although the decision to interpret the Town's Zoning Law is in the hands of the Town's Building Inspector and the legislative process is in the hands of the Town Board, the Planning Board is now aware of these issues and wants to put them before the Town of Carmel Planning Board in this process. Even if these amendments are not adopted, the legality of the access road under the current zoning law is presently in litigation before the Appellate Division Second Department.

Thank you for this opportunity to comment. Please feel free to contact me with any questions.

Very Truly Yours,

Arthur Singer, Chairman

New York State Department of Environmental Conservation
Division of Environmental Permits, Region 3
21 South Putt Corners Road, New Paltz, New York 12561-1620
Phone: (845) 256-3000 • **FAX:** (845) 255-4659
Website: www.dec.ny.gov

Alexander B. Grannis
Commissioner

February 27, 2009

TIM MILLER ASSOCIATES, INC
JON P DAHLGREN
10 NORTH STREET
COLD SPRING, NY 10516

RE: SEQR Review
Clearinghouse ID 2450
Hillcrest Commons
Town of Carmel, Putnam County

Dear Mr. Dahlgren:

On December 8, 2008 the New York State Department of Environmental Conservation (NYS DEC) received the final scoping outline regarding Hillcrest Commons Senior Residential Project, the construction of 150 senior housing units in eight buildings with associated infrastructure. The site will be served by municipal sewer and water. The Department has reviewed the scope and performed a resource and jurisdictional screening of the site. The results of this screening are as follows:

1. Freshwater Wetlands (Article 24) - Based upon review of aerial photos and the wetland delineation provided, it appears that the subject property contains wetlands that are of size and quality to be eligible for inclusion on the state regulatory maps for Freshwater Wetlands. Although not currently identified on state wetland regulatory maps, it is the Departments position that impacts to these wetlands should be avoided and minimized to the extent practicable. In similar circumstances, the Department has worked with project sponsors to achieve an acceptable development consistent with the state regulatory permit standards (6 NYCRR Part 663) without being delayed by the formal process of adding a wetland to the state map. The above referenced wetland is identified as "Wetland B" within the Draft Environmental Impact Statement (DEIS) and is located along the southwest boundary of the site. The most recent plans, dated 5/10/04 last revised 7/3/06, show that no disturbance is proposed within the eligible wetland or 100 foot adjacent area, which is consistent with DEC permitting standards. However, the Final Environmental Impact Statement (FEIS) provides a mitigation plan that proposes the construction of a .65 acre wetland adjoining the existing NYS Eligible wetland. The Department will review the proposed mitigation plan upon submission of a formal application. In addition, the Department requires that the plan note provided on the enclosed "Notice to Local Governments, Project Sponsors and Applicants" be included on any future plans submitted to the Department as part of a permit application.

2. Federal Wetlands - The site contains portions of wetlands that are federally regulated (Army Corp of Engineers) and this proposal involves the filling of .39 acres of these wetlands to provide access to the site. The filling of Federally Regulated wetlands requires a 401 Water Quality Certification from this agency. The Joint Application for Permit Form can be downloaded from the DEC website at www.dec.ny.gov/permits/6222.html.

3. Protection of Waters (Article 15) – Michaels Brook (Index # H-31-P44-23-P59-5 portion, Class B) bisects the eastern portion of the site. As a NYS protected stream, any proposed disturbance within its bed or banks requires a Protection of Waters permit from this agency. A tributary to Michaels Brook (Index # H-31-

P44-23-P59-5-1, Class C) bisects the western portion of the site. As a Class C stream a Protection of Waters permit is not required for disturbance of its bed or banks. However, please note, that even though a permit is not required you are still responsible for ensuring that work shall not pollute any stream or water body or cause turbidity downstream of the area of work. Care shall be taken to stabilize any disturbed areas promptly after construction, and all necessary precautions shall be taken to prevent contamination of the stream or water body by silt, sediment, fuels, solvents, lubricants, or any other pollutant associated with the project.

4. State Listed Species (Article 11) - After our review of the State's Master Habitat Databank (MHBD) records, we have determined that the Shining Bedstraw, a NYS Endangered vascular plant, has been documented within the project site. The Draft Environmental Impact Statement (DEIS) indicates that a survey has been performed and that no development is proposed within areas that have been identified as potentially carrying this species. The DEIS adequately addresses the Departments concerns regarding the conservation of this species and no further assessment is required.

5. Compliance with the State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activities (GP-0-08-001) – Compliance with this SPDES General Permit is required for construction projects that disturb greater than 5,000 ft^2 of land and are located in the New York City east of Hudson watershed. As this proposal involves greater than 5,000 ft^2 of disturbance, a Notice of Intent must be filed with DEC to obtain coverage under this general permit. Authorization for coverage under the SPDES general permit is not granted until issuance of the other necessary DEC permits.
Note: This parcel is located within the Town of Carmel Municipal Separate Storm Sewer System (MS4). Therefore, the SWPPP must be accepted by the Town and the MS-4 Acceptance Form must be submitted when filing the Notice of Intent for coverage with the Department.

6. Sewer Extension – As this proposal includes a connection to an existing municipal sewer system, the applicant must submit the "Application of Approval of Plans for a Wastewater Disposal System" form (attached) so that the Department may review the sewer extension concurrently with all other permit applications.

Contact me at (845) 256-3096, with any questions that you may have.

Sincerely,

Adam Peterson
Environmental Analyst

Enclosures
Cc: Town of Carmel Planning Board
NYC DEP - Valhalla
Brian Drumm, DEC (Via GW)

NEW YORK TE DEPARTMENT OF ENVIRONMENTAL C SERVATION

APPLICATION FOR APPROVAL OF PLANS FOR A WASTEWATER DISPOSAL SYSTEM

1. NAME OF APPLICANT	2. LOCATION OF WORKS (City, Village, Town)	3. COUNTY
4. ENTITY OR AREA SERVED	5. TYPE OF OWNERSHIP ☐ Municipal ☐ Commercial ☐ Private – Other ☐ Authority ☐ Interstate ☐ Industrial ☐ Sewage Works Corp ☐ Private – Institutional ☐ Federal ☐ International ☐ Private-Home ☐ Board of Education ☐ State ☐ Indian Reservation	

6. TYPE AND NATURE OF CONSTRUCTION Construction System ☐ New ☐ Additions or Alterations	Treatment and/or Disposal ☐ New ☐ Additions or Alterations	7. ESTIMATED COST OF CONSTRUCTION Collection System	Treatment and/or Disposal

8. TYPE OF WASTE
☐ Sewage ☐ Industrial (Specify) _____ ☐ Other (Specify) _____

9. NAME OF RECEIVING TREATMENT WORKS	10. POINT OF DISCHARGE Surface Water (Name of Watercourse)	Class
11. IS STATE OR FEDERAL AID APPLIED FOR? ☐ Yes ☐ No Give Project No._____	Groundwater: (Name of watercourse to which ground water is tributary)	Class

LOCATION (City, Village, Town)	TYPE OF PERMIT ☐ NPDES ☐ SPDES	PERMIT NO	DATE ISSUED

12. NAME OF DESIGN ENGINEER	NEW YORK STATE LICENSE NO.
ADDRESS	TELEPHONE NO.

13. WATER CONSUMPTION (GPD) Present	Future	Design Year
14. POPULATION SERVED Present	Future	Design Year
15. AVG DAILY FLOW FOR NEW OR EXISTING TREATMENT WORKS (GPD) Present	Future	Design Year

16. SOURCE OF WATER SUPPLY (if private well, give location, type, depth and character of soil)	17. DESIGN EQUIVALENT POPULATION (BOD Basis) Design Flow (GPD) / Design Plant Efficiency %
18. GIVE NUMBER, CHARACTER AND DISTANCE OF ANY BUILDINGS WHICH MAY BE AFFECTED BY THE PROPOSED TREATMENT WORKS	19. DESCRIBE PROPOSED OR EXISTING STORM WATER DISPOSAL

ADDITIONAL INFORMATION MUST BE SUBMITTED FOR PRIVATE AND INSTITUTIONAL SYSTEMS.

20. INDICATE ON U.S.G.S. TOPOGRAPHIC MAP EXACT LOCATION OF SEWAGE TREATMENT WORKS AND ADJACENT BUILDINGS. SHOW LOCATION OF ALL WELLS OR OTHER SOURCES OF WATER SUPPLY WITHIN 200' OF THE PROPOSED WORKS. GIVE DESCRIPTION OF THESE SOURCES AND CHARACTER OF SOIL.

21. STATE DEPTH BELOW EXISTING GROUND SURFACE AT WHICH GROUND WATER IS ENCOUNTERED	22. DESCRIBE SOIL AT SITE OF PROPOSED WORKS. GIVE DESIGN BASIS AND OBSERVED SOIL PERCOLATION RATE DATA use additional sheets, if necessary)
DATE:	

NOTE: All applications must be acc panied by plans, specifications and com d Form BSP-65 (appropriate portions). The submission must conform to a previously approved engineering report describing the system in detail. The plans must be stamped with the designing engineer's seal and must be of sufficient clarity and legibility to permit satisfactory microfilming. Only white prints will be accepted because of the difficulty of microfilming blue prints. There must be a blank area, at lease 4" x 7", in the lower right corner of each sheet so that the approval stamp may be placed on the face of the plans.

Any deviation from the Department's standards for wastewater collection and treatment facilities must be explained in detail.

Approved plans are to be returned to: ☐ Applicant ☐ Engineer

If the application is signed by a person other than the applicant shown in Item 1, the application must be accompanied by a letter of authorization. Failure to comply with this provision may be grounds for the rejection of any submission.

I hereby affirm under penalty of perjury that information provided on this form is true to the best of my knowledge and belief. False statements made herein are punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

Signatures and Official Titles: _____

_____

Mailing Address: _____

_____

Date of Application: _____

REMARKS:

New York State Department of Environmental Conservation
Division of Environmental Permits, Region 3
21 South Putt Corners Road, New Paltz, New York 12561-1620
Phone: (845) 256-3054 FAX: (845) 255-4659
Website: www.dec.ny.gov

Alexander B. Grannis
Commissioner

Notice to Local Governments, Project Sponsors and Applicants:

Freshwater Wetlands Eligible for State Mapping - Subdivisions

In order to clarify and explain the meaning of the State eligible freshwater wetland boundary and 100 foot adjacent area depicted on development and subdivision plans, the New York State Department of Environmental Conservation (DEC) requests that the following note be incorporated onto the plans:

> "Some or all of the lots, as shown on this subdivision plan, contain freshwater wetlands that are eligible to be designated and mapped as freshwater wetlands regulated by the New York State Department of Environmental Conservation (NYSDEC) pursuant to Article 24 of the New York State Environmental Conservation Law (the Freshwater Wetlands Act). Article 24 provides that there shall be no construction, grading, filling, excavating, clearing or other regulated activity within any lands which may be so mapped and designated, nor within a 100 foot area immediately adjacent to such mapped wetlands, without a permit from the NYSDEC. Prior to commencing any such activities on such lands as shown on this map, a party should contact the NYSDEC Regional Office to determine the extent to which any wetlands on site are then being regulated as Article 24 Freshwater Wetlands and therefore requiring an appropriate Article 24 permit."

Freshwater Wetlands Eligible for State Mapping - Individual Parcels

In addition to the above, applicants and project sponsors should be aware that if a permit is ultimately issued for the project by DEC, it likely will contain a special condition requiring that the deed for each affected lot or parcel contain a restriction as written below:

> "The real property on this map contains freshwater wetlands eligible to be designated and mapped as freshwater wetlands regulated by the New York State Department of Environmental Conservation (NYSDEC) pursuant to Article 24 of the New York State Environmental Conservation Law (the Freshwater Wetlands Act). Article 24 provides that there shall be no construction, grading, filling, excavating, clearing or other regulated activity as defined by Article 24 of the ECL within any lands which may be so mapped and designated, nor within a 100 foot area immediately adjacent to such mapped wetlands, without a permit from the NYSDEC. Prior to commencing any such activities on such lands as shown on this map, a party should contact the NYSDEC Regional Office to determine the extent to which any wetlands on site are then being regulated as Article 24 Freshwater Wetlands and therefore requiring an appropriate Article 24 permit. This restriction shall bind the Grantees, their successors and assigns and shall be expressly set forth in all subsequent deeds to this property."

In order to ensure that State freshwater wetland requirements are known, DEC requests that municipal planning boards also require the above plan note and deed notice for each affected lot as part of any subdivision of property containing State eligible freshwater wetlands and/or adjacent area. DEC encourages planning boards and property owners to involve DEC early in the planning of subdivisions involving freshwater wetlands potentially eligible for state mapping to ensure that all proposed lots will comply with State requirements and that wetland benefits and functions are protected and preserved.

The City of New York

Department of Environmental Protection

465 Columbus Avenue
Valhalla, New York
10595-1336

Steven W. Lawitts
Acting Commissioner

Tel. (718) 595-6565
Fax (718) 595-3557

Bureau of Water Supply

Paul V. Rush, P.E.
Deputy Commissioner

Tel (914) 742-2001
Fax (914) 741-0348

November 10, 2008

Ms. Peggy Moore, Planning Board Secretary
Town Hall
Town of Carmel
60 McAlpin Road
Mahopac, New York 10541

Re: **Draft Scoping Outline - Supplemental DEIS**
Hillcrest Commons
NYS Route 52 & Dykeman Road
Town of Carmel & Kent, Putnam County
DEP Log#: 2003-CF-0918-SQ.1

Dear Ms. Moore and Members of the Board:

The New York City Department of Environmental Protection (NYCDEP) has reviewed the Town of Carmel Planning Board's (Board) Draft Scoping Outline Document for the preparation of a Supplemental Draft Environmental Impact Statement for the proposed Hillcrest Commons and expansion of the existing ShopRite Supermarket (Draft Scope). NYCDEP respectfully submits the following comments for the Board's consideration:

Section IV. Impact Issues

1. Item B.1.b should include a description of each existing wetland's hydraulics, soil profile, depth of the wetland soils and depth to bedrock, and a qualitative and quantitative description of the source of water (surface water or groundwater).

2. Item B.2.b should include a qualitative and quantitative description of post-development hydraulics and the impacts associated with these changes in each wetland.

3. The wetlands section should include alternatives to the currently proposed wetland impacts.

Thank you for the opportunity to provide comments. Please contact Ms. Cynthia Garcia of my staff at (914) 773-4455 if you have any questions or care to discuss the matter further.

Sincerely,

Marilyn Shanahan

Marilyn Shanahan, Chief
SEQRA Coordination Section

**TIM
MILLER
ASSOCIATES, INC.**

10 North Street, Cold Spring, New York 10516 *Phone (845) 265-4400* *Fax (845) 265-4418*

December 2, 2008

Mr. Harold Gary
Planning Board Chairman
Town of Carmel
McAlpin Avenue
Carmel, NY 10512

Re: Revised Scoping Outline, Hillcrest Project, Route 52

Dear Mr. Gary:

I have provided your planner, Pat Cleary with revisions to the scoping outline for the Supplemental DEIS for the Hillcrest project.

You may recall, Judge Nicolai required that a supplemental Draft EIS be prepared after an Article 78 proceeding was filed, indicating that the SEQRA review needed to address two specific issues - ACOE wetland jurisdiction and Cultural Resource investigations. The draft scoping outline circulated to involved agencies specifically made note of those two issues.

Comments were recently offered on the draft scope by Arthur Singer of the Kent Planning Board. Pertinent comments from Mr. Singer on wetlands and cultural resources have been incorporated into the updated scoping outline, per the instructions of Mr. Cleary.

We believe Mr. Singer's comments on traffic do not warrant inclusion in the Supplemental DEIS. First of all, traffic was not viewed as a topic that needed to be addressed by Judge Nicolai as it was adequately covered in the original SEQRA review. Secondly, a number of the projects included in the orginal Hillcrest DEIS are unlikely to be built or have been reduced in scope. Notably, Watson Lab 99,000 square foot expansion, Barrett Hill Subdivision (19 single family units), Super "A" petroleum 12 fueling stations, and Chestnut Petroleum 4,840 square feet of retail and convenience store were all included in the original DEIS and are no longer active applications. This simply suggests that the DEIS traffic analysis was a very conservative and overestimated future traffic conditions.

Finally, certain projects examined in the original 2004 DEIS were built and traffic from those projects were on the road and therefore included in the recent counts that we conducted. The volumes provided in Table 1 showing 2009 counts include certain projects that were completed between 2004 and 2008 including the Town of Kent Government complex, Putnam Plaza Hannafords, and the Highland Shopping Center. Even with these projects built and occupied, pm traffic on Route 52 is lower than the base counts conducted in 2004.

There would therefore appear to be no need to revisit traffic in the supplemental DEIS as the analysis was conservative and traffic on Route 52 has not in fact gone up, but remained stable or actually decreased.

Table 1 shows the difference between the p.m. peak hours from the 2004 DEIS and now. The p.m. peak hour was the highest existing peak hour based on the 2004 data.

Table 1
PM Peak Hour Traffic
Route 52 in front of Hillcrest Site

	Count Year		
	2004*	2008**	Change
Northbound	923	792	-14%
Southbound	490	496	1%
Total	1,413	1,288	-9%

*Hillcrest Commons Draft Environmental Impact Statement June 1, 2005 Figure 3.6-5 based on 4:45 to 5:45 p.m. peak hour February 5, 2004.

** TMA traffic count November 19, 2008 with peak hour 4:30 to 5:30 p.m.

We are hopeful that the Planning Board will adopt the revised scope for the Hillcrest Supplement Draft EIS, so that we may move forward with this matter. Kindly advise if you have any questions.

