

APPENDIX B  
Correspondence

J. BURCH MCMORRAN  
SUPERINTENDENT



DIVISION OF FINANCE  
AND PLANNING  
WILLIAM A. SHARKEY  
PUBLIC WORKS CONTROLLER

TRANSPORTATION PLANNING AND  
PROGRAMMING SUBDIVISION  
JOHN K. MLADINOV  
DIRECTOR

STATE OF NEW YORK  
DEPARTMENT OF PUBLIC WORKS

1220 WASHINGTON AVENUE  
STATE CAMPUS

ALBANY, NEW YORK 12226

1965 Highway Beautification Act  
Acquisition of Property  
Interstate Route 84  
Route 9D-Route 311  
Brewster-Conn. State Line  
Item 96, Project LSI-84-1(3)41  
Dutchess and Putnam Counties

May 15, 1967

Approved in Stage 2

J. M. NEWTON

JUN 16 1967

*Forth* Division Engineer

Date

Mr. J. A. Hanson, Division Engineer  
J. S. Department of Commerce  
Bureau of Public Roads  
12-14 Russell Road  
Albany, New York

Dear Mr. Hanson:

We are transmitting herewith three (3) sets of the right-of-way plans showing the approximate limits of right-of-way to be acquired together with forms PR-1 and program project data covering acquisition of property in Stage 2 for the subject project.

This project consists of <sup>Beacon</sup> acquisition of property and appraisals including ROW actions for adjacent land to enhance <sup>Pufferson</sup> and preserve scenic beauty on Interstate Route 84 between Route 9D and Route 311; and between I-87 Interchange and the Connecticut State Line, a length of 20.5 miles. <sup>Rt 300</sup>

The total estimated cost is \$204,610 with 1965 Highway Beautification Act funds requested in the same amount.

Approval of this item, authorization to proceed with acquisition of property and a definite commitment of funds is requested.

Very truly yours,

*J. K. Mladinov*

J. K. Mladinov, Director  
Subdivision of Transportation  
Planning and Programming

JKM:CJR:pab  
Enclosures

cc: Messrs: Sharkey, Sinacori,  
Lefevre, Kennedy, Baldwin,  
Casimo, J. Ryan, Hart, Sternbach  
F. A. Systems File

THINK HIGHWAY SAFETY THINK HIGHWAY SAFETY, THINK HIGHWAY SAFETY

LS I-84-1(3) *Ph*

Files

June 8, 1967

THRU : J. A. Hanson, Division Engineer

R. L. Flemming, Landscape Architect *R.L.F.*

Field Review of LSF-1050(2) and LSI-84-1(3)41

On June 7, accompanied by Mr. Andrew Ditton of the Bureau of Landscaping, DPW Albany, I went to Newburgh, New York. There we were met by Mr. Ed Newhard, DPW District 8 Landscape Architect and Mr. Vince Wadsworth, Asst. C.E. who works with Mr. Newhard.

During my previous field review of LSF-1050(2), Mr. Wadsworth was unable to locate himself on the ground. Of the eight locations along Rt. 17, it was decided that certain parcels were not acceptable as scenic strips. They are as follows:

Sheet 1 - Parcel 33 - recently purchased by Palisades Interstate Parkway Comm.

Parcels 34 & 35

Sheet 2 - Parcel 37

Parcels 38 & 39

Sheet 3 - Parcels 40 & 41

Parcels 42

Parcels 43 & 44

Rejection of the above mentioned parcels was concurred in by all of the DPW men present.

*Beacon*  
From Rt. 17 we drove to the intersection of 9D and I-84, the start of LSI-84-1(3)41. This project had previously been reviewed by various BPR personnel at different times; Messrs. Ernie Harris and Sam Hill of the Division office and Mr. Dean Stout of the Regional office. Their reviews were made when this project was a part of the 1966 F.Y. project covering I-84 from Connecticut to Pennsylvania. This F.Y. 1967, the route was cut into two projects; LSI-84-1(2)0, from Pennsylvania to the Hudson River, and LSI-84-1(3)41 from 9D to Connecticut.

