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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF PUTNAM

-----X

GEORGE MUELLER, MARGO  
MUELLER, FRANK DEL GROSSO,  
HELEN DEL GROSSO, THE TOWN  
OF CARMEL and MICHAEL SIMONE,  
Highway Superintendent of the  
Town of Carmel,

Petitioners,

-against-

TOWN BOARD OF THE TOWN OF  
SOUTHEAST and KEVIN PALMER,  
Interim Highway Superintendent  
of the Town of Southeast,

Respondents,

-----X

ONLY  
FRONT PG.

SCANNED

MEMORANDUM OF LAW

Dated: Carmel, New York  
April 17, 2009

Robert C. Lusardi, Esq.  
DANIELS AND PORCO, LLP  
Attorney for Petitioners,  
Town of Carmel and Michael Simone  
102 Gleneida Avenue  
Carmel, New York 10512  
(845) 225-8404



York on the 24<sup>th</sup> day of April, 2009 at 9:30 a.m., or as soon thereafter as counsel can be heard

**WHY**, an order should not be granted vacating annulling and setting aside the determination of the Respondent, Town Board of the Town of Southeast, issued on or about April 8, 2009 authorizing and funding the construction of a public road extending Enoch Crosby to connect with Kelley Road in the Town of Carmel; and

**WHY** an order should not be entered pursuant to Highway Law sections 184 and 185 prohibiting the Respondents from constructing the aforesaid road and/or connecting same to Kelley Road in the Town of Carmel; and

**WHY** an order should not be entered during the pendency of this action restraining and enjoining the Respondents, their agents, contractors, employees, and contractors from constructing the aforesaid road, cutting trees, excavation, disturbance of soil, wetlands and wetland buffer zones, disturbance of steep slopes, and other construction activities; and

**IT IS FURTHER ORDERED** that pending the hearing and determination of this Order to Show Cause and Petition, the Respondents and their agents, contractors, subcontractors and employees be and hereby are restrained and enjoined from constructing a road, cutting trees and vegetation, excavation, disturbance of wetlands and wetland buffer zones, disturbance of slopes, and other construction activities in connection with the construction of a road between Enoch Crosby Road and Kelley

Road; and it is further ordered that  
did not appear to discuss this matter at 2:30 PM  
on April 27<sup>th</sup> 2009.

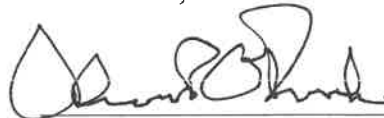
It should be noted that Respondents

AK  
JSE

SUFFICIENT CAUSE APPEARING THEREFOR, LET <sup>Personal</sup> service of a copy of  
this Order to Show Cause, together with the papers annexed hereto, upon Respondents on  
or before the 20<sup>th</sup> day of April, 2009, be deemed sufficient service.

PLEASE TAKE FURTHER NOTICE, that Answering papers, if any, must be  
served upon counsel for Petitioner on or before the 23<sup>rd</sup> day of April,  
2009.

ENTER,



J.S.C.

**Hon. Andrew P. O'Rourke**  
**Supreme Court Justice**

At an IAS Term of the Supreme Court, held in and for the County of Putnam, at the courthouse thereof located at 20 County Center, Carmel, , New York, on the \_\_\_\_\_ day of April, 2009.

P R E S E N T: \_\_\_\_\_, J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF PUTNAM

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GEORGE MUELLER, MARGO MUELLER, FRANK DEL GROSSO, HELEN DEL GROSSO, THE TOWN OF CARMEL and MICHAEL SIMONE, Highway Superintendent of the Town of Carmel,

Petitioners,

-against-

TOWN BOARD OF THE TOWN OF SOUTHEAST and KEVIN PALMER, Interim Highway Superintendent of the Town of Southeast,

Respondents,

-----X

ORDER TO SHOW CAUSE

Index No.: 1055/09

Upon the annexed Petition dated the 17th day of April, 2009; the affidavits of Michael Simone and John Karell dated April 17, 2009; upon the papers and exhibits annexed thereto; and upon all prior pleadings and proceedings heretofore had herein,

LET Respondents show cause before this Court, Hon. Andrew P. O'Rourke presiding, at the Putnam County Courthouse located 20 County Center, Carmel, New

York on the \_\_\_\_ day of April, 2009 at 9:30 a.m., or as soon thereafter as counsel can be heard

**WHY**, an order should not be granted vacating annulling and setting aside the determination of the Respondent, Town Board of the Town of Southeast, issued on or about April 8, 2009 authorizing and funding the construction of a public road extending Enoch Crosby to connect with Kelley Road in the Town of Carmel; and

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**IT IS FURTHER ORDERED** that pending the hearing and determination of this Order to Show Cause and Petition, the Respondents and their agents, contractors, subcontractors and employees be and hereby are restrained and enjoined from constructing a road, cutting trees and vegetation, excavation, disturbance of wetlands and wetland buffer zones, disturbance of slopes, and other construction activities in connection with the construction of a road between Enoch Crosby Road and Kelley Road; and it is further ordered that

**SUFFICIENT CAUSE APPEARING THEREFOR, LET** service of a copy of this Order to Show Cause, together with the papers annexed hereto, upon Respondents on or before the \_\_\_\_\_ day of April, 2009, be deemed sufficient service.

**PLEASE TAKE FURTHER NOTICE**, that Answering papers, if any, must be served upon counsel for Petitioner on or before the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

ENTER,

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J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF PUTNAM

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GEORGE MUELLER, MARGO  
MUELLER, FRANK DEL GROSSO,  
HELEN DEL GROSSO, THE TOWN  
OF CARMEL and MICHAEL SIMONE,  
Highway Superintendent of the  
Town of Carmel,

PETITION

Petitioners,

Index No.:

-against-

TOWN BOARD OF THE TOWN OF  
SOUTHEAST and KEVIN PALMER,  
Interim Highway Superintendent  
of the Town of Southeast,

Respondents,

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GEORGE MUELLER, MARGO MUELLER, FRANK DEL GROSSO and,  
HELEN DEL GROSSO, pro se, and THE TOWN OF CARMEL and MICHAEL  
SIMONE, Highway Superintendent of the Town of Carmel, by their attorneys Daniels  
and Porco, LLP, as and for their Petition herein against Respondents, the TOWN  
BOARD OF THE TOWN OF SOUTHEAST and KEVIN PALMER, Interim Highway  
Superintendent of the Town of Southeast, allege and show, upon information and belief,  
as follows:

1. Enoch Crosby Road is a no outlet town road in the Town of Southeast  
which runs in a generally east/west direction between Maple Road and the Crosby Hill  
Subdivision in the Town of Southeast. Enoch Crosby Road, at the point where it enters

the Crosby Hill Subdivision, lies approximately 450 feet from the town line of the Town of Carmel.

2. That Kelly Road is a no outlet town road in the Town of Carmel, which runs in a generally east/west direction between Stoneleigh Avenue and the town line between the Town of Carmel and the Town of Southeast. This terminus point of Kelly Road is bounded by a guardrail and drainage ditch, which prohibit further travel easterly past the terminus point.

3. That Petitioners, George Mueller and Margo Mueller are the owners of a single-family residence located in the Town of Carmel on the southerly side of Kelly Road at its point of terminus at the Town of Carmel line. The said premises are identified as Town of Carmel Tax Map 55.20-1-21.

4. That Petitioners, Frank Del Grosso and Helen Del Grosso are the owners of a single-family residence located on the northerly side of Kelly Road at its terminus at the Town of Carmel line. That said Petitioners' premises are known as Town of Carmel Tax Map 55.16-1-8.2.

5. A copy of the northeasterly portion of Tax Map 55.20 which depicts the location of the Mueller and Del Grosso properties is annexed hereto and made a part hereof as **EXHIBIT A**. A copy of a map quest map depicting Kelly Road and Enoch Crosby Road in the general vicinity of the Town of Carmel and Town of Southeast line is annexed hereto and made a part hereof as **EXHIBIT B**. Kelly Road and Enoch Crosby Road, as shown on the map quest map, have been highlighted in yellow.

6. The Crosby Hill Subdivision was developed along a southerly extension of Enoch Crosby Road, which is marked with a star on the map quest map.

7. The Crosby Hill Subdivision was approved by the Town of Southeast Planning Board in or about October 1991 as a subdivision on a cul-de-sac road, namely Enoch Crosby Road. An emergency access was provided to Peter Road, which is a town road abutting the southerly boundary of the Crosby Hill Subdivision. Apparently the Town Planning Board refused to permit Crosby Hill Subdivision to have an outlet onto Peter Road. Furthermore, the Crosby Hill Subdivision was approved without any connection between Enoch Crosby Road and Kelly Road due to the objections of the Town of Carmel as expressed in correspondence to the Southeast Planning Board (EXHIBIT K) dated October 24, 1988.

8. The approximately 450 foot strip of land between Enoch Crosby Road and Kelly Road can be conservatively characterized as a steep, wet, wooded, overgrown and blockaded parcel which is completely impassable. Photographs of this 450 foot strip of land are annexed hereto and made a part hereof as EXHIBIT C1 THROUGH C11. Photographs C1 through C5 are taken in a westerly direction from the terminus of Enoch Crosby Road looking westerly to the terminus of Kelly Road. Photographs C6 through C11 are photographs taken from Kelly Road looking easterly toward Enoch Crosby Road. The first photograph, C1, shows an arrow sign directing traffic to the left (south) toward the Crosby Hill Subdivision. This sign blocks travel across the 450 foot strip as does the vegetation, terrain and fallen trees. Photograph C3 shows a very wet and boggy area in the middle of the 450 foot strip. Photographs C4 and C5 show large fallen trees, which completely block off the 450 strip as well. Photograph C6 taken from Kelly Road shows the guardrail barricade, as well as the drainage ditch and stream, which completely block any travel from Kelly Road onto the 450 foot strip. Photographs C7, C8 and C9 are

further photographs of the stream, which completely crosses the 450 foot strip at the end of Kelly Road. Photographs C10 and C11 show a drainage ditch which diverts water from the Crosby Hill Subdivision into the stream, which runs across the end of Kelly Road near the guardrail. It should be noted that the subdivision plat of Crosby Hill Subdivision shows that the drainage ditch depicted in photographs C10 and C11 was constructed in that location for the purpose of diverting stormwater from the Crosby Hill Subdivision. It does so in a manner which completely blocks any access from Enoch Crosby Road to Kelly Road and vice versa.

9. The Crosby Hill Subdivision consists of approximately 49 homes occupied by people with significant influence. Photographs of some of the homes in the Crosby Hill Subdivision are annexed hereto as **EXHIBIT D.**

10. Apparently, certain residents on Enoch Crosby Road decided it would be more convenient for them to travel into the center of Carmel by constructing a road over the 450 foot strip between Enoch Crosby Road and Kelly Road; rather than continue to exit onto Maple Road, which is the only outlet from Enoch Crosby Road. Maple Road is a wide and well constructed dirt road for approximately one mile in the vicinity of the intersection with Enoch Crosby Road. However, after traveling a short distance on the unpaved portion of the road, it becomes paved in either direction. The road is easily passable by vehicles and there are very few residences which derive their access from Maple Road. This road runs immediately parallel to Middlebranch reservoir. It is a very scenic road and residents along Maple Road have refused to allow it to be paved due to its scenic character. Photographs of Maple Road in the vicinity of its intersection with Enoch Crosby Road are annexed hereto and made a part hereof as **EXHIBIT E.**

11. Notwithstanding the fact that residents of Enoch Crosby Road purchased their homes with full knowledge of the fact that it gained its sole access from Maple Road, decided that they didn't like having to travel over the dirt road and deal with ruts, potholes, and dust on their vehicles. Accordingly, they demanded that Maple Road be paved in order to insure a more comfortable ride.

12. However, the scenic road people and a number of environmental groups opposed any effort to pave Maple Road. This, apparently, led to the Respondent, Town of Southeast Highway Superintendent's decision to construct a 450 foot road between Enoch Crosby Road and Kelly Road to divert traffic from approximately 75 homes on Enoch Crosby Road away from Maple Road and toward Kelly Road in the Town of Carmel. In correspondence from Respondent, Kevin Palmer, Acting/Interim Highway Superintendent of the Town of Southeast, and the Respondent, Town Board of the Town of Southeast dated March 27, 2009, he explained his reasons for constructing this new road. He stated:

"I have given serious thought about the best way to address the concerns raised regarding the condition of Maple Road and the surrounding area. As you are all aware, there is a very distinct and vocal difference of opinion among the effected residents regarding the future of Maple Road and it is my hope to address as many of these concerns as possible without further polarizing the community."

13. He goes on to assert that the 450 foot strip of land between Kelly Road and Enoch Crosby Road, after much research by the Town Attorney and Councilman Dick Honeck, was found to in fact be an old roadway and "remains a bona fide, mapped town highway." He states:

“This road was regularly maintained until some time in the late 1950’s and, for reasons that are not quite clear, the Southeast Town Highway Department stopped regular maintenance of a portion of the this road. However, I have concluded that the road has never been abandoned or formerly closed in accordance with the proper procedure set forth in the highway law.”

14. Respondent, Kevin Palmer, does not indicate the basis upon which it was concluded that this 450 foot strip was previously a town road; and completely ignores the effect of Highway Law §205, which provides that any town highway which is not travelled upon for at least six years is deemed abandoned as a public highway. In any event, it was Respondent, Kevin Palmer’s determination that improving this 450 foot strip of land would be a less costly alternative to improving and paving Maple Road. He requested that the Town Board appropriate to the highway department an amount not to exceed \$60,000 to build this road over the 450 foot strip to Kelly Road in the Town of Carmel. A copy of this correspondence dated March 27, 2008 is annexed hereto and made a part hereof as **EXHIBIT F**

15. When the residents of Kelly Road, Avery Road, and Lakeview Road in the Town of Carmel became aware of the Southeast Highway Superintendent’s plans, they were absolutely infuriated. This area of the Town of Carmel is densely developed with narrow and unsafe roads. It was estimated that this connection between Enoch Crosby Road and Kelly Road would generate over 200 additional trips per day through this community creating enormous safety concerns, as well as other significant environmental concerns such as stormwater detention, flooding, wetlands impacts, and so forth. A petition was circulated among the residents in this community opposing the project. This

Petition was presented to the Supervisor and Town Board of the Town of Carmel. A copy of this Petition is annexed hereto and made a part hereof as **EXHIBIT G.**

16. Petitioner, Michael Simone, the Highway Superintendent of the Town of Carmel contacted Respondent, Kevin Palmer, and expressed his complete disagreement with the proposal to connect the two roads. Petitioner, Michael Simone, spoke with Kevin Palmer on at least two occasions in this regard. He related his concerns concerning the impact of the traffic from Enoch Crosby Road entering Kelly Road, and insisted that the project be cancelled. The Respondent, Kevin Palmer, refused.

17. Apparently recognizing the fact that opposition was mounting in the Town of Carmel, the Respondents, without regard to the rights of the Town of Carmel under Sections 184 and 185 of the NYS Highway Law, hastily scheduled a "Special Meeting" of the Southeast Town Board on April 8, 2009 to vote on the proposal.

18. In an apparent effort to sneak through a vote and authorize the project without dealing with public criticism from the Town of Carmel, the aforesaid "Special Meeting" was scheduled without public notice, in violation of the Open Meetings Law. No notice was provided to the Town of Carmel government, or to residents of Kelly Road, Avery Road and Lakeside Road. No notice was given to residents of Maple Road or for that matter, Crosby Hill Subdivision concerning this meeting. No notice was provided to the newspapers until the day before the meeting, and notice was published just hours before the meeting. It was only by a fortuitous telephone call to Supervisor Rights of the Town of Southeast on the afternoon of April 8, 2009 that the Petitioners became aware that the subject meeting had been scheduled for 6:00 p.m. that evening. With only two hours notice, over 20 residents of Kelly Road, Avery Road and Lakeside

Road were able to attend the meeting, along with Kenneth Schmitt, the Supervisor of the Town of Carmel. Regrettably, numerous other individuals were unable to attend due to lack of notice.

19. The issues and objections set forth in this Petition were addressed to the Respondent, Town Board, at the meeting. Nevertheless, despite this vigorous opposition, and presentation of significant environmental impacts presented by the proposed project, the Respondent, Town Board, voted in favor of funding the project to install the road over the 450 foot strip by a vote of 3 in favor and 2 against. The two board members who voted against the proposal were Supervisor Michael Right and Board Member Dwight Yee. A copy of the agenda for the April 8, 2009 meeting is annexed hereto as **EXHIBIT H**. There were only three items on the agenda, two liquor license waivers and the road improvement funding. It is hard to fathom the urgency of a special meeting, called without public notice, for any of the three items on the agenda. It is clear that the meeting was scheduled in violation of the Open Meetings Law for the reasons stated above.

20. In its haste to approve this project for the benefit of relatively few influential property owners, the Respondent, Town Board, completely neglected to conduct an environmental review of the project, and issued a negative declaration without basis in fact or law. Furthermore, the vote was taken without referral to the County Planning Department, in violation of General Municipal Law §239-m. The project was required to be referred to the County Planning Board since it was conducted within 500 feet of another municipality, the Town of Carmel.

21. The outrage of the Petitioners was clearly manifested in the Sunday, April 12, 2009 edition of the *Journal News*. In an article by Marcella Rohas, Kenneth Schmitt, the Supervisor of the Town of Carmel, is reported as stating the following:

“The Carmel Supervisor Ken Schmitt called Southeast’s action “immoral” and an “abomination” and guaranteed litigation. Schmitt attended the Southeast Town Board’s meeting Wednesday night which he said was quietly scheduled and asked the group to defer the vote, in addition to offering Carmel’s services to help find other alternatives. “They could care less about what I had to say or what the residents had to say” Schmitt said. “They’ve created a problem and a hardship in a neighboring town.”

22. Petitioner, George Mueller, was also quoted in the article as follows:

“Some have complained that the Town Board’s meeting was not properly publicized. Kelly Road resident, George Mueller, said he only learned about the meeting shortly before it started and got about 20 neighbors to attend. A notice of the Town’s special meeting was published in the *Journal News* on Wednesday, the day of the meeting. “I’m disgusted with them” Mueller said of the Board. “You’re going to increase the traffic and possibly kill a child for nothing.” Many children ride bikes and play at the end of Kelly Road. Schmitt estimated that an additional 150 to 200 cars will travel through there.”

A copy of the *Journal News* article dated April 12, 2009 is annexed hereto and made a part hereof as **EXHIBIT I.**

23. Following the meeting, numerous letters of protest were sent to the Respondents from neighborhood residents, along with correspondence from Putnam County Legislator, Mary Ellen O’Dell dated April 14, 2009. Copies of these letters are annexed hereto and made a part hereof as **EXHIBIT J.** In her letter dated April 14, 2009

to Town of Carmel Supervisor, Kenneth R. Schmitt, Legislator Mary Ellen O'Dell states: "As an elected official who represents the residents of Kelly Road in Carmel, I am writing to state that I wholeheartedly support your position to not open up Kelly Road to gain access to the Southeast neighborhood located off of Maple Road, located in the Town of Southeast. Although I am sympathetic to the concerns and issues present in the matter of whether to pave Maple Road or not, it would not be in the best interest and safety of the children and residents who live on Kelly Road to open that road."

24. The Petitioner, Town of Carmel retained the firm of Daniels and Porco, LLP as special counsel to commence litigation against the Town of Southeast in this matter. In addition, the Petition, Town of Carmel surveyed the area at the end of Kelly Road and reinstalled a new guardrail to block access from Enochh Crosby Road to Kelly Road in the event that the Town of Southeast proceeded with the road improvement project.

25. The firm of Daniels and Porco, LLP contacted the Town Clerk of the Town of Southeast on April 13, 2009 in an effort to obtain a copy of the resolutions, negative declaration, and other documents before the Respondent Town Board added in connection with the subject resolution. However, the Town Clerk advised that there were no such written documents since she had not yet prepared them. Counsel was advised that the documents would not be ready until the week of April 19, 2009.

26. Notwithstanding the fact that no written resolution had been presented to the Town Board for execution in this matter, the Respondent Highway Superintendent nevertheless appeared at the property on April 16, 2009 and began cutting trees in preparation for the road improvements. Respondent Kevin Palmer was heard stating that

the Highway Department would be bringing heavy equipment onto the property on April 17, 2009 to commence excavation work on the four hundred fifty (450) foot strip of land. There can be no doubt that the Respondents were aware of the Town of Carmel Supervisor's position in this matter and knew that litigation would be forthcoming. Nonetheless, in an effort to get the road constructed before a Court Order could be obtained stopping the project, the Respondents have chosen to greatly accelerate their efforts and install the road before even a written resolution was prepared from which to commence an Article 78 proceeding. As of the date of this Petition, heavy equipment is excavating the area of the 450 foot strip.

27. It is apparent that a temporary restraining order is required restraining and enjoining the Respondents from proceeding with any kind of road construction pending the determination of this petition. In the absence of a temporary restraining order the Petitioners will suffer irreparable harm. Efforts have been made to contact the Town Attorney of Southeast to advise him of the Petitioner's application for a temporary restraining order, without success.

28. The subject four hundred fifty (450) foot strip drops sixty one (61) feet in grade between Enochh Crosby Road and Kelly Road. This represents a thirteen point five percent (13.5%) slope downward to the Town of Carmel. The maximum road slope in the Town of Carmel is ten percent (10%).

29. A significant stream crosses the four hundred fifty (450) foot strip at the Town of Carmel line near the present terminus of Kelly Road. This area is the bottom of a large drainage basin which drains the Crosby Hill subdivision and the areas to the north. The storm drainage facilities servicing the Crosby Hill subdivision discharge into this

stream at the terminus of Kelly Road. The addition of more storm water run off from a paved surface will add significant amounts of storm water to an already taxed system. In fact, the subject stream overflows during heavy rains at the present time. This causes flooding to the property of Petitioners Frank Del Grosso and Helen Del Grosso.

30. There is a large wetland area on Enoch Crosby Road in the general vicinity of the entrance to the subdivision. This wetland drains underneath Enochh Crosby Road and discharges parallel to the four hundred fifty (450) foot strip and ultimately discharges into the stream at the bottom of the hill. The area to the south of the four hundred fifty (450) foot strip is a wetland area, as is the area surrounding the stream at Kelly Road. The addition of storm water through culverts into this wetland area requires a wetlands permit.

31. Under the Clean Water Act and the D.E.C. regulations administering the Clean Water Act, as well as the New York City D.E.P. regulations, a storm water pollution prevention plan is required for the construction of an impervious surface on the four hundred fifty (450) foot strip of land. §18-39 of the New York City Watershed regulations requires channeling and treatment of the storm water and requires a storm water pollution prevention plan.

32. The width of Kelly Road at it terminus is only sixteen (16) feet. Kelly Road itself varies from twenty (20) to twenty-two (22) feet wide. The required width of new town roads in the Town of Carmel is twenty-four (24) feet. An additional strip is required for utilities. Kelly Road would need to be reconstructed to accommodate increased traffic if Kelly Road was to be connected to Enochh Crosby Road over the objection of the Town of Carmel.

33. Furthermore, as one travels westward on Kelly Road and intersecting streets the road narrows and becomes very windy. At one point, the road passes over a one (1) lane bridge. There are also very sharp curves in the road near the intersection with Stoneleigh Avenue. There have been numerous accidents on these roads due to these road conditions.

34. The proposed connection between Enochh Crosby Road and Kelly Road would result in approximately two hundred (200) additional vehicular trips per day, or more, down windy and unsafe roads.

35. Upon information and belief, the traffic plan for the Crosby Hill subdivision, which was prepared in connection with the environmental review of the Crosby Hill subdivision prohibited connection of Enochh Crosby Road with Kelly Road due to traffic safety issues. The connection of these roads would, upon information and belief, violate the mitigation measures in the traffic plan contained in the environmental impact statement and findings statements of the Crosby Hill subdivision.

36. There are alternatives to connecting Enochh Crosby Road with Kelly Road. What is now the emergency access between Enochh Crosby Road and Peter Road to the south of the Crosby Hill subdivision could be converted into a permanent road. There would be almost no environmental impacts resulting from this connection. Traffic from the Crosby Hill subdivision could flow out onto Peter Road, which is a paved Town road and discharge onto Drewville Road. Also, Maple Road could be paved. Another alternative would be the so called "no action alternative" which would be to keep the roads as they presently exist and not alter the present traffic patterns.

37. The benefit to homeowners on Enoch Crosby road of connecting the two Town roads is far outweighed by the detriment to residents of Kelly Road and vicinity. The environmental impacts resulting from the connection of the two (2) roads are significant and confirmed by the significant opposition voiced by not only residents in the neighborhood but also by Town and County public officials.

38. The Respondents did not conduct an adequate environmental review, did not take a hard look at the environmental impacts, and did not recognize the fact that the proposed project would generate significant environmental impacts requiring the preparation of an environmental impact statement and additional study. The negative declaration issued by the Respondents was improper in that it was not supported by an adequate environmental review and did not contain a reasoned elaboration of the basis for determining that no significant environmental impacts were present.

39. The Respondents also disregarded the fact that wetlands permits would be required for the project, along with permits from the New York State D.E.C. and New York City D.E.P. at least with respect to a storm water pollution prevention plan. Upon information and belief, no such approvals were obtained and no such plans were prepared by the Respondents.