Sincerely,

Tim Miller, AICP
President
TIM MILLER ASSOCIATES, INC.

C. R. Wilder
J. Marwell
K. Rubin
J. Contelmo

**TIM
MILLER
ASSOCIATES, INC.**

10 North Street, Cold Spring, NY 10516 (845) 265-4400 265-4418 fax www.timmillerassociates.com

December 5, 2008

TO: All Involved & Interested Agencies

RE: Final Scoping Outline - Hillcrest Commons Supplemental DEIS
Senior Residential Project - Subdivision, Site Plan Application, Special Exception Use Permit

Enclosed, please find copies of a Final Scoping Outline regarding the Hillcrest Commons Senior Residential Project, NYS Route 52, Town of Carmel and Town of Kent. The Scope was approved by the Town of Carmel Planning Board on December 3, 2008. The Planning Board requested that this be circulated to you.

Sincerely,

Jon P. Dahlgren
Vice President/ Senior Geologist
TIM MILLER ASSOCIATES, INC.

c: Circulation list, as attached
B. Wilder
K. Rubin
S. Blakely
J. Marwell

Agency Address: **Town of Carmel Planning Board**
Town Hall – 60 McAlpin Road
Mahopac, New York 10541
Tel. (845) 628-1500

Contact Person: Peggy Moore, Planning Board Secretary

A Copy of this Final Scoping Outline shall be sent to:

Hillcrest Commons Involved and Interested Agencies

Town of Carmel
Planning Board
60 McAlpin Avenue
Mahopac, New York 10541

Mr. Pat Cleary
Town of Carmel Planning Consultant
Town Hall
60 McAlpin Avenue
Mahopac, New York 10601

Town of Carmel
Zoning Board of Appeals
60 McAlpin Avenue
Mahopac, New York 10541

Town of Carmel
Environmental Conservation Board
60 McAlpin Avenue
Mahopac, New York 10541

Town of Carmel Architectural Review Board
60 McAlpin Avenue
Mahopac, New York 10541

Arthur Singer, Chairman
Town of Kent Planning Board
25 Sybil's Crossing
Kent Lakes, New York 10512

Mr. Neil Wilson, Kent Planner
Land Resource Consultants
4326 Albany Post Road, Suite 1
Hyde Park, New York 12538

Mr. Brian Orzell
US Army Corps. of Engineers
26 Federal Plaza
New York, New York 10278

NYS Department of Environmental
Conservation
50 Wolf Road
Albany, New York 12233-1750

Putnam County Planning & Development
Putnam County Transit Facility
841 Fair Street
Carmel, New York 10512

Lee Kassin
New York State DEC Region 3
21 South Putt Corners Road
New Paltz, New York 12561

Town of Kent Town Board
25 Sybil's Crossing
Lake Carmel, New York 10512

Ms. Margaret O'Connor
NYC Dept. of Environmental Protection
Engineering & Operations
465 Columbus Avenue
Valhalla, New York 10595-1336
NYS Department of Transportation
4 Burnett Blvd.
Poughkeepsie, New York 12603

Mr. Mike Soyka
Rohde, Soyka, & Andrews
40 Garden Street
Poughkeepsie, New York 12601

Ms. Edith Schanil, Town Clerk
Town of Kent Town Hall
25 Sybil's Crossing
Kent Lakes, New York 10512

Town of Kent
Environmental Conservation Board
25 Sybil's Crossing
Kent Lakes, New York 10512

Ms. Ann Garris, Town Clerk
Town of Carmel Town Hall
60 McAlpin Avenue
Mahopac, New York 10541

Putnam County Department of Health
1 Geneva Road
Brewster, NY 10509

Mahopac Public Library
668 Route 6
Mahopac, New York 10541

Reed Memorial Library
1733 Route 6
Carmel, New York 10512

Kent Public Library
17 Sybil's Crossing
Kent Lakes, New York 10512

APPENDIX C

Wetland Permitting Documents/
Correspondence

TIM MILLER ASSOCIATES, INC.

10 North Street, Cold Spring, New York 10516 *Phone (845) 265-4400* *Fax (845) 265-4418*

June 16, 2006

Mr. George Nieves
US Army Corps of Engineers
26 Federal Plaza
New York, NY 10278-0090

RE: Wetlands Determination Request
Proposed subdivision,
Route 52
Town of Kent, Putnam County, NY

Dear Mr. Nieves:

Tim Miller Associates has been retained to apply for and obtain an Individual Permit to fill 0.19 acre of wetland the NYC DEP Watershed in Town Carmel, Putnam County. This fill is required to gain access to the site and for the storm water basin for the access road. Enclosed please find the following items in support of a wetland delineation performed in accordance with the 1987 Corps of Engineers Delineation Manual.

1. A copy of the data forms for the Routine Determination Method;
2. A wetland survey
3. A USGS quad vicinity map;
4. A National Wetlands Inventory Map;
5. A New York State DEC Wetland Map
6. A Putnam County soils map showing the project area;
7. Photographs.
8. Joint Application form

Also enclosed is the supporting documentation for the project and the wetland impact area. Please review the material submitted and schedule a site visit with a member of your staff at your earliest convenience in order to issue a jurisdictional determination.

Sincerely yours,

James Bates
Senior Environmental Scientist / Wetland Specialist
TIM MILLER ASSOCIATES, INC.

Job #0373

DEPARTMENT OF THE ARMY
NEW YORK DISTRICT, CORPS OF ENGINEERS
JACOB K. JAVITS FEDERAL BUILDING
NEW YORK, N.Y. 10278-0090

JAN 22 2008

REPLY TO
ATTENTION OF:
Regulatory Branch

SUBJECT: Permit Application Number NAN-2005-16-WOR
by BBJ Associates, LLC

Steve Marino
Tim Miller Associates, Inc.
10 North Street
Cold Spring, New York 10516

Dear Mr. Marino:

On August 25, 2004, the New York District Corps of Engineers received a request for a Department of the Army jurisdictional determination for the above referenced project. This request was made by Tim Miller Associates, Inc., as consultant for BBJ Associates, LLC. The site consists of approximately 107.9 acres, in the Hudson River watershed, located on New York State Route 52 in the Town of Carmel, Putnam County, New York. The proposed project would involve the construction of a senior housing development to be known as Hillcrest Commons.

In a letter received on September 13, 2006, your office submitted a proposed delineation of the extent of waters of the United States within the subject property. A site inspection was conducted by a representative of this office on November 7, 2006, in which it was agreed that changes would be made to the delineation and that the modified delineation would be submitted to this office. On November 8, 2007, this office received the modified delineation.

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

These jurisdictional waters of the United States are shown on the drawing entitled "Project: Hillcrest Commons N.Y.S. Route 52, Towns Carmel and Kent, Putnam County, New York - Drawing: Federal Wetland Map", Drawing No. FWM-1, prepared by Insite Engineering, Surveying & Landscape Architecture, P.C., dated May 31, 2007. This drawing indicates that there are four (4) principal wetland areas on the project site which are part of a tributary system, and are considered to be waters of the United States. The first three wetlands are located on the western portion of the property and are a total of approximately 15.12 acres within the subject property. The fourth wetland is located in the eastern-most corner of the property, includes a portion of Michael Brook and is approximately 0.63 acres within the subject property.

This determination regarding the delineation shall be considered valid for a period of five years from the date of this letter unless new information warrants revision of the determination before the expiration date.

This delineation/determination has been conducted to identify the limits of the Corps Clean Water Act jurisdiction for the particular site identified in this request. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed is a combined Notification of Appeal Process (NAP) and Request For Appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the North Atlantic Division Office at the following address:

James W. Haggerty, Regulatory Appeals Review Officer
North Atlantic Division, U.S. Army Engineer Division
Fort Hamilton Military Community
General Lee Avenue, Building 301
Brooklyn, New York 11252-6700

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Park 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by MAR 24 2008. It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this letter.

This delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service prior to starting work.

It is strongly recommended that the development of the site be carried out in such a manner as to avoid as much as possible the discharge of dredged or fill material into the delineated waters of the United States. If the activities proposed for the site involve such discharges, authorization from this office may be necessary prior to the initiation of the proposed work. The extent of such discharge of fill will determine the level of authorization that would be required.

If any questions should arise concerning this matter, please contact Brian A. Orzel, of my staff, at (917) 790-8413.

Sincerely,

George Nieves
Chief, Western Permits Section

Enclosures

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: BBJ Associates, LLC	File Number: NAN-2005-16-WOR	Date: JAN 22 2008

Attached is:		See Section Below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of Permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of Permission)	B
	PERMIT DENIAL	C
X	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://usace.army.mil/inet/functions/cw/cecwo/reg or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

•ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the New York District Engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations (JD) associated with the permit.

•OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the New York District Engineer. Your objections must be received by the New York District Engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the New York District Engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the New York District Engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit.

•ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the New York District Engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.

•APPEAL: If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the North Atlantic Division Engineer, ATTN: CENAD-PD-PSD-O, Fort Hamilton Military Community, Building 301, General Lee Avenue, Brooklyn, NY 11252-6700. This form must be received by the Division Engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the North Atlantic Division Engineer, ATTN: CENAD-PD-PSD-O, Fort Hamilton Military Community, Building 301, General Lee Avenue, Brooklyn, NY 11252-6700. This form must be received by the Division Engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

•ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.

•APPEAL: If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the North Atlantic Division Engineer within 60 days of the date of this notice with a copy furnished to the New York District Engineer.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact: Richard L. Tomer U.S. Army Corps of Engineers, New York District Jacob K. Javits Federal Building New York, NY 10278-0090 (917) 790-8510	If you only have questions regarding the appeal process you may also contact: James W. Haggerty, Regulatory Appeals Review Officer North Atlantic Division, U.S. Army Engineer Division Fort Hamilton Military Community General Lee Avenue, Building 301 Brooklyn, NY 11252-6700 (718) 765-7150 E-mail: James.W.Haggerty@nad02.usace.army.mil

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.	Date:	Telephone number:

JURISDICTIONAL DETERMINATION Revised 8/13/04

U.S. Army Corps of Engineers

DISTRICT OFFICE: NEW YORK DISTRICT (CENAN)
FILE NUMBER: NAN-2005-16

PROJECT LOCATION INFORMATION:

State: New York
County: Putnam
Center coordinates of site (latitude/longitude): lat: 41-26-06 N lon: 73-40-49 W
Approximate size of area (parcel) reviewed, including uplands: 107.9 acres.
Name of nearest waterway: Michael Brook
Name of watershed: Hudson River

JURISDICTIONAL DETERMINATION

Completed:	Desktop determination	[ ]	Date:
	Site visit(s)	[X]	Date(s): November 7, 2006

Jurisdictional Determination (JD):

[ ] Preliminary JD - Based on available information, [ ] *there appear to be* (or) [ ] *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

[X] Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).
Check all that apply:

[ ] *There are* "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .

[X] *There are* "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 15.75 acres.

[ ] *There are "isolated, non-navigable, intra-state waters or wetlands"* within the reviewed area.
[ ] Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

[ ] The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

[ ] (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
[ ] (2) The presence of interstate waters including interstate wetlands[1].
[ ] (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
[ ] (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
[ ] (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
[ ] (iii) which are or could be used for industrial purposes by industries in interstate commerce.
[ ] (4) Impoundments of waters otherwise defined as waters of the US.
[X] (5) The presence of a tributary to a water identified in (1) - (4) above.
[ ] (6) The presence of territorial seas.
[X] (7) The presence of wetlands adjacent[2] to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* Wetlands include intermittent, unnamed tributary to Michael Brook, which flows to the Middle Branch Croton River, which flows to the Croton River, which flows to the Hudson River, which is navigable.

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

[X] Ordinary High Water Mark indicated by:
- [X] clear, natural line impressed on the bank
- [X] the presence of litter and debris
- [X] changes in the character of soil
- [X] destruction of terrestrial vegetation
- [X] shelving
- [ ] other:

[ ] High Tide Line indicated by:
- [ ] oil or scum line along shore objects
- [ ] fine shell or debris deposits (foreshore)
- [ ] physical markings/characteristics
- [ ] tidal gages
- [ ] other:

[ ] Mean High Water Mark indicated by:
[ ] survey to available datum; [ ] physical markings; [ ] vegetation lines/changes in vegetation types.

[X] Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:

Basis For Not Asserting Jurisdiction:

[ ] The reviewed area consists entirely of uplands.
[ ] Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
[ ] Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
[ ] The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- [ ] Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
- [ ] Artificially irrigated areas, which would revert to upland if the irrigation ceased.
- [ ] Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
- [ ] Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
- [ ] Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
- [ ] Isolated, intrastate wetland with no nexus to interstate commerce.
- [ ] Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
- [ ] Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
- [ ] Other (explain):

DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):

[X] Maps, plans, plots or plat submitted by or on behalf of the applicant.
[X] Data sheets prepared/submitted by or on behalf of the applicant.
[ ] This office concurs with the delineation report, dated , prepared by (company):
[ ] This office does not concur with the delineation report, dated , prepared by (company):
[ ] Data sheets prepared by the Corps.
[ ] Corps' navigable waters' studies:
[ ] U.S. Geological Survey Hydrologic Atlas:
[X] U.S. Geological Survey 7.5 Minute Topographic maps: Lake Carmel, NY
[ ] U.S. Geological Survey 7.5 Minute Historic quadrangles:
[ ] U.S. Geological Survey 15 Minute Historic quadrangles:
[ ] USDA Natural Resources Conservation Service Soil Survey:
[X] National wetlands inventory maps: Lake Carmel, NY
[X] State/Local wetland inventory maps: Lake Carmel, NY
[ ] FEMA/FIRM maps (Map Name & Date):
[ ] 100-year Floodplain Elevation is: (NGVD)
[X] Aerial Photographs (Name & Date):
[X] Other photographs (Date):
[ ] Advanced Identification Wetland maps:
[X] Site visit/determination conducted on: November 7, 2006
[ ] Applicable/supporting case law:
[ ] Other information (please specify):

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[1]Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

[2]The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

**TIM
MILLER
ASSOCIATES, INC.**

10 North Street, Cold Spring, NY 10516 (845) 265-4400 265-4418 fax www.timmillerassociates.com

August 14, 2008

Mr. Brian Orzel
US Army Corps of Engineers
26 Federal Plaza
New York, NY 10278-0090

RE: Permit Application Number NAN-2005-16-WOR
Proposed Hillcrest Commons
Route 52
Town of Carmel, Putnam County, NY

Dear Mr. Orzel:

In June of 2006 this office submitted a request for a jurisdictional determination and application for a Section 404 Wetland Permit. In January of 2008, following a site walk with ACOE staff, we received the jurisdictional determination. Enclosed with this letter please find the remaining information requested at the site walk for the completion of the application process and the public notice. Includes with this information is the following:

1. A copy of the Jurisdictional Determination;
2. A list of adjoining property owners. This list will also be e-mailed to you as an Excel file;
3. A map showing the location of these adjoiners;
4. A Wetland Mitigation Plan on 4 Sheets;
5. A Federal Wetland Map;
6. A blow up of the proposed wetland impact area;
7. Information regarding the presence/absence of Indiana bats and bog turtles.

As you recall, the Hillcrest Commons project proposes 150 senior housing units in eight buildings on Route 52 in the Town of Carmel. The project site is located to the east of and behind the existing Shop Rite plaza. Primary access to the site is from a portion of land on the northern edge of the site, adjacent to Route 52. The proposed access drive traverses the Town of Carmel - Town of Kent municipal border. The site access crosses a small stream and a portion of wetland near Route 52 before the grades rise into the interior of the property. Site access from the southern edge of the shopping center is constrained by a large wetland and steep slopes directly east of the shopping center.

The original submission to the ACOE requested approval for the disturbance of 0.39 acres of this wetland for the necessary site access and a stormwater detention structure. Site topography dictates that this basin must be located within the wetland to ensure that drainage from the lower portion of the access road is captured and treated. Due to site

constraints and the proximity of adjacent parcels, there is no feasible alternative to this proposal.

Since the initial submission, New York State DEC has adopted more stringent stormwater regulations, particularly pertaining to the capture and treatment of phosphorus and the reduction of runoff volumes. The project engineer has re-designed the stormwater basin, enlarging it to the east in order to hold the required additional volume (Figure attached). The result is a slight increase in the impacts to Wetland A, from 0.39 acres to 0.53 acres.

The applicant continues to propose the creation of 0.65 acres of wetland expansion at Wetland B (Figures attached). In addition to this, the applicant has also prepared a plan for the expansion of Wetland A by 0.10 acres (Figure attached). Thus the current proposal is to replace 0.53 acres of regulated wetland with 0.75 acres, for a 1.4:1 ratio. As noted in the field and in previous correspondence, the affected wetland is of low quality and functional capacity and has been previously disturbed by activities of surrounding property owners. The visibility of the proposed mitigation area and restored wetlands in this part of the site will prevent future dumping and disturbance.

Also included with this submission is information related to Phase 1 habitat assessments for bog turtle and Indiana bat. It is noted that a comprehensive summer bat mist net survey was conducted on a nearby parcel (the "Kent Manor" site) in June of 2008 and no Indiana bats were observed. It is also noted that the New York State Natural Heritage Program had no record of either species on or near the project site.