It was decided to delete various parcels or parts of parcels from the strips. (These are noted on the file copy of the plans.)

When reviewing the plans in the office, it appears, because of the long, continuous strips, that the State is indiscriminately widening R.O.W. However, in this case I believe that the strip takings are eligible because most of the area traversed by the highway is dense woods which we wish to preserve. Both the Regional office and the Washington office have concurred in similar takings on I-87, the Northway.

Orig.-C. File LSF-1050(2)

cc:

✓ C. File LSI-84-1(3)41

Dist. C

R.O.W.

RLFlemming:mml 6-8-67

Division Office  
12-14 Russell Road  
Albany, New York 12206

June 16, 1967

Mr. B. A. Lefevre  
Deputy Chief Engineer  
Department of Public Works  
Albany, New York

*Trans 6-192  
6-28.67*

Dear Sir:

Subject: 1965 Highway Beautification Act  
Acquisition of Property  
Item 96, N. Y. Project LSI-84-1(3)41  
Dutchess & Putnam Counties

Form PR-1 for acquisition of property, submitted with your letter of May 15, is being approved in Stage 2 effective today.

This project consists of acquisition of property and appraisals including right-of-way actions for adjacent land to enhance and preserve scenic beauty off the existing right-of-way of the subject project along Interstate Route 84, between State Route 9D and State Route 311, and between the Interstate Route 87 interchange and the Connecticut State Line, a total length of 20.5 miles.

The proposed general location of the project and approximate limits of right-of-way on the map submitted with the above assembly are approved subject to the condition that the following takings are deleted from the project:

1. Sheet #2 of 20 Parcel #70
2. Sheet #4 of 20 Property of Donald W. Snook on the south side of I-84, from EB Sta. 2470+ to EB Sta. 2505+.
3. Sheet #6 of 20 Parcel #92

It is understood that these deletions were agreed to during a joint field inspection of the landscape architects representing the Department of Public Works Main Office, State District No. 8, and the Bureau of Public Roads.

You are hereby authorized to proceed with acquisition of property including ROW actions. Our approval is conditioned on the basis that applicable provisions of PPM 21-4.6 and PPM 80-9 will be adhered to, especially with respect to the acquisition of those real property interests or rights necessary to accomplish the purposes of the Highway Beautification Act of 1965.

*Haxson  
EV*

2.

Appropriate right-of-way plans indicating the nature of interest to be acquired, as required by PPM 21-4.6, should be submitted for review and approval of the division engineer prior to execution of the project agreement.

The total estimated cost of this project is \$204,610 with Federal Highway Beautification funds committed in the same amount.

Sincerely yours,

*J. M. N.*  
/s/ J. M. Newton

For: J. A. Hanson  
Division Engineer

cc:  
Mr. Sweet  
Mr. Baldwin

Orig. & 5  
Washington  
Regional office  
Voellmy  
File

*Cyler*  
WVoellmy:mgr 6-16-67

*W.*



State of New York  
Department of Transportation  
4 Burnett Boulevard  
Poughkeepsie, NY 12603  
<http://www.dot.state.ny.us>

Robert A. Dennison III, P.E.  
Regional Director

Thomas J. Madison, Jr.  
Acting Commissioner

July 7, 2005

Mr. Robert H. Wilder, Jr.  
Wilder Balter Partners, Inc.  
570 Taxter Rd., 6<sup>th</sup> Floor  
Elmsford, NY 10523

**Re: Surplus Property Application  
Town of Newburgh (8.2 acres)  
Orange County**

Dear Mr. Wilder:

The New York State Department of Transportation ("DOT") is in receipt of the Real Property Application of WB Interchange Associates, LLC ("WBI") which was filed with the New York State Thruway on November 3, 2004 and forwarded to DOT for review and comment. This application requested that the Thruway Authority consider the sale of two parcels, totaling approximately eight (8) acres, near Interstate 84 in the Town of Newburgh (the "State Property"). Our understanding is that WBI presently owns or controls all of the privately owned land that abuts this State Property.