40. The proposal was required to be presented to the County Planning Board pursuant to General Municipal Law §239M. No such submission was made and the vote taken by the Respondent Town Board approving the project was, accordingly, null and void.

41. The project was approved at a meeting which was conducted in violation of the Open Meetings Law and the resolution approved by the Respondent Town Board at such meeting was, accordingly, null and void.

42. The four hundred fifty (450) foot strip was improperly characterized by the Respondents as a "Town Road". A mere cursory review of the photographs annexed to this petition reveals the fact that this is no road. If it ever was a road it was long since abandoned as a public road. In fact, the Respondent Highway Superintendent acknowledged that if it was a former Town road it had not been used since the early 1950s. Under Highway Law §205 the four hundred fifty (450) foot strip is no longer a Town road. Accordingly, the Respondent Town Board lacked authority to authorize improvements to this so-called road and is required to recommence proceedings pursuant to the Eminent Domains Law to condemn this property if it wishes to construct a Town road.

43. The Respondent Highway Superintendent of the Town of Southeast has disregarded the objections of the Town of Carmel Highway Superintendent. Under the circumstances presented in the present matter, the Respondent Highway Superintendent lacks the authority to proceed with the road construction in the absence of the approval of the Town of Carmel Highway Superintendent who has issued both verbal and written objection to the project. This dispute can only be resolved by the Supreme Court in accordance with the provisions of the Highway Law §184 and §185 and the present petition requests a determination from the Court in the event that the Court reaches this issue in its determination after consideration of the proceeding environmental and other issues presented above.

44. That the Respondents have acted in an arbitrary, capricious and/or unreasonable manner or have otherwise acted illegally in connection with the determination at the April 8, 2009 meeting authorizing the construction of a road connecting Enoch Crosby Road with Kelly Road in the Town of Carmel, and the actions of the Respondents as complained of herein.

45. That the Respondent Highway Superintendent of the Town of Southeast has further acted outside the bounds of his legal authority in proceeding with the connection of a Town of Southeast highway with a Town of Carmel highway over the objection of the Town of Carmel Highway Superintendent and a writ of prohibition is requested in this regard with a determination by this Court of the respective rights of parties pursuant to Highway Law §184 and §185.

46. That the Petitioners, George Mueller, Margo Mueller, Frank Del Grosso and Helen Del Grosso are adjoining property owners to the above referenced four hundred fifty (450) foot strip upon which the Respondents are attempting to construct a public road.

47. That the said Petitioners are aggrieved and have suffered direct and special injury as a result of the Respondents' complaintive conduct including, but not limited to flooding of their respective properties, diminution of their property, increased traffic and traffic safety hazards in or about their property, impacts to wetland areas immediate adjacent to their properties, storm water impacts directly to their property and have otherwise have been or will be injured as a result of the Respondent's conduct complained of herein.

48. That Petitioners, George Mueller, Margo Mueller, Frank Del Grosso and Helen Del Grosso are residents and taxpayers of the Town of Carmel.

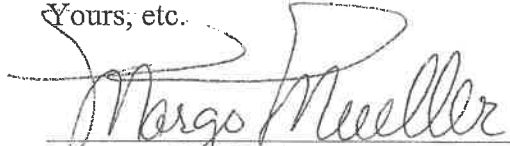
49. That the Petitioners, Town of Carmel and Highway Superintendent of the Town of Carmel are aggrieved by the actions of the Respondents as complained of herein.

50. That this action has been authorized by the Town Board of the Town of Carmel by resolution on April 15, 2009.

WHEREFORE, Petitioners request that the Order to Show Cause herein be granted in all respects together with such other and further relief as to this Court may seem just and proper, together with sanctions, attorney's fees, costs and disbursements on this action.


Dated: Carmel, New York  
April 17, 2009

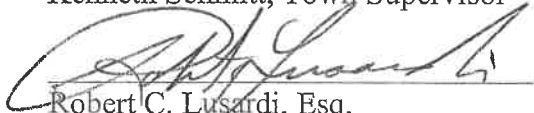
Yours, etc.

  
MARGO MUELLER

TOWN OF CARMEL

BY:

  
Kenneth Schmitt, Town Supervisor

  
Robert C. Lusardi, Esq,  
DANIELS AND PORCO, LLP  
*Attorneys for the Petitioners,*  
*Town of Carmel and*  
*Michael Simone*  
102 Gleneida Avenue  
Carmel, NY 10512  
(845) 225-8404



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF PUTNAM

-----X

GEORGE MUELLER, MARGO  
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HELEN DEL GROSSO, THE TOWN  
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Highway Superintendent of the  
Town of Carmel,

AFFIDAVIT

Petitioners,

Index No.:

-against-

TOWN BOARD OF THE TOWN OF  
SOUTHEAST and KEVIN PALMER,  
Interim Highway Superintendent  
of the Town of Southeast,

Respondents,

-----X

STATE OF NEW YORK     )  
                                  )     SS.:  
COUNTY OF PUTNAM     )

MICHAEL SIMONE, being duly sworn, deposes and says:

1. I am the Highway Superintendent of the Town of Carmel and make this Affidavit in support of the Order to Show Cause and Petition herein.

2. That I am aware of the proposal by the Respondent, Highway Superintendent of the Town of Southeast, to install a paved road extended between Enoc Crosby Road and the Town of Southeast and Kelly Road and the Town of Carmel. I strongly disagree with the decision of the Respondent, Town Board of the Town of Southeast and Highway Superintendent of the Town of Southeast to install such road and object to same.

3. I have reviewed the correspondence of Respondent, Kevin Palmer dated March 27, 2009 concerning the proposed road and have also visited the site.

4. There is a stream at the bottom of that slope at the terminus of Kelly Road. A piping of this stream would be required which would result in significant fill grading and reconfiguration of the road surface of Kelly Road. There is significant wetland in the vicinity of the terminus of Kelly Road at the Town of Southeast line, and there are significant wetlands in the immediate vicinity of the strip of land between Enoc Crosby Road and Kelly Road which will be paved. The creation of an impervious surface will result in the need for a stormwater pollution prevention plan in accordance with DEC regulations and NYC DEP regulations. The Respondents' proposal does not provide for a stormwater pollution prevention plan; nor does it provide for mitigation for impacts to the wetlands. It further does not provide for a wetlands permit for the proposed work, which is also necessary.

5. The most significant impacts presented by the proposed road are the introduction of 200 trips per day of additional vehicle traffic on Kelly Road and other roads in the immediate vicinity of the Town of Carmel. Kelly Road is only 16 feet wide at its terminus. The road varies from 20 to 22 feet in width. The required width of a new town road is 24 feet. Kelly Road is a very windy road and in one area, it crosses a bridge as a one lane road. The introduction of additional vehicle traffic on these roads would create significant safety hazards and danger to the residents of the immediate neighborhood, as well as vehicles traveling the roadways.

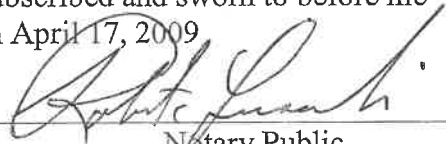
6. I have, on at least one occasion, contacted the Respondent, Highway Superintendent of the Town of Southeast, and expressed my objection to the proposed road. However, he has refused to relinquish his plans to construct the road. Under the provisions of NYS Highway Law Sections 184 and 185, I request that this Court resolve

this dispute and in so doing, prohibit the construction of the connection between Enoc Crosby Road and Kelly Road.

WHEREFORE, deponent respectfully requests that the Order to Show Cause herein be granted in all respects, together with such other and further relief as to this Court may seem just and proper.

  
MICHAEL SIMONE

Subscribed and sworn to before me  
on April 17, 2009

  
Notary Public

My commission expires on

ROBERT C. LUSARDI  
Notary Public, State of New York  
No. 4687801  
Qualified in Putnam County 2009  
Commission Expires July 31, 2009

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF PUTNAM

-----X

GEORGE MUELLER, MARGO  
MUELLER, FRANK DEL GROSSO,  
HELEN DEL GROSSO, THE TOWN  
OF CARMEL and MICHAEL SIMONE,  
Highway Superintendent of the  
Town of Carmel,

AFFIDAVIT

Petitioners,

Index No.:

-against-

TOWN BOARD OF THE TOWN OF  
SOUTHEAST and KEVIN PALMER,  
Interim Highway Superintendent  
of the Town of Southeast,

Respondents,

-----X

STATE OF NEW YORK     )  
                                  )     SS.:  
COUNTY OF PUTNAM     )

JOHN KARELL, being duly sworn, deposes and says:

1. I am the Town Engineer of the Town of Carmel and make this affidavit in support of the Order to Show Cause and Petition herein.
2. I am a licensed professional engineer and have over 33 years experience as a professional engineer.
3. I have reviewed the proposed construction of a town road connecting Enoc Crosby Road in the Town of Southeast with Kelly Road in the Town of Carmel. I strongly object to the connection of these two highways.
4. There are significant environmental impacts which will result from the connection of these roads. These impacts have been appropriately set

forth in the Petition herein and I incorporate same by reference in this affidavit.

5. Of particular note is the significant adverse impacts which will result from approximately 200 vehicle trips per day being added to Kelly Road and adjoining streets in the Town of Carmel. These roads are substandard in width and design. They are located within heavily developed neighborhoods and cannot handle this additional vehicular traffic without severely jeopardizing safety of both motorists and residents in this community.
6. The Respondents have not adequately considered these impacts and have not prepared an appropriate environmental impact statement addressing same. Furthermore, since the Respondents propose to connect the Town of Southeast public road with Town of Carmel public roads, the consent of the Highway Superintendent is required. I fully concur in the Town of Carmel Highway Superintendent's objection to the connection of these roads.

WHEREFORE, deponent respectfully requests that the Order to Show Cause herein be granted in all respects, together with such other and further relief as to this Court may seem just and proper.

  
JOHN KARELL

Subscribed and sworn to before me  
on April 17, 2009

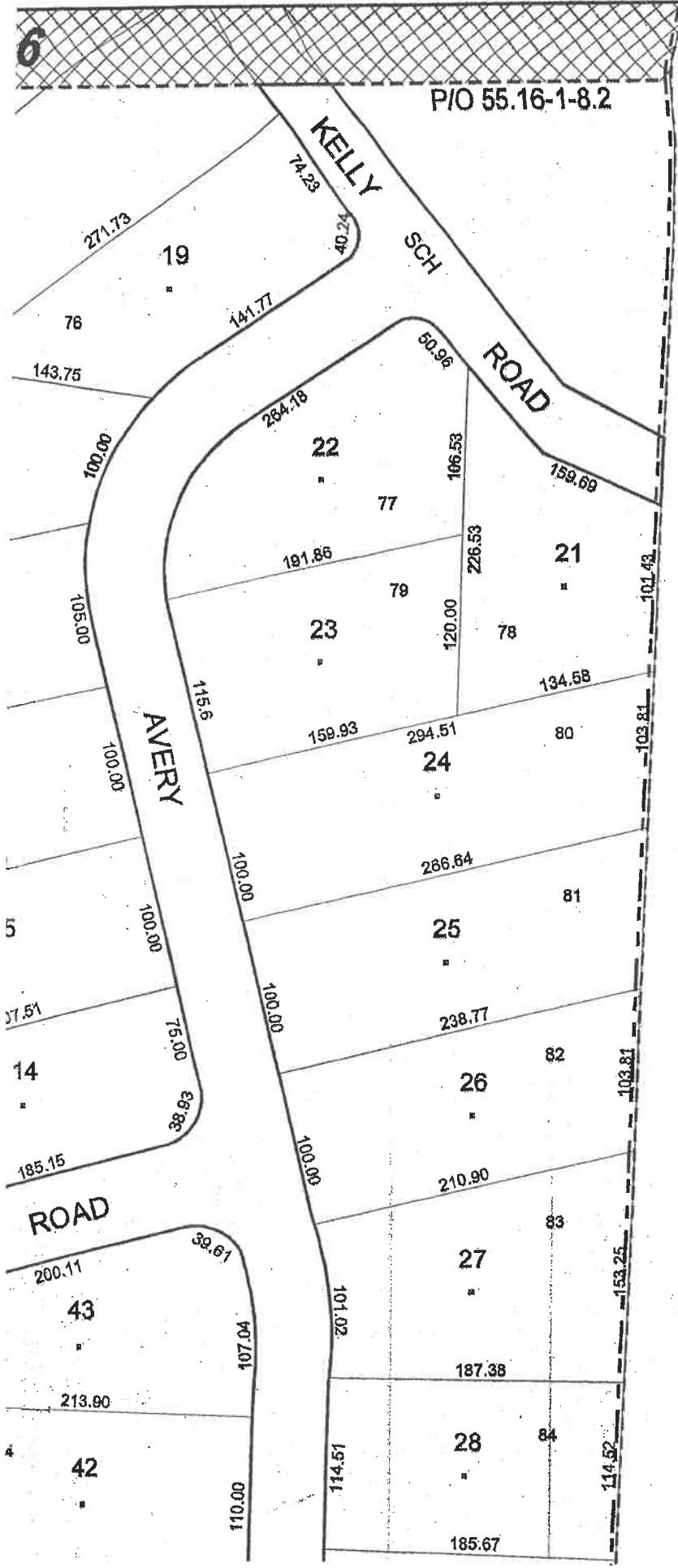
  
\_\_\_\_\_  
Notary Public

**ROBERT JAMES VARA**  
Notary Public, State of New York  
No. 02VA6074894  
Qualified in Putnam County  
Commission Expires May 27, 2010