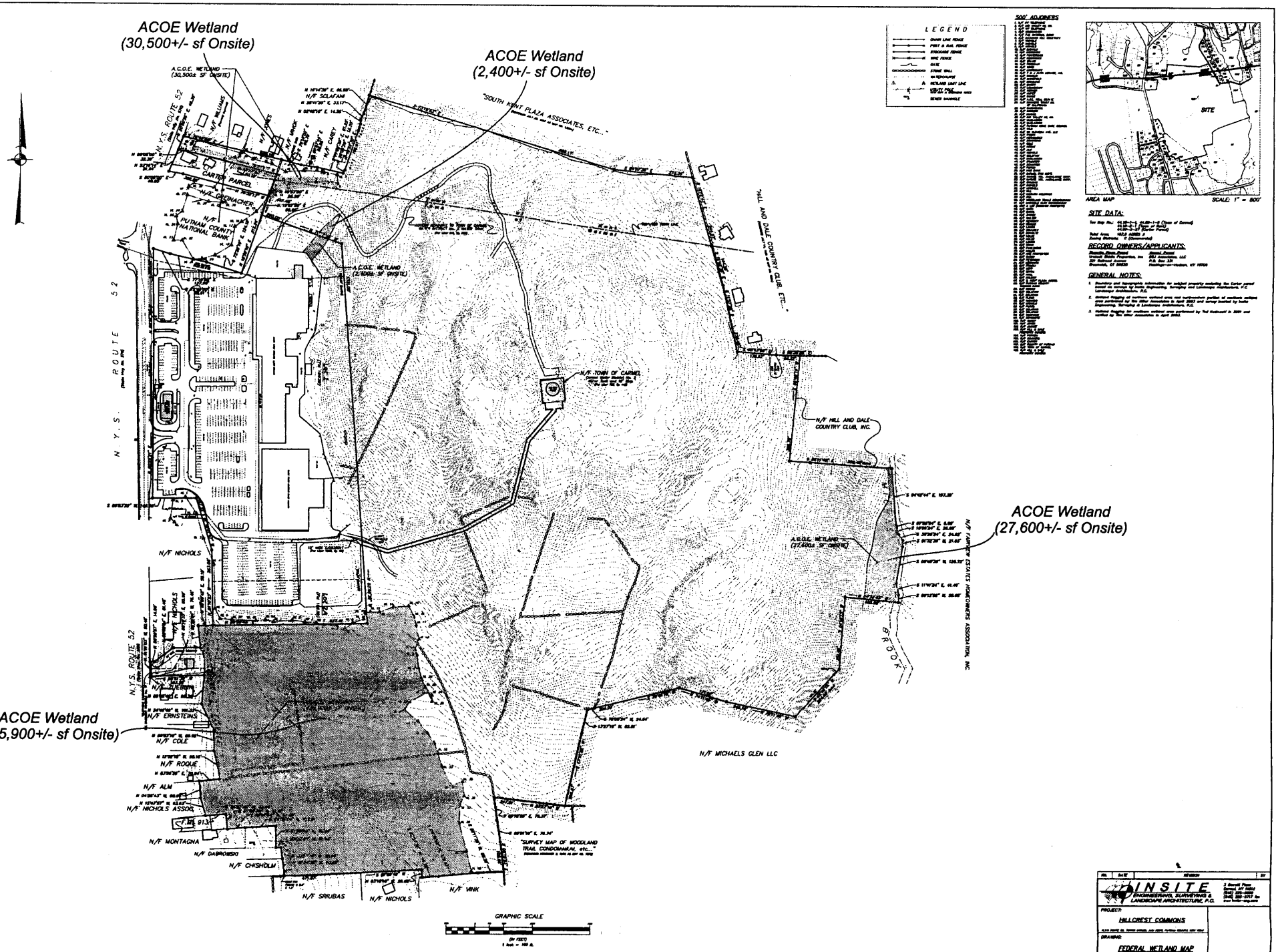
Please review the material submitted and confirm that this information is adequate for the issuance of the Public Notice.

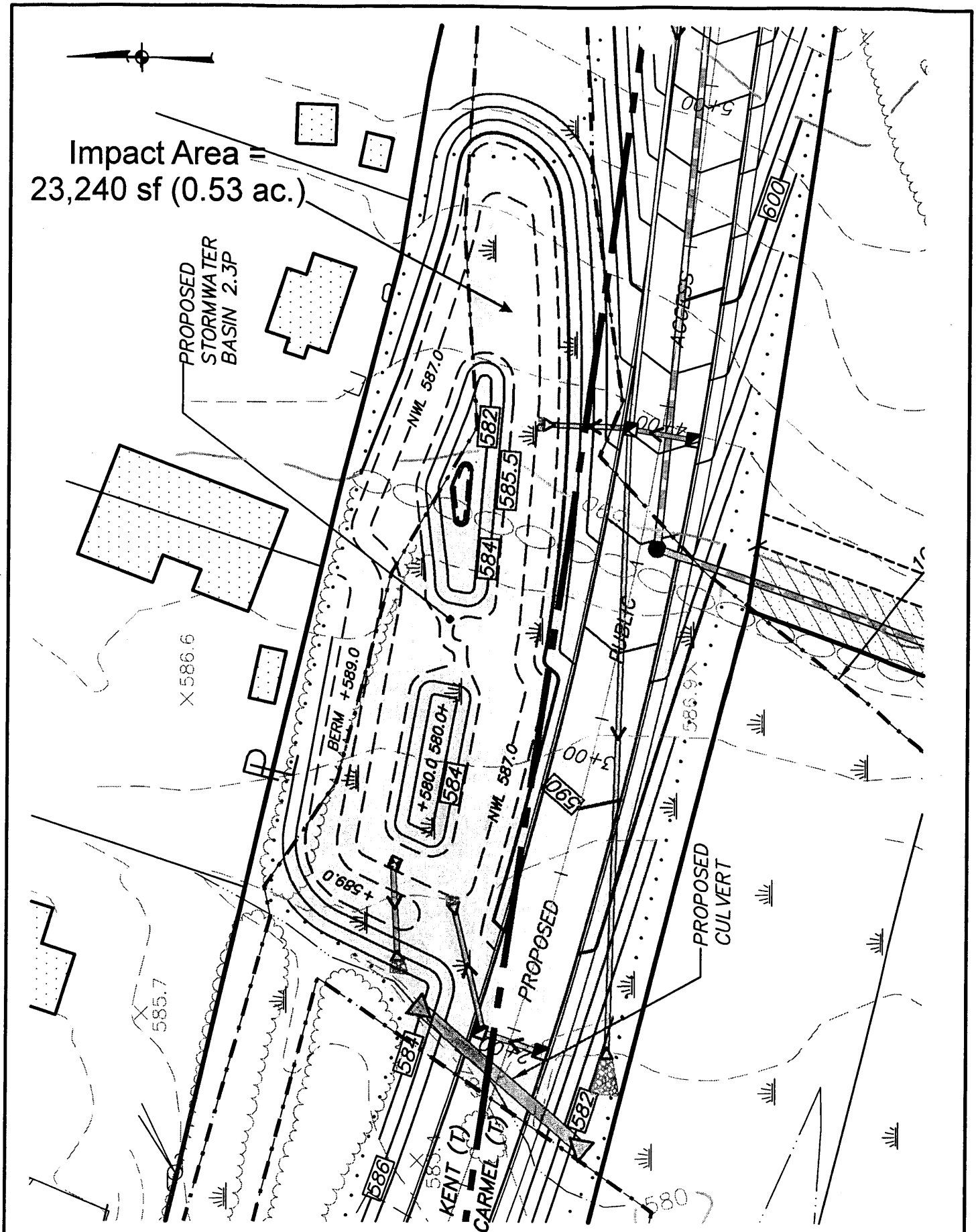
Sincerely yours,

Steve Marino, PWS
Vice President / Senior Wetland Ecologist
TIM MILLER ASSOCIATES, INC.

Job #0373

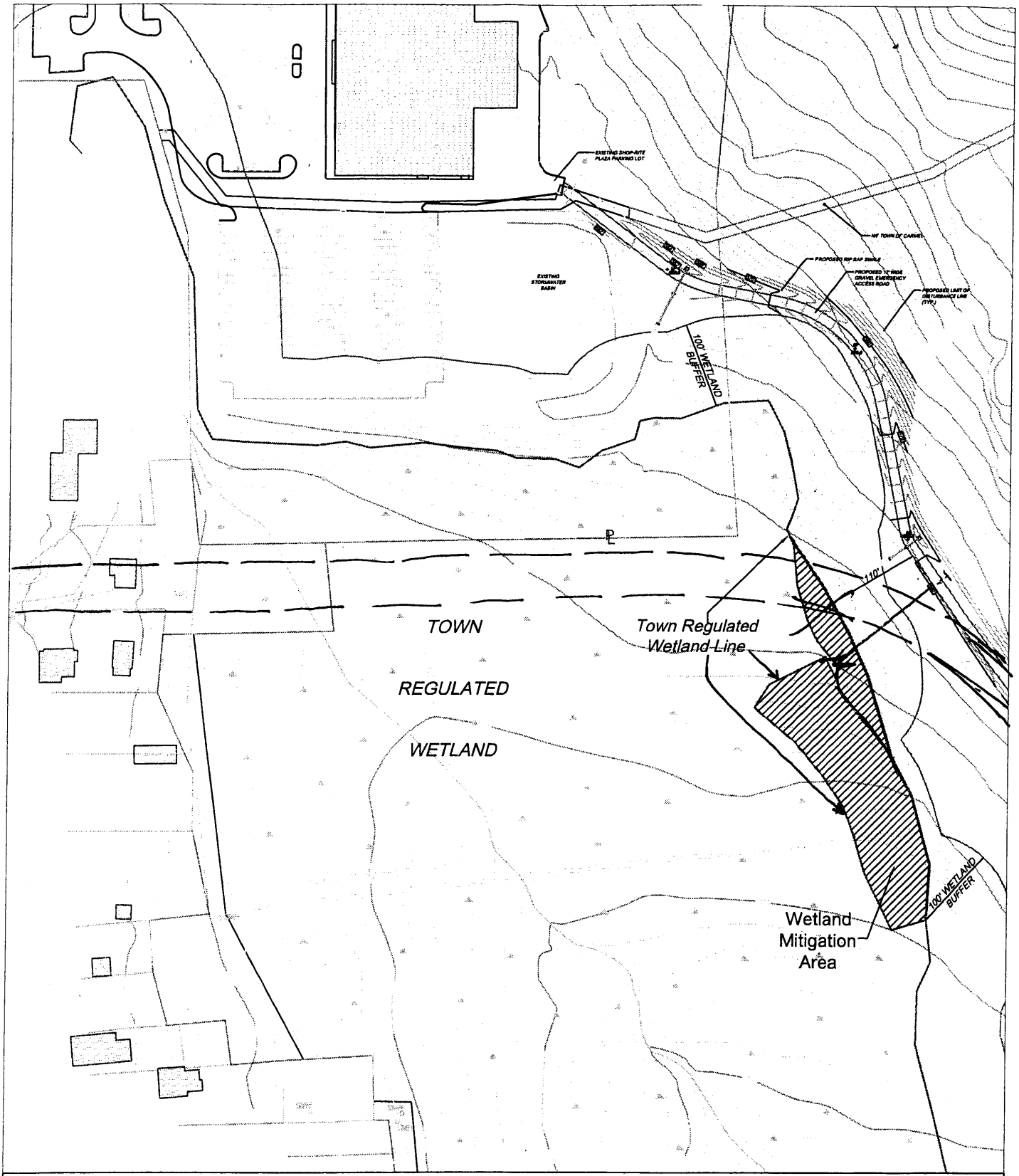
c: D. Post, Wilder Balter Properties


ACOE Wetland
(30,500+/- sf Onsite)
ACOE Wetland
(2,400+/- sf Onsite)
ACOE Wetland
(27,600+/- sf Onsite)
ACOE Wetland
(625,900+/- sf Onsite)
LEGEND
500' ADJOINERS
AREA MAP
SCALE: 1" = 800'
SITE
SITE DATA:
RECORD OWNERS/APPLICANTS:
GENERAL NOTES:
N.Y.S. ROUTE 52
CARTER PARCEL
N/F CRONACHER
PUTNAM COUNTY NATIONAL BANK
N/F SCLAFANI
"SOUTH POINT PLAZA ASSOCIATES, ETC..."
"HILL AND DALE COUNTRY CLUB, ETC..."
N/F TOWN OF CARMEL
N/F HILL AND DALE COUNTRY CLUB, INC.
N/F NICHOLS
N/F ERNSTEINS
N/F COLE
N/F ROQUE
N/F ALM
N/F NICHOLS ASSOC.
N/F MONTAGNA
N/F DABROWSKI
N/F CHISHOLM
N/F SRUBAS
N/F NICHOLS
N/F VINK
N/F MICHAELS GLEN LLC
N/F FAIRVIEW ESTATES HOMEOWNERS ASSOCIATION, INC.
"SURVEY MAP OF WOODLAND TRAIL CONDOMINIUM, ETC..."
GRAPHIC SCALE
INSITE
ENGINEERING, SURVEYING & LANDSCAPE ARCHITECTURE, P.C.
PROJECT
HILLCREST COMMONS
DRAWING
FEDERAL WETLAND MAP
FWM-1



PROJECT: HILLCREST COMMONS SENIOR HOUSING DEVELOPMENT N.Y.S. ROUTE 52 TOWNS OF CARMEL & KENT PUTNAM COUNTY, NEW YORK	PREPARED BY: INSITE ENGINEERING, SURVEYING & LANDSCAPE ARCHITECTURE, P.C. 3 Garrett Place • Carmel, New York 10512 Phone (845) 225-9690 • Fax (845) 225-9717 www.insite-eng.com
DRAWING: PROPOSED STORMWATER BASIN 2.3P	DATE: 7-23-08 SCALE: 1" = 40' PROJECT NO.: 01176.100 FIGURE: 1

Z:\E\01176100\Wetland Mitigation\Figure 1.dwg, 7/25/2008 2:50:19 PM, phil, 1:1



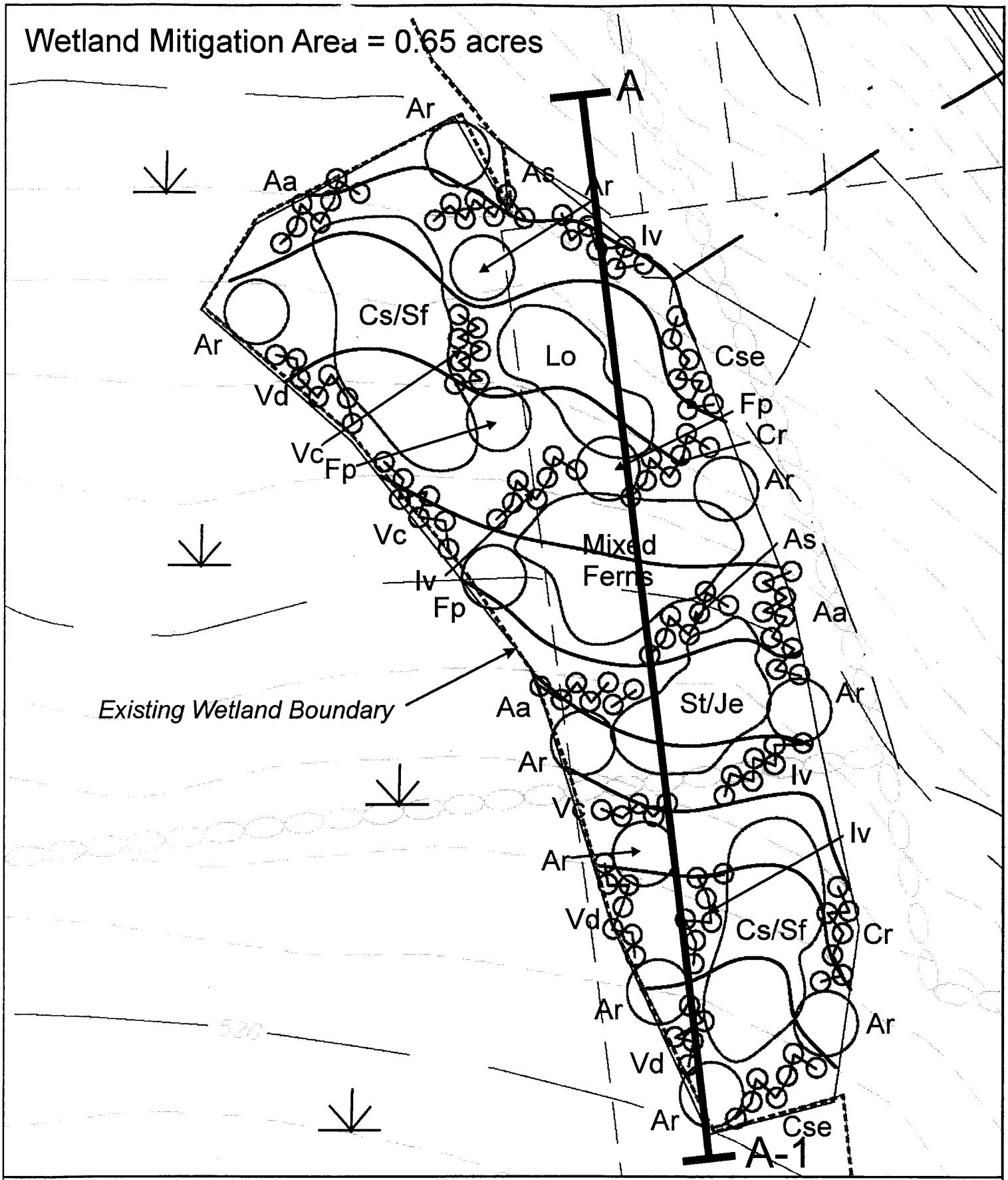
North

FS EQ: 0373_Hillcrest\wetland_mitigation.dwg

Wetland Mitigation Plan

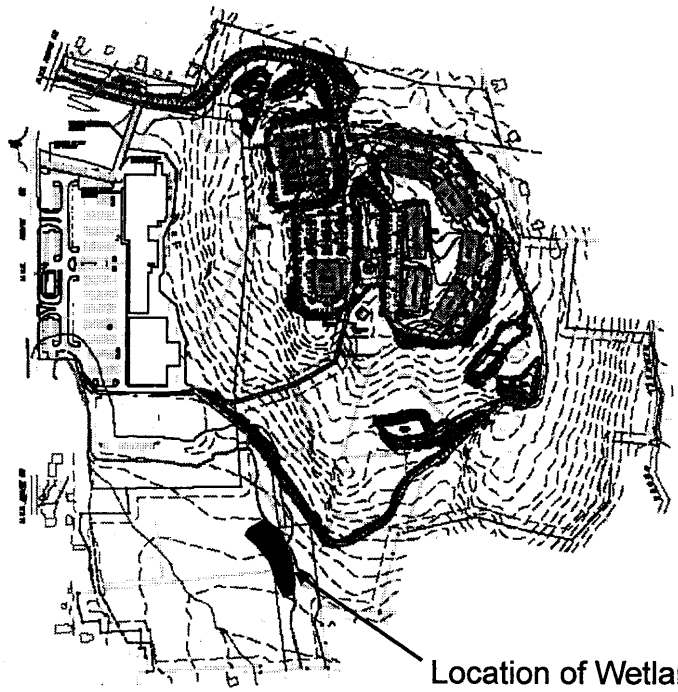
Hillcrest Commons
Towns of Carmel & Kent
Putnam County, New York
Source: Insite Engineering, Surveying & Landscape Architecture, P.C.
Scale: 1" = 150'