As you are aware, based on your discussions with DOT and Thruway Authority staff, given that the State Property was acquired in part with Federal funds, Federal Highway Administration ("FHWA") approval is required to dispose of the property. DOT has had preliminary discussions with the FHWA with respect to your application, and the FHWA has not raised any objections to the sale of the State Property.

We understand that WBI has applied to the Town of Newburgh Planning Board for site plan approval to develop a 850,000 square foot retail facility on one hundred ten (110) acres that are adjacent to the State Property, also referred to as the "Marketplace" Project, and that the Planning Board is the Lead Agency under SEQRA. DOT and the State Thruway Authority are Involved Agencies for purposes of the SEQRA review of the project.

Robert H. Wilder, Jr.

7/6/05

-2-

We understand that the State Property is not required to construct the Marketplace Project, and is not part of the site plan that has been presented to the Town of Newburgh Planning board. Primary access to the facility is proposed to be located on Union Avenue.

WBI has presented DOT with two alternatives for a secondary means of access to the Marketplace facility to mitigate the impact of traffic along Route 300 near the proposed main entrance.

The first alternative that has been presented for secondary access is to construct a road to the Marketplace facility from Route 52 in the vicinity of Exit 8 on Interstate 84, through real property that is owned or controlled by WBI. This alternative does not involve or require the State Property.

The second alternative that has been presented to DOT is the construction of a road starting from the same access point on Route 52 as set forth above, but connecting to the Marketplace facility approximately 800 feet east of Route 52 by running through the State Property, parallel to and somewhat to the south of the "first alternative" route. This second alternative is acceptable to DOT.

It is our understanding that WBI will modify its site plan to show the second alternative for secondary access that is set forth above, and will incorporate the alternative into its Draft Environmental Impact Statement.

We will approve the sale of the State Property to WBI subject to the completion of the SEQRA process (i.e. the issuance of a positive findings statement by the Town Planning Board as Lead Agency under SEQRA, which demonstrates that the proposed secondary access through the State Property avoids and/or minimizes environmental impacts to the maximum extent practicable).

The sale will be processed in accordance with the rules, regulations and procedures that govern the disposal of surplus State property by the Department of Transportation to adjacent landowners.

Very truly yours,



ROBERT A. DENNISON III, P.E.  
Regional Director





## 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](http://www.nysparks.com)

**Eliot Spitzer**  
Governor

**Carol Ash**  
Commissioner

September 21, 2007

Gail Guillet  
City/Scape Cultural Resource Consultants  
166 Hillair Circle  
White Plains, New York 10605

Dear Ms. Guillet,

Re: CORPS/DEC/SEQRA  
Marketplace at Newburgh  
Newburgh, Orange County  
06PRO2811

Thank you for requesting the comments of the New York State Historic Preservation Office (SHPO) with regard to the potential for this project to affect significant historical/cultural resources. SHPO has reviewed the supplemental archaeological investigation you have completed for this project associated with the "Market Place Outparcel". Based on this review SHPO concurs that there are no further archaeological concerns for the area covered by the report.

Please contact me at extension 3291, or by e-mail at [douglas.mackey@oprhp.state.ny.us](mailto:douglas.mackey@oprhp.state.ny.us), if you have any questions regarding these comments.

Sincerely

Douglas P. Mackey  
Historic Preservation Program Analyst  
Archaeology

**PROPERTY EXECUTIVE REVIEW GROUP**

**CERTIFICATE AND**

**RESOLUTION**

I, Mark Silo, Chair of the Property Executive Review Group (PERG) of the New York State Department of Transportation, do hereby certify that the following is a true copy of a resolution unanimously adopted by PERG at a meeting duly held on the 17<sup>th</sup> day of January, 2008, at which a quorum was present and voting, and that the same has not been repealed or amended and remains in full force and effect.