*Exhibit "A"*

6

P/O 55.16-1-8.2



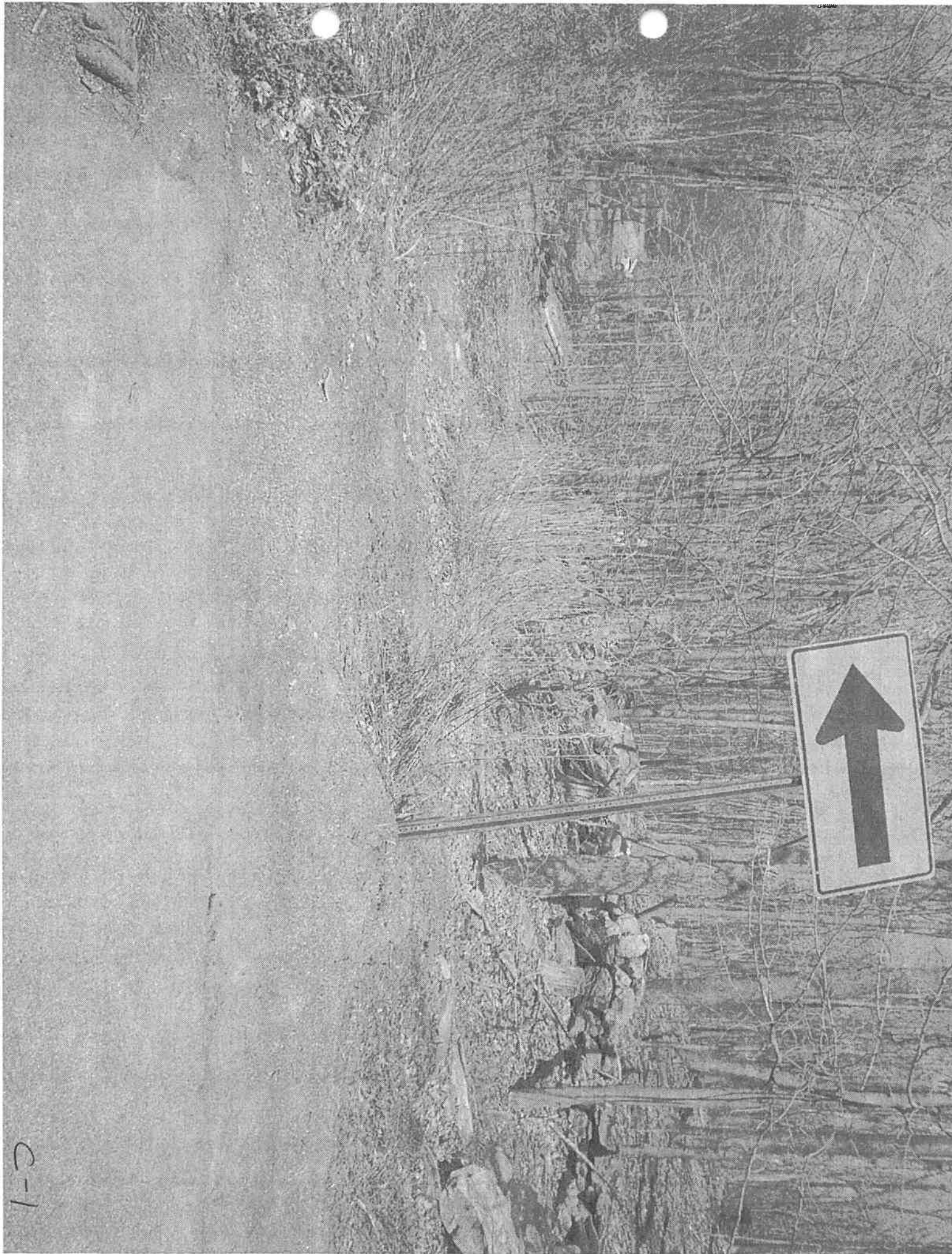
56.20 - 21

A

*Exhibit "B"*



*Exhibit "C"*



C-1



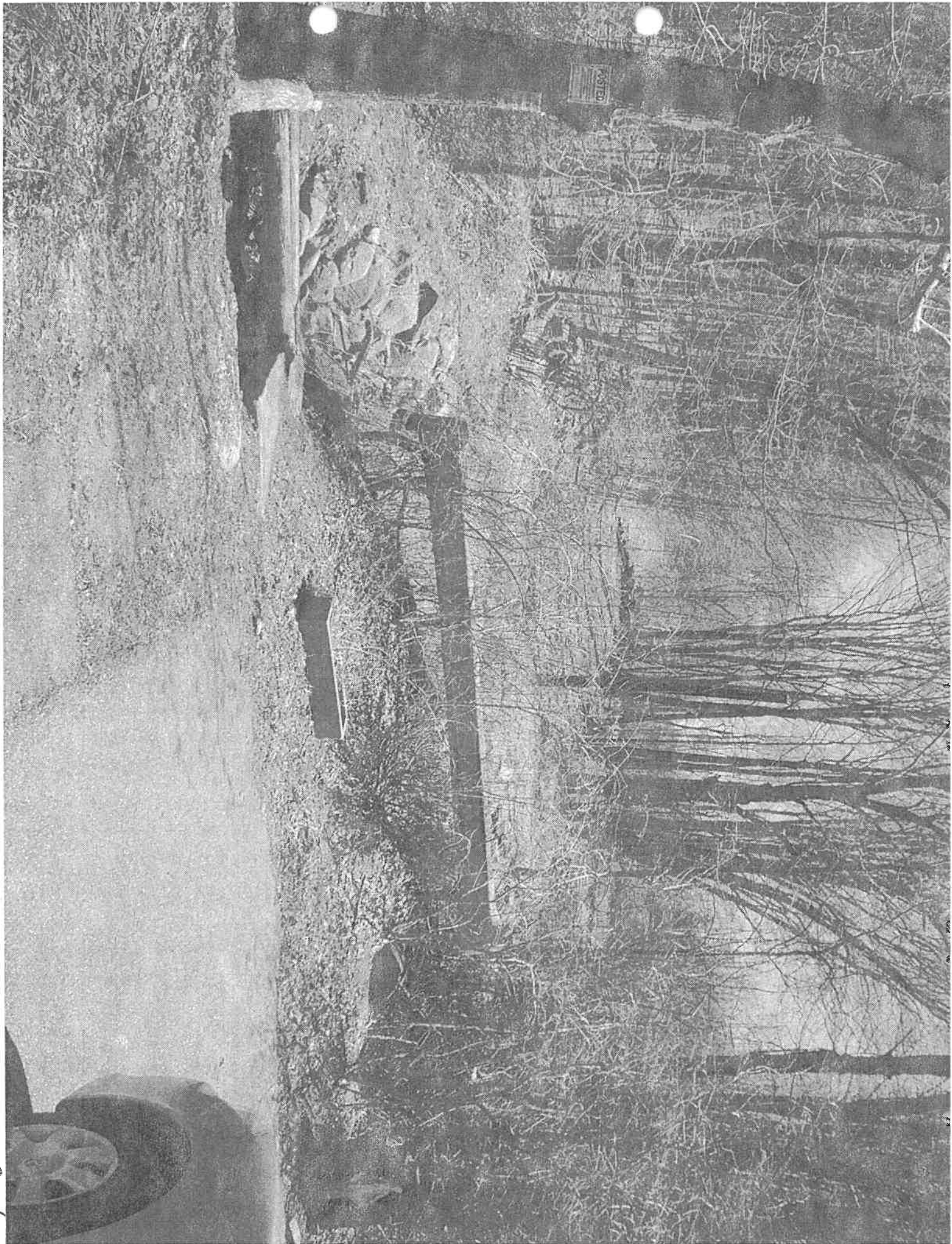
C-2





C-4











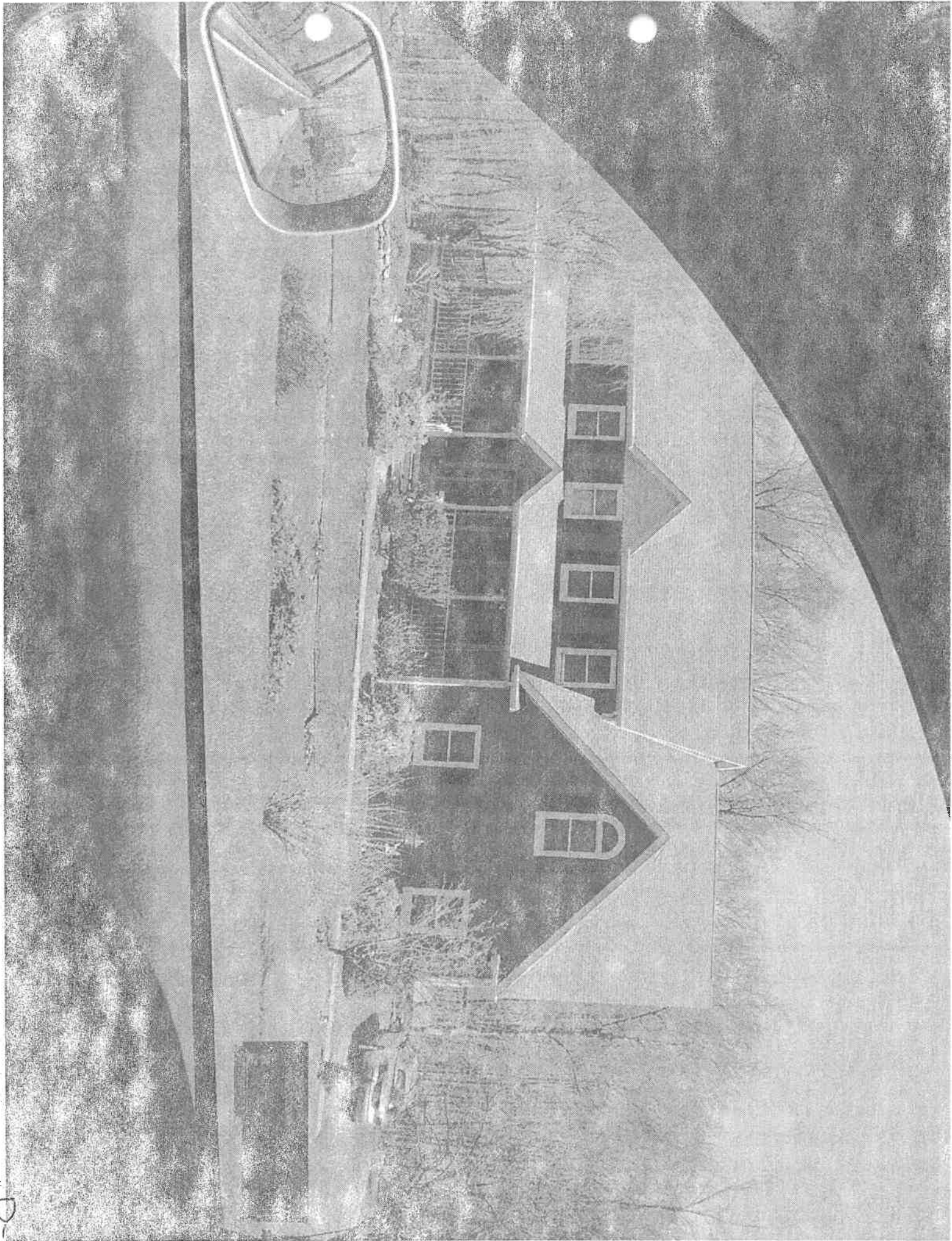




*Exhibit "D"*

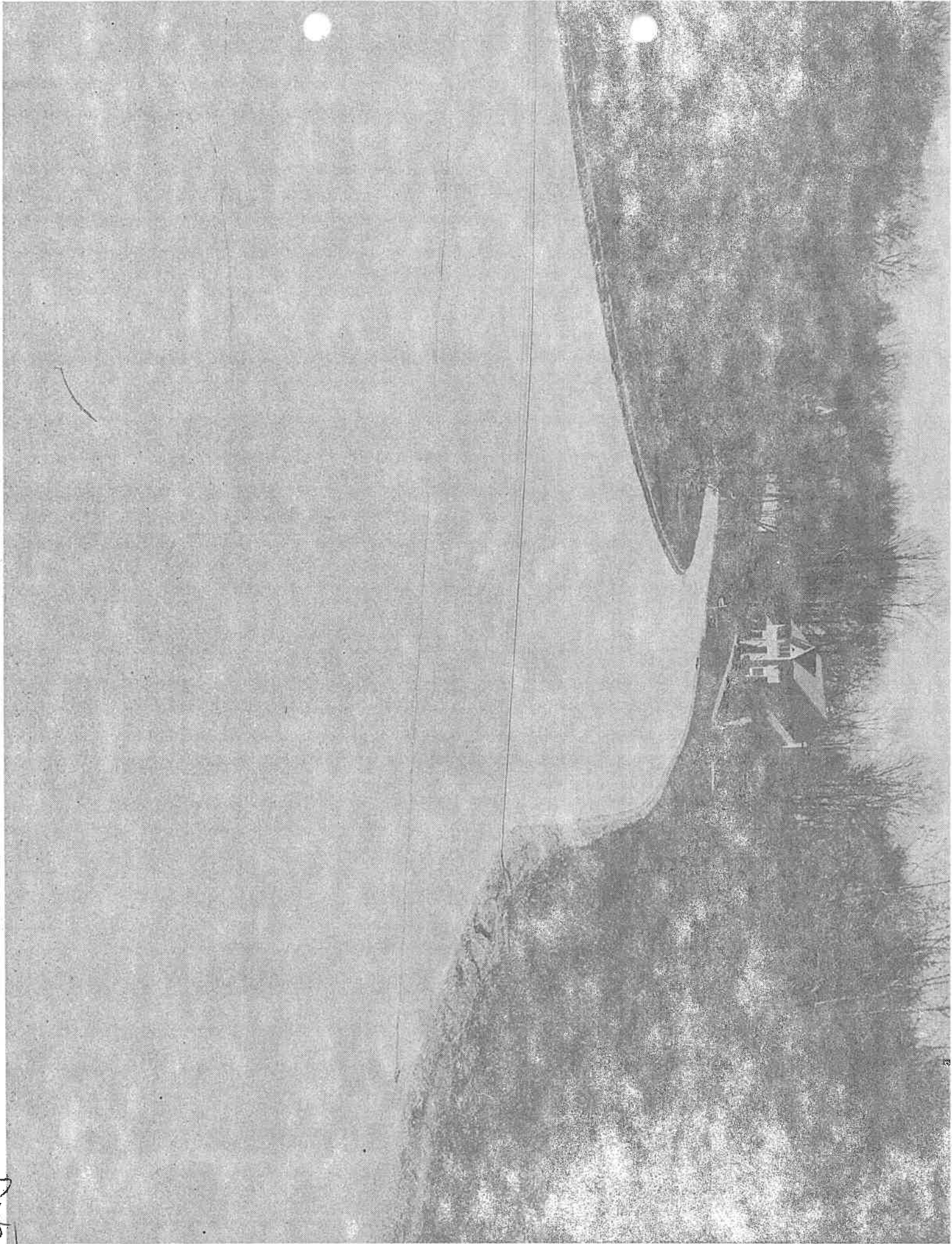






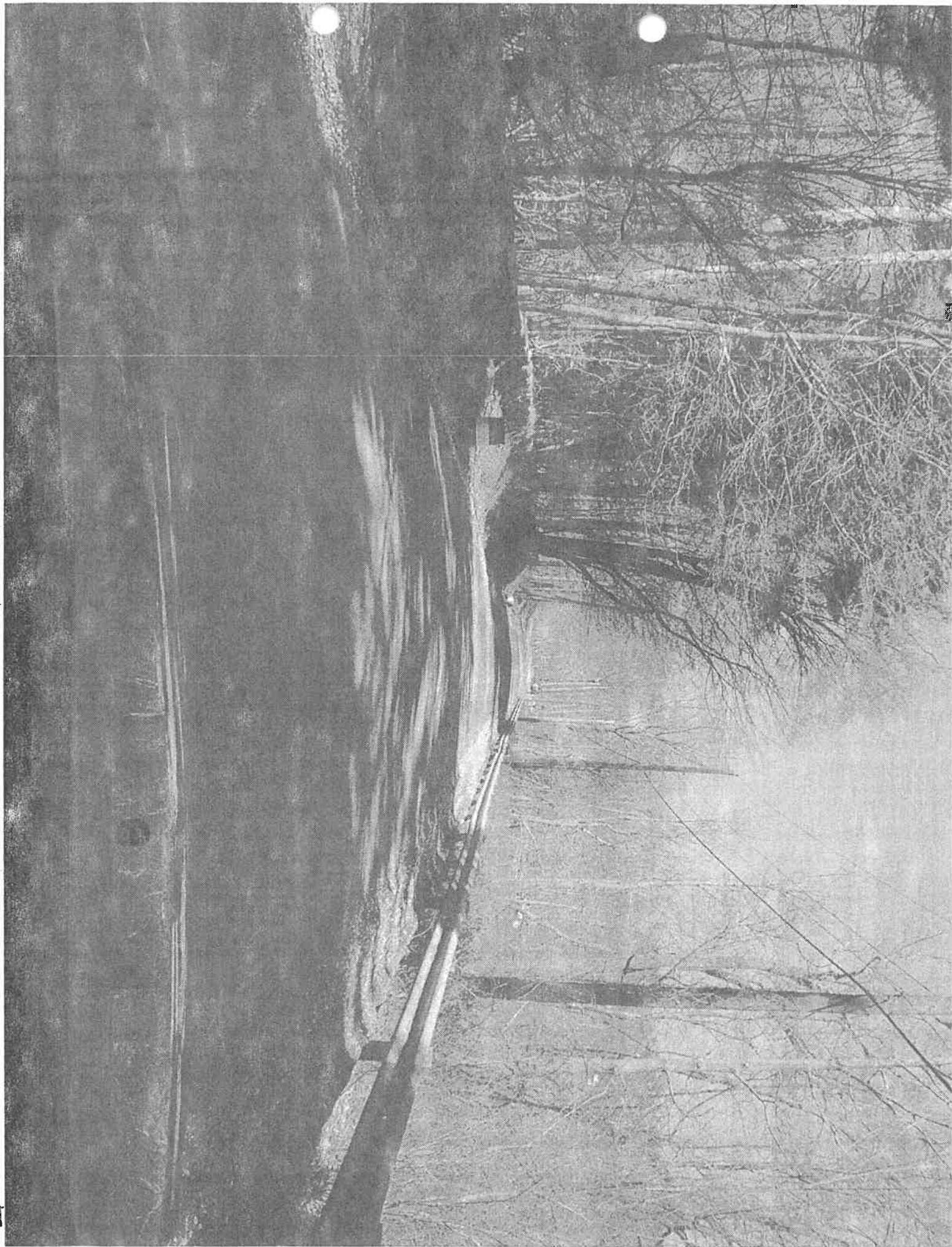


17-01



5-2

*Exhibit "E"*





*Exhibit "F"*

**Town of Southeast  
Highway Department**

10 Palmer Road, Brewster, N.Y. 10509

(845) 279-2141

FAX (845) 279-3226

Kevin Palmer  
Highway Superintendent

March 27, 2009

Supervisor Michael Rights  
Councilman Roger Gross  
Councilman Dick Honeck  
Councilman Paul Johnson  
Councilman Dwight Yee

Re: Access to Kelly Road

Dear Town Board Members:

In my capacity as the Acting/Interim Highway Superintendent for the Town of Southeast (the "Town"), I have given serious thought about the best way to address the concerns raised regarding the condition of Maple Road and the surrounding area. As you are all aware, there is a very distinct and vocal difference of opinion among the affected residents regarding the future of Maple Road and it is my hope to address as many of these concerns as possible without further polarizing the community.

Working with Councilman Dick Honeck and Town Attorney Willis Stephens, I have completed an extensive review of Town and County records concerning Enoch Crosby Road. Through this we have determined that the roadway that connects Enoch Crosby Road to Kelly Road in the Town of Carmel remains a *bona fide*, mapped town highway. This road was regularly maintained until sometime in the late 1950's and, for reasons that are not quite clear, the Southeast Town Highway Department stopped regular maintenance of a portion of the this road. However, I have concluded that the road has never been abandoned or formally closed in accordance with the proper procedures set forth in the Highway Law.

I recently commissioned a survey of the Town's right of way to the Carmel Town line and Kelly Road which concluded that the paved portion of Kelly Road extends into the Town of Southeast several yards. In addition, the barrier apparently erected by the Town of Carmel Highway Department is actually within the Town of Southeast.

It is my belief that the best and most effective way to address the concerns of this community would be to improve the portion of the Town Right of Way connecting Enoch Crosby Road to the Carmel Town Line and Kelly Road. It is my considered opinion that the improvement of this stretch of highway will provide a necessary and appropriate alternative method of egress to and from Enoch Crosby Road for use by motorists and emergency vehicles alike. This will not only address the "convenience" aspect of movement in this region of Town, it will enhance the health, safety and welfare of our residents by affording a more reliable and direct route to area health care facilities. It is also my opinion that this roadway can be improved to an appropriate standard at a cost far less than that which would be required if we were to undertake to improve and pave Maple Road.

F

MAR-27-2009 01:29P FROM:

TO: 918882549348

P.2

I therefore request that the Town Board appropriate to the Highway Department an amount not to exceed \$60,000.00, an amount which the Town Engineer and I estimate to be sufficient to improve the Town Highway between Enoch Crosby Road and Kelly Road to appropriate standards, which will provide residents and emergency vehicles unimpeded access year round.

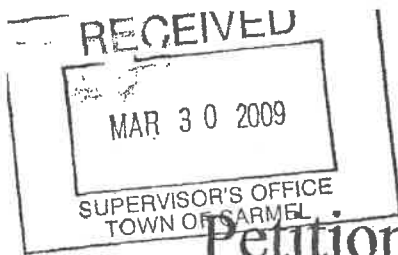
If you have any questions or concerns, please do not hesitate to call.

Sincerely,



Kevin Palmer  
Acting/Interim Highway Superintendent

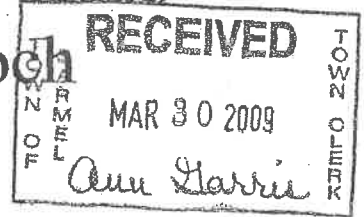
*Exhibit "G"*



cc. Supervisor -

(1)

# Petition Against Opening Kelly Road in Carmel to Connect With Enoch Crosby Road In Brewster



Name	address
1 Jonathan Zamora	2 Peterson Rd - 3 years
2 Court of Naydl	17 Lakeview Rd 18 yrs
3 Dan Lytle	41 Oak Dr. Letter Carrier
4 Susan Amunzues	103 Kelly Rd - 41 yrs!
5 Jan Anzieto	103 Kelly road - 17 years
6 Krista Amunzues	103 Kelly Rd - 15 yrs
7 Angela Natosi	95 Kelly Rd. - 13 yrs.
8 Nick Ferris	95 Kelly Rd. - 13 yrs.
9 Ed Antonacov	95 Kelly Rd - 13 yrs
10 Ann Ann	95 Kelly Rd - 13 yrs
11 MARLENE KHOSROFUR	92 HUGHSON RD 3 yrs.
12 MARIO DINADI	75 Kelley rd. 13 yrs
13 Betting Dinadi	75 Kelley rd. 13 yrs.
14 Steve Ferris	27 Kelley Rd 19 years
15 Jodi Parlato	147 Hughson Rd 12 yrs
16 Jodi Parlato	5 Lakeview Rd - 16 yrs
17 Richard J. Parlato	5 Lakeview Rd - 16 yrs
18 Cathy Ferris	7 Lakeview Rd - 3 yrs

# Petition Against Opening Kelly Road in Carmel to Connect With Enoch Crosby Road In Brewster

(2)

Name	address	
1 Caroline McCormick	12 Lakeview Rd	Carmel
2 Keith Diaro	9 Lakeview Rd	Carmel
3 <del>V. J. Diaro</del>	3 Cross Rd	Carmel 28 yrs.
4 <del>V. J. Diaro</del>	1 cross Rd	Carmel 3 yrs
5 Susan Diaro	1 cross RD	Carmel 3 yrs
6 Maurer Jennings	2 Cross Rd	Carmel 15 yrs
7 M. Whelan	79 Wylton Rd	Carmel 10 yrs.
8 M. Giovinazzo	23 Lakeview Rd	Carmel 37 yrs.
9 W. Schukin	35 LAKEVIEW RD.	Carmel 38 yrs.
10 Djehovic Premick	34 AVERY ROAD	CARMEL
11 MICHAEL GARRITY	23 AUBRY RD	CARMEL, 8 yrs
12 JOSEPH W. E. Roberts	23 AVERY RD	CARMEL 8 yrs
13 Cyrene Berniglia	26 AVERY Rd	35 yrs
14 Dominick Berniglia	26 AVERY Rd.	35 yrs
15 Jim Gavin	19 AVERY ROAD	25 yrs
16 Joseph K. Sregal	13 Avery Rd	40 yrs.
17 Kristin Anderson	20 Avery Rd	40 yrs
18 Jan Prokenczy	14 Avery Rd.	40 yrs.

3

# Petition Against Opening Kelly Road in Carmel to Connect With Enoch Crosby Road In Brewster

Name	address
1 <del>George A. Mueller</del>	117 Kelly Road
2 Margo Mueller	117 Kelly Road
3 GARY RUIZ	10 AVERY ROAD
4 Bultr Conli	59 Lakeview Rd 8
5 Denise Figura	56 Lakeview Rd 7 yrs
6 J. J. [unclear]	52 Lakeview Rd
7 J. Santullo	45 Lakeview Rd 10 yrs
8 Mary E. Coraceni	47 LAKEVIEW Rd 14 years
9 J. [unclear]	47 LAKEVIEW Rd. 14 yrs.
10 Margaret Nudo	39 Lakeview Rd 9 yrs.
11 Julie Kiel	36 Lakeview Rd 44 years
12 [unclear]	33 Lakeview Rd 44 years
13 Elizabeth M. [unclear]	29 Lakeview Rd.
14 Mary Ann Harrington	31 Lakeview Rd 49 years
15 [unclear]	16 Lakeview Rd 40 yrs
16 M. Brady	16 LAKEVIEW RD 43 YEARS
17 Maryann Brady	16 Lakeview Rd Carmel, IN
18 Carolyn A. [unclear]	

4

# Petition Against Opening Kelly Road in Carmel to Connect With Enoch Crosby Road In Brewster

Name	address
1 <u>Larry Dunn</u>	13 LAKEVIEW RD
2 <u>LARSIS BOYA GODA</u>	32 LAKEVIEW RD.
3 <u>Tom Serpe 11 yrs</u>	40 Lakeview Rd
4 <u>Julie Gabors</u>	44 Lakeview Rd
5 <u>Ed Nigui</u>	57 Lakeview Rd. 18 yrs.
6 <u>Loretta Freira</u>	62 Lakeview Rd - 25 yrs.
7 <u>R. LaValle (3 yrs)</u>	28 AVERY RD
8 <u>Pat Lingo</u>	16 AVERY RD 45 yrs.
9 <u>Phyllis Rouse</u>	16 AVERY RD 45 yrs
10 <u>Dorothy [unclear]</u>	4 AVERY RD 45 yrs.
11 <u>Brenda Byn</u>	99 Kelly Rd
12 <u>Jan Hill</u>	103 Kelly Rd 18 yrs
13 <u>Sue Carnahan</u>	55 Lakeview Rd
14 <u>Jeannie Hinchey</u>	6 Avery Rd Carmel 21 yrs
15 <u>Bill Hinchey</u>	6 Avery Rd
16 <u>Ronald Berger</u>	8 Avery Rd.
17 <u>Paul [unclear]</u>	102 Kelly Rd
18	

# Petition Against Opening Kelly Road in Carmel to Connect With Enoch Crosby Road In Brewster

Name	225-4958	address
1	Kristen McGavin	3 Avery Rd Carmel
2	Neil Satow 225-4153	84 Kelly Rd Carmel NY 10512 N.Y.
3	<del>Anthony S. Fransen</del>	44 Kelly Rd Carmel
4	Michelle Velje	5 Avery Rd Carmel NY 10512
5	Anthony Velje	5 Avery Rd Carmel NY 10512
6	Opalyn Frän	25 LaRivier Rd, Carmel, NY 10512
7	Dannette Fransen	91 Kelly Rd Carmel NY 10512
8	Carl Fransen	91 Kelly Rd Carmel NY 10512
9	Paul Fransen	91 Kelly Rd Carmel NY 10512
10	Melissa Bore	91 Kelly Rd Carmel, NY 10512
11		
12		
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16		
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18		

*Exhibit "H"*

**TOWN OF SOUTHEAST**

**John J Dunford Civic Center**

**1360 Route 22, Brewster, New York 10509**

**April 8, 2009**

**6:00 PM**

**Special Meeting**

Salute to the Flag

Call for the Order of the Day

1. O'Connors Pub – Liquor License Waiver
2. Fiesta Mexicana – Liquor License Waiver
3. Road Improvement Funding

*Exhibit "I"*

# Carmel vows to fight Southeast paving project

Marcela Rojas  
mrojas@LoHud.com

Southeast can expect a fight from a neighboring town now that it's decided to pave a section off Carmel's Kelly Road to satisfy one of its own longtime roadway problems.

The Town Board voted 3-2 last week to pay for blacktopping a former road owned by Southeast that connects to Enoch Crosby Road, Kelly Road, which is off of Stoneleigh Avenue, dead ends at that wooded, closed-off portion. Traffic would have to move through the small neighborhood, providing an alternative to Maple Road for Southeast's Crosby Hill residents.

The board's controversial decision comes after deliberation about what to do with Maple Road, one of the last scenic dirt stretches in the town that some residents want paved and others want preserved. The town had three options and went with the alternative that costs \$540,000 less than paving Maple Road.

"It's an existing town road," said Town Councilman Paul Johnson, who voted in favor of the measure. "It would augment the safety of the community and Carmel would benefit from the route diversity."

But Kelly Road residents and some Carmel officials vehemently disagree, arguing it would bring additional traffic and hazards to their streets.

Carmel Supervisor Ken Schmitt called Southeast's action "immoral" and an "abomination," and guaranteed litigation.

Schmitt attended the Southeast Town Board's meeting Wednesday night, which he said was quietly scheduled, and asked the group to defer the vote, in addition to offering Carmel's services to help find other alternatives.

"They could care less about what I had to say or what the residents had to say," Schmitt said. "They've created a problem and a hardship in a neighboring town."

Some have complained the Town Board's meeting was not properly publicized. Kelly Road resident George Mueller said he only learned about the meeting shortly before it started and got about 20 neighbors to attend. A notice of the town's special meeting was published in The Journal

News on Wednesday, the day of the meeting.

"I'm disgusted with them," Mueller said of the board. "You're going to increase the traffic and possibly kill a child for nothing."

Many children ride bikes and play at the end of Kelly Road. Schmitt estimated that an additional 150 to 200 cars will travel through there.

The Maple Road saga started in 2003 and reached a fever pitch early last month when several dozen residents

attended a Southeast Town Board meeting to air their concerns about the safety of the dirt and gravel byway. The road hugs the western shore of the Middle Branch Reservoir and connects to some 60 homes on Enoch Crosby Road.

Pro-pavers argued the stretch is dangerous to drive on because of deep ruts that make cars and school buses difficult to control. Those who want to preserve Maple Road countered that paving would

be less safe because drivers would speed on the narrow roadway, which has blind curves.

Since then, Town Councilman Richard Honeck and acting Highway Superintendent Kevin Palmer said paving the Enoch Crosby Road extension was the best solution.

It would cost about \$60,000 to pave the 450-foot section off Kelly Road and \$600,000 to pave about a half-mile section of Maple Road, Palmer said. Another option the town con-

sidered was opening up Peter Road, a closed-off emergency road that leads into Southeast's Mafnell Estates, but one that Palmer said was inadequate.

Town officials indicated they still plan to work on making Maple Road safer.

"This is a two-pronged effort," Johnson said. "We want both roads improved."

Maple Road resident Don Cuomo said while he's happy Maple will not be paved, he was surprised by the Town

Board's decision.

Town Councilman Dwight Yee, who voted against the measure with Supervisor Michael Rights, said he was disappointed with the board's decision.

"After years of avoiding the tough issue, they suddenly snap their fingers to make it better. But, in fact, they put it in someone else's lap," Yee said.

"Now we have another legal battle on our hands to deal with nonsense," he said.

I  
after  
easter  
clearance

All stores closed today.

Be here tomorrow  
when the doors open  
for best selections!

FOR HER:

65%-70% off  
misses' suits

Pantsuits, skirtsuits & more.

Orig.\* \$200-\$360, now 69.99-99.99.

65% off  
handbags

Selected hobos, satchels, more.

Orig.\* \$18-\$248, now 6.30-86.80.

50% off  
shoes for her

Selections from our clearance racks.

*Exhibit "J"*

THE PUTNAM COUNTY LEGISLATURE

40 Gleneida Avenue

Carmel, New York 10512

(845) 225-3641 Fax: (845) 225-0715

Tony Hay *Chairman*  
Vincent Tamagna *Deputy Chair*  
M. Chris Marrone *Clerk*  
Clement Van Ross *Counsel*



Vincent Tamagna	Dist. 1
Sam Oliverio, Jr.	Dist. 2
Richard T. Othmer, Jr.	Dist. 3
Mary F. Conklin	Dist. 4
Mary Ellen Odell	Dist. 5
Tony Hay	Dist. 6
Daniel G. Birmingham	Dist. 7
Dini LoBue	Dist. 8
Anthony S. Fusco II	Dist. 9

April 14, 2009

Hon. Kenneth R. Schmitt  
Town of Carmel  
60 McAlpin Avenue  
Mahopac, NY 10541


Dear Supervisor Schmitt:

As an elected official who represents the residents of Kelly Road in Carmel, I am writing to state that I wholeheartedly support your position to NOT open up Kelly Road to gain access to the Southeast neighborhood located off of Maple Road located in the Town of Southeast.

Although I am sympathetic to the concerns and issues present in the matter of whether to pave Maple Road or not, it would not be in the best interest and safety of the children and residents who live on Kelly Road to open that road. As elected officials representing the people who live on Kelly Road, I believe it is our duty to do all that we can to prevent these families and their children from bearing the burden to resolve a neighboring Town's issue.

If I can be of any assistance, please do not hesitate to contact me.

Regards,

  
Mary Ellen Odell  
Putnam County Legislator  
District #5

cc: Carmel Town Board Members

/det

15

**Chris Baxter**

---

**From:** Ohboy49@aol.com  
**Sent:** Monday, April 13, 2009 2:47 PM  
**To:** Pasquerello, Anne  
**Subject:** Road

Dear Carmel Town Board:

I am a resident of 11 years residing at 40 Lakeview Road in the Red Oak Ridge section of Carmel.

I have been made aware that the town of Southeast plans on connecting Enoch Crosby Road in Brewster to Kelly Road in Carmel.

**I want you to know that I strongly oppose this and am entrusting you to make sure that this does not happen to our community.**

The town of Southeast needs to come up with their own plan without affecting the residents of Carmel. This plan should have been in action way before the Enoch Crosby community was even built. And I know there are other alternatives for the town of Southeast to access Enoch Crosby Road utilizing Southeast Roads: **Why put the burden of Enoch Crosby on Carmel residents?** Does that seem fair? Not at all.

I am signing a petition against opening Kelly Road in Carmel to connect with Enoch Crosby Road in Brewster.

Signed:

Thomas Serpe

40 Lakeview Road

Carmel, NY

4/16/2009

✓

---

**The Average US Credit Score is 692. See Yours in Just 2 Easy Steps!**

**Chris Baxter**

---

**From:** Caraceni Family [caraceni@onepost.net]  
**Sent:** Wednesday, April 15, 2009 7:49 AM  
**To:** Pasquerello, Anne; crmlhwy@bestweb.net; jk@ci.carmelny.us; polcapt@bestweb.net; gball@ball4ny.com; robert.bondi@putnamcountyny.com; john.full@putnamcountyny.gov; john.house@putnamcountyny.gov; putcoleg@putnamcountyny.gov; lisa.denig@putnamcountyny.gov  
**Subject:** Enoch Crosby Road

Dear Carmel Town Board:

We are 14 year residents of Carmel residing at 47 Lakeview Road in the Red Oak Ridge section.

We have been made aware that the town of Southeast plans on connecting Enoch Crosby Road in Brewster to Kelly Road in Carmel.

**We want you to know that we strongly oppose this and are entrusting you to make sure that this does not happen to our community.**

The town of Southeast needs to come up with their own plan without affecting the residents of Carmel. This plan should have been in action way before the Enoch Crosby community was even built. And I know there are other alternatives for the town of Southeast to access Enoch Crosby Road utilizing Southeast Roads. **Why put the burden of Enoch Crosby on Carmel residents?** Does that seem fair? Not at all.

We are signing a petition against opening Kelly Road in Carmel to connect with Enoch Crosby Road in Brewster.