Tim Miller Associates, Inc., 10 North Street, Cold Spring, New York 10516 (845) 265-4400 Fax (845) 265-4418



Wetland Mitigation Plan - Sheet 1
Hillcrest Commons ACOE Permit Application NAN-2005-16-WOR
Towns of Carmel and Kent, Putnam County, New York
Basemap Source: Insite Engineering, Surveying and Landscape Architecture,P.C.
Scale: 1 Inch = 40 feet

Overall Site Map



Species Name	Common Name
AR - Acer rubrum	Red maple
AS - Alnus serrulata	Speckled alder
AA - Aronia arbutifolia	Red chokeberry
CR - Cornus racemosa	Gray dogwood
CSe - Cornus sericea	Redosier dogwood
FP - Fraxinus pennsylvanica	Green ash
IV - Ilex verticillata	Winterberry
VC - Vaccinium corymbosum	Highbush blueberry
VD - Viburnum dentatum	Southern arrowwood
CS - Carex stricta	Tussock sedge
JE - Juncus effusus	Soft rush
LO - Leerzia ozyroides	Rice cutgrass
OS - Onoclea sensibilis	Sensitive fern
OR - Osmunda regalis	Royal fern
OC - Osmunda cinnamomea	Cinnamon fern
ST - Scirpus tabernaemontanii	Softstem bulrush
SF - Symplocarpus foetidus	Skunk cabbage

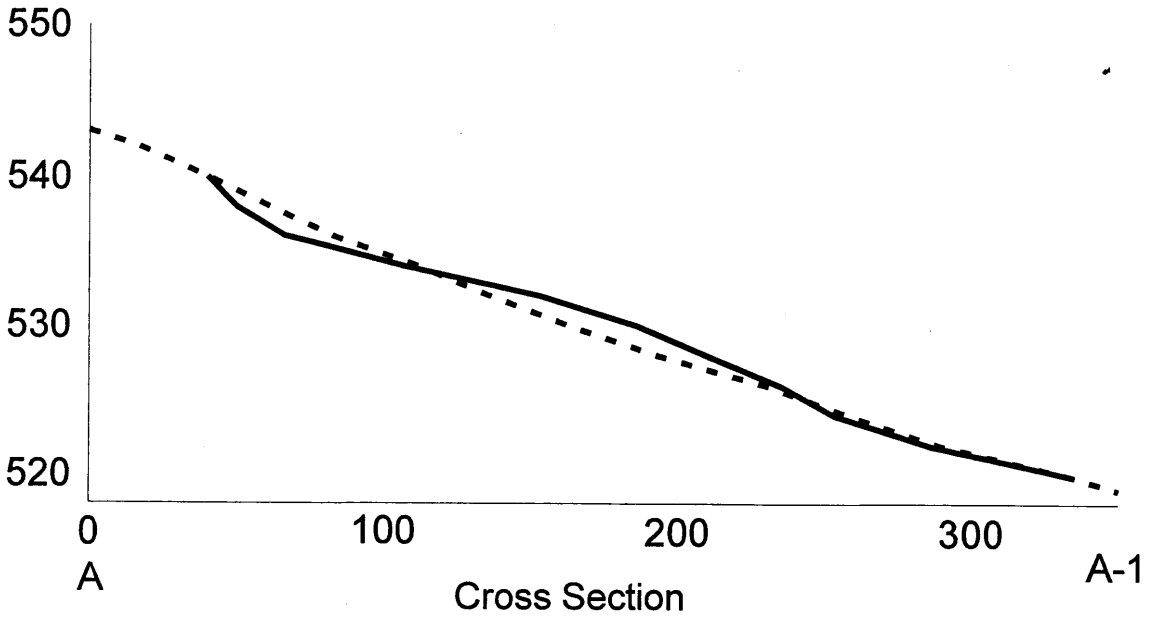
Wetland Mitigation Plan - Sheet 2

Hillcrest Commons ACOE Permit Application NAN-2005-16-WOR

Towns of Carmel and Kent, Putnam County, New York

Basemap Source: Insite Engineering, Surveying and Landscape Architecture,P.C.

Scale: 1 Inch = 40 feet



Cross Section

Construction Notes for Mitigation Areas:

1) Prior to commencement of excavation, installation of erosion controls will be completed at proposed limits of disturbance and trees to be preserved will be identified with flagging or paint.

2) Regrade area and spread topsoil four to six inches deep using existing stockpiles. Final grading is to be generally completed as shown on this plan. Some field adjustment to achieve desired flow paths is acceptable.

3) Invasive species such as honeysuckle, barberry, and phragmites will be removed from the wetland and adjoining areas to the extend practicable.

4) Trees to remain will be identified prior to the commencement of site grading. These trees will be flagged in the field prior to the commencement of any clearing or excavation. Leave smaller existing trees in assumed area of disturbance to the extent practicable. Field adjustments to the grading plan may be necessary in order to ensure minimal impacts to roots of trees to be saved.

5) Planting of trees, shrubs and herbaceous material within the wetland mitigation area as specified on the approved plan. Seeding and stabilizing area with approved wetland seed mix.

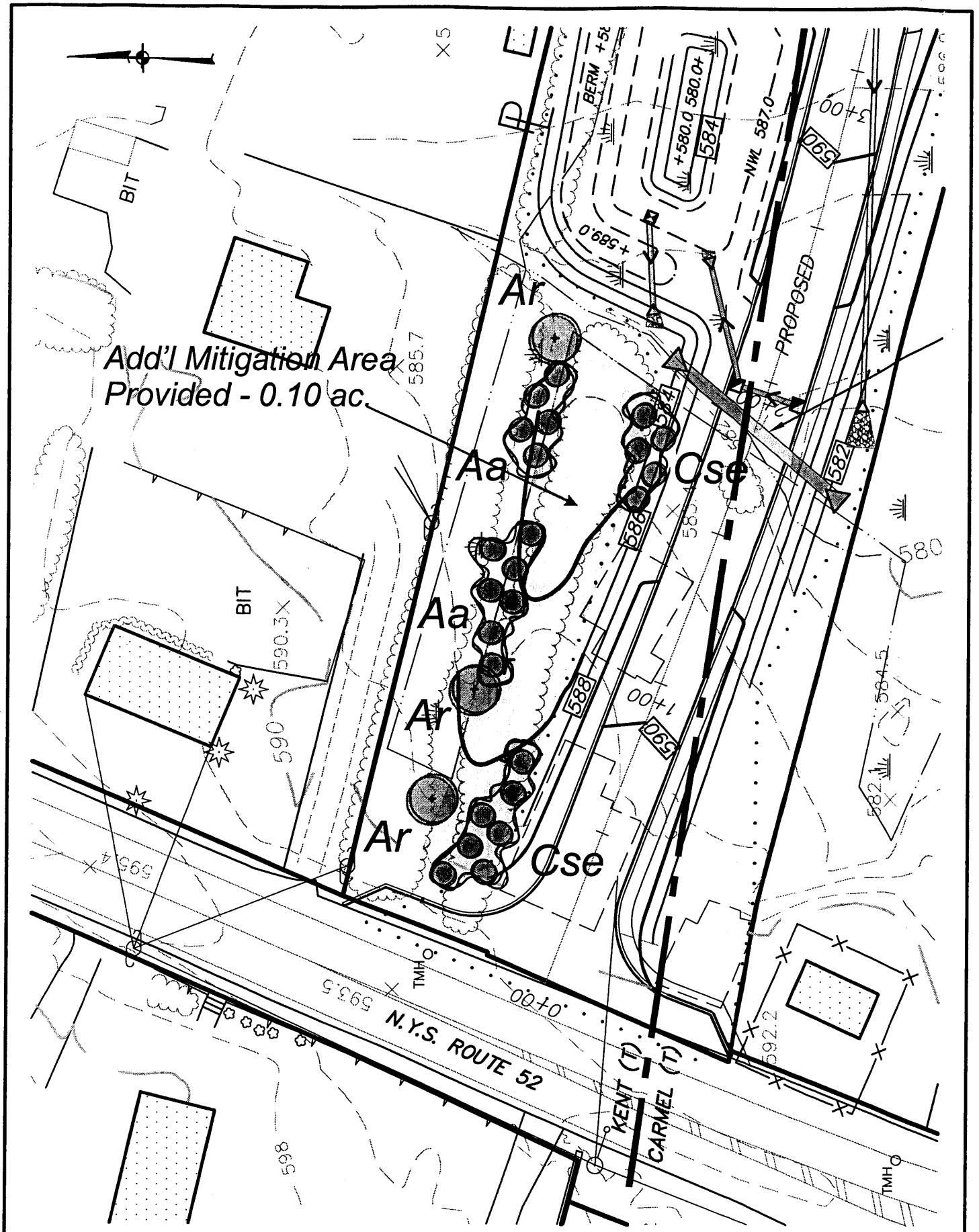
6) Hay and seed area of wetland expansion with Ernst Conservation Seeds Northeast Wetland Hummock Mix or equivalent. Companion seed with annual ryegrass as per grower's recommendations.

Northeast Wetland Hummock Mix

1 pound will cover 13,400 sq. ft. @100 seeds per sq.ft.

Percent by No of Seeds	Scientific Name	Common Name
43.6%	Scirpus Atrovirens	Green Bulrush
19.0%	Juncus effuses	Soft Rush
33.5%	Carex vulpinoidea	Fox Sedge
1.3%	Leersia oryzoides	Rice Cut Grass
1.3%	Carex comosa	Bearded Sedge
0.9%	Carex crinita	Fringed Sedge
0.2%	Carex lurida	Shallow Sedge
0.2%	Carex lupulina	Hop Sedge

Wetland Mitigation Plan - Sheet 3
Hillcrest Commons ACOE Permit Application NAN-2005-16-WOR
Towns of Carmel and Kent, Putnam County, New York
Basemap Source: Insite Engineering, Surveying and Landscape Architecture,P.C.
Scale: 1 Inch = 40 feet



PROJECT: HILLCREST COMMONS SENIOR HOUSING DEVELOPMENT N.Y.S. ROUTE 52 TOWNS OF CARMEL & KENT PUTNAM COUNTY, NEW YORK	PREPARED BY: INSITE ENGINEERING, SURVEYING & LANDSCAPE ARCHITECTURE, P.C. 3 Garrett Place • Carmel, New York 10512 Phone (845) 225-9690 • Fax (845) 225-9717 www.insite-eng.com	DATE: 7-23-08 SCALE: 1" = 40' PROJECT NO.: 01176.100 FIGURE: 2
DRAWING: PROPOSED WETLAND MITIGATION AREA		

Z:\E\01176100\Wetland Mitigation\Figure 2.dwg, 7/25/2008 2:52:12 PM, phil, 1:1

Potential for Bog Turtle (Clemmys muhlenbergii) and Indiana Bat (Myotis sidalis) at the Proposed Hillcrest Commons Site
Town of Carmel, Putnam County, NY

Bog Turtle

This well-studied and surveyed species was not identified by the NYSDEC Natural Heritage Program as being known to occur in the area of this proposed project. It appears that the lack of open fen habitat, which provides the necessary basking and nesting opportunities for bog turtles is not present on site.

The habitat suitability assessment followed the protocols outlined by the Fish and Wildlife Service. According to a variety of sources, bog turtles' preferred habitat includes shallow, spring-fed fens, sphagnum bogs, swamps, marshy wet meadows with soft, muddy, organic bottoms, slow moving water, and open canopies bordered by shrub and red maple swamps. Plant species found in association with bog turtles include shrubby cinquefoil (*Potentilla fruticosa*), sedges (*Carex* spp., especially *Carex stricta),* sphagnum moss (*Sphagnum spp.),* and skunk cabbage (*Symplocarpus foetidus).* The turtles frequently lay eggs atop tussock sedges in areas with open canopies and sparse shrub vegetation that would not shade the nests.

The project site is 107.7 acres and is comprised of upland hardwood forest and regulated wetlands. Wetland B, which is the larger wetland to the south of the project area, occupies approximately 11.7 acres of the lowest elevation of the site. Wetland B is in the southwestern portion of the site next to the existing shopping center parking lot. The northernmost portion of Wetland B is an open wet meadow type wetland with seasonally saturated soils and the southern portion is wooded.

The dominant vegetation in the wet meadow portion of Wetland B includes common reed, purple loosetrife, jewelweed, milkweed, redtwig dogwood, bullrush, and sedges. The dominant vegetation in the wooded portion of Wetland B includes red maple, elm, ash, box elder, willow, sensitive fern, skunk cabbage, and poison ivy. No rivulets, standing water, or mucky soil was noted on the property except for the watercourse that exists on the property. No springs or groundwater sources were noted during the Phase 1 assessment.

Wetland A, which is at the northern part of the site, is a small wetland pocket between an existing residence and the shopping center parking lot. It is a regulated wetland due to its connection to Wetland B via a large culvert under the shopping center parking lot. It developed in a disturbed area of the site and does not represent bog turtle habitat.

Several field visits to the site revealed that the wetlands do not contain suitable hydrology and generally lack a muddy/mucky substrate often associated with Bog Turtle habitat. No fen indicator species occur in any wetland on the site. Scattered tussock sedge generally associated with Bog Turtle nesting activities are generally found in the dense red maple swamps on site but are not in appropriate Bog Turtle habitat.

None of the wetlands within the project area meet the criteria for the Bog Turtle and thus no habitat in the project area would be designated as "critical habitat" pursuant to the Endangered Species Act.

Indiana Bat

A site habitat assessment for Indiana bat was conducted on October 6, 2005, by Steve Marino, PWS of Tim Miller Associates. This assessment is consistent with the Phase 1 habitat assessment requirements of the USFWS.

Indiana bats utilize caves for winter roosts and trees with snags or strongly exfoliating bark for roosts when not in hibernation. No suitable caves exist on or near to the site. The closest observation of Indiana bats roosting in caves are approximately 50 miles distant from the site. The closest observation of Indiana bat roosting in trees were approximately 30 miles from the site. The project site was evaluated for potential bat habitat during the site field surveys, as described below.

Multiple environmental/ecological surveys of the site have been conducted. Collectively, these assessments allow for reasonably detailed evaluation of the existing and proposed habitats on the site in relation to the Indiana bat.
The surveys have included the following:

- observation of large trees (those greater than 18" diameter at breast height) on the border of the property, both on and off of the site, which would be representative of trees located within the project site. Trees with features such as scaling bark, broken snags, and open cavities were recorded as potential mammalian habitats.
- a wetland delineation identified stream bed, soil, and vegetative characteristics of the site wetlands and the tributary to Michael Brook as it traverses the property; and
- seasonal site visits by environmental scientists that have documented plants and animals observed on the project site.

An additional on-site seasonal field survey was conducted in October 2005 within the areas of the property's upland, sloped and riparian forests and wetlands which resulted in additional observations related to the potential presence or absence of habitat that could sustain populations of Indiana bats. The sloped forest lands were observed throughout the property. A majority of the forested land on and adjacent to the site will not be impacted by the current proposal.

Based on the results of the field surveys, and review of various data, the following narrative describes the potential for Indiana bat to be present on the project site:

- Over wintering - According to the USFWS, the nearest over wintering locations for Indiana bat are approximately 50 miles distant from the project site. The property does not have any significant exposed rock caves or crevices which could be used as over wintering roosts for this species.
- Nursery/Summer roosting - According to the USFWS letter, the nearest summer roosting locations for Indiana bat is approximately 30 miles distant from the project site. Indiana bats have been reported to exploit several tree species for summer and nursery roosts, including deciduous trees with strongly exfoliating bark, coniferous trees providing dense shelter from wind and rain, and dead trees or branches which provide snags.