  
\_\_\_\_\_  
MARK SILO, Chair, PERG

1/31/08  
Date

**R.E. 2 S.P. #08-III4043      Private Sale of a Permanent Easement over  
Scenic Enhancement Land to Wilder Balter  
Partners, LLC**

BE IT RESOLVED, concerning the disposition of Surplus Property Case No. **08-III-4043**

The Marketplace at Newburgh  
Private Sale of Permanent Easement to  
Wilder Balter Partners, LLC  
Town of Newburgh, Orange County

PERG has reviewed the record concerning a request from Wilder Balter Partners, LLC, hereafter "the grantee", to build an access road across NYSDOT property that was acquired in 1971 and 1972 as a scenic enhancement along Interstate Route I-84. Although final disposition of the matter is premature, PERG conceptually accepts the future conveyance of a permanent easement that adequately preserves the scenic enhancement value of the property subject to the following terms and conditions:

The conveyance will be a permanent easement, hereafter "PE", for the construction and maintenance of an access road from the lands of the grantee easterly of the easement to connect it with lands of the grantee westerly of the easement and the acquisition, construction and maintenance of the easement will be at the full expense of the grantee;

The grantee will design and build the privately-owned access road and any necessary mitigation so that the road cannot be seen from the I-84 driving lanes and will install necessary screening and vegetation acceptable to NYSDOT;

The grantee will pay the fair market value of the interest conveyed at such future time as PERG determines that value;

No appurtenances other than the access road may be built on the easement premises, including, without limitation, advertising signs and lighting that will negatively impact I-84 or nearby residences;

No drainage facilities associated with the development of the adjoining property may use or drain onto the easement area or other lands of the State of New York;

The easement will not include any right of access to I-84;

The grantee will convey a permanent easement to conserve the wetlands and other lands that it owns north of the PE to an appropriate municipal or conservation entity to permanently assure that it will continue *as* or revert to a natural scenic area;

If required by NYSDOT, the grantee will build a right of way fence between the PE and I-84 meeting NYSDOT's standards;

The grantee will be responsible for all costs and expenses for all of the above listed requirements as well as any additional tasks required for NEPA and Federal Highway Administration approval; and

The grantee will indemnify and hold harmless NYSDOT and the People of the State of New York for any and all liability concerning the easement and its use.

BE IT FURTHER RESOLVED, that the proposed conveyance is subject to and will not take effect until the Federal Highway Administration has approved of the conveyance, and

BE IT FURTHER RESOLVED, that NYSDOT Real Estate is directed to consult with FHWA in order to identify and to work closely with FHWA in order to satisfy requirements for FHWA approval of the proposed conveyance, and

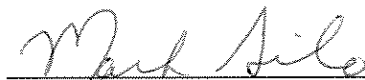
BE IT FURTHER RESOLVED, that this is not a final decision and any future conveyance of the PE will be subject to PERG's determining after the record is complete, whether the conveyance has all necessary approvals and, as approved, has established the fair market value of the conveyance, and has established that the final terms and conditions of the conveyance are beneficial to the State of New York.


# PROPERTY EXECUTIVE REVIEW GROUP

## CERTIFICATE AND

### RESOLUTION

I, Mark Silo, Chair of the Property Executive Review Group (PERG) of the New York State Department of Transportation (NYSDOT), do hereby certify that the following is a true copy of a resolution unanimously adopted by PERG at a meeting duly held on the **5<sup>th</sup> day of September, 2008**, at which a quorum was present and voting, and that the same has not been repealed or amended and remains in full force and effect.

  
\_\_\_\_\_  
MARK SILO, Chair, PERG

  
\_\_\_\_\_  
Date

#### **S.P.C. #08-III-4043**

#### **Grant of a Permanent Easement Over Scenic Enhancement Land and Conveyance of a Fee to WB Interchange Associates, LLC**

BE IT RESOLVED, concerning the disposition of Surplus Property Case No.