Signed:

Edmund & Mary Ellen Caraceni  
47 Lakeview Road  
Carmel, NY

4/16/2009

J

**Chris Baxter**

---

**From:** Lynn Stoecker [lstoecker2@verizon.net]  
**Sent:** Monday, April 13, 2009 11:43 AM  
**To:** Pasquerello, Anne; crmlhwy@bestweb.net; jk@ci.carmelny.us; polcapt@bestweb.net; gball@ball4ny.com; robert.bondi@putnamcountyny.com; john.tull@putnamcountyny.gov; john.house@putnamcountyny.gov; putcoleg@putnamcountyny.gov; lisa.denig@putnamcountyny.gov; robert.bondi@putnamcountyny.gov  
**Cc:** gamueller1962@aol.com  
**Subject:** Enoch Crosby Rd

Dear Carmel Town Board:

I am a resident of 10 years residing at 42 Lakeview Road in the Red Oak Ridge section of Carmel.

I have been made aware that the town of Southeast plans on connecting Enoch Crosby Road in Brewster to Kelly Road in Carmel.

**I want you to know that I strongly oppose this and am entrusting you to make sure that this does not happen to our community.**

The town of Southeast needs to come up with their own plan without affecting the residents of Carmel. This plan should have been in action way before the Enoch Crosby community was even built. And I know there are other alternatives for the town of Southeast to access Enoch Crosby Road utilizing Southeast Roads. **Why put the burden of Enoch Crosby on Carmel residents?** Does that seem fair? Not at all.

I am signing a petition against opening Kelly Road in Carmel to connect with Enoch Crosby Road in Brewster.

Signed:

Lynn & Ed Stoecker  
42 Lakeview Road  
Carmel, NY

**Chris Baxter**

---

**From:** Robin Errico [rerrico2@comcast.net]  
**Sent:** Wednesday, April 08, 2009 3:34 PM  
**To:** Pasquerello, Anne; crmlhwy@bestweb.net; Karell, Jack; robert.bondi@putnamcounty.ny.com  
**Subject:** Kelly Road

We are writing to request that the Town of Southeast NOT be allowed to connect Kelly Road to Enoch Crosby Road. How dare they decide that cutting into our nice, quiet neighborhood is the solution to their problem! We have lived here for 20 years and do not want to see this change made. There are many small children that live right on Kelly Road, whose parents bought their because of the lack of traffic. This is especially unsafe and unfair to them.

If Southeast still has unpaved roads, then they need to step into current times. We are no longer "up the country" here in Putnam, and all main roads should be paved.

Robin Errico  
James Errico  
James Errico, Jr.  
Jeremy Errico  
Ernest Neydl  
Lakeview Road  
Carmel, NY 10512

**Chris Baxter**

---

**From:** DAVID SHEEDY [dsheedy@verizon.net]  
**Sent:** Thursday, April 02, 2009 6:10 PM  
**To:** Pasquerello, Anne  
**Subject:** Kelly Road/Enoch Crosby Rd Connection

Dear Sir,

As a resident of Lakeview Road I am **extremely opposed** to the connection of Kelly Rd and Enoch Crosby Road. Looking at an overhead view I see they also have access to Peter Road to the south. Let them access there or pave Maple Road.

What is your stance on this issue?

Kind Regards,

David Sheedy  
1 Lakeview Rd  
Carmel, NY. 10512

4/16/2009

J

*Exhibit "K"*

RICHARD T. OTHMER  
Supervisor

DORIS STAHL  
Councilwoman

FRANK J. DEL CAMPO  
Councilman

KARL G. BECKER  
Councilman

ROBERT J. RAVALLLO  
Councilman

# TOWN OF CARMEL

Town Hall  
Mahopac, New York 10541

914/628-1500

GEORGE H. BURGESS P.E. &  
Town Engineer

CONSTANCE KING  
Town Clerk

MARY KRISTENSEN  
Receiver Of Taxes

RONALD J. DE FRANCESCO  
Supt. Of Highways  
628-7474

October 24, 1988

Southeast Planning Board  
1 Main Street  
P.O. Box 36  
Brewster, New York 10509

RE: SOUTHEAST ACRES, ENOCH CROSBY ROAD, BREWSTER, NEW YORK 10509

Attn: Mr. Robert Callahan, Chairman Southeast Planning Board

Dear Sir:

We have reviewed the Draft Environmental Impact Statement (D.E.I.S.) for the captioned project - two (2) volumes and we have the following comments:

1. The Engineer has designed the storm drainage "A" so that the 50 year and 100 year storms will "pass" the retention basin over a 47 feet, in length, by 2 feet high broad crested weir. Has this been approved by the Soil Conservation Service of Putnam County and the Southeast Town Engineer?
2. How will water runoff collected from the 50 year and 100 year frequency storms be able to pass thru a 36" culvert while the 15" and 24" storm drain pipes are also flowing from the retention basin?
3. What are the mitigation measures to prevent flooding to the abutting home owners during a 50 year or 100 year storm?
4. We are asking the Planning Board not to consider the "Alternate Access" of extending Enoch Crosby Road into Carmel and connected to Hartwell Road (A.K.A. Kelly Road on the official Town Map) and to consider the Engineer's proposal of providing a right angle turn onto Enoch Crosby Road and landscaping the remaining portion of Enoch Crosby Road to the Carmel Town line.

*Recd 10/24/88*

Index No.

Year 20

SUPREME COURT STATE OF NEW YORK  
COUNTY OF PUTNAM

GEORGE MUELLER, MARGO MUELLER, FRANK DEL GROSSO, HELEN  
DEL GROSSO, THE TOWN OF CARMEL and MICHAEL SIMONE, et al.,

Petitioners,

-against-

TOWN BOARD OF THE TOWN OF SOUTHEAST, ET AL.,

Respondents.

ORDER TO SHOW CAUSE and PETITION

**DANIELS AND PORCO, LLP**  
ATTORNEYS AT LAW

Attorneys for

Petitioner, The Town of Carmel and Michael

Simone  
BARRISTER HALL  
102 GLENEIDA AVENUE  
CARMEL, NEW YORK 10512-1203  
PHONE (845) 225-8404  
FAX (845) 225-4262

Pursuant to 22 NYCRR 130-1.1-a, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, (1) the contentions contained in the annexed document are not frivolous and that (2) if the annexed document is an initiating pleading, (i) the matter was not obtained through illegal conduct, or that if it was, the attorney or other persons responsible for the illegal conduct are not participating in the matter or sharing in any fee earned therefrom and that (ii) if the matter involves potential claims for personal injury or wrongful death, the matter was not obtained in violation of 22 NYCRR 1200.41-a.

Dated: April 17, 2009

Signature 

Print Signer's Name Robert C. Lusardi, Esq.

Service of a copy of the within is hereby admitted.

Dated:

Attorney(s) for

PLEASE TAKE NOTICE

Check Applicable Box

NOTICE OF ENTRY that the within is a (certified) true copy of a entered in the office of the clerk of the within-named Court on 20

NOTICE OF SETTLEMENT that an Order of which the within is a true copy will be presented for settlement to the Hon. , one of the judges of the within-named Court, at 20 , at M.

Dated: 629577.1

**DANIELS AND PORCO, LLP**  
ATTORNEYS AT LAW

Attorneys for

BARRISTER HALL  
102 GLENEIDA AVENUE  
CARMEL, NEW YORK 10512-1203

To:

**THE STEPHENS LAW FIRM PLLC**

*Attorneys at Law*

328 Clock Tower Commons  
Brewster, NY 10509  
(845) 279-4226  
(845) 279-7154 (fax)

**PRIVILEGED AND CONFIDENTIAL**

RECEIVED  
SOUTHEAST TOWN CLERK

9-20-11

(L.D.)

Nanci K brought to  
our office 2 years  
later (L.D.)

TO: Southeast Town Board  
FROM: Willis H. Stephens, Jr.  
RE: Mueller, et al. v. Town Board, et ano.  
DATE: May 13, 2009

As you are aware, in response to the Town Board's decision to appropriate funds to repair the connection between Enoch Crosby Road and Kelly Road in Carmel, the Carmel Town Board, Highway Super and some local residents commenced a proceeding in Putnam County Supreme Court to enjoin the fixing of this road.

This matter was brought via Order to Show Cause containing a temporary restraining order (TRO) keeping the *status quo ante* until a hearing and determination of the matter.

The Petitioner allege that the Town's actions were illegal because:

- a) The Town didn't properly comply with the State Environmental Quality Review Act (SEQRA) before taking action;
- b) Southeast didn't comply with the provisions of General Municipal Law Section 239-m which requires the referral of certain land use matters to the county planning agencies before approving or undertaking some;
- c) Southeast violated the Public Officer's Law by not properly noticing the meeting;
- d) Southeast "obstructed" access to public records;
- e) Enoch Crosby Road has been "abandoned"; and
- f) That the Superintendents of Highway of the two towns should have conferred in advance of the road improvement and, if they couldn't agree, that the matter should have been referred to the Supreme Court to mediate (Highway Law Section 184).

On behalf of Southeast, I have filed responsive pleadings including:

- 1) An Answer and Counterclaims seeking injunctive relief directing the Town of Carmel to remove the barricade it constructed on Kelly Road;
- 2) Affidavit of Kevin Palmer;
- 3) Affidavit of Ruth Mazzei; and
- 4) Memorandum of Law

Under cover of this memo I am delivering a set of our papers at the Supervisor's office. If anyone wishes to familiarize themselves with the nature and extent of the Town's opposition,

I expect Petitioners to submitted a Reply (and answer our counter claim).

We were scheduled to appear on May 15, 2009, but the return has been further adjourned by the Court until Wednesday, May 27. The Judge has directed that personal appearances are required. This means that he may take oral argument on the matter or he may have a discussion "in chambers" ... if it is determined that an evidentiary hearing is necessary, Judge O'Rourke will schedule same at that time.

Let me know if you have any particular questions or comments.

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF PUTNAM**

-----X  
GEORGE MUELLER, MARGO MUELLER, FRANK  
DEL GROSSO, HELEN DEL GROSSO, THE TOWN  
OF CARMEL and MICHAEL SIMONE, Highway  
Superintendent of the Town of Carmel,

Petitioners,

- against-

THE TOWN BOARD OF THE TOWN OF  
SOUTHEAST and KEVIN PALMER, Interim Highway  
Superintendent of the Town of Southeast,

Respondents.  
-----X

Index No. 1055/09

Assigned Judge:  
Hon. Andrew P. O'Rourke

**MEMORANDUM OF LAW  
IN OPPOSITION TO THE PETITION**

WILLIS H. STEPHENS, JR., ESQ.  
Attorney for Respondents  
Town Board of the Town of Southeast and  
Kevin Palmer, Interim Highway Superintendent  
328 CLOCK TOWER COMMONS  
BREWSTER, NEW YORK 10509  
(845) 279-4226

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF PUTNAM**

-----X  
GEORGE MUELLER, MARGO MUELLER, FRANK  
DEL GROSSO, HELEN DEL GROSSO, THE TOWN  
OF CARMEL and MICHAEL SIMONE, Highway  
Superintendent of the Town of Carmel,

Index No. 1055/09

Petitioners,

Assigned Judge:  
Hon. Andrew P. O'Rourke

- against-

THE TOWN BOARD OF THE TOWN OF  
SOUTHEAST and KEVIN PALMER, Interim Highway  
Superintendent of the Town of Southeast,

Respondents.

-----X

**PRELIMINARY STATEMENT**

This Memorandum is submitted on behalf of the Town Board of the Town of Southeast ("Town Board") and Kevin Palmer, the Interim Highway Superintendent of the Town of Southeast, in opposition to the Petition in the above captioned CPLR Article 78 proceeding which seeks, *inter alia*, to permanently enjoin the Town of Southeast from improving and maintaining a portion of a town highway known as Enoch Crosby Road. In addition, this Memorandum is submitted in support of the Respondent's cross-petition which seeks to compel the Petitioners, Town of Carmel and Michael Simone, Carmel's Highway Superintendent, to remove the barriers or barricades wrongfully erected by the Petitioners on Kelley Road to block access from the Town of Southeast to the Town of Carmel.

## STATEMENT OF FACTS

Enoch Crosby and Kelley Roads have existed in the Towns of Carmel and Southeast since before the Civil War. (Palmer Affidavit, ¶¶ 11-14)<sup>1</sup>. Historically, this road ran from its easterly terminus at Maple Road in the Town of Southeast to its westerly terminus at what is now known as Stoneleigh Avenue. These roads (originally known as Kelley Road from beginning to end) have since become known as Kelley (or Kelly) Road within the Town of Carmel and Enoch Crosby Road (named for the famous Revolutionary War spy whose farmstead is still located at the easterly terminus of the road) within the Town of Southeast. (Palmer Affidavit ¶¶ 11-13).

Up to the early 1970's Enoch Crosby and Kelley Roads were substandard, unimproved (non-paved) roads. In the 1970's the surrounding areas became developed in both towns and portions of Kelley Road and Enoch Crosby Road were paved to facilitate the development of adjoining lands.

Due to the limited amount of use of the full length of Kelley-Enoch Crosby Road, the Town of Southeast Highway Department provided limited maintenance to portions of the road within its borders. (Palmer Affidavit ¶ 9).

In or about 1991 a parcel of property was subdivided into 49 single family residential lots known as the "Crosby Hill" subdivision. As part of the subdivision approval, the developer of Crosby Hill was required to make certain improvements to Enoch Crosby Road including widening and paving. It was determined at the time that it was not necessary to cause the developer to improve the full length of Enoch Crosby Road and, as a result, a 450 foot length of Enoch Crosby Road from the point where it intersects with the Crosby Hill Subdivision roads to the point Enoch Crosby reaches the Carmel Town Line was permitted to remain in an

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<sup>1</sup> References to the "Palmer Affidavit" refer to the affidavit of Respondent Kevin Palmer, Interim Highway Superintendent of the Town of Southeast, sworn to May 7, 2009.

unimproved state. At some undetermined point in time between 1973 and 1991 a rudimentary barricade was erected near the end of Enoch Crosby Road where it crosses into the Town of Carmel. (Palmer Affidavit ¶ 16).

Maple Road is a scenic dirt road that follows the westerly shore of the Middle Branch Reservoir. In fact, Maple Road is laid out on lands owned by the City of New York and is part of the City's watershed. Over the years it has become more and more difficult to keep Maple Road in a smooth and unimpaired condition, especially in late winter and early spring. Residents from Enoch Crosby Road and Crosby Hills find it difficult to travel upon Maple Road at certain times of the year without getting stuck in ruts or damaging their motor vehicles. The Southeast Highway department expends extraordinary amounts of time, effort and financial resources in its effort to keep Maple Road open and passable at all times of the year. (Palmer Affidavit ¶¶ 6-7).

There has been a perennial debate about whether the Town of Southeast should "pave" Maple Road. Many area residents feel it should be paved because when the weather is harsh, the road becomes virtually impassable and a significant threat to the health, safety and welfare of those who live on Enoch Crosby Road and in the Crosby Hills Subdivision. It is conservatively estimated that it will cost in the range of \$600,000.00 to improve and pave a portion of Maple Road from the point Maple meets Enoch Crosby to the point where pavement on Maple resumes near the Carmel Town Line. (Palmer Affidavit ¶7). There are many who feel that Maple Road should remain "unpaved" as it represents one of the few remaining "dirt" roads in the Town of Southeast and the region. It is undisputed that Maple Road provides a significant resource for aesthetic and recreational purposes.

This is a dilemma which has been wrestled with by at least three Southeast Highway Superintendents in recent years. Showing some level of foresight, the Southeast Planning Board

reserved and “emergency access easement” over portions of lands within the Crosby Hill Subdivision to allow a method of egress from the Crosby Hill “loop” road if, for some reason, Enoch Crosby Road or Maple Road becomes completely blocked. In such event, the emergency access barrier at the end of the easement could be breached and vehicles could access Peter Road to get to Maple and Drewville Roads. (Palmer Affidavit ¶ 8).

In analyzing alternatives to solve the community transportation issues, the Southeast Highway Superintendents have rejected the Peter Road connection as an alternative egress for several material reasons. Being that the “emergency access easement” to Peter Road is just that, an easement, the cost to open this avenue as a permanent alternative route would be equally costly. The Town would be forced to acquire the road bed within the easement area from the adjoining owners and improve the road by installing appropriate sub-base and pavement. Additionally, Peter Road is a neighborhood road characterized by tight curves and steep grades in spots which militates against increasing the traffic volume through this speculative alternative route. (Palmer Affidavit ¶ 8).

In or about February, 2009, Respondent Kevin Palmer was named Interim Highway Superintendent of the Town of Southeast. (Palmer Affidavit ¶5). Superintendent Palmer brought with him to the job a fresh perspective and a unique understanding of the historic road patterns of the Town of Southeast in general and Enoch Crosby Road, in particular. After analyzing the alternatives, including the cost and level of impact on surrounding communities, Superintendent Palmer concluded that he could best resolve the concerns of safe ingress and egress by improving the portion of Enoch Crosby Road that connects to Kelly Road at the Town of Carmel line. This relatively short (450 feet) portion of Enoch Crosby Road, in Mr. Palmer’s estimation, could be rehabilitated and brought to current standard for approximately \$60,000.00.

Before commencing the work to rehabilitate this Town Road and knowing the 2009 Highway Department Budget did not include this extraordinary capital project, by letter dated March 27, 2009 Superintendent Palmer requested that the Southeast Town Board appropriate the sum of \$60,000.00 to the Highway Department for the purpose of improving a portion of Enoch Crosby Road. (Palmer Affidavit ¶¶ 17-18).

Knowing that the Highway Superintendent wished to move quickly to resolve the nagging dilemma presented by the limited access to Enoch Crosby Road, the Town Board added the funding request to a Special Meeting agenda set for April 8, 2009. (Mazzei Affidavit ¶¶ 3-4)<sup>2</sup>.

At a meeting of the Town Board held April 8, 2009, the Town Board considered the various potential impacts the improvement of Enoch Crosby Road might have and concluded that the road improvement would not be likely to have a significant impact on the environment. The Town Board, thereafter, appropriated the funds necessary to the Southeast Highway Department to complete the project. (Mazzei Affidavit ¶¶ 5-9).

The Town of Carmel and some of the Carmel residents in the vicinity of Kelley Road have objected to this action by the Town of Southeast and the instant proceeding ensued.

## POINT I

### **PETITIONERS' RELIANCE UPON GENERAL MUNICIPAL LAW § 239-M IS MISPLACED**

Petitioners claim that the Town of Southeast should have complied with Section 239-m of the General Municipal Law ("GML") before undertaking to fund and improve Enoch Crosby

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<sup>2</sup> References to "Mazzei Affidavit" refer to the Affidavit of Ruth A. Mazzei, Town Clerk of the Town of Southeast, sworn to on May 7, 2009 and submitted herewith in further opposition to the Petition.

Road. (See, Petitioners' Memorandum of Law, Point D). GML Section 239-m requires municipalities that are undertaking to review and or approve certain actions relating to use of real property located within 500 feet of certain facilities or an adjoining town border to make a referral of such proposed action to a county or regional planning agency, if one exists. GML § 239-m provides, in pertinent part:

3. Proposed actions subject to referral. (a) The following proposed actions shall be subject to the referral requirements of this section, if they apply to real property set forth in paragraph (b) of this subdivision:

(i) adoption or amendment of a comprehensive plan pursuant to section two hundred seventy-two-a of the town law, section 7-722 of the village law or section twenty-eight-a of the general city law;

(ii) adoption or amendment of a zoning ordinance or local law;

(iii) issuance of special use permits;

(iv) approval of site plans;

(v) granting of use or area variances;

(vi) other authorizations which a referring body may issue under the provisions of any zoning ordinance or local law.

The action complained of in this proceeding is that the Town Board of the Town of Southeast appropriated \$60,000.00 to the Highway Department to allow the Superintendent of Highways to undertake the rehabilitation of a 450 foot stretch of Enoch Crosby Road, a road that has been mapped and in existence running between the towns of Southeast and Carmel since before the Civil War.

The action of the Town Board (and, ultimately the actions of the Town Highway Department in improving Enoch Crosby Road) does not fall within the above-enumerated actions which would trigger the need to make a referral to the County Planning Department. The proposal does NOT (i) entail the adoption or amendment of a Comprehensive Plan; (ii) adopt or

amend a zoning code or ordinance; (iii) issue a special use permit; (iv) adopt or approve a proposed site plan; (v) grant an area or use variance; or (vi) constitute any “authorization” issued under the Town of Southeast zoning code.

The Town Board appropriated funds so that the Highway Superintendent could do his job and repair a neglected portion of an existing town highway. It is clear on the “black letter” of GML § 239-m that its provisions do not apply here and the Petitioner’s reliance thereon is misplaced.

## POINT II

### **SEQRA WAS COMPLIED WITH BEFORE THE TOWN BOARD RESOLVED TO FUND THE PROJECT**

The State Environmental Quality Review Act (“SEQRA”), and the regulations promulgated pursuant thereto require municipalities to review the environmental consequences of proposed actions at an early point in the process to undertake or fund certain activities. ECL Article 8; 6 NYCRR § 617, *et seq.*

The Petitioners have mischaracterized the action of the Town of Southeast as the “extension” of Enoch Crosby Road. Enoch Crosby Road is a historic and long existing road that has connected the towns of Carmel and Southeast for the better part of two centuries. It is not being “extended” as it currently, and has always, run from Maple Road to the Carmel town line. This fact has been established by substantial evidence. (*See, Palmer Affidavit*, ¶¶ 11-14 together with the Exhibits annexed thereto). In fact, the Town of Southeast is only seeking to improve a relatively small portion of this road and re-establish the link between the two towns that had been severed at some point in time by the illegal actions of the Town of Carmel. (*Palmer Affidavit*, ¶ 24).

In point of fact, before voting to appropriate the funds to the Highway Department, the Southeast Town Board, in compliance with the provisions of SEQRA, took a “hard look” at the potential impacts the proposed road improvement might have on the environs. The Town Board went through a point by point analysis of the proposed action against Parts I, II and III of the Long Environmental Assessment Form (“EAF”). See, Mazzei Affidavit, ¶ 8, Exh. “B”; Palmer Affidavit, ¶20, Exh. “I”.

The Town Board complied with the procedural and substantive requirements of SEQRA. Petitioners’ challenge to the proposed action on the grounds that the Southeast Town Board allegedly failed to analyze potential environmental impacts associated with the road improvement is without merit.

### POINT III

#### THE TOWN OF SOUTHEAST COMPLIED WITH THE PUBLIC MEETINGS LAW

The Town of Carmel has undertaken a “blunderbuss” approach in its attempt to undo the lawful actions of the Town of Southeast. In another baseless attack, Petitioners claim that the Town of Southeast failed to comply with the Public Officers Law in the manner in which it held and conducted the Special Meeting on April 8<sup>th</sup>. Petitioners’ claim is, again, contradicted by the facts.

The monthly Regular Meeting of the Southeast Town Board is normally scheduled for the third Thursday of each month. At that meeting, the Town Board takes final action on items of business. However, in extraordinary circumstances, the Southeast Town Board conducts “Special Meetings” to enable it to take action on items of business which, for whatever reason,

require action before the next scheduled Regular Meeting. This is consistent with the provisions of Town Law. *See, Town Law* §62.

Upon receiving the request of the Southeast Highway Superintendent (Palmer Affidavit, Exhibit "I") which sought an appropriation to allow the Superintendent to repair Enoch Crosby Road, members of the Town Board of the Town of Southeast requested that such consideration be added to a Special Meeting agenda scheduled for Wednesday, April 8, 2009 at 6:00 PM.<sup>3</sup> (*See, Mazzei Affidavit* at ¶¶ 2-9).

After receiving the request of the Town Board, the Town Clerk prepared and published a meeting notice and agenda. (Mazzei Affidavit, Exh. "A") This notice was posted on the official bulletin board maintained by the Town Clerk located in the lobby of the Southeast Town Hall. In addition, the Town Clerk notified the Putnam Press, the Town of Southeast's official newspaper, that a meeting would be held on Wednesday, April 8, 2009 at 6:00 PM to conduct three items of business. (*See, Mazzei Affidavit* at ¶¶ 3-4). This is wholly consistent with the requirements of Public Officers Law §104.

1. Public notice of the time and place of a meeting scheduled at least one week prior thereto shall be given to the news media and shall be conspicuously posted in one or more designated public locations at least seventy-two hours before such meeting.

2. Public notice of the time and place of every other meeting shall be given, to the extent practicable, to the news media and shall be conspicuously posted in one or more designated public locations at a reasonable time prior thereto.

\* \* \*

Public Officers Law § 104 (1) and (2) (emphasis added).

On Friday April 3, 2009 the Town Board requested the Town Clerk to notice the Special Meeting for April 8<sup>th</sup>; whereupon the Clerk prepared the Notice, posted it conspicuously on the

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<sup>3</sup> The date and time was set to afford the Town Board sufficient time to conduct its business before the commencement of the Passover holiday at sunset that evening.

Town Bulletin Board and notified the Putnam Press, the official town newspaper, on Monday, April 6<sup>th</sup>, a full two days before the scheduled meeting. It can't be said that anyone was deprived of an opportunity to attend the meeting. In fact, Petitioners attend or were represented at the meeting and should not be heard now to complain that they did not get adequate notice of the meeting.