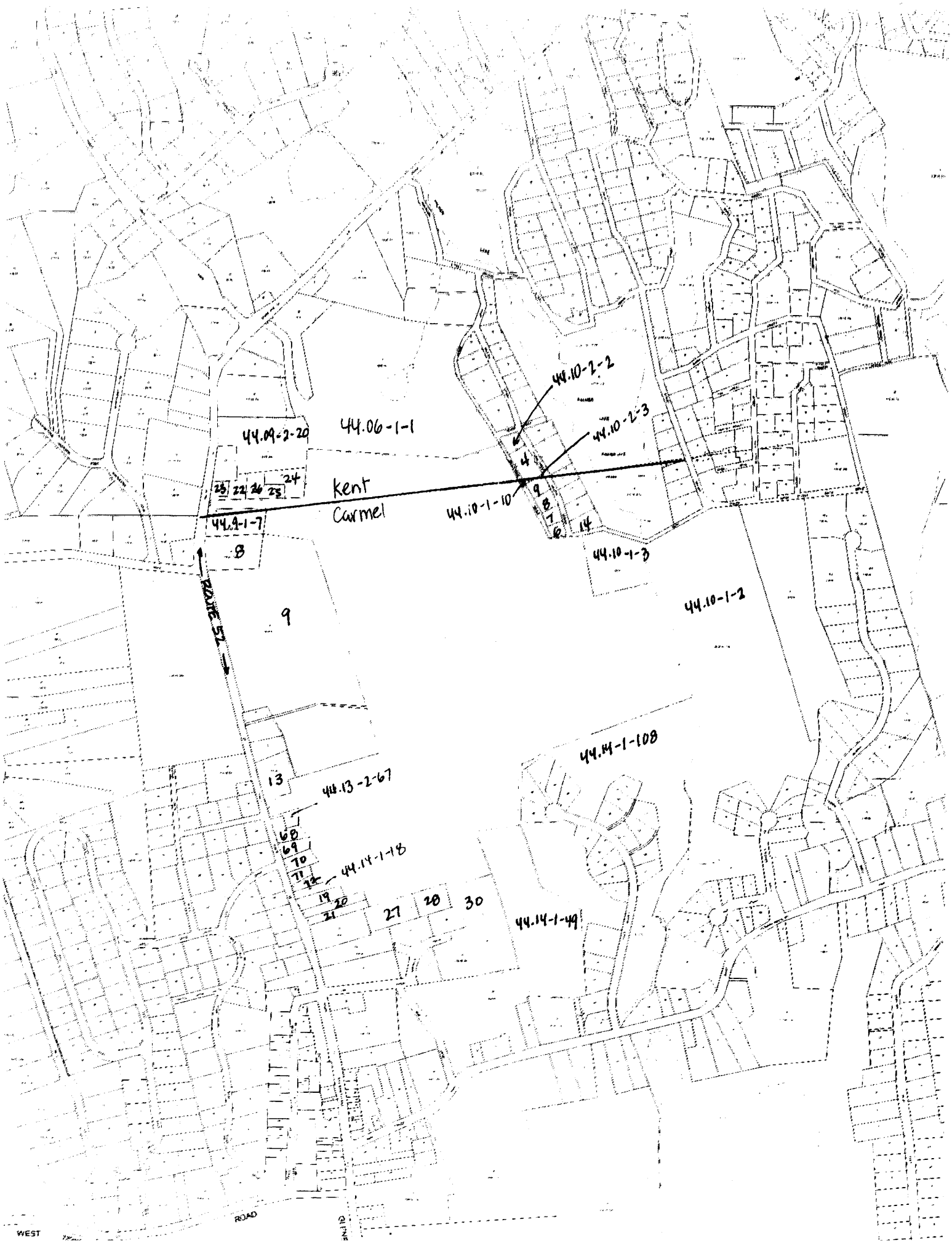
The overall composition of the tree community in the areas observed during various surveys is not compatible with the reported summer and nursery roosting preferences reported for Indiana bat. The dominant tree species observed during the Tree Survey were red oak, red maple, sugar maple, black birch and white oak.

One tree species frequently, but not always, cited as generally useful for nursery roosts is the shagbark hickory (Carya ovata). The shagbark hickory is broadly endemic throughout most of New York State and its neighboring states. However, only one significant shagbark hickory was observed in the area that was greater than 12" dbh, and this was observed on the adjacent property to the west, which will not be disturbed by construction.

Dead or dying trees with snags also may provide roost sites, however the number of trees in such condition on this site was minimal. Stands of coniferous trees may provide shelter from inclement weather. However, few conifers are present on the site, and these are almost exclusively represented by Eastern red cedars (Juniperus virginiana), one of the smaller eastern conifers, and an occasional white pine (Pinus strobus).

- Foraging - The forested tree canopy, riparian, open water and meadow areas associated with Wetland B could provide foraging habitat for bats. No disturbances are proposed to Wetland B or its buffer, and alternatives to minimize impacts to Wetland A are being discussed. Thus, the quality of this foraging habitat would be minimally impacted by the proposed project.

It is also noted that a mist net survey was conducted for four nights in June of 2008 on a site less than one half mile away to the north and no Indiana bats were observed in the area.


44.10-2-2
44.10-2-3
44.09-2-20
44.06-1-1
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Kent
Carmel
44.10-1-10
9
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14
44.9-1-7
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44.10-1-3
ROUTE 52
9
44.10-1-2
44.14-1-108
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44.13-2-67
68
69
70
71
44.14-1-18
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44.14-1-49
WEST
ROAD

DISTRIBUTION_LIST	PEOPLEID	LASTNAME	FIRSTNAME	MIDDLEINITIAL	SALUTATION	COMPANY	COMPANY2	S-B-L	Name	ADDRESS1	ADDRES
							Town of Carmel				
						County of Orange		44.9-1-7	Susan Greinacher	160 Carpenter Road	
		Applebaum				Myron		44.9-1-8	Putnam County National Bank	P.O. Box 10	
						Newburgh Capital Group, LLC		44.9-1-9	HRE Properties Attn: Urstadt Biddle Properties, Inc.	321 Railroad Avenue	
						WB Interchange Associates, LLC		44.9-1-13	Nichols Properties LLC	134 Route 52	
						WB Interchange Associates, LLC		44.13-2-67	Rebecca Hernandez	124 Gleneida Avenue	
						Union Plaza of Newburgh, LLC		44.13-2-68	P&R Estate Corp.	21 Chestnut Ridge Road	
						WB Interchange Associates, LLC		44.13-2-69	Charles & Elaine Cole	118 Gleneida Ave	
						WB Interchange Associates, LLC		44.13-2-70	Rodolfo & Judith Roque	116 Gleneida Ave	
		Niedritis	Erick Alvis		Mr.			44.13-2-71	Susan P. Alm	114 Gleneida Ave	
						WB Interchange Associates, LLC		44.13-2-72	John Bellezza	27 Adams Court	
						1400 Route 300 LLC and Gil's Pride Inc.		44.14-1-18	Louis Sciafani & A. Albano	110 Gleneida Ave	
						Winona Lake Homeowners Association		44.14-1-19	Joyce & James McGlasson	331 Horsepound Rd	
						Winona Lake Fire Company		44.14-1-20	Rick Montes & Anne Coffey	106 Gleneida Ave	
		Fekishazy	David & Bonnie		Mr. & Mrs.			44.14-1-21	Edward & Virginia Schaffer	P.O. Box 236	
		Johnson	Zamira					44.14-1-27	Seven Hills Property Mgt	10 Garrett Pl	
		Laraia	Gregory& Theresa		Mr. & Mrs.			44.14-1-28	Kenneth McGoey	8 Garrett Pl	
		Desimone	Vincent & Maria		Mr. & Mrs.			44.14-1-30	Hugo Hayes LLC	5 Garrett Pl	
		Cassidy	Richard & Lori		Mr. & Mrs.			44.14-1-49	Woodland Trails Condo		
		Simmons	Crystal		Ms.			44.14-1-108	Michaels Glen		
		Ortiz	Carlos & Norma		Mr. & Mrs.			44.10-1-2	Fairview Estates HOA	Billed to 44.14-1-63 to 84	
						JK Meadow LLC		44.10-1-3	Jessebelle Enterprises LLC	71 Gleneida Ave	
						Thylan Associates, Inc.		44.10-1-6	Matthew Vanacoro	75 Willow Trail Ct	
		Whalen	William		Mr.			44.10-1-7	Lee Hulse Hill & Dale Country Club	71 Willow Trail Ct	
		Leinweber	Scott & Jonnie		Mr. & Mrs.			44.10-1-8	Lee Hulse Hill & Dale Country Club	72 Willow Trail Ct	
		Stevens	Edith		Ms.			44.10-1-9	Dash Consulting	154 Boston Post Rd	
		Davis	Russell & Michele Noto					44.10-1-10	P/O 44.10-2-3 Kent		
		Pisano	Philip & Jeanne Stillwagon					44.10-1-14	Susan & Edward Fioti	76 Willow Trail Ct	
		Marchione	Robert		Mr.						
		Carbone	Frank		Mr.		Town of Kent				
		Sampson	Edward		Mr.			44.09-2-20	Sciafani Family Ltd Partnership	28 Middle St	
		Wesley	Calvin & Grace Hyatt					44.09-2-22	Michael Tompkins	6 Apple Tree Ct	
		Hogancamp	Loretta		Ms.			44.09-2-23	Bradley Schwartz & Karen James	86 Indian Rock Rd	
		Murphy	Horace & Lee					44.09-2-24	Roxanne Purdy & John Fantini	20 Apple Tree Ct	
		Bernard	Arthur & Katheryn		Mr. & Mrs.			44.09-2-25	Ralph Jones, Jr.	10 Applie Tree Ct	
		Crawford	David & Gail		Mr. & Mrs.			44.09-2-26	Julian & Miriam Jimenez	12 Apple Tree Ct	
		Holsten	Christopher & Jacqueline		Mr. & Mrs.			44.06-1-1	South Kent Plaza Assoc. Attn: Harvest Property Group Inc.	72 Main St	
		Ghikas	Eugene & Vaughn		Mr. & Mrs.			44.10-2-2	William Pawlowski	49 Willow Trail Ct	
		Ghikas	Eugene & Vaughn		Mr. & Mrs.			44.10-2-3	Dash Consulting	154 W. Boston Post Rd	
		Ghikas	Eugene & Vaughn		Mr. & Mrs.			44.10-2-4	Karlten & Laura Wong	57 Willow Trail Ct	
						Gasland Petroleum Inc.					
		Contreras	George		Mr.						
			Freddie Hannah Jr. & Lizette Sarita								
		Scofield	Howard & Harold								
		Craig-Lofaro	Jonathan & Wendy		Mr. & Mrs.						
		Trotta	Christopher		Mr.						
		Beam	Clifford Paul		Mr.						
		Costa	Cora		Ms.						
						WB Interchange Associates, LLC					
						WB Interchange Associates, LLC					
						WB Interchange Associates, LLC					
						WB Interchange Associates, LLC					
						WB Interchange Associates, LLC					
						WB Interchange Associates, LLC					
		Risio	Ralph & Louise		Mr. & Mrs.						
						WB Interchange Associates, LLC					
		Spagnoli	Scott & Tine		Mr. & Mrs.						
						WB Interchange Associates, LLC					
						WB Interchange Associates, LLC					
		Wood	Arthur & Norma		Mr. & Mrs.						
		Bard	Douglas		Mr.						
						Brian Jo Lynn Holding Corp.					
		Clark	Dane		Ms.						
						WB Interchange Associates, LLC					
						WB Interchange Associates, LLC					

ADDRESS3	CITY	STATE	ZIP	EMAIL	PHONE
	Hopewell Junction	NY	12533		
	Carmel	NY	10512		
	Greenwich	CT	6830		
	Carmel	NY	10512		
	Carmel	NY	10512		
	Mahopac	NY	10541		
	Carmel	NY	10512		
	Carmel	NY	10512		
	Carmel	NY	10512		
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	Carmel	NY	10513		
	Mamaroneck	NY	10543		
	Carmel	NY	10512		
	Gloucester	MA	1930		
	Carmel	NY	10512		
	Stamford	CT	6930		
	Carmel	NY	10512		
	Carmel	NY	10512		
	Carmel	NY	10512		
	Brewster	NY	10509		
	Carmel	NY	10512		
	Mamaroneck	NY	10543		
	Carmel	NY	10512		

**TIM
MILLER
ASSOCIATES, INC.**

10 North Street, Cold Spring, NY 10516 (845) 265-4400 265-4418 fax www.timmillerassociates.com

July 1, 2009

Mr. Brian Orzel
US Army Corps of Engineers
26 Federal Plaza
New York, NY 10278-0090

RE: Permit Application Number NAN-2005-16-WOR
Proposed Hillcrest Commons
Route 52
Town of Carmel, Putnam County, NY

Dear Mr. Orzel:

On December 30, 2008, we met in your office to discuss the status of the Hillcrest Commons application. We discussed potential alternatives, wildlife habitat issues and the proposed mitigation plan. Since that meeting, we have been pursuing possible alternatives that would eliminate or minimize the need for wetland encroachment. These alternatives, however, involved lands that are not in our control, and at this time we must step back and continue with our original application, since it is now obvious that these alternatives are not viable.

Based on further consideration and review of the site plan we present the following information for your review.

Alternatives

Since our December meeting, the applicant has approached adjacent property owners with offers to buy property and/or easements for an alternative access. These negotiations did not result in a deal that would allow for alternative access, so the access road location has not changed.

As shown on the plans, site access is severely limited to a narrow right of way from Route 52 just north of the Kent town line. All adjacent properties are owned by other parties, including the Shop Rite store owners. To the south of the Shop Rite parcel, the entire frontage near Route 52 is designated wetland, and is cutoff from Route 52 by intervening properties. Thus no alternative access is available, and the fill associated with creating the proposed access is minimal.

Regarding the detention basin in the wetland, which is the real crux of the ACOE application, we are required by DEP policy and the terms of the SPDES General Permit to capture and treat all runoff from impervious areas. Due to the narrow nature of the right of way and the slopes immediately east of the site access, there is no alternative location for treatment of the runoff from this lower section of the road.

Indiana Bats

As required by the ACOE and FWS, we prepared an evaluation of Indiana bat habitat potential as part of our submission dated August 14, 2008. This assessment concluded that it was highly unlikely that these bats utilize the site for roosting or foraging habitat, based on the distance from over-wintering habitat (50 miles) and known maternity roosting habitat (30 miles), and the lack of suitable foraging habitat and tree composition for temporary roosting. We also based this conclusion on a completed woodland bat survey conducted in 2008 at a nearby site (Kent Manor). However, since this species remains a conservation concern and there are means to mitigate any possible impact to the species regardless of the low likelihood of its presence in the area, we will agree to a restriction to site clearing limited to between October 1 and March 31.

Mitigation Plans

The wetland mitigation plans have been revised to eliminate that small area of wetland construction adjacent to the access road near the proposed detention basin. In reviewing this proposal, we believe that placing the mitigation area here would be too close to the road without any suitable buffer, would invite invasion by non-native plants, and not represent any improvement of habitat. This 0.1 acre mitigation has been relocated to further expansion of the larger 0.65 acre wetland mitigation area at the southeast part of the site. Revised mitigation plans are attached.

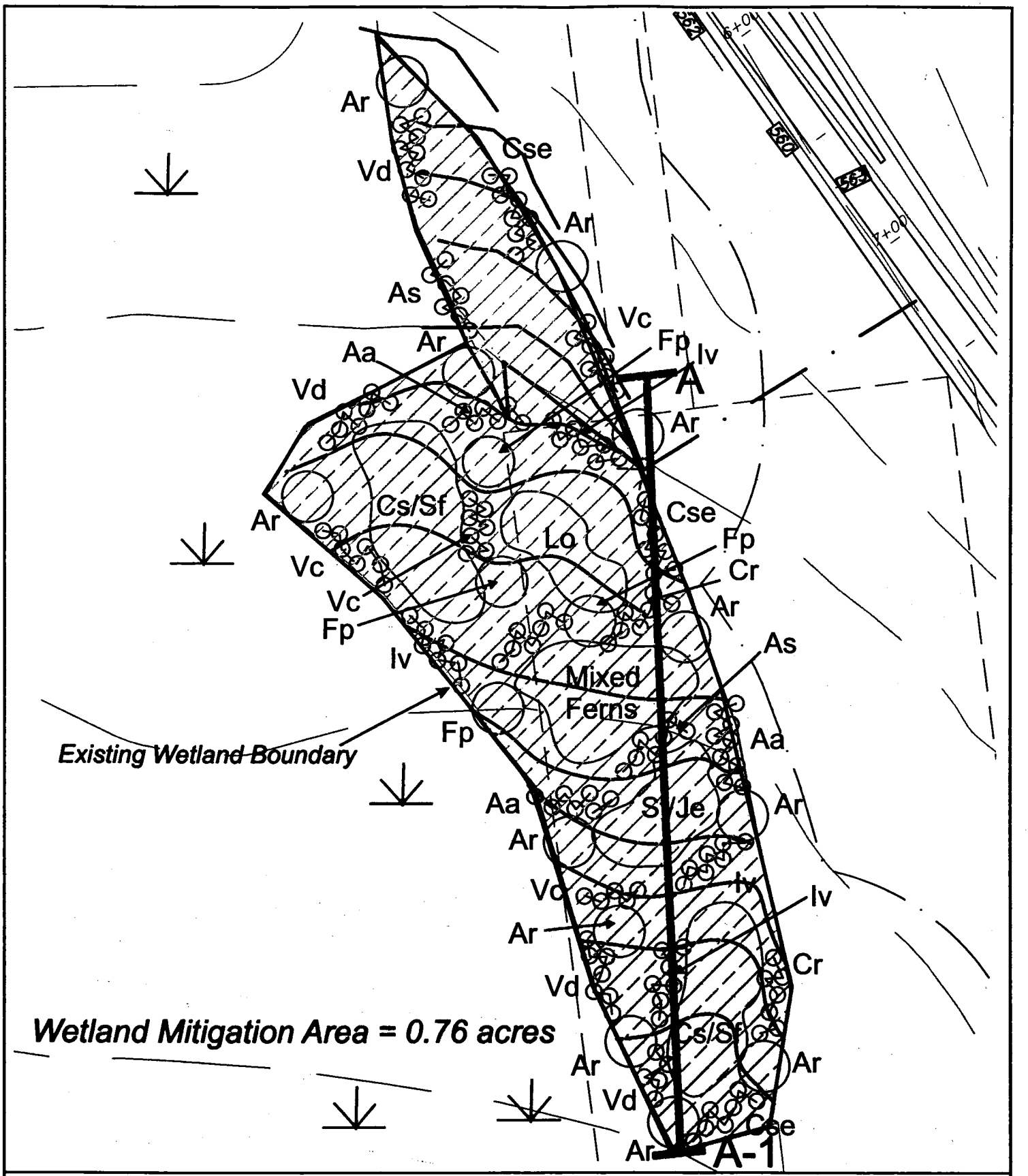
We believe we have now explored all of the outstanding issues on this application and request that you confirm that this information is adequate for the issuance of the Public Notice.