#### **08-III-4043**

The Marketplace at Newburgh  
Grant of a 5.45± acre Permanent Easement  
and a 1± acre Fee Conveyance to  
WB Interchange Associates, LLC (Developer/Grantee)  
Town of Newburgh, Orange County

PERG makes the following determinations:

1. The property interests to be conveyed by NYSDOT are surplus to state transportation needs;
2. The manner of disposition is grant of a permanent easement (PE) and conveyance of a fee;
3. The proposed disposition is on terms beneficial to the State of New York;
4. The current value of the PE is \$362,500; the current value of the Fee is \$70,000 (based on \$70,000 ± per acre for the fee and \$66,500 ± per acre for the easement);
5. The proposed disposal will be in accordance with applicable laws, rules, regulations and procedures;

BE IT FURTHER RESOLVED that PERG hereby approves and directs the Director of Real Estate to:

1. Grant a **permanent easement** to the Developer for the construction and maintenance, at its sole cost and expense, of an access road for ingress and egress from Route 52 to the Marketplace at Newburgh (Development) and a sanitary sewer line, which easement will extend from the lands of the Grantee easterly of the easement to connect it with lands of the Grantee westerly of the easement and which will be used for a private, two-lane roadway and a sanitary sewer line buried in the easement area, all to be shown on a map to be prepared at the expense of the Grantee. No appurtenances other than the aforementioned access road and sanitary sewer line may be built on the easement premises. This includes, without limitation, no drainage facilities associated with adjoining property, no advertising signs, and no lighting that, in the opinion of the Department of Transportation, will negatively impact the travelling public on I-84 or nearby residences. All plans and specifications for construction on the permanent easement are subject to the prior written approval of the New York State Department of Transportation. Such plans and specifications must provide for the restoration, to the maximum extent practicable, of any scenic view shed of the I-84 driving lanes impacted by the roadway and sanitary sewer line construction and must include necessary screening and vegetation acceptable to the NYSDOT, and

2. Convey in **fee** to the Developer that property generally in the northwest corner of NYSDOT property on which the Grantee's site plan, as approved by the Town of Newburgh, shows a basin consisting of one acre more or less to be shown on a map prepared at the expense of the Grantee, subject to a conservation easement and deed covenant preserving the scenic view for travelers on I-84 and nearby residences, and prohibiting any further development or use of the property other than for use for a water retention basin.

BE IT FURTHER RESOLVED that the consideration for said permanent easement and fee conveyance will be:

1. A money payment to the State of New York reflecting the acreage actually conveyed at the fair market value at the time of the conveyance or encumbrance with an easement, together with
2. A conservation easement granted by the Developer to the State of New York for the perpetual conservation of lands owned by the Developer directly north of the NYSDOT property for natural and wetlands preservation and preserving the existing natural view shed, and
3. A conservation easement granted by the Developer to the State of New York over the adjoining lands of the Developer between the Development and I-84. Construction of any walls or other improvements visible to I-84 is subject to the prior written approval of the New York State Department of Transportation.

BE IT FURTHER RESOLVED that these conveyances and covenants are SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

The Grantee will be responsible for all costs and expenses necessary to satisfy all of the above listed requirements, including but not limited to survey and mapping costs, as well as any additional tasks required for NEPA and Federal Highway Administration approval; and

NYSDOT will establish new control of access for I-84 and neither the easement nor the fee will include any right of access to I-84; and

If required by NYSDOT, the Developer will build and maintain a fence meeting NYSDOT standards between the easement area and/or the fee area and I-84; and

The grant of easement to the Developer will state that the Developer, its successors, and assigns, shall indemnify and hold harmless NYSDOT and the People of the State of New York for any and all claims, damages and liability arising out of or related to said land use; and

The Director of Real Estate shall not make or accept the grants of easements or the fee conveyance until the Federal Highway Administration has approved of them, and said grants and conveyance will be made simultaneously and not separately in that the grants of conservation easements from the Developer are included in and a part of the consideration of the grant of easement and fee conveyance to the Developer; and

All plans and specifications for improvements of the access easement, sanitary sewer line installation, and any other improvements or construction on the lands subject to the conservation easements are subject to the written approval by the NYSDOT prior to start of any construction.