The Special Meeting was properly noticed, called to order and the entire Town Board was present. The public was not deprived of the opportunity to attend the meeting. The doors to the meeting room were unlocked and, indeed "open" to the public. In fact, the public was allowed and encouraged to participate in the proceedings. (Mazzei Affidavit, ¶10).

The disingenuous nature of Carmel's claim is illustrated by the fact that the Carmel Town Supervisor and several residents of the Town of Carmel (including several of the individual Petitioners) attended the meeting and gave public comment. This meeting took place in the "light of day" and no one was denied of an opportunity to be heard.

#### **POINT IV**

#### **ENOCH CROSBY ROAD WAS NOT ABANDONED**

In another spurious attempt to discredit the Town of Southeast in its efforts to forge a reasonable solution to the transportation needs of its residents, the Petitioners claim that Enoch Crosby Road has been "abandoned and discontinued" pursuant to Section 205 of the Highway Law. This claim is, again, without merit and fails to grasp the meaning and intent of Section 205 of the Highway Law.

As attested to in the Palmer Affidavit, Enoch Crosby Road has existed as a through road into the Town of Carmel since before 1854. It has been opened and maintained for the better

part of two centuries. In fact, it wasn't until relatively recently that a minor portion of Enoch Crosby Road became impassable. Non use of only a portion of a highway, while the rest continues to be utilized as a highway, does not result in abandonment, even of the unused portion. Holland v. Superintendent, 73 Misc.2d 851, 342 NYS2d 464 (Sup. Ct., Nassau Co., 1973). Temporary interruptions of public travel caused by external factors even covering a significant period of time, do not constitute and abandonment of a town highway. *See, e.g., In re Town of Rutland*, 70 Misc. 82, 128 N.Y.S. 94 (Sup. Ct., Jefferson Co. 1910). Where, as here, the Town of Carmel wrongfully and illegally placed some sort of barricade in the middle of the Town of Southeast's right of way, the fact that the road was rendered impassable as a result should not result in a ruling of abandonment or discontinuance. There have been no proceedings commenced by the Town of Southeast to "abandon" the highway. Such an action would have serious consequences and affect valuable property rights of the owners of property abutting the Town's highway. (Mazzei Affidavit ¶ 12).

The Town's ownership of the road bed of Enoch Crosby road is undisturbed and unchallenged. Filed Subdivision maps for abutting properties, some of which were filed within in the past ten (10) years recognize Enoch Crosby Road and the Town's ownership interest therein. (*See, Palmer Affidavit* at ¶ 13). There can be no abandonment of use of public road with Section 205 of the Highway Law where the Town owns the fee. *See, e.g., Fink v. Jagger*, 211 N.Y.S.2d 51 (Sup. Ct., Suffolk Co., 1960).

It is well settled that an "abandonment" claim under Highway Law § 205 can only be made where the government's interest in the disputed highway was obtained by way of easement. *In re India Street*, 29 NY 2d 97, 324 NYS 2d 1 (1971); Romanoff v. Village of Scarsdale, 50 AD 3d 763, 856 NYS 2d 168 (2<sup>nd</sup> Dept., 2008). Where, as here, the Town owns

the road bed in fee, the Petitioners cannot be heard to defeat that interest by claiming abandonment. Moreover, it is respectfully submitted that none of the Petitioners have standing to claim abandonment since none of them are owners of abutting property. Arguably, since Petitioners have no property right in the lands constituting the disputed portion of Enoch Crosby Road, Petitioners' failure to join the abutting land owners in the instant proceeding should result in a dismissal for failure to name and join necessary parties.

The fact that all relevant maps of Enoch Crosby Road and Kelley Road depict the road as a "through road" from Maple in Southeast to Stoneleigh Avenue in Carmel, coupled with the fact that (a) as recently as 1991 the Town of Southeast took adjoining land for "road widening" purposes (*see Palmer Affidavit* at Exhibit "C") and (b) that the Town of Southeast has carried Enoch Crosby Road on its Highway Inventory filed with the New York State Department of Transportation for its entire length from Maple Road to the Carmel Town Line (*Palmer Affidavit* at ¶ 14, Exh. "G") constitute substantial and compelling evidence that the Town of Southeast has not abandoned the portion of Enoch Crosby Road from the point where the pavement ends to the point where the mapped road reaches the town line with Carmel. *See, e.g., Curtis v. Town of Galway*, 50 A.D.3d 1370, 858 N.Y.S.2d 394 (App. Div., 3rd Dept., 2008); *Danial v. Town of Delhi*, 185 A.D.2d 500, 586 N.Y.S.2d 359 (App. Div. 3<sup>rd</sup> Dept., 1992).

## POINT V

### **CARMEL HAS VIOLATED SECTION 184 OF THE HIGHWAY LAW**

Ironically, the Town of Carmel has blatantly violated the very same provision of the Highway Law that it claims the Town of Southeast has violated in anticipation of rehabilitating a portion of Enoch Crosby Road. (Petitioner's Memorandum of Law at Point VI). At some point

in time, the Town of Carmel improved its portion of Kelley Road past the town line into Southeast. It appears that the Town of Carmel then erected a barrier in the middle of Kelley Road, but within the Town of Southeast, in an attempt to prohibit the free passage of vehicles between the two towns. This action was undertaken by the Town of Carmel without ever consulting with the Southeast Highway Superintendent. It appears that the Town of Southeast was deprived of any opportunity to improve its portion of Kelley Road to the level of improvement that the town of Carmel had brought its road, all in direct violation of Highway Law § 184.

To make matters worse, when the Carmel Highway Superintendent was advised recently that the barrier which had been erected was, in fact, located in the Town of Southeast, the Town of Carmel Highway Superintendent caused another barrier to be erected in the middle of Kelley Road. (Palmer Affidavit ¶ 15). This time, the barrier was constructed wholly within the Town of Carmel but having the same affect of depriving the free and unhindered movement of vehicles between the two towns. It is respectfully submitted that THIS is precisely what Highway Law Section 184 was meant to avoid and redress.

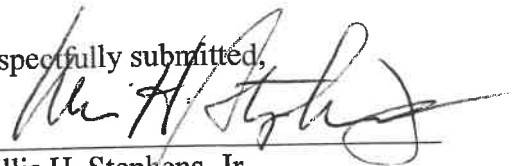
The Town of Carmel has shown a callous disregard for the rights of the residents of the Town of Southeast in its bold and brazen efforts to block the Kelley / Enoch Crosby Road connection. As this is an historic connection between the two towns, the Town of Carmel should be directed by this Court to remove all facilities or structures meant to impede the free access between the two towns and enjoined from placing or attempting to place any further barricades or obstructions within or around the Kelly or Enoch Crosby roadway.

**CONCLUSION**

For all the reasons set forth herein, Respondents respectfully request that the Petition dated April 17, 2009 be denied in its entirety and that the Petitioners be compelled to remove all obstructions to the free flow of traffic between the towns of Carmel and Southeast on Enoch Crosby / Kelley Road, together with such other or further relief as to this Court may seem just and proper.

Dated: Brewster, New York  
May 8, 2009

Respectfully submitted,



Willis H. Stephens, Jr.  
Town Attorney of the Town of Southeast  
Attorney for the Respondents  
328 Clock Tower Commons  
Brewster, NY 10509  
(845) 279-4226

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF PUTNAM

-----X  
GEORGE MUELLER, MARGO MUELLER, FRANK  
DEL GROSSO, HELEN DEL GROSSO, THE TOWN OF  
CARMEL and MICHAEL SIMONE, Highway  
Superintendent of the Town of Carmel,

Index No. 1055/09

Petitioners,

-against-

TOWN BOARD OF THE TOWN OF SOUTHEAST  
and KEVIN PALMER, Interim Highway Superintendent  
of the Town of Southeast,

**VERIFIED ANSWER**  
**AND COUNTERCLAIMS**

Assigned Judge:  
Hon. Andrew P. O'Rourke, JSC

Respondents.

-----X  
Respondents, The Town Board of the Town of Southeast and Kevin Palmer, Interim  
Highway Superintendent, by the Town Attorney Willis H. Stephens, Jr., as and for their Answer  
to the Petition dated April 17, 2009 (the "Petition"), respectfully allege as follows:

1. Deny each and every allegation contained in paragraph numbered "1" of the  
Petition, except admits that Enoch Crosby Road runs in a generally east/west direction from  
Maple Road to the Carmel Town line.

2. Deny each and every allegation contained in paragraph numbered "2" of the  
Petition except admits that Kelly (sic) road in the Town of Carmel runs generally in an east/west  
direction to the Southeast Town line.

3. Deny having knowledge or information sufficient to form a belief as to the truth  
or falsity of the allegations contained in paragraphs numbered "3" and "4" of the Petition.

4. Deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph numbered "5" of the Petition, except admits that the document annexed to the Petition as Exhibit "A" appears to be a copy of the northeasterly portion of Carmel Tax Map 55.20 which clearly shows that Kelley Road runs to the border of the Town of Southeast.

5. Deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph numbered "6" of the Petition except admits that a residential subdivision known generally as "Crosby Hills Estates" was developed off of Enoch Crosby Road.

6. Deny each and every allegation contained in paragraph numbered "7" of the Petition, except admits that the Crosby Hills subdivision was approved by the Planning Board consisting of a "loop" road running off of Enoch Crosby Road and that an easement was reserved on the subdivision plat for "emergency" purposes connecting the Crosby Hills loop road and Peter Road in the Town of Southeast.

7. Deny each and every allegation contained in paragraph numbered "8" of the Petition and respectfully refers the Court to the photographs annexed thereto as Exhibit C1 through C11 for whatever evidentiary or probative value they might have in this matter.

8. Deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph numbered "9" of the Petition, except admits that the Crosby Hills subdivision consists of approximately 49 single family residences and that the photographs annexed as Exhibit D appear to depict some of the homes constructed in that subdivision.

9. Deny each and every allegation contained in paragraph numbered "10" of the Petition, except admits that Enoch Crosby Road connects to Maple Road at its easterly terminus and that Maple Road is considered by many to be a "scenic road". The Court is respectfully referred to the photographs annexed to the Petition as Exhibit E for whatever evidentiary or probative value they might have in this matter.

10. Deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph numbered "11" of the Petition, except admit that some residents of the community have complained about the seasonal conditions of certain portions of Maple Road.

11. Deny each and every allegation contained in paragraph numbered "12" of the Petition, except admit that some residents of the community have expressed opposition to paving Maple Road and that the difference of community opinion was one of the catalysts that lead to the Highway Superintendents decision to request the Town Board of the Town of Southeast to allocate funding to enable the Highway Department to repair and resurface the portion of Enoch Crosby Road that connects to Kelley Road at the town line of the Town of Carmel.

12. Admit the allegations contained in paragraph numbered "13" of the Petition.

13. Deny each and every allegation contained in paragraph numbered "14" of the Petition, except admit that the Highway Superintendent requested the Town Board of the Town of Southeast appropriate to the Highway Department a sum not to exceed \$60,000.00 for the purpose of improving the portion of Enoch Crosby Road that connects to Kelley Road in the Town of Carmel and admit that the letter annexed to the Petition as Exhibit "F" is a true and correct copy of a letter dated March 27, 2009 sent by the Highway Superintendent to the

Southeast Town Board. The Court is respectfully referred to said letter for its content and interpretation.

14. Deny each and every allegation contained in paragraph numbered "15" of the Petition.

15. Deny each and every allegation contained in paragraph numbered "16" of the Petition except admit that the Highway Superintendents of the Towns of Carmel and Southeast have had conversations regarding the Town of Southeast's plans for Enoch Crosby Road.

16. Deny each and every allegation contained in paragraph numbered "17" of the Petition, except admit that a Special Meeting of the Town Board of the Town of Southeast was duly called for April 8, 2009.

17. Deny each and every allegation contained in paragraph numbered "18" of the Petition except admit that the Special Meeting of the Town Board of the Town of Southeast was duly noticed and that such meeting was attended by the Carmel Town Supervisor and several residents of the Town of Carmel.

18. Deny each and every allegation contained in paragraph numbered "19" of the Complaint except admit that the Town Board, by a vote of 3 in favor and 2 against (Supervisor Rights and Councilman Yee in the negative) voted to appropriate the sum of \$60,000.00 to the Highway Department for use in the improvement of a portion of Enoch Crosby Road. The document annexed to the Petition as Exhibit H appears to be a true and correct copy of the Agenda for the Special Meeting of the Town Board held on April 8, 2009 and the Court is respectfully referred thereto for its content and interpretation.

19. Deny each and every allegation contained in paragraph numbered "20" of the Petition and respectfully refers the Court to the sections of law cited therein for their interpretation and applicability to the matter at Bar.

20. Deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraphs numbered "21", "22" and "23" of the Petition and respectfully refers the Court to the documents recited therein for their content, interpretation and a determination of their evidentiary or probative value in determining this controversy.

21. Deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegation contained in paragraph numbered "24" of the Petition, except admit that the Town of Carmel has wrongfully and illegally installed a barrier on Kelly Road to block access from the Town of Southeast to the Town of Carmel.

22. Deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph numbered "25" of the Petition, except admit that the minutes of the April 8, 2009 Special Meeting of the Town Board had not been completed when they were requested by the Town of Carmel's attorney on April 13, 2009.

23. Deny each and every allegation contained in paragraph numbered "26" of the Petition except admit that, prior to being served with the Temporary Restraining Order contained in Court's April 17, 2009 Order in this matter, employees of the Southeast Town Highway Department commenced work on the portion of Enoch Crosby Road for which funding was approved on April 8, 2009.

24. Deny each and every allegation contained in paragraph numbered "27" of the Petition except admit that an attorney from the law firm of Daniels and Porco telephoned the

office of the Southeast Town Attorney on April 17, 2009 and left a “voice-mail” message that the Town of Carmel would be seeking injunctive relief against the Town of Southeast before the Court sometime that afternoon.

25. Deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph numbered “28” of the Petition.

26. Deny each and every allegation contained in paragraph numbered “29” of the Petition.

27. Deny each and every allegation contained in paragraph numbered “30” of the Petition.

28. Deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph numbered “31” of the Petition, and respectfully refers the Court to the statutes and regulations cited therein for their content, interpretation and applicability to the case at Bar.

29. Deny each and every allegation contained in paragraph numbered “32” of the Petition, and respectfully refers the Court to the statutes or regulations cited therein for their content, interpretation and applicability to the case at Bar.

30. Deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph numbered “33” of the Petition.

31. Deny each and every allegation contained in paragraph numbered “34” and “35” of the Petition.

32. Deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph numbered “36” of the Petition, except admit that there are alternatives to improving the portion of Enoch Crosby Road that connects to Kelley

Road and affirmatively avers that each available alternative was considered and deliberated before it was concluded to fund the improvement of Enoch Crosby Road.

33. Deny each and every allegation contained in paragraphs numbered “37”, “38”, “39”, “40”, “41”, “42”, “43”, “44” and “45” of the Petition.

34. Deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph numbered “46” of the Petition.

35. Deny each and every allegation contained in paragraph numbered “47” of the Petition.

36. Deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph numbered “48” of the Petition.

37. Deny each and every allegation contained in paragraph numbered “49” of the Petition.

38. Deny having knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph numbered “50” of the Petition.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE  
AND OBJECTION IN POINT OF LAW**

39. Petitioners, and each of them, lack the requisite standing to sue.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE  
AND OBJECTION IN POINT OF LAW**

40. The decision to improve a particular Town Highway is a matter of discretion delegated to the Town Superintendent of Highways and is not reviewable by this Court.

**AS AND FOR A FIRST COUNTER CLAIM AGAINST  
THE TOWN OF CARMEL AND MICHAEL SIMONE, HIGHWAY SUPERINTENDENT**

41. At all relevant times Kevin Palmer was and is the duly appointed and acting Superintendent of Highways of the Town of Southeast.

42. Upon information and belief, Michael Simone, was and is the duly elected and acting Superintendent of Highways of the Town of Carmel.

43. Upon information and belief, the Town of Carmel is a municipal corporation organized and existing in and pursuant to the laws of the State of New York.

44. Upon information and belief, The Town of Carmel owns and maintains a town highway known as Kelly Road (a/k/a Kelley Road) which extends from a road known as Stoneleigh Avenue in an east/west direction to the town line between the towns of Southeast and Carmel.

45. Kelly Road is a paved road and the pavement extends into the Town of Southeast.

46. The Town of Southeast owns and maintains a town road known as Enoch Crosby Road (a/k/a Kelley Road) which extends from a road know as Maple Road in the town of Southeast in an east/west direction to the town line between the towns of Carmel and Southeast at precisely the same location than Kelly Road meets the town line between the towns of Carmel and Southeast.

47. Upon information and belief, at some point in time between 1973 and the present, a barrier or obstruction was placed within the right of way of Enoch Crosby Road by officers, employees, servants or agents of the Town of Carmel.

48. Upon information and belief, such obstruction was wrongfully placed in the right of way of Enoch Crosby Road to obstruct, hinder, delay and deprive the residents of the Town of

Southeast and Carmel the free and unhindered access to a town road that crosses from one town into another.

49. The Town of Southeast has not approved or in any way agreed to the placement of the aforesaid obstruction.

50. The placement of the aforesaid obstruction within the Town of Southeast's right of way constitutes a trespass by the Town of Carmel upon the rights and property of the Town of Southeast.

51. The Town of Southeast and its residents have been directly and proximately damaged by the actions of the Town of Carmel in placing or attempting to place obstructions within the Town of Southeast's right of way known as Enoch Crosby Road.

52. The Town of Southeast has no adequate remedy at law.

**AS AND FOR A SECOND COUNTER CLAIM AGAINST  
THE TOWN OF CARMEL AND MICHAEL SIMONE, HIGHWAY SUPERINTENDENT**

53. The Respondents repeat and reallege each and every allegation contained in paragraphs numbered "41" through "52" hereof, inclusive, as if they were more fully set forth herein at length.

54. In or about February, 2009, Michael Simone and the Town of Carmel learned that the Town of Southeast Highway Superintendent was planning to make improvements to portions of Enoch Crosby Road which would enhance the ability of motorists and pedestrians to travel along Enoch Crosby Road to Kelly Road within the Town of Carmel.

55. On or about April 8, 2009, Michael Simone and the Town of Carmel learned that the Town Board of the Town of Southeast had approved funding for the proposed improvements to the town road known as Enoch Crosby Road.

56. On or about April 15, 2009, in a blatant effort to close its borders to certain residents of the Town of Southeast, the Petitioners Town of Carmel and Michael Simone, erected, constructed, installed, or cause to be erected, constructed or installed, a metal barrier or obstruction on Kelly Road wholly within the Town of Carmel.

57. Upon information and belief, the sole purpose for installing the aforesaid barrier was to stop, impair or impede the free travel of vehicles and pedestrians from the Town of Southeast, into the Town of Carmel.

58. No proceeding, action or hearing was scheduled or conducted in connection with the actions by the Town of Carmel in constructing the aforesaid barrier.

59. The construction, erection and/or installation of a barrier which impairs or impedes the smooth and free travel of vehicles and pedestrians along the aforesaid town roads was done by the Town of Carmel in contravention and direct violation of the Highway Law of the State of New York.

**WHEREFORE**, the Respondents demand judgment dismissing the Petition in its entirety and granting judgment to the Respondents:

(a) directing the Respondents, Town of Carmel and Michael Simone, to immediately remove any and all obstructions, barriers, or impediments of any type or kind whatsoever located within the Town of Carmel's right of way in Kelly Road;

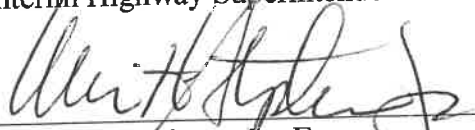
(b) enjoining the Petitioners from further obstructing the free and unhindered movement of vehicles and pedestrians along Enoch Crosby Road and Kelly Road; and

(c) permitting and allowing the Respondents to remove any barriers or other implements of hindrance located within the Town of Southeast's right of way in Enoch Crosby Road, together with such other or further relief as to the Court may seem just, reasonable and equitable in the premises.



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Kevin Palmer  
Town of Southeast  
Interim Highway Superintendent



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Willis H. Stephens, Jr., Esq.  
Town Attorney-Town of Southeast  
Attorney for Respondents  
Office & P.O. Address  
328 Clock Tower Commons  
Brewster, NY 10509  
(845) 279-4226

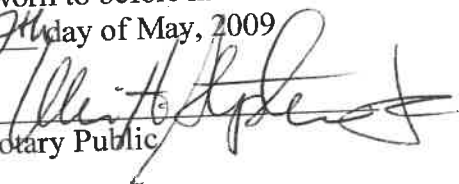
VERIFICATION

STATE OF NEW YORK     )  
  ) ss.:  
COUNTY OF PUTNAM    )

KEVIN PALMER, being first duly sworn, deposes and says that he is the Interim Highway Superintendent of the Town of Southeast and a Respondent named in the above-captioned proceeding; he has read the Answer and is personally familiar with its content; the content of the Answer is true to his own knowledge except as to matters alleged upon information and belief and, as to those matters, he believes them to be true.

  
\_\_\_\_\_  
Kevin Palmer

Sworn to before me this  
7th day of May, 2009

  
Notary Public

**WILLIS H. STEPHENS, JR.**  
NOTARY PUBLIC - NEW YORK  
REG. #02ST6010754  
QUALIFIED IN PUTNAM CO  
COMMISSION EXP. ~~7/27/10~~ 9/1/10

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY PUTNAM**

-----X  
GEORGE MUELLER, MARGO MUELLER, FRANK  
DEL GROSSO, HELEN DEL GROSSO, THE TOWN  
OF CARMEL and MICHAEL SIMONE, Highway  
Superintendent of the Town of Carmel,

Petitioners,

- against-

THE TOWN BOARD OF THE TOWN OF  
SOUTHEAST and KEVIN PALMER, Interim Highway  
Superintendent of the Town of Southeast,

Respondents.  
-----X

Index No. 1055/09

**AFFIDAVIT OF**  
**RUTH A. MAZZEI**

Assigned Judge:

Hon. Andrew P. O'Rourke

RUTH A. MAZZEI, being first duly sworn, deposes and says:

1. I am the duly elected Clerk of the Town of Southeast (the "Town") and, as such, I am fully familiar with the facts and circumstances contained herein. I make this affidavit in connection the captioned proceeding wherein residents and officers of the Town of Carmel are challenging the actions taken by the Town Board of the Town of Southeast and the Southeast Highway Superintendent concerning road improvements to a Southeast Town road known as "Enoch Crosby Road".

2. On or about Friday, April 3, 2009, I was requested by the Supervisor of the Town and the Town Board to notice a Special Meeting of the Town Board to be held on April 8, 2009 at 6:00 PM for the purposed of considering three (3) items of Town Business.

3. Upon receiving the request, I prepared an agenda and on Monday, April 6, 2009 I posted that agenda on the Bulletin Board outside the Town Clerk's office in Town Hall, 1360 Route 22, Brewster, NY. A copy of the Meeting Agenda is annexed hereto and made a part hereof as Exhibit "A".

4. At that time I also notified the Town's official newspaper, the Putnam Press, that a Special Meeting of the Town Board would be held on Wednesday, April 8, 2009, at 6:00 PM at the Town Hall, 1360 Route 22, Brewster, NY.

5. On the evening of April 8<sup>th</sup>, a quorum of Town Board members being present, the meeting was called to order by Supervisor Rights.

6. During the course of the Special Meeting, the Town Board considered three (3) matters. The first two matters were not related to the issues currently before the Court. The third matter concerned the Town Board's appropriation of funds to be used for improvements to a Town Road known as Enoch Crosby Road.

7. A discussion ensued regarding the proposal of the Town Highway Department's plan to improve a portion of Enoch Crosby Road that had fallen into disrepair and become impassable. The Superintendent of Highways had requested an appropriation of \$60,000.00 to cover the costs of the project.

8. Before acting on the request of the Superintendent, the Town Board reviewed and considered both a "Short" Environmental Assessment Form and a "Long" Environmental Assessment Form. Councilman Johnson read and presented the "Short" Environmental Assessment Form and the Town Attorney read and presented the "Long" Environmental Assessment Form to the members of the Board and the audience and received discussion and comments concerning the various potential impacts outlined in the forms. After lengthy

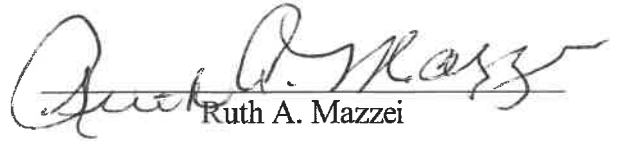
consideration, which included comments from the public both for and against the proposed project, on the motion of Councilman Johnson and seconded by Councilman Honeck, the Board voted unanimously to accept the Environmental Assessment Forms, as presented, and issue a "Negative Declaration" in connection with the project. The Supervisor and the Town Attorney, as preparer, signed the Long Environmental Assessment Form in my presence. Copies of the Short and Long Environmental Assessment Forms reviewed and adopted by the Town Board on April 8, 2009, are annexed hereto and made a part hereof as Exhibit "B".

9. Thereafter, a motion was made by Councilman Johnson to authorize the appropriation of the sum of \$60,000.00 to the Highway Department for use in improving Enoch Crosby Road. The motion carried by a vote of three (3) in favor and two (2) against. A copy of the "draft" minutes of the April 8, 2009 Special Meeting of the Southeast Board are annexed hereto and made a part hereof as Exhibit "C".