Sincerely yours,

Steve Marino

Steve Marino, PWS
Vice President / Senior Wetland Ecologist
TIM MILLER ASSOCIATES, INC.

Job #0373



Wetland Mitigation Plan - Sheet 1

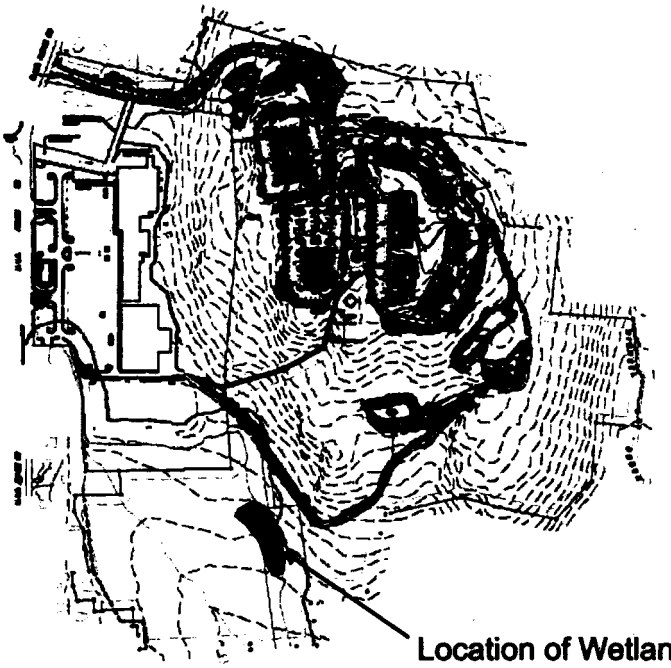
Hillcrest Commons ACOE Permit Application NAN-2005-16-WOR

Towns of Carmel and Kent, Putnam County, New York

Basemap Source: Insite Engineering, Surveying and Landscape Architecture,P.C.

Scale: 1 Inch = 50 feet

Overall Site Map



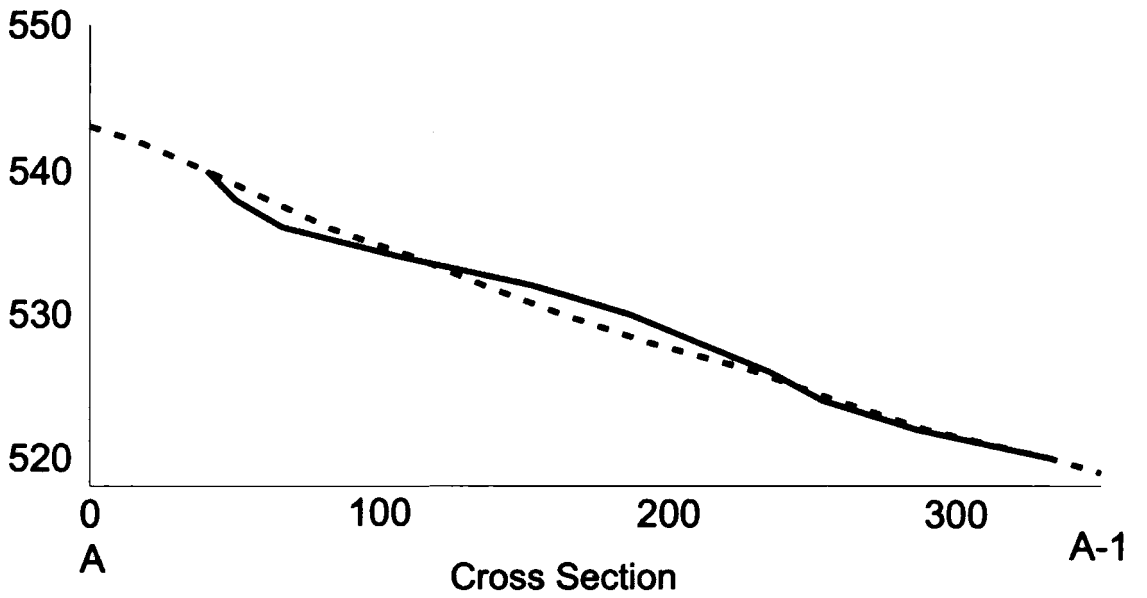
Species Name	Common Name
AR - Acer rubrum	Red maple
AS - Alnus serrulata	Speckled alder
AA - Aronia arbutifolia	Red chokeberry
CR - Cornus racemosa	Gray dogwood
CSe - Cornus sericea	Redosier dogwood
FP - Fraxinus pennsylvanica	Green ash
IV - Ilex verticillata	Winterberry
VC - Vaccinium corymbosum	Highbush blueberry
VD - Viburnum dentatum	Southern arrowwood
CS - Carex stricta	Tussock sedge
JE - Juncus effusus	Soft rush
LO - Leerzia ozyroides	Rice cutgrass
OS - Onoclea sensibilis	Sensitive fern
OR - Osmunda regalis	Royal fern
OC - Osmunda cinnamomea	Cinnamon fern
ST - Scirpus tabernaemontanii	Softstem bulrush
SF - Symplocarpus foetidus	Skunk cabbage

Wetland Mitigation Plan - Sheet 2

Hillcrest Commons ACOE Permit Application NAN-2005-16-WOR

Towns of Carmel and Kent, Putnam County, New York

Basemap Source: Insite Engineering, Surveying and Landscape Architecture,P.C.



Construction Notes for Mitigation Areas:

1) Prior to commencement of excavation, installation of erosion controls will be completed at proposed limits of disturbance and trees to be preserved will be identified with flagging or paint.

2) Regrade area and spread topsoil four to six inches deep using existing stockpiles. Final grading is to be generally completed as shown on this plan. Some field adjustment to achieve desired flow paths is acceptable.

3) Invasive species such as honeysuckle, barberry, and phragmites will be removed from the wetland and adjoining areas to the extend practicable.

4) Trees to remain will be identified prior to the commencement of site grading. These trees will be flagged in the field prior to the commencement of any clearing or excavation. Leave smaller existing trees in assumed area of disturbance to the extent practicable. Field adjustments to the grading plan may be necessary in order to ensure minimal impacts to roots of trees to be saved.

5) Planting of trees, shrubs and herbaceous material within the wetland mitigation area as specified on the approved plan. Seeding and stabilizing area with approved wetland seed mix.

6) Hay and seed area of wetland expansion with Ernst Conservation Seeds Northeast Wetland Hummock Mix or equivalent. Companion seed with annual ryegrass as per grower's recommendations.

Northeast Wetland Hummock Mix

1 pound will cover 13,400 sq. ft. @100 seeds per sq.ft.

Percent by No of Seeds	Scientific Name	Common Name
43.6%	Scirpus Atrowirens	Green Bulrush
19.0%	Juncus effuses	Soft Rush
33.5%	Carex vulpinoidea	Fox Sedge
1.3%	Leersia oryzoides	Rice Cut Grass
1.3%	Carex comosa	Bearded Sedge
0.9%	Carex crinita	Fringed Sedge
0.2%	Carex lurida	Shallow Sedge
0.2%	Carex lupulina	Hop Sedge

Wetland Mitigation Plan - Sheet 3
Hillcrest Commons ACOE Permit Application NAN-2005-16-WOR
Towns of Carmel and Kent, Putnam County, New York
Basemap Source: Insite Engineering, Surveying and Landscape Architecture,P.C.

APPENDIX D

Cultural Resource Studies
(See the attached CD)/
Correspondence

David A. Paterson
Governor

Carol Ash
Commissioner

New York State Office of Parks,
Recreation and Historic Preservation

Historic Preservation Field Services Bureau • Peebles Island, PO Box 189, Waterford, New York 12188-0189
518-237-8643
www.nysparks.com

September 5, 2008

Tim Miller
Tim Miller Associates
10 North Street
Cold Spring, New York 10516

Re: SEQRA
Hillcrest Commons Subdivision (Formerly 03PR05207)
Towns of Carmel and Kent
Putnam County
08PR01680

Dear Mr. Miller:

Thank you for requesting the comments of the Field Services Bureau of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the project in accordance with the New York State Historic Preservation Act of 1980 (Section 14.09 of the New York Parks, Recreation and Historic Preservation Law). These comments are those of the Field Services Bureau and relate only to Historic/Cultural resources. They do not include potential environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to the State Environmental Quality Review Act (New York Environmental Conservation Law Article 8) and its implementing regulations (6 NYCRR Part 617).

The OPRHP has reviewed the Phase I/II (Oberon 2004, 2007) and the Phase IB and II Supplemental Reports (LaPorta 2007, 2008) for this project. Based on our review, the OPRHP concurs that no further archeological excavation is warranted within the currently delineated Area of Potential Effect (APE) (dated 4/8/08).

Outside the currently delineated APE there are other components of a quarry complex that includes *Precontact Quartz Quarry Cluster 1 (A07901.000076)*, *Precontact Quartz Quarry Cluster 2 (A07901.000077)*, recently identified *Precontact Quarry Cluster 5 (A07901.000080)*, a rock shelter and two small quarry related loci. Our office recommends that in addition to the Avoidance Plan for *Cluster 1* and *Cluster 2*, that these components be protected as well by revising the avoidance plans and including a covenant with the deed.

Finally, it is the opinion of the OPRHP that the project will have No Adverse Impact to the historic properties in or eligible for inclusion in the State and National Registers of Historic Places with the following conditions:

The Avoidance Plan is expanded to include the several components of the Precontact Quarry Complex noted above.

A covenant is filed with the County Clerk's office at the time the final subdivision plat is filed with reference to the Precontact Quarry Complex, sites A07901.000076-77 and A07901.000080.

For further correspondence regarding this project, please be sure to refer to the OPRHP Project Review (PR) number noted above. If you have any questions, please call me at (518) 237-8643, extension 3288.

Sincerely,

Cynthia Blakemore

Cynthia Blakemore
Historic Preservation Program Analyst

cc. Philip LaPorta, LaPorta and Associates, LLC
Deborah Post

TIM MILLER ASSOCIATES, INC.

10 North Street, Cold Spring, New York 10516 *Phone (845) 265-4400* *Fax (845) 265-4418*

July 14, 2008

Ms. Cynthia Blakemore
NYS Office of Parks Recreation and Historic Preservation
Pebbles Island
P.O. Box 189
Waterford, NY 12188

Re: Proposed Hillcrest Commons Development
Towns of Carmel and Kent, Putnam County, New York
Ref. 08PR01680 (Formerly 03PR05207)

Dear Ms. Blakemore:

Attached, please find two copies of an Avoidance Plan for the Protection of Archeological Sites, for the Hillcrest Commons project. The plan was prepared per recommendations provided in your letter dated March 27, 2008.

Also attached is a letter dated July 11, 2008 from the applicant regarding a restrictive covenant for the property.

Please contact me if you have any questions or require additional information.

Sincerely,

Jon P. Dahlgren
Vice President/ Senior Geologist
TIM MILLER ASSOCIATES, INC.

enclosure

[illegible] PARTNERS, LLC
[illegible] ELMSFORD NY 10523 • (914) 347-3335 FAX (914) 347-3345

July 11, 2008

Ms. Cynthia Blakemore
NYS Office of Parks Recreation and Historic Preservation
Pebbles Island
P.O. Box 189
Waterford, NY 12188

Re: Hillcrest Commons
Towns of Carmel and Kent, Putnam County, New York
08PR01680 (Formerly 03PR05207)

Dear Ms. Blakemore:

Please be advised that in accordance with the SHPO Long Term Site Avoidance/Protection guidelines, BBJ Associates, LLC, the owner of the above-referenced project, a deed restrictive covenant will be transferred with each property containing the avoided/protected sites. In this case, the restrictive covenant refers to Archaeological Clusters 1 & 2 as noted on the project Avoidance Plan prepared by Insite Engineering. The restrictive covenant will be placed on the subject property at the time the final subdivision plat is filed with the County Clerk's office.

Sincerely,

Deborah Post
Vice President

TIM MILLER ASSOCIATES, INC.

10 North Street, Cold Spring, New York 10516 *Phone (845) 265-4400* *Fax (845) 265-4418*

June 19, 2008

Ms. Cynthia Blakemore
NYS Office of Parks Recreation and Historic Preservation
Pebbles Island
P.O. Box 189
Waterford, NY 12188

Re: Hillcrest Commons Subdivision
Towns of Carmel and Kent, Putnam County, New York
08PR01680 (Formerly 03PR05207)

Dear Ms. Blakemore:

Attached, please find copies of subsurface sampling records for all shovel testing locations for the Hillcrest Commons project, Putnam County, New York. The package includes the original shovel test results as well as more recent tests completed in May, 2008.

We have also enclosed separate bound copies of the Oberon Phase 1A and Phase 1B/II reports, for your files. The applicant will comply with the requirements of the Draft Avoidance Plan for the *Precontact Quartz Quarry Cluster 1 and Cluster 2* sites, as requested in your letter of March 27, 2008

We trust that with these testing results you have the information needed to complete your review and make a formal determination for the project.

Please contact me if you have any questions or require additional information.

Sincerely,

Jon P. Dahlgren
Vice President/ Senior Geologist
TIM MILLER ASSOCIATES, INC.

enclosure
C: Stephen Oberon
Philip LaPorta
Deborah Post

David A. Paterson
Governor

Carol Ash
Commissioner

New York State Office of Parks,
Recreation and Historic Preservation

Historic Preservation Field Services Bureau • Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

www.nysparks.com

March 27, 2008

Tim Miller
Tim Miller Associates
10 North Street
Cold Spring, New York 10516

Re: SEQRA
Hillcrest Commons Subdivision (Formerly 03PR05207)
Towns of Carmel and Kent, Putnam County
08PR01680

Dear Mr. Miller:

Thank you for requesting the comments of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the project in accordance with the New York State Parks, Recreation and Historic Preservation Law, Section 14.09.

The OPRHP has reviewed the draft Phase IB supplemental report and the draft Phase IB supplemental/Phase II report submitted by LaPorta & Associates, LLC. Subsequent revisions to the conclusions and recommendations have been received which discuss the eligibility of the identified quarry sites. The final report will need to be submitted which includes the additional mapping and noted revisions. Our office concurs that the *Precontact Quartz Quarry Cluster 1 (A07901.000076)* and *Precontact Quartz Quarry Cluster 2 (A07901.000077)* are eligible for inclusion in the State and National Registers of Historic Places. The *Precontact Quartz Quarry Cluster 3 (A07901.000078)* and the *Precontact Quartz Quarry Cluster 4 (A07901.000079)* are not eligible. The current APE boundary indicates that the two eligible sites are primarily outside the APE and if the APE boundary remains as noted, no further work would be recommended. However, our office will need the final plans for confirmation.

An Avoidance Plan will need to be developed for the *Precontact Quartz Quarry Cluster 1* and *Cluster 2* sites so they are protected short term during construction and that long term through a covenant which will transfers with the deed (see enclosure).

Finally, the Oberon Phase IA Cultural Resources Survey report dated November, 2004, and the Phase IB and Phase II Cultural Resources Survey report dated February, 2007, were part of the LaPorta appendix. However, the project plans with the shovel test locations and the unit excavations were not included. Our office will need these maps so

our review can be completed. We would also like to have the Oberon Phase IA and Phase IB/II reports as separate bound reports if possible.

For further correspondence regarding this project, please be sure to refer to the OPRHP Project Review (PR) number noted above. If you have any questions, please call me at (518) 237-8643, extension 3288.

Sincerely,

Cynthia Blakemore

Cynthia Blakemore
Historic Preservation Program Analyst

Enclosures: Avoidance Plan and Sample Covenant

cc. Deborah Post, Wilder Balter Partners, Inc.
Philip LaPorta

State Historic Preservation Office (SHPO)
Avoidance Plan for the Protection of Archeological Sites

Short Term Site Avoidance/Protection

The site boundary (including buffer) will be determined in consultation with the SHPO and the archeological consultant.

The site(s) boundary (including buffer) will be clearly delineated on the final construction plans and identified as a "Sensitive Area/No Access".

Each site will be protected with a temporary fencing during all construction activities and signage stating "Sensitive Area/No Access".

A preconstruction meeting with the construction contractor(s) is required to notify those in charge of the requirements to avoid/protect the site(s).

Existing landscape at the site(s) will be maintained. Any proposed modifications will require consultation with the SHPO.

Long Term Site Avoidance/Protection

A deed restrictive covenant will be transferred with each property containing the avoided/protected site(s).

State and federal regulations that include restrictions associated with this project will include provisions for site(s) avoidance/protection.

Unauthorized activities within the site boundaries will require notification to the State Historic Preservation Office at (518) 237-8643.

SAMPLE COVENANT

In consideration of the conveyance of certain real property, hereinafter referred to as [**name of property**] located in the City of _____, County of _____, State of New York, which is more fully described as follows:

[**insert legal description**]

[**name of recipient**] hereby covenants and agrees on behalf of [**him/her/itself**], [**his/her/its**] heirs, successors, and assigns at all times with the New York State Office of Parks, Recreation and Historic Preservation or its successor agency, hereinafter referred to as OPRHP, that should any change in land use be proposed which would result in ground disturbing activities, the OPRHP must approve in writing plans for the proposed change.

This covenant is binding upon [**name of recipient**], [**his/her/its**] heirs, successors and assigns in perpetuity, and shall be inserted verbatim or by express reference in any deed or other legal instrument by which
[**he/she/it**] divests [**him/her/itself**] of either the fee simple title or any other lesser estate in the [**name of property**] or any part thereof. The failure of the OPRHP to exercise any right or remedy granted under this instrument shall not have the effect of waiving or limiting the exercise of any other right or remedy or the use of such right or remedy at any other time.

APPENDIX E

Traffic - Additional Analysis

Traffic Conditions for the Revised Plan

Updated Traffic Counts

Revised traffic counts were collected on November 19, 2008 at the proposed project entrance. These counts indicated that the critical peak hour traffic volumes (p.m. peak hour) are currently lower than the traffic volumes counted for the DEIS Existing Conditions. The November 2008 traffic counts show that traffic volumes passing the proposed site entrance were nine percent less than in 2004, as indicated on Table E-1. It should be noted that the largest decline in traffic volumes was the 14 percent decline in the northbound traffic on NYS Route 52. Since the northbound traffic volume on NYS Route 52 is substantially higher than the southbound traffic and east-west side roads, this decline in the critical volume (14 percent) will have a greater affect in improving operations at signalized intersections north and south of the project site than if the nine percent reduction were evenly distributed.

Table E-1
Weekday Peak Hour Traffic

	Counts		
	Weekday PM Peak Hour		Change from
NYS Route 52 Across Site Access	**Year 2004***	**Year 2008****	**2004 to 2008**
Northbound	923	792	-14%
Southbound	490	496	1%
Total	**1,413**	**1,288**	**-9%**

*Hillcrest Commons Draft Environmental Impact Statement June 1, 2005 Figure 3.6-5 based on 4:45 to 5:45 p.m. peak hour February 5, 2004.

** TMA traffic count, November 19, 2008 with peak hour 4:30 to 5:30 p.m.

Additional traffic counts were also recently collected at the two entrances of the Carmel Plaza shopping center. The shopping center has two access points; a southern unsignalized entrance, and a northern signalized entrance.

The weekday morning counts were taken Wednesday, March 11, 2009 and the weekday afternoon counts on Thursday, March 12, 2009. Saturday counts were taken on March 14, 2009. Figures 1 through 3 provides the existing weekday (a.m. and p.m.) and Saturday peak hour traffic volumes at the two accesses (see Figures following text). The 2009 a.m. peak hour traffic was substantially lower than for the p.m. or Saturday peak hour periods. It should be noted that the traffic counted at the northern and southern entrances may not be the same, since the two entrances were each analyzed for their respective peak hour (for example 4:00 p.m. to 5 p.m. and 4:15 p.m. to 5:15 p.m.). This method of analysis provides the highest volumes for each intersection.

Table E-2 indicates the 2009 traffic volumes through the two Carmel Plaza entrances were generally at or below 2004 volumes. Total peak hour traffic volumes (combined northbound and

southbound) at the Carmel Plaza entrances have declined between 3 percent to 12 percent, between 2004 and 2009 (see Table E-2).

Table E-2
Change in Peak Hour Traffic at Carmel Plaza Shopping Center

	Peak Hour Traffic Counts								
	Weekday A.M. Peak Hour			Weekday P.M. Peak Hour			Saturday Peak Hour		
South of Carmel Plaza Shopping Center	**Year 2004***	**Year 2009****	**Change**	**Year 2004***	**Year 2009****	**Change**	**Year 2004***	**Year 2009****	**Change**
Northbound	315	258	-21%	889	853	-4%	776	721	-7%
Southbound	780	705	-10%	541	551	+2%	757	722	-5%
Total	1,095	963	-12%	1,430	1,394	-3%	1,533	1,443	-6%

*Hillcrest Commons Draft Environmental Impact Statement June 1, 2005.
** March 2009 traffic counts.

Changes to the Local Traffic Network

During the period between the DEIS (2006) and this SDEIS (2009) numerous projects that were listed in the DEIS and FEIS future conditions were either constructed, reduced in scope, or are no longer under consideration (see Table E-3). The 2008 and 2009 traffic count include traffic from those projects that were built since the DEIS.

Table E-3 **Occupied or Reduced Projects in the Town of Carmel, Town of Kent and Town of Southeast**		
Project, Size, and Type (Town of Carmel)	**Status in DEIS**	**Status Change May 2007**
Michael Glen's, 23 single family residential units Fair Street	Pending	Occupied
Watson Labs expansion of 99,000 square feet from 111,400 to 210,400 square feet Stoneleigh Avenue	Pending	Approval lapsed
Putnam Plaza Hannaford's and Retail Space 31,000 square feet US Route 6	Pending and Vacant	Supermarket open retail is vacant
Carmel Corporate 388 senior housing Library 6,400 square feet Stoneleigh Avenue	Pending	Library not approved Partially constructed
686 Stoneleigh Avenue Existing 4,930 square feet 2,100 square foot expansion to 7,030 square feet medical office Stoneleigh Avenue	Pending	Occupied
Brewster Glass 7,800 square foot building Brewster Road/ Hughson Road	Approved	Occupied
Springside 22 unit multi-family residential Stoneleigh Avenue/ Drewville Road	Pending	Occupied
Bank with Drive thru (3,200 square feet) NYS Route 52	Vacant	Occupied
Project, Size, and Type (Town of Southeast)		
The *Highlands Shopping Center* (377,000 sf) partially constructed, pending bank, Michaels, and TJ Max 60,000 square feet, 6 additional stores 14,546 square feet, NYS Route 312	Approved	Occupied
Terravest Corporate Park 80,000 square feet light industrial 212,000 square feet light industrial Ace Endico 60 dwelling units of senior single family residential International Blvd	Pending	25 acres remains vacant
Project, Size, and Type (Town of Kent)		
Barret Hill Subdivision, 19 single family residential units Barret Hill Drive	Pending	Application stale
"Super A" Petroleum (12 fueling stations with car wash) North of Dykeman Road	Pending	Application stale
Kent Manor, 303 town houses Palmer Road and Hill and Dale Road	Approved	Reduced to 273 units NYCDEP approved SEQRA
Kent Self Storage Project, 2 story 16,000 sq. ft NYS Route 311	Approved	Occupied
Chestnut Petroleum, 2,440 square feet convenient and 2400 square feet retail NYS Route 311	Pending	Approval lapsed
Town Complex 44,000 square feet NYS Route 52	Approved	Occupied (one building removed from plans)

Traffic Network Improvements

Several local improvements to the traffic network have been made or are planned since the preparation of the FEIS. The John Simpson Road intersection with Fair Street has been improved with a traffic signal. The New York State Department of Transportation has included the NYS Route 52 intersections with NYS Route 301 and Fair Street in the regional signal projects for improvement. These improvements would not effect the operation of the proposed Hillcrest Commons. The completed improvements and potential improvements further indicate that the network should operate better than anticipated in the FEIS.

Updated Trip Generation Estimates

The site generated traffic was re-estimated using updated trip generation data (*Trip Generation, Institute of Traffic Engineers, 2008*). This evaluation indicates that the project's senior housing traffic generation has increased by one trip in the a.m. peak hour and no trips in the p.m. peak hour or Saturday peak hour. See Table E-4 for trip generation rates and trips generated for the project. Therefore, the estimated site generated traffic remains essentially unchanged from the FEIS analysis done in 2006.

Table E-4
Project Site Trip Generation

Land Uses	Trip Rates and Trips Generated								
	A.M. Weekday Peak Hour			P.M. Weekday Peak Hour			Saturday Peak Hour		
	IN	OUT	Total	IN	OUT	Total	IN	OUT	Total
Senior attached 150 dwelling units ---- Trips per Dwelling unit	0.097	0.173	0.27	0.186	0.124	0.31	0.150	0.150	0.30
Senior attached 150 dwelling units ---- Trips	15	26	41	28	19	46	23	23	46

Trip Generation, Institute of Transportation Engineers, 8th edition, Washington, DC, 2008.

Future Build Condition Traffic

Future Build Condition traffic (2012) was estimated for the Carmel Plaza entrance, just south of the proposed Hillcrest Commons entrance. This analysis provides a representation of the change in network traffic presuming a conservatively high two percent per year growth rate. This analysis considered the Gateway Summit and Fairways, Patterson Crossing, and Kent Manor projects as approved. Additional traffic of two percent per year for three years (to 2012) was added to account for other projects that may be completed in the area even though the recent data for peak hour traffic shows that local traffic volumes have been declining or remaining nearly constant (see Table E-5).

Table E-5
SDEIS and FEIS NYS Route 52 Volumes in Peak Hours

Links	Build Conditions								
	Weekday A.M. Peak Hour		Change (veh)	Weekday P.M. Peak Hour		Change (veh)	Saturday Peak Hour		Change (veh)
NYS Route 52	Year 2007*	Year 2012		Year 2007*	Year 2012		Year 2007*	Year 2012	
South	1,367	1,155	-212	1,757	1,741	-16	1,862	1,823	-39

*Hillcrest Commons Final Environmental Impact Statement.

Conclusion

Updated traffic counts were collected in 2008 and 2009, for the project entrance and the Carmel Plaza shopping center entrance respectively. Those counts show that the traffic volumes on NYS Route 52 have decreased or remained the same since the DEIS, even accounting for certain new developments that have been constructed since the DEIS and FEIS. The future traffic from other local projects should be less than projected in the DEIS and FEIS since certain project approvals have lapsed, and other projects are no longer being considered. An updated analysis of project trip generation using the 2008 ITE manual shows site generated traffic will remain essentially unchanged. Future traffic with the project (Build Condition) is anticipated to be lower than projected in the FEIS, given the lower existing traffic volumes, and fewer built and anticipated local projects contributing traffic. Therefore, no further analysis was done for the proposed site entrance or the local traffic network.

APPENDIX F

Revised Stormwater Management Plan
(See the attached CD)

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

PRELIMINARY STORMWATER POLLUTION PREVENTION PLAN

For

HILLCREST COMMONS
Town of Carmel and Kent, New York

March 6, 2009

Prepared by:
Insite Engineering, Surveying & Landscape Architecture, P.C.
3 Garrett Place
Carmel, New York 10512

CONTENTS

1.0 INTRODUCTION

1.1 Project Description

The subject project is located on an 81± acre parcel located in both the Town of Kent and Carmel adjacent to New York State Route 52. The parcel is located such that approximately 90% of the property is located in the Town of Carmel. The parcel and its surroundings are delineated on the attached Location Map (Figure 1). The property is designated as Tax Map Parcel No. 44.10-1-4 in the Town of Carmel and 44.10-2-1 and 44.09-2-27 in the Town of Kent. The parcel is located in the C-(Commercial) Zoning district in the Town of Carmel and the C (Commercial) and R-40 (Residential) Zoning district in the Town of Kent.

The subject parcel consists of woods and brush throughout the majority of the property. Three existing buildings complete with lawns, landscaping, and appurtenances are located in the Town of Kent near Route 52. There are two (2) Town regulated wetlands located on the site, one near the southwestern property line and the other in the northwestern portion of the site adjacent to the existing structures. The elevation ranges from approximate elevation 754 in the central portion of the site to a low point of 504 along the southwestern property line in the Town regulated wetland. The slopes throughout the proposed project range from rolling to generally steep slopes. The soil types on the property vary from well-drained soils across the majority of the site to moderately drained soils. Figure 4 provides a breakdown of the soil types and a listing of these soils in accordance with the *Soils Survey of Putnam and Westchester Counties*.

The subject parcel is proposed to be developed with one hundred fifty (150) residential units to be used as senior housing. Access to the site will be granted from a proposed access road off of New York State Route 52. An emergency access road is proposed to gain access to the property from the southeast corner of the existing Shop-Rite Plaza. The proposed emergency access road will provide an additional entrance to the site for emergency vehicles as well as providing access to the proposed stormwater basins. Water supply and wastewater generated for the proposed project will be serviced by the Town of Carmel municipal water and sewer system.

To the best of our knowledge there are no known enforcement actions, including lawsuits or administrative proceedings, commenced against the applicant, or any principle affiliate of the applicant, for any alleged violations of law related to the applicant of the site, in the five years preceding this application.

1.2 Existing Stormwater Runoff Conditions

The existing stormwater runoff from the subject parcel currently drains to the Croton Falls Reservoir. The subject parcel is located on a knob, causing the stormwater runoff to discharge from the site in all directions. There are existing watercourses located to the east, west and south of the subject parcel. The unnamed watercourse to the west flows in an open channel before being piped underneath the Shop-Rite parking lot and returns to an open channel to the south of the Shop-Rite Plaza. The watercourse to the east of the site is Michael Brook which currently discharges from the nearby Palmer Lake. Regardless of which direction the stormwater drains off of the subject property the runoff will enter one of the adjacent watercourses. Michael Brook and the unnamed watercourse to the west flow north to south merging on the north side of Fair Street before crossing underneath the existing low point in Fair Street.

1.3 Proposed Stormwater Runoff Conditions

The stormwater runoff from the proposed senior housing development will be collected and discharged to seven (7) proposed stormwater basins for mitigation. One Design Point located along the southwestern property line has been chosen to analyze the stormwater runoff both qualitatively and quantitatively, as seen in Figures 3 and 5. The proposed drainage patterns vary from the existing drainage patterns in that approximately 18 acres currently draining to the east (subcatchments 1.1S, 1.2S and a portion of 1.0S and 3S) are proposed to drain to the western watercourse after treatment. The aforementioned drainage areas draining to the western unnamed watercourse in the proposed condition will cause a reduction in the peak flows discharging to the east and Michael Brook. The redirecting of the stormwater runoff that currently discharges to Palmer Lake and Michael Brook will not have any adverse effects. Palmer Lake currently causes flooding problems on NYS Route 52 during storm events therefore less contributing area will lessen the flooding. Also, due to the existing development in Hill and Dale there are no feasible

discharge points for the stormwater runoff in this area of the site. To maintain stormwater runoff to Michael Brook the long steep slopes adjacent to Michael Brook would need to be disturbed to create a stable discharge location to the Brook. This disturbance would have greater impacts than the proposed local redirection of this stormwater runoff. Michael Brook and the un-named watercourse to the west merge just prior to crossing Fair Street in Carmel which is located south of the site. All of the development is proposed to be treated in stormwater basins before being discharged to Design Point 1 and the unnamed watercourse to the west. The attenuation provided by the proposed stormwater basins will mitigate the peak flows exiting the site at Design Point 1 such that there will be a reduction in the peak flows discharged to the unnamed watercourse to the west in the proposed condition. The reduction in the peak flows discharged to the west coupled with the reduction in area, and peak flows discharging to the east and Michael Brook creates an overall reduction in peak flows discharging through the culvert crossing of Fair Street.

2.0 STORMWATER MANAGEMENT

The stormwater management for the subject project requires compliance with several regulatory agencies and codes. To meet the requirements of the New York City Department of Environmental Protection (NYCDEP) and the New York State Department of Environmental Conservation (NYSDEC) SPDES General Permit No. GP-0-08-001, several publications were referenced to design the stormwater management systems' quantity and quality issues. The publications include *Reducing the Impacts of Stormwater Runoff from New Development*, April 1992 (Impacts) and the *New York State Stormwater Management Design Manual*, August 2003 (NYSSMM) including *Chapter 10, The Enhanced Phosphorus Supplement Manual.*

Water quality on this project has been addressed to meet the requirements of both the NYCDEP and NYSDEC. A series of stormwater basins, a wetland, and a sand filter have been designed to capture and treat the 1-year design storm in order to address the water quality requirements for the NYSDEC. To meet the water quality standards for the NYCDEP, a combination of swales and stormwater basins have been designed in series.

As required by the NYCDEP regulations 24-hour detention of the 2-year, 24-hour storm has been provided. By detaining the center of mass of the 1-year, 24-hour storm for 24 hours the NYSDEC requirement for Stream Channel Protection has also been provided.

Attenuation of the 10-year, 24-hour peak discharge rates to pre-development rates has been accomplished to address Overbank Flood Control to meet NYSDEC requirements and to address the adequacy of existing and proposed culverts and storm drainage systems for the Town of Carmel, Town of Kent and NYCDEP.