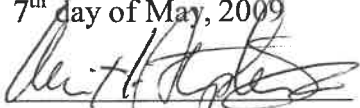
10. It is my opinion, as Town Clerk, that the special meeting of April 8, 2009 was duly called, noticed and held in compliance with all provisions of applicable law including, but not limited to, the Town Law and Public Officers' Law of the State of New York. It is also my opinion that, because the meeting was duly called, noticed, and a quorum of the Town Board having been present, the actions taken by the Town Board thereat were lawful, valid and binding upon the Town in all respects.

12. At the request of the Town Attorney, I researched the records in the Town Clerk's office and minutes of the meetings of the Southeast Town Board going back to the early 1950's. I was asked to determine if the Town Board had, during that period, initiated any proceedings or taken any action to "abandon" or "close" Enoch Crosby Road or any part thereof. After a thorough review of records available to me, I could find no reference to any action taken by the

Town Board of the Town of Southeast or by the Town of Southeast Highway Superintendent to close, discontinue or abandon any part of Enoch Crosby Road.

  
Ruth A. Mazzei

Sworn to before me this  
7<sup>th</sup> day of May, 2009

  
Notary Public

**WILLIS H. STEPHENS, JR.**  
NOTARY PUBLIC - NEW YORK  
REG. #02ST6010754  
QUALIFIED IN PUTNAM CO.  
COMMISSION EXP. ~~2/27/11~~ 9/4/10

**TOWN OF SOUTHEAST  
John J Dunford Civic Center  
1360 Route 22, Brewster, New York 10509  
Special Meeting  
April 8, 2009  
6:00 PM**

Salute to the Flag

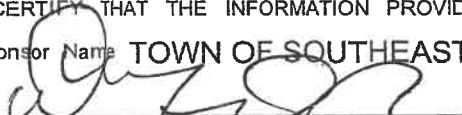
Call for the Order of the Day

1. O'Connors Pub – Liquor License Waiver
2. Fiesta Mexicana – Liquor License Waiver
3. Road Improvement Funding

PROJECT ID NUMBER

APPENDIX C  
STATE ENVIRONMENTAL QUALITY REVIEW  
**SHORT ENVIRONMENTAL ASSESSMENT FORM**  
for UNLISTED ACTIONS Only

**PART 1 - PROJECT INFORMATION** (To be completed by Applicant or Project Sponsor)

1. APPLICANT / SPONSOR TOWN OF SOUTHEAST, NY	2. PROJECT NAME IMPROVEMENT OF ENOCH CROSBY ROAD EXTENSION
3. PROJECT LOCATION: TOWN OF SOUTHEAST Municipality	PUTNAM County
4. PRECISE LOCATION: Street Address and Road Intersections, Prominent landmarks etc - or provide map AREA CONSISTING OF TOWN HIGHWAY RIGHT OF WAY (ROW) LEADING FROM THE WESTERLY TERMINUS OF PAVEMENT OF ENOCH CROSBY ROAD, ALONG SUCH ROW, TO THE TOWN LINE OF THE TOWN OF CARMEL.	
5. IS PROPOSED ACTION: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification / alteration	
6. DESCRIBE PROJECT BRIEFLY: ENOCH CROSBY ROAD EXTENDS FROM MAPLE ROAD TO A ROAD IN THE TOWN OF CARMEL KNOW AS "KELLY" ROAD. OVER THE YEARS THE TOWN HIGHWAY DEPARTMENT CEASED MAINTAINING A PORTION OF ENOCH CROSBY ROAD, CONSISTING OF APPROXIMATELY 450 LINEAR FEET (HEREINAFTER THE "ENOCH CROSBY EXTENSION"). HISTORICALLY, THIS EXTENSION CONSISTED OF A DIRT OR GRAVEL WEARING COURSE. AT SOME POINT IN TIME, THE TOWN OF CARMEL IMPROVED AND PAVED KELLY ROAD, TO A POINT A FEW YARDS WITHIN THE TOWN OF SOUTHEAST AND ERECTED A STEEL BARRIER TO LIMIT ACCESS FROM CARMEL INTO THE TOWN OF SOUTHEAST. DUE TO HEALTH AND SAFETY CONCERNS RESULTING FROM SEASONAL CONDITIONS OF MAPLE ROAD, IT HAS BEEN DETERMINED THAT A SECOND METHOD OF EGRESS FROM THE ENOCH CROSBY NEIGHBORHOOD WOULD BE APPROPRIATE. IT IS FOR THIS REASON THAT THE TOWN BOARD PROPOSES TO FUND THE REHABILITATION OF THE ENOCH CROSBY ROAD EXTENSION.	
7. AMOUNT OF LAND AFFECTED: Initially      2 acres      Ultimately      2 acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    if no, describe briefly:	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? (Choose as many as apply.) <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park / Forest / Open Space <input type="checkbox"/> Other (describe)	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (Federal, State or Local) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    If yes, list agency name and permit / approval: NYS DEC / NYC DEP to rehabilitate crossing of intermittent stream crossing ROW	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If yes, list agency name and permit / approval:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT / APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant / Sponsor Name    TOWN OF SOUTHEAST    Date: April 8, 2009 Signature  SUPERVISOR - Southeast	

**If the action is a Coastal Area, and you are a state agency,  
complete the Coastal Assessment Form before proceeding with this assessment**

**PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)**

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF.  
 Yes  No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.  
 Yes  No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:  
 Road construction will change surface hydrology and traffic patterns

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:  
 No.

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:  
 No, except for removal of some brush and second growth trees in ROW.

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:  
 No.

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:  
 No.

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:  
 Allow traffic to circulate in more than one direction providing options when other substandard roads need work

C7. Other impacts (including changes in use of either quantity or type of energy? Explain briefly:  
 N/A

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)? (If yes, explain briefly):  
 Yes  No

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? If yes explain:  
 Yes  No  
 The Extension has been impassable for several years. Residents on the Carmel (Kelly Road) end have enjoyed a "dead end" road and have voiced concern about it being restored as a through road

**PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)**

**INSTRUCTIONS:** For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question d of part ii was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

- Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.
- Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide, on attachments as necessary, the reasons supporting this determination.

TOWN BOARD of the TOWN OF SOUTHEAST	APRIL 8, 2009
Name of Lead Agency	Date
D. MICHAEL RIGHTS	SUPERVISOR
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from responsible officer)

017.20  
**Appendix A**  
**State Environmental Quality Review**  
**FULL ENVIRONMENTAL ASSESSMENT FORM**

**Purpose:** The full EAF is designed to help applicants and agencies determine, in an orderly manner, whether a project or action may be significant. The question of whether an action may be significant is not always easy to answer. Frequently, there are aspects of a project that are subjective or unmeasurable. It is also understood that those who determine significance may have little or no formal knowledge of the environment or may not be technically expert in environmental analysis. In addition, many who have knowledge in one particular area may not be aware of the broader concerns affecting the question of significance.

The full EAF is intended to provide a method whereby applicants and agencies can be assured that the determination process has been orderly, comprehensive in nature, yet flexible enough to allow introduction of information to fit a project or action.

**Full EAF Components:** The full EAF is comprised of three parts:

- Part 1:** Provides objective data and information about a given project and its site. By identifying basic project data, it assists a reviewer in the analysis that takes place in Parts 2 and 3.
- Part 2:** Focuses on identifying the range of possible impacts that may occur from a project or action. It provides guidance as to whether an impact is likely to be considered small to moderate or whether it is a potentially-large impact. The form also identifies whether an impact can be mitigated or reduced.
- Part 3:** If any impact in Part 2 is identified as potentially-large, then Part 3 is used to evaluate whether or not the impact is actually important.

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**THIS AREA FOR LEAD AGENCY USE ONLY**

**DETERMINATION OF SIGNIFICANCE -- Type 1 and Unlisted Actions**

Identify the Portions of EAF completed for this project:       Part 1                       Part 2                       Part 3  
Upon review of the information recorded on this EAF (Parts 1 and 2 and 3 if appropriate), and any other supporting information, and considering both the magnitude and importance of each impact, it is reasonably determined by the lead agency that:

- A. The project will not result in any large and important impact(s) and, therefore, is one which **will not** have a significant impact on the environment, therefore a **negative declaration will be prepared**.
- B. Although the project could have a significant effect on the environment, there will not be a significant effect for this Unlisted Action because the mitigation measures described in PART 3 have been required, therefore a **CONDITIONED negative declaration will be prepared.\***
- C. The project may result in one or more large and important impacts that may have a significant impact on the environment, therefore a **positive declaration will be prepared**.

\*A Conditioned Negative Declaration is only valid for Unlisted Actions

FUNDING AND IMPROVEMENT OF ENOCH CROSBY ROAD EXTENSION

---

Name of Action

TOWN BOARD OF THE TOWN OF SOUTHEAST

---

Name of Lead Agency

D. MICHAEL RIGHTS

SUPERVISOR

---

Print or Type Name of Responsible Officer in Lead Agency

---

Title of Responsible Officer

---

Signature of Responsible Officer in Lead Agency

---

Signature of Preparer (If different from responsible officer)

APRIL 8, 2009

---

Date

website

**PART 1--PROJECT INFORMATION**  
**Prepared by Project Sponsor**

NOTICE: This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

Name of Action Improvement of Enoch Crosby Road Extension

Location of Action (include Street Address, Municipality and County)

Westerly terminus of pavement of Enoch Crosby Road (westerly end), Town of Southeast, Putnam County, NY

Name of Applicant/Sponsor Town Board of the Town of Southeast

Address Town Hall, 1360 Route 22

City / PO Brewster State NY Zip Code 10500

Business Telephone 845-279-4313

Name of Owner (if different) N/A

Address N/A

City / PO N/A State N/A Zip Code N/A

Business Telephone N/A

Description of Action:

The funding and construction of improvements to a portion of Enoch Crosby Road within the Town of Southeast commencing at the westerly terminus of pavement along an existing, mapped town highway right of way (ROW) to a point where Enoch Crosby Road connects to Kelly Road at the Carmel Town Line.

The cost of improvement is approximately \$60,000.00 which would be appropriated to such purpose from other moneys currently within the Town Highway Fund.

The work would consist of improving a existing town highway that has fallen into disrepair from lack of use and attention. The existing sub-base would be replaced or enhanced where necessary and a new gravel / "item 4" wearing course installed. In addition, appropriate drainage diversion, detention and retentions facilities would by installed and an intermittent stream crossing improved to appropriate standard.

The portion of Enoch Crosby Road Extension to be improved would consist of approximately 450 linear feet.

**Please Complete Each Question--Indicate N.A. if not applicable**

**A. SITE DESCRIPTION**

Physical setting of overall project, both developed and undeveloped areas.

1. Present Land Use:  Urban  Industrial  Commercial  Residential (suburban)  Rural (non-farm)  
 Forest  Agriculture  Other Existing Town Highway ROW

2. Total acreage of project area: <1 acres.

APPROXIMATE ACREAGE	PRESENTLY	AFTER COMPLETION
Meadow or Brushland (Non-agricultural)	<u>&lt;1</u> acres	<u>&lt;1</u> acres
Forested	<u>0</u> acres	<u>0</u> acres
Agricultural (Includes orchards, cropland, pasture, etc.)	<u>0</u> acres	<u>0</u> acres
Wetland (Freshwater or tidal as per Articles 24,25 of ECL)	<u>0</u> acres	<u>0</u> acres
Water Surface Area	<u>0</u> acres	<u>0</u> acres
Unvegetated (Rock, earth or fill)	<u>0</u> acres	<u>0</u> acres
Roads, buildings and other paved surfaces	<u>&lt;1</u> acres	<u>&lt;1</u> acres
Other (Indicate type) <u>N/A</u>	<u>      </u> acres	<u>      </u> acres

3. What is predominant soil type(s) on project site?

- a. Soil drainage:  Well drained 55 % of site  Moderately well drained 40 % of site.  
 Poorly drained 5 % of site

- b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYS Land Classification System? N/A acres (see 1 NYCRR 370).

4. Are there bedrock outcroppings on project site?  Yes  No

- a. What is depth to bedrock variable (in feet)

5. Approximate percentage of proposed project site with slopes:

- 0-10% 50 %  10- 15% 50 %  15% or greater 0 %

6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or National Registers of Historic Places?  Yes  No

7. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks?  Yes  No

8. What is the depth of the water table? variable (in feet)

9. Is site located over a primary, principal, or sole source aquifer?  Yes  No

10. Do hunting, fishing or shell fishing opportunities presently exist in the project area?  Yes  No

11. Does project site contain any species of plant or animal life that is identified as threatened or endangered?  Yes  No

According to:

Identify each species:

12. Are there any unique or unusual land forms on the project site? (i.e., cliffs, dunes, other geological formations?)

Yes  No

Describe:

13. Is the project site presently used by the community or neighborhood as an open space or recreation area?

Yes  No

If yes, explain:

14. Does the present site include scenic views known to be important to the community?  Yes  No

15. Streams within or contiguous to project area:

Intermittent brook (unnamed)

a. Name of Stream and name of River to which it is tributary

N/A

16. Lakes, ponds, wetland areas within or contiguous to project area:

N/A

b. Size (in acres):

N/A

17. Is the site served by existing public utilities?  Yes  No
- a. If YES, does sufficient capacity exist to allow connection?  Yes  No
- b. If YES, will improvements be necessary to allow connection?  Yes  No
18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304?  Yes  No
19. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 617?  Yes  No
20. Has the site ever been used for the disposal of solid or hazardous wastes?  Yes  No

**B. Project Description**

1. Physical dimensions and scale of project (fill in dimensions as appropriate).
- a. Total contiguous acreage owned or controlled by project sponsor: < 1 acres.
- b. Project acreage to be developed: < 1 acres initially; < 1 acres ultimately.
- c. Project acreage to remain undeveloped: < 1 acres.
- d. Length of project, in miles: N/A (if appropriate)
- e. If the project is an expansion, indicate percent of expansion proposed. N/A %
- f. Number of off-street parking spaces existing N/A; proposed \_\_\_\_\_
- g. Maximum vehicular trips generated per hour: 0 (upon completion of project)?
- h. If residential: Number and type of housing units:
- |            | One Family | Two Family | Multiple Family | Condominium |
|------------|------------|------------|-----------------|-------------|
| Initially  | <u>N/A</u> | _____      | _____           | _____       |
| Ultimately | _____      | _____      | _____           | _____       |
- i. Dimensions (in feet) of largest proposed structure: N/A height; \_\_\_\_\_ width; \_\_\_\_\_ length.
- j. Linear feet of frontage along a public thoroughfare project will occupy is? 450 ft.
2. How much natural material (i.e. rock, earth, etc.) will be removed from the site? N/A tons/cubic yards.
3. Will disturbed areas be reclaimed  Yes  No  N/A
- a. If yes, for what intended purpose is the site being reclaimed?
- Road shoulder and drainage appurtenances.
- b. Will topsoil be stockpiled for reclamation?  Yes  No
- c. Will upper subsoil be stockpiled for reclamation?  Yes  No
4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? < 1 acres.

5. Will any mature forest (over 100 years old) or other locally-important vegetation be removed by this project?

Yes  No

6. If single phase project: Anticipated period of construction: 3 months, (including demolition)

7. If multi-phased:

a. Total number of phases anticipated N/A (number)

b. Anticipated date of commencement phase 1: \_\_\_\_\_ month \_\_\_\_\_ year, (including demolition)

c. Approximate completion date of final phase: \_\_\_\_\_ month \_\_\_\_\_ year.

d. Is phase 1 functionally dependent on subsequent phases?  Yes  No

8. Will blasting occur during construction?  Yes  No

9. Number of jobs generated: during construction N/A; after project is complete

10. Number of jobs eliminated by this project 0.

11. Will project require relocation of any projects or facilities?  Yes  No

If yes, explain:

12. Is surface liquid waste disposal involved?  Yes  No

a. If yes, indicate type of waste (sewage, industrial, etc) and amount \_\_\_\_\_

b. Name of water body into which effluent will be discharged \_\_\_\_\_

13. Is subsurface liquid waste disposal involved?  Yes  No Type \_\_\_\_\_

14. Will surface area of an existing water body increase or decrease by proposal?  Yes  No

If yes, explain:

15. Is project or any portion of project located in a 100 year flood plain?  Yes  No

16. Will the project generate solid waste?  Yes  No

a. If yes, what is the amount per month? \_\_\_\_\_ tons

b. If yes, will an existing solid waste facility be used?  Yes  No

c. If yes, give name \_\_\_\_\_; location \_\_\_\_\_

d. Will any wastes not go into a sewage disposal system or into a sanitary landfill?  Yes  No

e. If yes, explain:

17. Will the project involve the disposal of solid waste?  Yes  No

a. If yes, what is the anticipated rate of disposal? \_\_\_\_\_ tons/month.

b. If yes, what is the anticipated site life? \_\_\_\_\_ years.

18. Will project use herbicides or pesticides?  Yes  No

19. Will project routinely produce odors (more than one hour per day)?  Yes  No

20. Will project produce operating noise exceeding the local ambient noise levels?  Yes  No

21. Will project result in an increase in energy use?  Yes  No

If yes, indicate type(s)

22. If water supply is from wells, indicate pumping capacity N/A gallons/minute.

23. Total anticipated water usage per day N/A gallons/day.

24. Does project involve Local, State or Federal funding?  Yes  No

If yes, explain:

Road Improvement is estimated to cost \$60,000.00.

**25. Approvals required:**

	Yes	No	Type	Submittal Date
City, Town, Village Board	<input type="checkbox"/>	<input checked="" type="checkbox"/> <i>wts</i> <i>DMP</i>	Appropriation	4/8/09
City, Town, Village Planning Board	<input type="checkbox"/>	<input type="checkbox"/>		
City, Town Zoning Board	<input type="checkbox"/>	<input type="checkbox"/>		
City, County Health Department	<input type="checkbox"/>	<input type="checkbox"/>		
Other Local Agencies	<input type="checkbox"/>	<input checked="" type="checkbox"/> <i>wts</i> <i>DMP</i>		
Other Regional Agencies	<input type="checkbox"/>	<input type="checkbox"/>	NYCDEP SW3P- Gen. Pmt.	
State Agencies	<input type="checkbox"/>	<input type="checkbox"/>	<del>NYSDEC</del> NYSDEC Stream Crossing <i>wts</i> <i>DMP</i>	
Federal Agencies	<input type="checkbox"/>	<input type="checkbox"/>		

**C. Zoning and Planning Information**

1. Does proposed action involve a planning or zoning decision?  Yes  No

If Yes, indicate decision required:

- |   |   |  |                                      |
|---|---|--|--------------------------------------|
| <input type="checkbox"/> Zoning amendment | <input type="checkbox"/> Zoning variance    | <input type="checkbox"/> New/revision of master plan | <input type="checkbox"/> Subdivision |
| <input type="checkbox"/> Site plan        | <input type="checkbox"/> Special use permit | <input type="checkbox"/> Resource management plan    | <input type="checkbox"/> Other       |

2. What is the zoning classification(s) of the site?

Residential

3. What is the maximum potential development of the site if developed as permitted by the present zoning?

N/A

4. What is the proposed zoning of the site?

N/A

5. What is the maximum potential development of the site if developed as permitted by the proposed zoning?

N/A

6. Is the proposed action consistent with the recommended uses in adopted local land use plans?  Yes  No

7. What are the predominant land use(s) and zoning classifications within a ¼ mile radius of proposed action?

Residential

8. Is the proposed action compatible with adjoining/surrounding land uses with a ¼ mile?  Yes  No

9. If the proposed action is the subdivision of land, how many lots are proposed? N/A

a. What is the minimum lot size proposed? N/A

10. Will proposed action require any authorization(s) for the formation of sewer or water districts?  Yes  No

11. Will the proposed action create a demand for any community provided services (recreation, education, police, fire protection)?  
 Yes  No

a. If yes, is existing capacity sufficient to handle projected demand?  Yes  No

12. Will the proposed action result in the generation of traffic significantly above present levels?  Yes  No

a. If yes, is the existing road network adequate to handle the additional traffic.  Yes  No

**D. Informational Details**

Attach any additional information as may be needed to clarify your project. If there are or may be any adverse impacts associated with your proposal, please discuss such impacts and the measures which you propose to mitigate or avoid them.

**E. Verification**

I certify that the information provided above is true to the best of my knowledge.

Applicant/Sponsor Name TOWN OF SOUTHEAST Date April 8, 2009

Signature \_\_\_\_\_

Title Supervisor

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment.

## PART 2 - PROJECT IMPACTS AND THEIR MAGNITUDE

### Responsibility of Lead Agency

**General Information (Read Carefully)**

- ! In completing the form the reviewer should be guided by the question: Have my responses and determinations been **reasonable**? The reviewer is not expected to be an expert environmental analyst.
- ! The **Examples** provided are to assist the reviewer by showing types of impacts and wherever possible the threshold of magnitude that would trigger a response in column 2. The examples are generally applicable throughout the State and for most situations. But, for any specific project or site other examples and/or lower thresholds may be appropriate for a Potential Large Impact response, thus requiring evaluation in Part 3.
- ! The impacts of each project, on each site, in each locality, will vary. Therefore, the examples are illustrative and have been offered as guidance. They do not constitute an exhaustive list of impacts and thresholds to answer each question.
- ! The number of examples per question does not indicate the importance of each question.
- ! In identifying impacts, consider long term, short term and cumulative effects.

**Instructions (Read carefully)**

- a. Answer each of the 20 questions in PART 2. Answer **Yes** if there will be any impact.
- b. **Maybe** answers should be considered as **Yes** answers.
- c. If answering **Yes** to a question then check the appropriate box(column 1 or 2)to indicate the potential size of the impact. If impact threshold equals or exceeds any example provided, check column 2. If impact will occur but threshold is lower than example, check column 1.
- d. Identifying that an Impact will be potentially large (column 2) does not mean that it is also necessarily **significant**. Any large impact must be evaluated in PART 3 to determine significance. Identifying an impact in column 2 simply asks that it be looked at further.
- e. If reviewer has doubt about size of the impact then consider the impact as potentially large and proceed to PART 3.
- f. If a potentially large impact checked in column 2 can be mitigated by change(s) in the project to a small to moderate impact, also check the **Yes** box in column 3. A **No** response indicates that such a reduction is not possible. This must be explained in Part 3.

1	2	3
Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change

### Impact on Land

1. Will the Proposed Action result in a physical change to the project site?

NO  YES

**Examples** that would apply to column 2

- |  |                                     |                          |   |                             |
|--|-------------------------------------|--------------------------|---|-----------------------------|
| • Any construction on slopes of 15% or greater, (15 foot rise per 100 foot of length), or where the general slopes in the project area exceed 10%. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction on land where the depth to the water table is less than 3 feet.   | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes            | <input type="checkbox"/> No |
| • Construction of paved parking area for 1,000 or more vehicles.   | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes            | <input type="checkbox"/> No |
| • Construction on land where bedrock is exposed or generally within 3 feet of existing ground surface.   | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes            | <input type="checkbox"/> No |
| • Construction that will continue for more than 1 year or involve more than one phase or stage.  | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes            | <input type="checkbox"/> No |
| • Excavation for mining purposes that would remove more than 1,000 tons of natural material (i.e., rock or soil) per year.                         | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes            | <input type="checkbox"/> No |

	1	2	3	
	Small to Moderate Impact	Potential Large Impact	*Can Impact Be Mitigated by Project Change	

- Construction or expansion of a sanitary landfill.    Yes  No
- Construction in a designated floodway.    Yes  No
- Other impacts:    Yes  No

substandard surface of existing mapped highway would be improved through installation of new base and wearing course and drainage facilities.

2. Will there be an effect to any unique or unusual land forms found on the site? (i.e., cliffs, dunes, geological formations, etc.)

NO  YES

• Specific land forms:

Yes  No

**Impact on Water**

3. Will Proposed Action affect any water body designated as protected? (Under Articles 15, 24, 25 of the Environmental Conservation Law, ECL)

NO  YES

**Examples that would apply to column 2**

- Developable area of site contains a protected water body.    Yes  No
- Dredging more than 100 cubic yards of material from channel of a protected stream.    Yes  No
- Extension of utility distribution facilities through a protected water body.    Yes  No
- Construction in a designated freshwater or tidal wetland.    Yes  No
- Other impacts:    Yes  No

4. Will Proposed Action affect any non-protected existing or new body of water?

NO  YES

**Examples that would apply to column 2**

- A 10% increase or decrease in the surface area of any body of water or more than a 10 acre increase or decrease.    Yes  No
- Construction of a body of water that exceeds 10 acres of surface area.    Yes  No
- Other impacts:    Yes  No

Small to Moderate Impact

Potential Large Impact

Can Impact Be Mitigated by Project Change

5. Will Proposed Action affect surface or groundwater quality or quantity?

NO  YES

Examples that would apply to column 2

- Proposed Action will require a discharge permit.    Yes  No
- Proposed Action requires use of a source of water that does not have approval to serve proposed (project) action.    Yes  No
- Proposed Action requires water supply from wells with greater than 45 gallons per minute pumping capacity.    Yes  No
- Construction or operation causing any contamination of a water supply system.    Yes  No
- Proposed Action will adversely affect groundwater.    Yes  No
- Liquid effluent will be conveyed off the site to facilities which presently do not exist or have inadequate capacity.    Yes  No
- Proposed Action would use water in excess of 20,000 gallons per day.    Yes  No
- Proposed Action will likely cause siltation or other discharge into an existing body of water to the extent that there will be an obvious visual contrast to natural conditions.    Yes  No
- Proposed Action will require the storage of petroleum or chemical products greater than 1,100 gallons.    Yes  No
- Proposed Action will allow residential uses in areas without water and/or sewer services.    Yes  No
- Proposed Action locates commercial and/or industrial uses which may require new or expansion of existing waste treatment and/or storage facilities.    Yes  No
- Other impacts:    Yes  No

Small to Moderate Impact      Potential Large Impact      Can Impact Be Mitigated by Project Change

6. Will Proposed Action alter drainage flow or patterns, or surface water runoff?

NO       YES

Examples that would apply to column 2

- Proposed Action would change flood water flows
- Proposed Action may cause substantial erosion.
- Proposed Action is incompatible with existing drainage patterns.
- Proposed Action will allow development in a designated floodway.
- Other impacts:

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

New drainage facilities would be installed to improve drainage characteristics of existing highway

**IMPACT ON AIR**

7. Will Proposed Action affect air quality?

NO       YES

Examples that would apply to column 2

- Proposed Action will induce 1,000 or more vehicle trips in any given hour.
- Proposed Action will result in the incineration of more than 1 ton of refuse per hour.
- Emission rate of total contaminants will exceed 5 lbs. per hour or a heat source producing more than 10 million BTU's per hour.
- Proposed Action will allow an increase in the amount of land committed to industrial use.
- Proposed Action will allow an increase in the density of industrial development within existing industrial areas.
- Other impacts:

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**IMPACT ON PLANTS AND ANIMALS**

8. Will Proposed Action affect any threatened or endangered species?

NO       YES

Examples that would apply to column 2

- Reduction of one or more species listed on the New York or Federal list, using the site, over or near the site, or found on the site.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
--------------------------	--------------------------	------------------------------	-----------------------------

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Removal of any portion of a critical or significant wildlife habitat.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Application of pesticide or herbicide more than twice a year, other than for agricultural purposes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

9. Will Proposed Action substantially affect non-threatened or non-endangered species?

NO  YES

Examples that would apply to column 2

• Proposed Action would substantially interfere with any resident or migratory fish, shellfish or wildlife species.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action requires the removal of more than 10 acres of mature forest (over 100 years of age) or other locally important vegetation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

**IMPACT ON AGRICULTURAL LAND RESOURCES**

10. Will Proposed Action affect agricultural land resources?

NO  YES

Examples that would apply to column 2

• The Proposed Action would sever, cross or limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Construction activity would excavate or compact the soil profile of agricultural land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• The Proposed Action would irreversibly convert more than 10 acres of agricultural land or, if located in an Agricultural District, more than 2.5 acres of agricultural land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

- |   | 1<br>Small to<br>Moderate<br>Impact | 2<br>Potential<br>Large<br>Impact | 3<br>Can Impact Be<br>Mitigated by<br>Project Change     |
|---|-------------------------------------|-----------------------------------|--|
| • The Proposed Action would disrupt or prevent installation of agricultural land management systems (e.g., subsurface drain lines, outlet ditches, strip cropping); or create a need for such measures (e.g. cause a farm field to drain poorly due to increased runoff). | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts:  | <input type="checkbox"/>            | <input type="checkbox"/>          | <input type="checkbox"/> Yes <input type="checkbox"/> No |

**IMPACT ON AESTHETIC RESOURCES**

11. Will Proposed Action affect aesthetic resources? (If necessary, use the Visual EAF Addendum in Section 617.20, Appendix B.)

NO  YES

**Examples that would apply to column 2**

- |   |                          |                          |  |
|---|--------------------------|--------------------------|--|
| • Proposed land uses, or project components obviously different from or in sharp contrast to current surrounding land use patterns, whether man-made or natural.                              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed land uses, or project components visible to users of aesthetic resources which will eliminate or significantly reduce their enjoyment of the aesthetic qualities of that resource. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Project components that will result in the elimination or significant screening of scenic views known to be important to the area.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts:  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

**IMPACT ON HISTORIC AND ARCHAEOLOGICAL RESOURCES**

12. Will Proposed Action impact any site or structure of historic, prehistoric or paleontological importance?

NO  YES

**Examples that would apply to column 2**

- |   |                          |                          |  |
|---|--------------------------|--------------------------|--|
| • Proposed Action occurring wholly or partially within or substantially contiguous to any facility or site listed on the State or National Register of historic places. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Any impact to an archaeological site or fossil bed located within the project site.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action will occur in an area designated as sensitive for archaeological sites on the NYS Site Inventory.   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

1	4	-
Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

• Other impacts:

**IMPACT ON OPEN SPACE AND RECREATION**

13. Will proposed Action affect the quantity or quality of existing or future open spaces or recreational opportunities?  
 NO     YES

Examples that would apply to column 2

- |   |                          |                          |                              |                             |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|
| • The permanent foreclosure of a future recreational opportunity. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • A major reduction of an open space important to the community.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts:  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

**IMPACT ON CRITICAL ENVIRONMENTAL AREAS**

14. Will Proposed Action impact the exceptional or unique characteristics of a critical environmental area (CEA) established pursuant to subdivision 6NYCRR 617.14(g)?  
 NO     YES

List the environmental characteristics that caused the designation of the CEA.

Examples that would apply to column 2

- |   |                          |                          |                              |                             |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Proposed Action to locate within the CEA?                                   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will result in a reduction in the quantity of the resource? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will result in a reduction in the quality of the resource?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will impact the use, function or enjoyment of the resource? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts:  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

Small to Moderate Impact      Potential Large Impact      Can Impact Be Mitigated by Project Change

**IMPACT ON TRANSPORTATION**

15. Will there be an effect to existing transportation systems?  
 NO       YES

Examples that would apply to column 2

- Alteration of present patterns of movement of people and/or goods.                   Yes       No
- Proposed Action will result in major traffic problems.                   Yes       No
- Other impacts:                   Yes       No

Improvement of town highway will give residents an alternative method of egress from the Enoch Crosby neighborhood which may result in a moderate increase in traffic along Kelly Rd

**IMPACT ON ENERGY**

16. Will Proposed Action affect the community's sources of fuel or energy supply?  
 NO       YES

Examples that would apply to column 2

- Proposed Action will cause a greater than 5% increase in the use of any form of energy in the municipality.                   Yes       No
- Proposed Action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two family residences or to serve a major commercial or industrial use.                   Yes       No
- Other impacts:                   Yes       No

**NOISE AND ODOR IMPACT**

17. Will there be objectionable odors, noise, or vibration as a result of the Proposed Action?  
 NO       YES

Examples that would apply to column 2

- Blasting within 1,500 feet of a hospital, school or other sensitive facility.                   Yes       No
- Odors will occur routinely (more than one hour per day).                   Yes       No
- Proposed Action will produce operating noise exceeding the local ambient noise levels for noise outside of structures.                   Yes       No
- Proposed Action will remove natural barriers that would act as a noise screen.                   Yes       No
- Other impacts:                   Yes       No

1  
Small to  
Moderate  
Impact

2  
Potential  
Large  
Impact

3  
Can Impact Be  
Mitigated by  
Project Change

### IMPACT ON PUBLIC HEALTH

18. Will Proposed Action affect public health and safety?

NO  YES

- |  |                          |  |
|--|--------------------------|--|
| <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action may cause a risk of explosion or release of hazardous substances (i.e. oil, pesticides, chemicals, radiation, etc.) in the event of accident or upset conditions, or there may be a chronic low level discharge or emission. |                          |  |
| <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action may result in the burial of "hazardous wastes" in any form (i.e. toxic, poisonous, highly reactive, radioactive, irritating, infectious, etc.)   |                          |  |
| <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Storage facilities for one million or more gallons of liquefied natural gas or other flammable liquids.  |                          |  |
| <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action may result in the excavation or other disturbance within 2,000 feet of a site used for the disposal of solid or hazardous waste.   |                          |  |
| <input type="checkbox"/>   | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Other impacts:   |                          |  |

The opening of an alternative egress to the neighborhood will enhance public health and safety by allowing emergency vehicles to move freely with reduced access time to area hospital.

### IMPACT ON GROWTH AND CHARACTER OF COMMUNITY OR NEIGHBORHOOD

19. Will Proposed Action affect the character of the existing community?

NO  YES

Examples that would apply to column 2

- |   |                          |  |
|---|--------------------------|--|
| <input type="checkbox"/>  | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • The permanent population of the city, town or village in which the project is located is likely to grow by more than 5%.                |                          |  |
| <input type="checkbox"/>  | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • The municipal budget for capital expenditures or operating services will increase by more than 5% per year as a result of this project. |                          |  |
| <input type="checkbox"/>  | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action will conflict with officially adopted plans or goals.   |                          |  |
| <input type="checkbox"/>  | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action will cause a change in the density of land use.   |                          |  |
| <input type="checkbox"/>  | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Proposed Action will replace or eliminate existing facilities, structures or areas of historic importance to the community.             |                          |  |
| <input type="checkbox"/>  | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • Development will create a demand for additional community services (e.g. schools, police and fire, etc.)                                |                          |  |

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Proposed Action will set an important precedent for future projects.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action will create or eliminate employment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

Re-opening of Enoch Crosby Road through Kelly Road will create conflict in neighboring community that has grown to expect Kelly Road to remain a "dead end"

20. Is there, or is there likely to be, public controversy related to potential adverse environment impacts?

NO       YES

**If Any Action in Part 2 Is Identified as a Potential Large Impact or If you Cannot Determine the Magnitude of Impact, Proceed to Part 3**

## Part 3 - EVALUATION OF THE IMPORTANCE OF IMPACTS

### Responsibility of Lead Agency

Part 3 must be prepared if one or more impact(s) is considered to be potentially large, even if the impact(s) may be mitigated.

**Instructions** (If you need more space, attach additional sheets)

Discuss the following for each impact identified in Column 2 of Part 2:

1. Briefly describe the impact.
2. Describe (if applicable) how the impact could be mitigated or reduced to a small to moderate impact by project change(s).
3. Based on the information available, decide if it is reasonable to conclude that this impact is **important**.

To answer the question of importance, consider:

- ! The probability of the impact occurring
- ! The duration of the impact
- ! Its irreversibility, including permanently lost resources of value
- ! Whether the impact can or will be controlled
- ! The regional consequence of the impact
- ! Its potential divergence from local needs and goals
- ! Whether known objections to the project relate to this impact.

Re-establishing Kelly Road as a "through road" is expected to cause inter-town conflict because the residents of Kelly Road have always known Kelly Road as a dead end. The purpose for improving Enoch Crosby Extension to Kelly is to enhance the health and safety of all residents and improve the accessibility of the Enoch Crosby community. The area to be improved has been a mapped town highway for as long as records exist. There is no record of the road having been ever formally closed or abandoned on either the Town of Southeast or the Town of Carmel end. Kelly road is a public thoroughfare and any concern about the safety of that road way can be addressed and mitigated by the imposition and enforcement of appropriate speed limits.



**TOWN OF SOUTHEAST  
John J. Dunford Civic Center  
1360 Route 22, Brewster, New York 10509  
April 8, 2009  
Special Meeting 6:00 PM**

Salute to the Flag

Present Supervisor Rights  
Councilman Johnson  
Councilman Honeck  
Councilman Johnson

Absent: Councilman Yee (arrived approx. 7:00 pm)

Also Present: Town Clerk Mazzei  
Town Attorney Stephens  
Approximately 15 people

**RESOLUTION # /09 - O'CONNORS PUBLIC HOUSE WAIVER OF NOTICE  
REQUIRMENTS**

INTRODUCED BY: Councilman Roger Gross  
SECONDED BY: Councilman Honeck

**WHEREAS**, the Town has been notified that O'Connors Brewery Inc., a bar/restaurant located at 1620 Route 22, and doing business under the name O'Connors Public House (the "Licensee") has been denied a liquor license renewal as a result of its failure to properly notify the Town of its intention to renew such license; and

**WHEREAS**, the Town Clerk's records indicate that a written notice of intention to renew such liquor license was received in her office on or about February 9, 2009 and, again, on or about March 23, 2009; and

**WHEREAS**, it appears that the New York State Liquor Authority ("SLA") has determined that the timing and /or manner of the notice given by said Licensee did not comply with the substantive requirements of Section 64 of the Alcohol Beverage Control Law; and

**WHEREAS**, it has been found and determined that there are no ABC violations or complaints pending against the licensee and it is the desire of this Town Board to facilitate the re-issuance of the licensee's on premises liquor license.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Town Board of the Town of Southeast hereby WAIVES any and all rights it might have to substantive and procedural compliance with Section 64 of the ABC Law regarding notice to the municipality in connection with the 2009-2010 renewal of the on-premises liquor license for O'Connors Public House, NY State Liquor Authority Serial No. 2134759; and be it further

**RESOLVED**, that the Town Clerk be and she hereby is authorized and directed to forward a certified copy of this resolution to the New York State Liquor Authority, Renewal Unit, 80 So. Swan Street, Suite 900, Albany, NY 12210-8002 forthwith.

**UPON ROLL CALL VOTE:**

Councilman Yee	Absent
Councilman Gross	Aye
Councilman Honeck	Aye
Councilman Johnson	Aye
Supervisor Rights	Aye

VOTE: Resolution carried by a vote of 4 to 0.

**RESOLUTION #/09 - LUIS INC. d/b/a FIESTA MEXICANA WAIVER OF NOTICE  
REQUIRMENTS**

INTRODUCED BY: Councilman Richard Honeck  
SECONDED BY: Councilman Roger Gross

**WHEREAS**, the Town has been notified that Luis Inc., a bar/restaurant located at 1620 Route 22, and doing business under the name Fiesta Mexicana, (the "Licensee") has failed to properly notify the Town of its intention to renew its on-premises liquor license in a timely manner; and

**WHEREAS**, it appears that the Licensee's restaurant on-premises liquor license is due to expire on April 30, 2009; and

**WHEREAS**, the rules of the New York State Liquor Authority ("SLA") require that a Renewal Application Notice Form must be sent to the Town at least thirty (30) days prior to filing for the renewal; and

**WHEREAS**, the Town is in receipt of a Renewal Application Notice Form from the Licensee dated April 2, 2009;

**WHEREAS**, it has been found and determined that there are no ABC violations or complaints pending against the licensee and it is the desire of this Town Board to facilitate the re-issuance of the licensee's on premises liquor license.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Town Board of the Town of Southeast hereby WAIVES any and all rights it might have to substantive and procedural compliance with Section 64 of the ABC Law regarding notice to the municipality in connection with the 2009-2010 renewal of the on-premises liquor license for Luis Inc. d//b/a Fiesta Mexicana, NY State Liquor Authority Serial No. 2117616; and be it further

**RESOLVED**, that the Town Clerk be and she hereby is authorized and directed to forward a certified copy of this resolution to the New York State Liquor Authority, Renewal Unit, 80 So. Swan Street, Suite 900, Albany, NY 12210-8002 forthwith.

**UPON ROLL CALL VOTE:**

Councilman Yee	Absent
Councilman Gross	Aye
Councilman Honeck	Aye
Councilman Johnson	Aye
Supervisor Rights	Aye

VOTE: Resolution carried by a vote of 4 ayes.

#### **ROAD IMPOROVEMENT FUNDING**

Councilman Johnson made a motion to accept the EAF – short form and the Full Environment Assessment form. Petition submitted by residents to pave Maple Road is attached at end of minutes. Councilman Honeck seconded.

Councilman Johnson proceeded to read the short form and the Town Attorney read the long form. (attached to the end of the minutes)

A Public Hearing is not required.

The roll call vote for the motion that was introduced and seconded is as follows:

Upon Roll Call Vote:

Councilman Yee	Aye
Councilman Gross	Aye
Councilman Honeck	Aye
Councilman Johnson	Aye

Supervisor Rights     Aye

VOTE: Resolution carried by a vote of 5 ayes.

Councilman Johnson made a motion for the Highway Superintendent to expend up to \$60,000 (Sixty Thousand Dollars) to improve an existing town road known as the "Enoch Crosby Extension" to the town specifications.

Upon Roll Call Vote:

Councilman Yee         Nay

Councilman Gross     Aye

Councilman Honeck    Aye

Councilman Johnson   Aye

Supervisor Rights     Nay

VOTE: Resolution carried by a vote of 3 ayes, 2 nays, 0 abstained.

Respectfully submitted;

Ruth Argo Mazzei  
Southeast Town Clerk

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF PUTNAM**

-----X  
GEORGE MUELLER, MARGO MUELLER, FRANK  
DEL GROSSO, HELEN DEL GROSSO, THE TOWN  
OF CARMEL and MICHAEL SIMONE, Highway  
Superintendent of the Town of Carmel,

Petitioners,

- against-

THE TOWN BOARD OF THE TOWN OF  
SOUTHEAST and KEVIN PALMER, Interim Highway  
Superintendent of the Town of Southeast,

Respondents.  
-----X

Index No. 1055/09

**AFFIDAVIT OF  
KEVIN PALMER**

Assigned Judge:

Hon. Andrew P. O'Rourke

KEVIN PALMER, being first duly sworn, deposes and says:

1. I am the duly appointed and acting Interim Highway Superintendent of the Town of Southeast and, as such, I am fully familiar with the facts and circumstances contained herein.

2. I make this affidavit in opposition to the application of George Mueller and others which seeks to restrain and prohibit me and the Town of Southeast Highway Department from improving a section of Enoch Crosby Road that connects to Kelley Road in the Town of Carmel. In addition, I make this affidavit in support of the Town of Southeast's application to compel the Town of Carmel to remove a barrier that its highway department has erected to impede travel between our two towns.

**BACKGROUND**

3. I was first employed by the Town of Southeast Highway Department as a summer laborer in or about 1972. At the time, my uncle Richard Palmer was the Highway Superintendent and my father Joseph Palmer was the Foreman of the Department.

4. I have been employed by the Town of Southeast Highway Department in various capacities and at various intervals from 1974 to the present.

5. On or about January 1, 2009, I was appointed Deputy Highway Superintendent by then Acting Interim Highway Superintendent James Lawlor. Upon Mr. Lawlor's resignation effective January 31, 2009, I was appointed Interim Highway Superintendent by the Southeast Town Board to serve the balance of the Highway Superintendent's term which expires on December 31, 2009.

6. Shortly after accepting the position of Interim Highway Superintendent I was confronted with several pressing highway maintenance matters, one of which was the concern over the condition of portions of Maple Road which, for many reasons not necessarily germane to this proceeding, have remained un-paved and unimproved over the years. The condition of Maple Road deteriorates in late winter and early spring and, as a result, the Highway Department is compelled to take extraordinary measures to assure that Maple Road remains clear, relatively smooth and passable to motorists.

7. Knowing the history of Maple Road, as well as the perennial debate over whether or not to pave portions of that road, I began to research what might be done to alleviate some of the concerns about Maple Road's periodic impassibility, short of spending in excess of \$600,000.00 to pave a portion of Maple Road. Two potential alternatives were readily apparent; (a) connect the "loop" road within the Crosby Hill neighborhood to Peter Road through an area reserved as an "emergency access easement" on property owned by two residents of the Crosby Hill development; or (b) improve and rehabilitate a section of Enoch Crosby Road to allow an alternative exit to Carmel.

## ENOCH CROSBY ROAD: THE PREFERRED ALTERNATIVE

8. In evaluating the two alternatives I concluded that the Peter Road connection was less viable because the Town would have to acquire the road from the private land owners through *eminent domain* (at market value) and then pay for the cost of construction of the road on top of that. Moreover, the connection to Peter Road would direct traffic through a winding neighborhood road containing some steep grades and tight curves. I further concluded that the Enoch Crosby improvement would be the most cost effective and safe resolution and would provide the residents of this area with a reasonable alternative access to the Town of Carmel. Likewise, the rehabilitation of this road would afford residents of this section of the Town of Carmel a more direct route if they desired to travel to areas of the Town of Southeast and the Village of Brewster.

9. I have specific, clear memories of grading Maple Road and portions of Enoch Crosby Road while working with my Father and Uncle while I was in High School in the early 1970's. At night we would temporarily store the grader out of the way at the top of Enoch Crosby Road at a point before Enoch Crosby Road descended into the Town of Carmel to meet Kelley Road. While this portion of Enoch Crosby Road was not an "improved" road, i.e. it was not paved at the time; I have a specific recollection of the road being open, unobstructed and passable. In fact, the first time I was taken through there by my Father, I recall him asking me if "I knew where I was" and when I admitted that I didn't, he advised me that "we are now in the Town of Carmel."

10. That image and memory has stuck with me for many years and, having known that Enoch Crosby Road historically traversed into Carmel, I pondered whether the upgrading of the surface and improvement of the portion of Enoch Crosby Road from where the pavement

currently ends to the Carmel Town line might provide the alternative method of ingress and egress that was so desperately needed.

#### ENOCH CROSBY ROAD: A TOWN HIGHWAY

11. In reviewing maps of the Town dating back as far as 1854, it is clear that what we now call Enoch Crosby Road (then known as Kelley or Kelly Road) extended from Maple Road across the town border into Carmel. See, 1867 F.W. Beers Map (a copy of a pertinent portion of which is annexed hereto as Exhibit "A"); see, also, 1854 O'Connor Map. More telling is the fact that contemporary maps show that Enoch Crosby Road stretches from Maple Road into the Town of Carmel through Kelley Road. See, 2008 Hagstrom Map of Putnam County (a copy of the pertinent portion of which is annexed hereto as Exhibit "B").

12. I conducted a search of records in the Town and County and could find no evidence that this portion of Enoch Crosby Road had ever been formally or officially closed or abandoned in accordance with the provisions of the Highway Law.

13. I also checked with the Putnam County Office of Real Property Services and the Town of Southeast Assessor and was advised that the portion of Enoch Crosby Road in question was and is shown on the tax maps as a mapped Town Highway belonging to the Town of Southeast and I know of no adverse claims to the road bed. In fact, a review of the land records of the Putnam County Clerk reveals that all of the filed subdivision maps abutting this portion of Enoch Crosby Road show Enoch Crosby Road extending to the town line. See, Filed Map No. 2523, Final Subdivision Plat of Crosby Hill, filed in the Putnam County Clerk's Office on October 22, 1991 (Exhibit "C" annexed hereto) and Filed Map No. 2780, Lot Line Adjustment Between Azzaretti and Baker, dated July 14, 1998, last revised February 8, 1999, and filed in the Putnam County Clerk's Office on March 19, 1999 (Exhibit "D" annexed hereto). Moreover,

filed maps abutting the portion of Kelley Road in Carmel also clearly show an improved Kelley Road entering the Town of Southeast. See, Filed Map No. 878B, Map of Red Oak Ridge Section 3, dated March 23, 1963 and filed in the Putnam County Clerk's office on August 2, 1963 (Attached hereto as Exhibit "E"). Ironically, this is the subdivision that created the lots which, upon information and belief, are owned by several of the Petitioners in this proceeding. Likewise, the most recent map on record for this vicinity in Carmel entitled Final Plat Subdivision of Property known as Plum Brook shows the actual pavement of Kelley Road extending into the Town of Southeast. See, Filed Map No. 2770, Final Plat Subdivision of Property known as Plum Brook, dated June 30, 1998, filed in the Putnam County Clerk's office on December 21, 1998, annexed hereto as Exhibit "F".

14. I have reviewed the Town Highway Inventory which is filed annually with the New York State Department of Transportation for the past three years. The Town of Southeast carries Enoch Crosby Road on its books as running from Maple Road to the Carmel Town Line. See, pertinent portions of New York State Department of Transportation Local Road Listing, Town of Southeast, for the years 2005, 2006 and 2007 annexed hereto and made a part hereof as Exhibit "G".

15. In or about the beginning of March, 2009, I commissioned a survey of the portion of Enoch Crosby Road to be performed by a licensed surveyor. Attached hereto and made a part hereof as Exhibit "H" is a copy of the survey of this area showing the current edge of pavement of Enoch Crosby Road as well as the current edge of pavement from Kelley Road in the Town of Carmel. It is interesting to note that a portion of pavement on Kelley Road actually extends into the Town of Southeast. See Survey of Bergendorff-Collins, dated March 17, 2009 (Exhibit "H") hereto.

16. Sometime since the summer of 1973 when I can recall traveling through this area with my Father on the Town Highway Department grader, someone attempted to block or barricade this portion of Enoch Crosby Road to obstruct and hinder through traffic. The remnants of the barricade are located within the Town of Southeast. *See*, Survey of Bergendorff-Collins. (Exhibit "H") I have found no record to explain how or why this barricade was placed on this road and it remains my intention to remove it as an unauthorized obstruction to a Town Highway once this rehabilitation project can be advanced. I have discussed the matter with my uncle Richard Palmer, a former highway superintendent and he is certain that the barrier or barricade was not erected or constructed by the Town of Southeast Highway Department personnel during his tenure.

#### HIGHWAY IMPROVEMENT FUNDING

17. After concluding that the portion of Enoch Crosby Road in question remained in Town ownership and control and in consultation with the Town's Consulting Engineer, Nathan L. Jacobson & Associates, I commenced estimating what it would cost to rehabilitate the approximately 450 foot span of Enoch Crosby Road. I concluded that this stretch of road could be rehabilitated for the sum of approximately \$60,000.00. Knowing that the Town Highway budget for 2009 had not included this capital project, I sought the financial support of the Town Board.