To reduce the risk of flood damage from large storm events and to protect the physical integrity of a stormwater management practices attenuation has been provided for the post-development 100-year, 24-hour storm peak flows to below the pre-development flows. This meets the requirements of both the NYSDEC and NYCDEP.

2.1 Quantitative Analysis

The "HydroCAD" Stormwater Modeling System," by HydroCAD Software Solutions LLC in Tamworth, New Hampshire, was used to model and assess the stormwater flows for the subject project. HydroCAD is a computer-aided design program for modeling the hydrology and hydraulics of stormwater runoff. It is based primarily on hydrology techniques developed by the United States Department of Agriculture, Soil Conservation Service (USDA, SCS) TR-20 method combined with standard hydraulic calculations. The program was used to analyze the 1-year, 2-year, 10-year, 25-year, 50-year and 100-year, 24-hour design storms. Peak flows were calculated for both the pre-development condition and the post-development condition. The input requirements for the HydroCAD computer program are as follows:

Subcatchments (contributing watershed/sub-watersheds)

- Design storm rainfall in inches
- CN (runoff curve number) values which are based on soil type and land use/ground cover
- Tc (time of concentration) flow path information

Stormwater Basins

- Surface area at appropriate elevations
- Flood elevation
- Outlet structure information

The following is a general description of the input data used to calculate the pre- and post-development stormwater runoff values. For detailed information for each subcatchment and pond, see Appendices A & B.

The precipitation values for the various design storms analyzed were obtained from the local County Soil and Water Conservation District office. The values provided are for 24-hour design storms in Putnam County.

Design Storm	**24-Hour Rainfall**
1-Year	3.1”
2-Year	3.5”
10-Year	5.3”
25-Year	6.0”
50-Year	7.0”
100-Year	9.5”

The CN (runoff curve number) values utilized in this report were referenced from the USDA, SCS publication *Urban Hydrology for Small Watersheds*. The following is a summary of the various land uses/ground covers and their associated CN values utilized in this report.

Land Use/Ground Cover	**CN Value**
>75% Grass Cover, B Soil	61
Woods/Grass Combo, B Soil	58
Woods, B Soil	55
1-Acre Lots 20% Impervious, B Soil	68
1/8-Acre Lots (Town Houses), B Soil	85
Paved Parking and Roofs	98
Urban Commercial 85% Impervious, B Soil	92

The soils classifications and data can be found on Figures 2 and 3. The hydrologic soils groups for the project consist of mainly of B soils. The soils on the site consist of Chatfield – Charlton complex (CsD, CrC), Charlton – Hollis (CtC, CuD), Woodbridge Loam (WdB), Sun Loam (Sh), Leicester Loam (LcB), and Urban Land – Charlton (UhB).

The quantitative analysis performed for the subject project involves the assessment of One Design Point. Design Point 1 is located at the southern property line in the Town regulated wetland (as seen on Figures 2 & 3). The following table summarizes the calculated pre-development and post-development peak stormwater runoff flows:

PEAK FLOW SUMMARY (C.F.S.)

24-HOUR DESIGN STORM										
	2-YEAR		10-YEAR		25-YEAR		50-YEAR		100-YEAR	
	Pre	Post	Pre	Post	Pre	Post	Pre	Post	Pre	Post
Design Point 1	42.35	41.82	119.40	115.22	153.87	147.71	205.91	198.56	345.09	336.28

As seen by the above summary, the post-development peak flows for the 2-, 10-, 25-, 50-and 100-year design storms have been attenuated to be less than the pre-development peak flows.

The NYSDEC SPDES General Permit GP-0-08-001 requires Overbank Flood Control ($Q_{p)}$ and Extreme Flood Control (Q_f) to be considered in the design of the proposed stormwater management practices. Overbank Flood Control was considered in the design of the proposed stormwater basins to prevent an increase in the frequency and magnitude of out-of-bank flooding generated by the development. Overbank Flood Control requires the attenuation of the peak post-development 10-year, 24-hour storm event to the pre-development rates. The proposed stormwater basins were also designed to provide Extreme Flood Control. The intent of the extreme flood criteria is to prevent the increased risk of flood damage from large storm events and protect the physical integrity of stormwater management practices. Extreme Flood Control was provided by attenuating the post-development peak discharge from the 100-year storm to near or below the pre-development rates. In addition to Q_p and Q_f controls, the NYSDEC SPDES GP-0-08-001 requires control of the Stream Channel Protection Volume (CP_v). Stream Channel Protection Volume requirements are designed to protect stream channels from erosion from high stormwater velocities and volumes. To protect the stream channels from erosion, 24-hour extended detention of the center of mass of the post-development 1-year, 24-hour storm event is provided. For detailed information see Appendix B.

2.2. Qualitative Analysis

To meet the requirements of the NYCDEP, pollutant runoff amounts were analyzed for both the Pre Development and Post Development conditions. The pollutant loading coefficient method was utilized to calculate the annual export of Biological Oxygen Demand (BOD), Total Phosphorus (TP), Total Nitrogen (TN), and Total Suspended Solids (TSS). The publication *Fundamentals of Urban Runoff Management: Technical and Institutional Issues* produced by the Terrene Institute was referenced to determine the appropriate loading rates for TP, TN, and TSS. The New York State Department of Environmental Conservation (NYSDEC) publication *Reducing the Impacts of Stormwater Runoff from New Development* (*Impacts*) was referenced to determine appropriate loading rates for BOD. The appropriate loading rates were then utilized to calculate the annual pollutant export values. Variables involved with this calculation include soil type and land use/ground cover characteristics.

The following table summarizes the pollutant loading rates utilized for the subject project.

SUMMARY OF POLLUTANT LOADING RATES (LBS/ACRE/YEAR)

Land Use/Ground Cover	BOD	TP	TN	TSS
Woods/ Brush	6.0	0.10	1.8	77.0
1 Acre-Residential	14.0	0.49	3.6	178.0
Multi-Family Residential	50.0	0.63	5.0	395.0
Pavement	111.0	0.98	2.1	446.0

The primary treatment for stormwater runoff discharging from the subject project will be stormwater basins. A monitored outlet is proposed to discharge the 2-year, 24-hour storm over 24 hours or more in order to treat the 2-year, 24-hour storm as required by the NYCDEP regulations. In addition to stormwater basins, dry grass swales will be utilized to treat stormwater runoff. Note that no pollutant removal efficiency has been assumed for the proposed grass swales therefore the following post-development summary is conservative.

The following pollutant removal efficiencies are referenced from the publication *Reducing the Impacts of Stormwater Runoff from New Development*, prepared by the NYSDEC.

LONG TERM POLLUTANT REMOVAL EFFICIENCIES

Treatment Method	BOD	TP	TN	TSS
Design 2 Extended Detention Basins	40%-60%	40%-60%	20%-40%	80%-100%

The following table summarizes the estimated pre-development and post-development annual pollutant loads (calculated in Appendix D) calculated for the subject project.

ANNUAL POLLUTANT SUMMARY

	Annual Loads (lb/yr)			
	BOD	**TP**	**TN**	**TSS**
Pre-Development Annual Pollutant Loads	226.4	4.03	67.3	2853.8
Post-Development Annual Pollutant Loads	292.3 to 179.6	4.73 to 3.28	76.3 to 51.8	1343.0 to 1113.1

As seen by the above summary, the post-development pollutant loads are approximately equal to or less than the pre-development loads as required by the NYCDEP regulations.

With respect to phosphorus, which is the pollutant of concern in the subject TMDL watershed, the SWPPP for the project is expected to achieve better than the calculated mean removal efficiencies due to adjunct stormwater treatment practices that have been incorporated into the project design, but not considered in the stormwater treatment calculations. The adjuncts include catch basin/drain inlet sumps and grass swales. Based on the proposed SWPPP the applicant believes the project will not impact the Town of Carmel's ability to achieve the established TMDL, and the SWPPP does propose stormwater measures to reduce phosphorous loading to the maximum extent practicable. The program for phosphorous reduction has been established in the NYSDEC document entitled *Croton Watershed Phase II Phosphorous TMDL Nonpoint Source Implementation Plan* (TMDL Implementation Plan) dated January 14, 2009. This plan clearly states that for simplicity and ease of local government administration the plan is largely structured to use existing programs to achieve reductions. These programs include:

- Potential additional point source reductions.
- NYSDEC SPDES General Permit for Stormwater Discharges for Municipal Separate Stormwater Sewer Systems (MS4s) Permit No. GP-0-08-002.
- State and regional source control and agricultural programs.
- US EPA Filtration Avoidance Determination Program.
- Putnam County "Croton Plan".
- NYCDEP "Croton Strategy".
- NYCDEP EOH Water Quality Investment Funds, including the Putnam County Septic Repair Program.
- New York State non point source programs.
- NYSDEC – NYCDEP Coordinated Stormwater Enforcement Protocol.

The subject project in consistent with the TMDL Implementation Plan and applicable portions of the above-cited programs.

Based on the fact that the applicant's analysis indicates the mean reduction in post development phosphorous, and the project's consistency with the TMDL Implementation Plan, it is clear that the project

will not have any reservoir basin wide impacts, and the project will not impact the Town of Carmel's ability to achieve the TMDL.

The NYSDEC SPDES General Permit GP-0-08-001 requires that the Water Quality Volume (WQ_v) be treated in order to provide pollutant removal. Treatment of the Water Quality Volume is intended to improve water quality by capturing and treating the runoff volume generated by the 1-year design storm event. The water quality volume is directly related to the amount of impervious cover proposed on the project area. Stormwater basins will be utilized to meet the NYSDEC water quality treatment requirements. Stormwater Basin 1.0P will be designed as a P-1 Micropool Extended Extension Pond, stormwater basin 2.1P will be designed as a F-1 Surface Sand Filter and Pocket Wetland 2.3P will be designed as a W-4 wetland as defined in the *NYS Stormwater Manual*. Additionally Stormwater Basins 1.1P, 1.2P and 2.2P will be designed as Design 2 extended detention basins as defined in Reducing the Impacts. Stormwater basin 2.0P will be utilized as a pretreatment sedimentation practice for stormwater basin 2.1P which is designed as a F-1 surface sand filter. It is assumed that by meeting the Water Quality Volume requirements through employment of the filtration practice, the Micropool extended detention pond, and the Pocket Wetland, the water quality objectives of the NYSDEC have been met.

3.0 STORMWATER CONVEYANCE SYSTEM

The stormwater collection systems for the project consist of grass swales, rip rap swale, drain inlets, and HDPE pipe. The systems will be sized utilizing the Rational Method. The Rational Method is a standard method used by engineers to develop flow rates for sizing collection systems. The Rational Method calculates flows based on a one-hour design storm. The collection systems will be sized to convey, at a minimum, the 25-year design storm.

4.0 EROSION AND SEDIMENT CONTROL

Erosion and sediment control will be accomplished by four basic principles: diversion of clean water, containment of sediment, treatment of dirty water, and stabilization of disturbed areas. Diversion of clean water will be accomplished with swales. This diverted water will be safely conveyed around the construction area as necessary and discharged downstream of the disturbed areas. Sediment will be contained with the use of silt fence at the toe of disturbed slopes and excavation of temporary sediment basins. Disturbed areas will be permanently stabilized within 14 days of final grading to limit the required length of time that the temporary facilities must be utilized.

4.1 Temporary Erosion and Sediment Control Facilities

Temporary erosion and sediment control facilities will be installed and maintained as required to reduce the impacts to off-site properties. In general, the following temporary methods and materials will be used to control erosion and sedimentation from the project site:

- Stabilized Construction Entrance
- Diversion Swales
- Silt Fence Barriers
- Stone Check Dams
- Storm Drain Inlet Protection
- Sediment Basins

A stabilized construction entrance will be installed at the entrance to the site as shown on the plan. The design drawings will include details to guide the contractor in the construction of this entrance. The intent of the stabilized construction entrance is to prevent the "tracking" of soil from the site. Dust control will be accomplished with water sprinkling trucks if required. During dry periods, sprinkler trucks will wet all exposed earth surfaces as required to prevent the transport of air-borne particles to adjoining properties.

Stormwater from areas uphill of the subject development area will be diverted. During construction stormwater from areas of disturbance will be diverted through the use of grass swales to other practices such as filter barriers and/or sediment basins. Stone check dams will be installed in the grass swales to reduce runoff velocities and filter sediment picked up from the swale's bottom.

Siltation barriers constructed of geosynthetic filter cloth will be installed liberally at the toe of all disturbed slopes. The intent of these barriers is to contain silt and sediment at the source and inhibit its transport by

stormwater runoff. The siltation barriers will also help reduce the rate of runoff by creating numerous filters through which the stormwater must pass. Siltation barriers will also be installed around catch basins and drain inlets. The intent of these barriers is to prevent silt and sedimentation from entering the stormwater collection system.

The stormwater basins will also act as temporary sediment traps with optional dewatering devices during construction of the proposed road and utilities. Most stormwater runoff from disturbed areas will be directed to the sediment basins. These basins will be sized in accordance with the publication, *New York Guidelines for Urban Erosion and Sediment Control*, printed by the Empire State Chapter Soil and Water Conservation Society.

4.2 Permanent Erosion and Sediment Control Facilities

Permanent erosion and sediment control will be accomplished by diverting stormwater runoff from steep slopes, controlling/reducing stormwater runoff velocities and volumes, and vegetative and structural surface stabilization. All of the permanent facilities are relatively maintenance free and only require periodic inspections.

The temporary sediment basins will be cleaned of all sediment and debris, excavated to their final elevations and dimensions and stabilized with the vegetation as indicated on the plans. Rip rap aprons will be used at the discharge end of all piped drainage systems. Runoff velocities will be reduced to levels that are non-erosive to the receiving waterbodies through use of these aprons.

Other than the actual buildings and driveway surfaces, the primary method for permanently stabilizing disturbed surfaces at the subject site is with vegetation. The vegetation will control stormwater runoff by preventing soil erosion, reducing runoff volume and velocities, and providing a filter medium. Permanent seeding should optimally be undertaken in the spring from March 21st through May 20thand in late summer from August 15th to October 15th. The stormwater basins will allow for settlement of suspended sediment that is generated by stormwater runoff from the site. These facilities provide a central collection area for sediment deposition and eventual disposal.

5.0 IMPLEMENTATION AND MAINTENANCE

5.1 Construction Phase

Details associated with the implementation and maintenance of the proposed stormwater facilities and erosion control measures during construction will be shown on the project plans. A construction sequence has been provided to guide the contractor in the installation of the erosion control measures as well as the site plan features. The erosion control plan includes associated details and notes to aid the contractor in implementing the plan.

The extended detention basins have been designed to limit the routine maintenance requirements. Initially the basins will require regular maintenance until the permanent vegetation is established. Permanent vegetation is considered established when 80% of the final plant density is established. Vegetation should be inspected every 30 days and after every major storm event until established, after which inspections should take place on a quarterly basis and after every large storm event. Damaged areas should be immediately re-seeded and re-mulched. The floor of the basins will be planted with a seed mixture that contains plants that are tolerant of occasional flooding. The seed mixtures contain several plant species that vary slightly in their needs for survival. It is expected that not all of the species will survive within each basin due to variations within each basin such as water, nutrients, and light. During the initial year of planting, the plants may require watering to germinate and become established. Note that several seedings may be required during the first year to completely establish vegetation within the basins. After the initial year of establishment, the basins do not need to be fertilized or watered. A natural selection process will occur over the first few years, such that the species within the seed mixture most suitable to the conditions will survive.

5.2 Long Term Maintenance Plan

The stormwater facilities for the subject project have been designed to minimize the required maintenance. This section discusses the minimum maintenance requirements to insure long term performance of the stormwater facilities. Initially the stormwater facilities will require an increased maintenance and inspection schedule until all portions of the site are stable. Generally the stormwater facilities consist of either collection/conveyance components or treatment components.

The stormwater collection and conveyance systems are composed of concrete drain inlets with cast iron frames and grates, high-density polyethylene pipe, and grass and rip rap swales. Minimal maintenance is typically required for these facilities. Each spring the paved areas will be cleaned to remove the winter's accumulation of traction sand. After this is completed, all drain inlets sumps will be cleaned. All pipes will be checked for debris and blockages and cleaned as required. During the cleaning process, the drain inlets and pipes will be inspected for structural integrity and overall condition; repairs and/or replacement will be made as required. Swales will be inspected for debris, blockages and erosion and shall be cleaned and repaired as required.

Once the desired vegetative cover is established in the basins, only limited maintenance is required. The basins and outlet structures should be inspected after major storm events and semi-annually. During the inspections, the following should be checked:

- Evidence of clogging of outlet structure.
- Erosion of the flow path through the detention basin.
- Subsidence, erosion, cracking or tree growth on the embankment/berm.
- Condition of the emergency spillway.
- Accumulation of sediment around the outlet structure.
- Adequacy of upstream/downstream channel erosion control measures.
- Erosion of the basin bed and banks.
- Sources of erosion in the contributory drainage, which should be stabilized.

Access to the basins will be through stabilized basin accesses. The accesses are proposed to be graded to final grades and seeded and mulched in accordance with the Erosion & Sedimentation Control Notes. The grass swales, the graded basin accesses, and the side slopes and berms of the basins should be mowed annually to prevent the establishment of woody plants within the swales, accesses, or basin berms. The bottoms of the basins should not be mowed. During the mowing operations, debris and litter should be removed from all parts of the swales, accesses, and basins. Accumulated sediment will need to be removed from the swales and basins approximately every 10 to 20 years, or when 50 percent of their capacity has been reached.