18. By letter dated March 27, 2009, a copy of which is annexed hereto as Exhibit "I", I advised the Town Board of what my research had revealed and asked the Town Board to appropriate the sum of \$60,000.00 to the Highway Department to fund the improvement to Enoch Crosby Road.

19. Thereafter, the Town Board scheduled a Special Meeting for Wednesday, April 8, 2009 to consider action on certain items including the appropriation of funds for the Enoch Crosby Road project.

20. On April 8, 2009 the Town Board met and deliberated on my request in an open, public meeting. In this regard the Board considered and unanimously approved an Environmental Assessment Form which analyzed the proposed project and concluded that the improvement of this portion of Enoch Crosby Road and the funding thereof would most likely not have a significant impact on the environment. A copy of the Full EAF adopted by the Town Board is annexed hereto and made a part hereof as Exhibit "J".

21. Thereafter, a motion was made by Councilman Paul Johnson to appropriate the sum of \$60,000.00 to the Highway Department for use in rehabilitating a portion of Enoch Crosby Road. The motion carried by a majority vote of the Town Board.

22. In or about late February or early March of this year I reached out to Hon. Michael Simone, Highway Superintendent of the Town of Carmel, to advise him that I intended to repair and rehabilitate this portion of Enoch Crosby Road. Mr. Simone advised me, while he didn't know the reason why the Kelley – Enoch Crosby Road connection had been severed, he anticipated that the residents of the Town of Carmel would object to the improvement of the road so as to allow unobstructed travel into the Town of Carmel. He indicated that, because of that fact, he would be inclined to oppose my effort.

23. I felt that it was my prerogative to improve the condition of this Town Road in an effort to protect and enhance the health, safety and welfare of the Townspeople and my responsibility to fulfill my constitutional and statutory mandate as Highway Superintendent. I advised Mr. Simone that the current obstruction of Enoch Crosby Road was located within the

Town of Southeast (as verified by the Survey we had commissioned – Exhibit “H”) and had not been authorized by any act of the Southeast Town Board or previous Highway Superintendent of which I was aware.

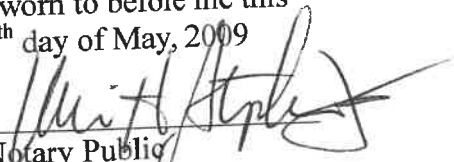
24. On or about April 15, 2009, while I was supervising members of the Southeast Highway Department crew who were removing brush and other vegetation that had accumulated along this portion of Enoch Crosby Road, I observed what I believe to be employees of the Town of Carmel Highway Department installing a guardrail style barrier in the middle of Kelley Road within the Town of Carmel. Clearly, the continued existence of this barrier would impede the ability of motorist to travel upon Kelley and Enoch Crosby Road. The construction of this barrier was done without consultation with me as Highway Superintendent in an apparent violation of Highway Law Sections 184 and 185 (ironically, the very same sections of the Highway Law that the Town of Carmel claims I violated in working to repair and rehabilitate one of our own Town roads).

25. On the foregoing, I respectfully submit that the portion of Enoch Crosby Road which the Town of Southeast seeks to repair and rehabilitate is, in fact, a Town highway; has not been formally or officially closed nor abandoned in accordance with the Highway Law; that Enoch Crosby Road has been carried on the Town of Southeast Highway inventory filed annually with the State of New York as running from Maple Road to the Carmel town line; that a proper review and analysis of the potential environmental impacts have been analyzed as required by the New York State Environmental Quality Review Act; and that there is no statutory or other legal impediment to the Town of Southeast improving and rehabilitating a portion of one of its more historic Town roads that linked the Towns of Carmel and Southeast for the better part of two centuries.

26. Likewise, I respectfully submit that the Town of Carmel and its Highway Superintendent have acted precipitously and illegally in erecting a barrier in an attempt to prohibit the free movement of vehicular traffic between our two towns and should be ordered to remove the wrongfully erected barrier forthwith.

  
\_\_\_\_\_  
KEVIN PALMER

Sworn to before me this  
7<sup>th</sup> day of May, 2009

  
\_\_\_\_\_  
Notary Public

A 73°58'30" B 73°57'45" C 73°57'00" D 73°56'15" E 73°55'30" F 73°54'45" G 73°54'00"

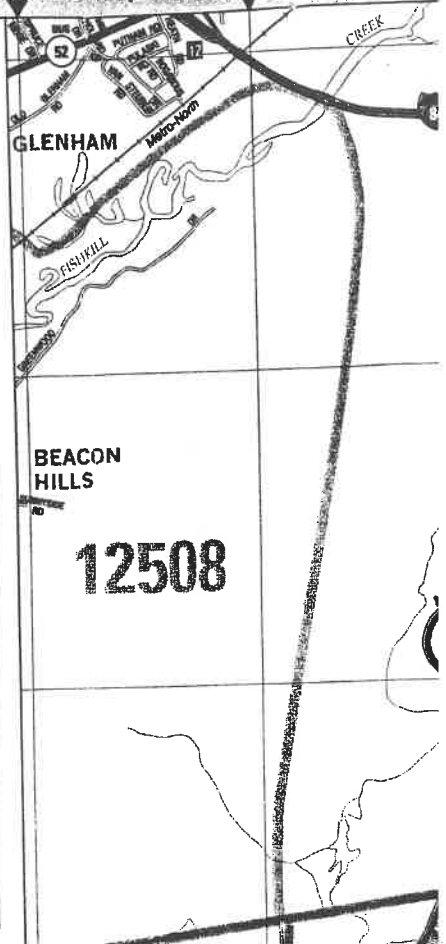
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# Putnam County

## New York

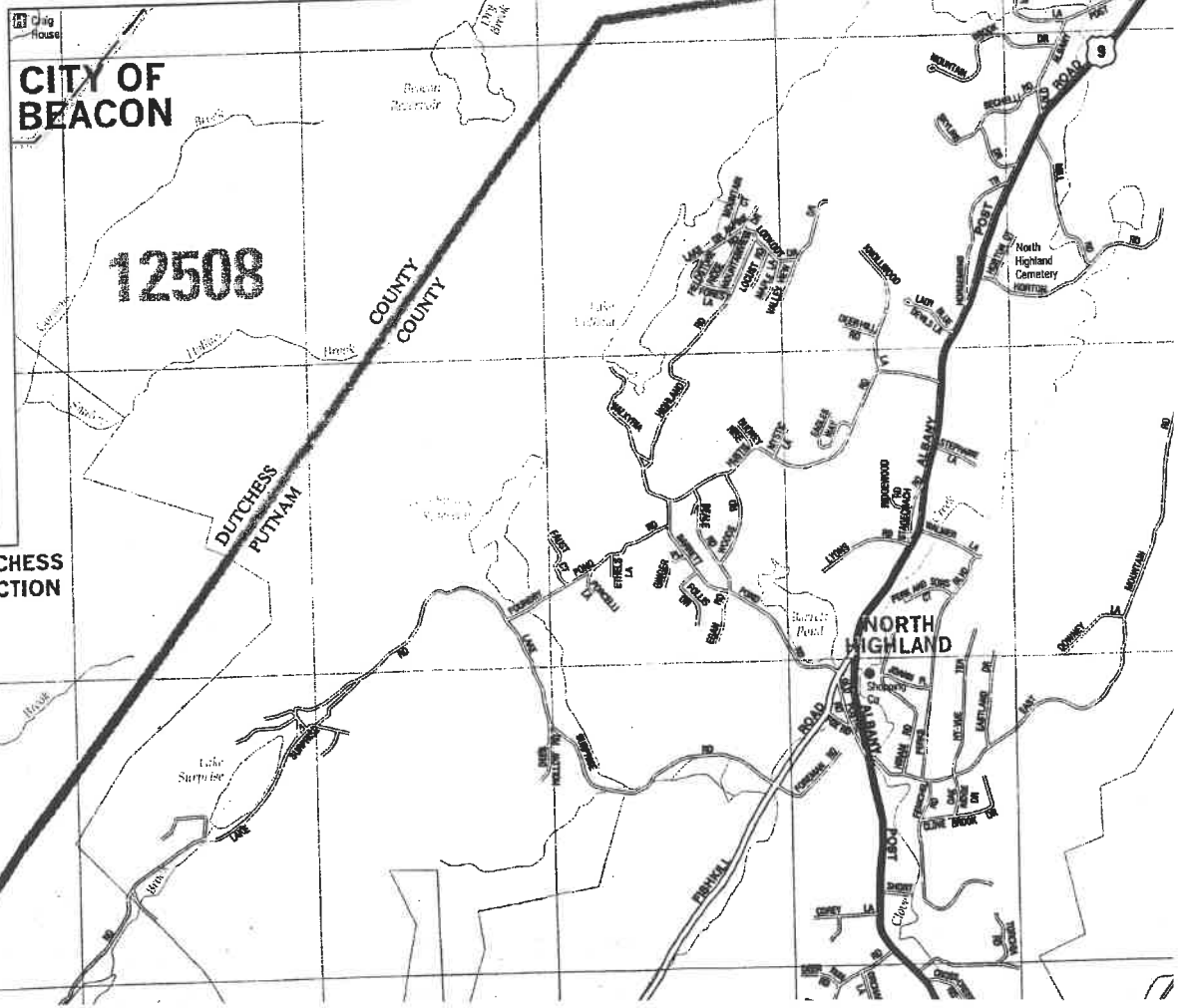
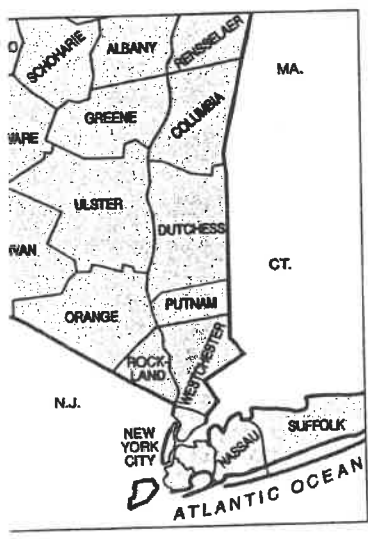
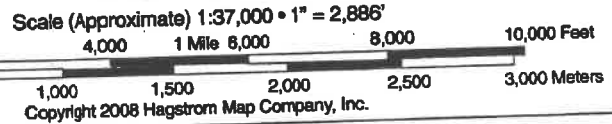
- |              |   |  |   |
|--------------|---|--|---|
|              | Interstate Highway                                    |  | Park  |
|              | Controlled Access Highway<br>(No Commercial Vehicles) |  | Golf and Country Club                                   |
|              | Main Through Route                                    |  | Cemetery  |
|              | Secondary Through Route                               |  | Point of Interest                                       |
|              | Trail   |  | Airport   |
|              | Highway Symbols                                       |  | Medical Center/Hospital                                 |
|              | Interchange Number                                    |  | Government Land   |
|              | Railroad Line and Stations                            |  | College or University/School/<br>Municipal Building     |
|              | State Boundary  |  | Post Office   |
|              | County Boundary                                       |  | Latitude / Longitude in<br>degrees, minutes and seconds |
|              | Municipal Boundary                                    |  |   |
| <b>11952</b> | Zip Code Number<br>and Boundary                       |  |   |



**KENT**  
Town

**BREWSTER**  
Village/Incorporated Area

**MAHOPAC**  
Neighborhood/  
Unincorporated Area





New York State Department of Transportation  
Local Roads Listing

REGION 8 JURISDICTION: Town

LOCATION: Town of Southeast

PUTNAM

COUNTY

Route Road or Street Name	Road #	Start of Section	End of Section	Milepoint		Length	No. of Lanes	One Way or Divided Highway	Pymnt		Shldr		Median		Func. Class.	Fed. Aid Sys.
				Start	End				Type	Width	Type	Width	Type	Width		
DOANSBURGH RD	0260	SR 22	SR 22	0.00	0.85	0.85	2		A	18	4	4	0	0	19	
DOUGLAS CT	0265	HUBBARD DR	CUL-DE-SAC	0.00	0.05	0.05	2		A	24	0	4	0	0	19	
KIRKHAM RD -BREWILLEHTST	0270	SR 36	SR 36	0.00	0.34	0.34	2		A	18	2	4	0	0	19	
DROVERS LA CURITY LN.	0275	FOGGINGTOWN RD	TERMINUS	0.00	0.33	0.33	2		A	24	0	4	0	0	19	
ELECTRAVE	0280	HILLCREST AVE	TERMINUS	0.00	0.08	0.08	2		A	18	3	4	0	0	19	
ELIZABETH CT	0285	WELFARE RD	CUL-DE-SAC	0.00	0.12	0.12	2		A	28	0	4	0	0	19	
ELMWOOD DR	0290	SR 58	BREWSTER HILL R	0.00	0.41	0.41	2		A	20	4	4	0	0	19	
ENOCH CROSBY RD	0295	MAPLE RD	CARMEL T/L	0.00	0.45	0.45	2		A	24	0	4	0	0	19	
ERNST RD	0297	CR 54	END	0.00	0.14	0.14	2		A	24	0	4	0	0	19	
FAIR MEADOW DR	0300	ST JAMES PL	TERMINUS	0.00	0.13	0.13	2		A	24	0	4	0	0	19	
FAIRVIEW DR	0303	COOLEIDGE PKWY	TERMINUS	0.00	0.28	0.28	2		A	18	0	4	0	0	19	
FARMSTEAD LA	0305	SR 312	CUL-DE-SAC	0.00	0.11	0.11	2		A	28	0	4	0	0	19	
FARRELL DR	0310	SHERWOOD HLL R	CUL-DE-SAC	0.00	0.25	0.25	2		A	28	0	4	0	0	19	
FEDERAL HILL RD	0320	SR 54	SR 54	0.00	1.20	1.20	2		A	18	4	4	0	0	19	
FEDERAL HILL RD	0325	SR 54	FEDERAL HILL R	0.00	0.06	0.06	2		A	14	3	4	0	0	19	
FIELDS LA	0330	SR 55	SR 55	0.00	1.16	1.16	2		A	12	8	4	0	0	19	
FIELDS LA	0330	SR 55	PATTERSON T/L	1.16	1.68	0.52	2		A	18	8	4	0	0	19	
FIELDS RD 1	0340	ZIMMER RD	PATTERSON T/L	0.00	0.47	0.47	2		U	12	2	4	0	0	19	
FOGGINGTOWN RD	0350	SR 62	SR 62	0.00	0.97	0.97	2		A	12	8	4	0	0	19	
FOGGINGTOWN RD	0350	SR 62	DOANSBURGH RD	0.97	1.95	0.98	2		A	16	4	4	0	0	19	
FOREST LA	0355	CROSBY AVE	TERMINUS	0.00	0.50	0.50	2		A	24	0	4	0	0	19	
FOSTER RD	0360	REED RD	KNOX RD	0.00	0.14	0.14	2		A	18	3	4	0	0	19	

New York State Department of Transportation  
Local Roads Listing

REGION 8 JURISDICTION: Town

LOCATION: Town of Southeast

PUTNAM

COUNTY

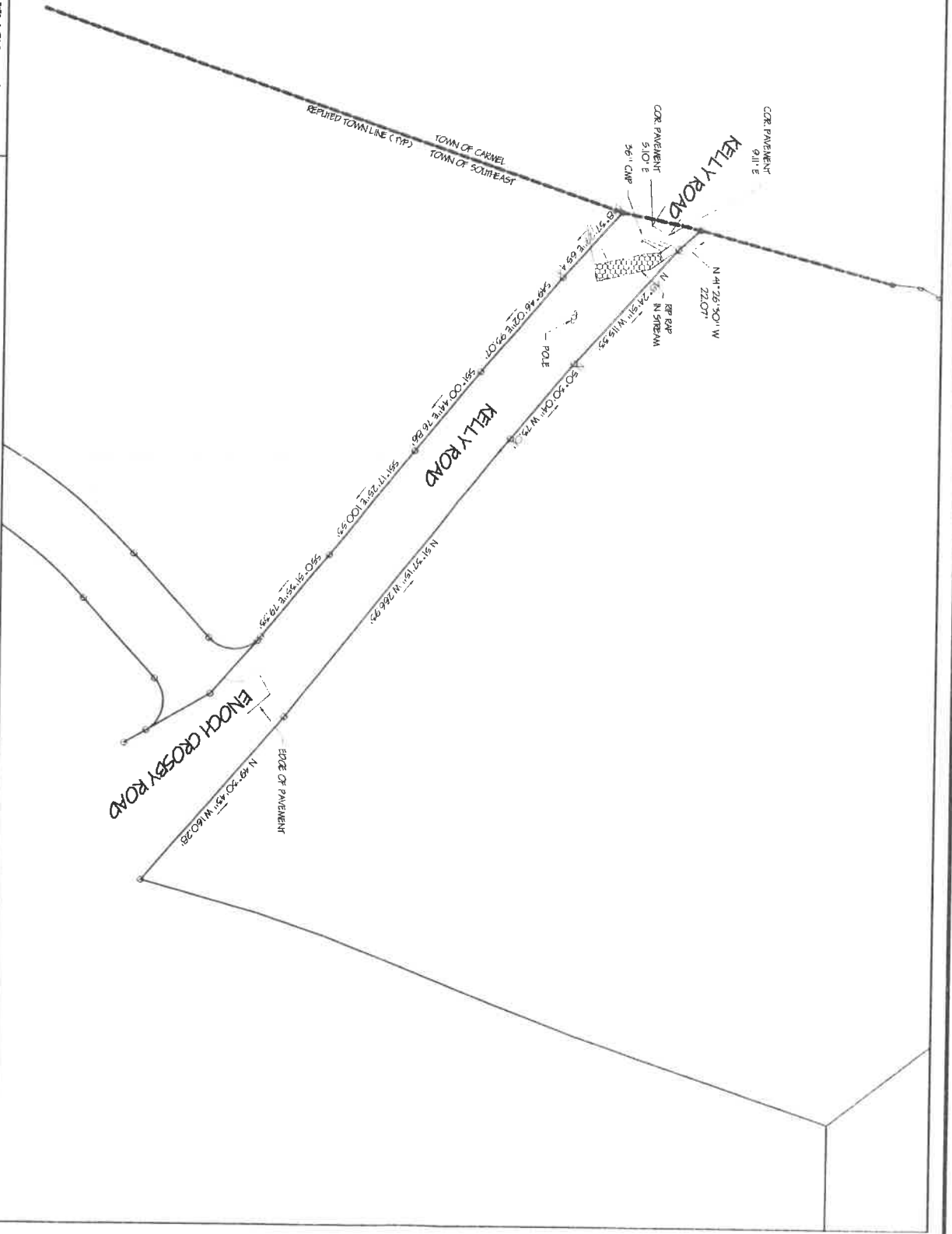
Route	Road or Street Name	Road #	Start of Section	End of Section	Milepoint		Length	No. of Lanes	One Way or Divided Highway	Pvmt		Shldr		Median		Func. Class.	Fed. Aid Sys.
					Start	End				Type	Width	Type	Width	Type	Width		
0250	DINGLE RIDGE RD	SR 6E	WESTCHESTER C/	0.00	1.61	1.61	2		A	18	4	4	4	0	0	19	
0260	DOANSBURGH RD	SR 22	SR 22	0.00	0.85	0.85	2		A	18	4	4	4	0	0	19	
0265	DOUGLAS CT	HUBBARD DR	CUL-DE-SAC	0.00	0.05	0.05	2		A	24	0	4	4	0	0	19	
0270	KIRKHAM RD	SR 36	SR 36	0.00	0.34	0.34	2		A	18	3	4	4	0	0	19	
0275	DROVERS LA	FOGGINGTOWN RD	TERMINUS	0.00	0.33	0.33	2		A	24	0	4	4	0	0	19	
0280	CURIOSITY LA	HILLCREST AVE	TERMINUS	0.00	0.08	0.08	2		A	18	3	4	4	0	0	19	
0285	ELIZABETH CT	WELFARE RD	CUL-DE-SAC	0.00	0.12	0.12	2		A	28	0	4	4	0	0	19	
0290	ELMWOOD DR	SR 58	BREWSTER HLL R	0.00	0.41	0.41	2		A	20	4	4	4	0	0	19	
0295	ENOCH CROSBY RD	MAPLE RD	CARMEL T/L	0.00	0.45	0.45	2		A	18	0	4	4	0	0	19	
0297	ERNST RD	CR 54	END	0.00	0.14	0.14	2		A	24	0	4	4	0	0	19	
0300	FAIR MEADOW DR	ST JAMES PL	TERMINUS	0.00	0.13	0.13	2		A	24	0	4	4	0	0	19	
0303	FAIRVIEW DR	COOLEIDGE PKWY	TERMINUS	0.00	0.28	0.28	2		A	18	0	4	4	0	0	19	
0305	FARMSTEAD LA	SR 312	CUL-DE-SAC	0.00	0.11	0.11	2		A	28	0	4	4	0	0	19	
0310	FARRELL DR	SHERWOOD HLL R	CUL-DE-SAC	0.00	0.25	0.25	2		A	28	0	4	4	0	0	19	
0320	FEDERAL HILL RD	SR 54		0.00	1.20	1.20	2		A	18	4	4	4	0	0	19	
0325	FEDERAL HILL RD	SR 54	FEDERAL HILL R	0.00	0.06	0.06	2		A	14	3	4	4	0	0	19	
0330	FIELDS LA	SR 55		0.00	1.16	1.16	2		A	24	3	4	4	0	0	19	
0330	FIELDS LA		NORTH SALEM TL	1.16	1.68	0.52	2		A	24	3	4	4	0	0	19	
0340	FIELDS RD 1	ZIMMER RD	PATTERSON T/L	0.00	0.47	0.47	2		U	12	2	4	4	0	0	19	
0350	FOGGINTOWN RD	SR 62		0.00	0.97	0.97	2		A	20	0	4	4	0	0	19	
0350	FOGGINTOWN RD		DOANSBURGH RD	0.97	1.95	0.98	2		A	20	0	4	4	0	0	19	
0355	FOREST LA	CROSBY AVE	TERMINUS	0.00	0.50	0.50	2		A	24	0	4	4	0	0	19	

# New York State Department of Transportation

## Local Road Listing

Location	Town of Southeast PUTNAM County	DOI ID	State Route	Road/Street Name	Start of Section	End of Section	Beg MP	End MP	Length	Div	No. of Lanes	One Way	Func Type	Geo Code	0789	NYSDOT Region 8
193033				DOUGLAS CT	HUBBARD DR	CUL-DE-SAC	0.00	0.05	0.05		2		A	19		
193035				DROVERS LA	FOGGINGTOWN RD	TERMINUS	0.00	0.33	0.33		2		A	19		
193037				ELIZABETH CT	WELFARE RD	CUL-DE-SAC	0.00	0.12	0.12		2		A	19		
193038				ELMWOOD DR	SR 58	BREWSTER HILL R	0.00	0.41	0.41		2		A	19		
193039				ENOCH CROSBY RD	MAPLE RD	CARMEL T/L	0.00	0.45	0.45		2		A	19		
193040				ERNST RD	CR 54	END	0.00	0.14	0.14		2		A	19		
193041				FAIR MEADOW DR	ST JAMES PL	TERMINUS	0.00	0.13	0.13		2		A	19		
193042				FAIRVIEW DR	COOLEGE PKWY	TERMINUS	0.00	0.28	0.28		2		A	19		
193043				FARMSTEAD LA	SR 312	CUL-DE-SAC	0.00	0.11	0.11		2		A	19		
193044				FARRELL DR	SHERWOOD HILL R	CUL-DE-SAC	0.00	0.25	0.25		2		A	19		
193045				FEDERAL HILL RD	SR 54		0.00	1.20	1.20		2		A	19		
258633				FEDERAL HILL RD	SR 54	FEDERAL HILL R	0.00	0.06	0.06		2		A	19		
193020				FIELDS CRNRS RD	PUGSLEY RD	PATTERSON T/L	0.00	0.42	0.42		2		U	19		
193046				FIELDS LA	SR 55	NORTH SALEM TL	0.00	1.68	1.68		2		A	19		
193047				FIELDS RD 1	ZIMMER RD	PATTERSON T/L	0.00	0.47	0.47		2		U	19		
193048				FOGGINTOWN RD	SR 62	DOANSBURGH RD	0.00	1.95	1.95		2		A	19		
193049				FOREST LA	CROSBY AVE	TERMINUS	0.00	0.50	0.50		2		A	19		
193050				FOSTER RD	REED RD	KNOX RD	0.00	0.14	0.14		2		A	19		
193051				FOX HOLLOW RD	SHERWOOD HILL	TERMINUS	0.00	0.12	0.12		2		A	19		
193052				FRIENDLY RD	STARR RIDGE RD	COBB RD	0.00	0.38	0.38		2		A	19		
193053				GARRITY BLVD	END MEDIAN	END	0.24	0.43	0.19		2		A	19		
193053				GARRITY BLVD	SR 312	END MEDIAN	0.00	0.24	0.24		2		A	19		

NORTH



**SURVEYORS SEAL**



N.Y.S. LICENSE NO. 49691

CERTIFICATIONS INDICATED HEREON SIGNIFY THIS SURVEY WAS MADE BY THE SURVEYOR IN ACCORDANCE WITH THE GENERAL CODE OF PRACTICE FOR LAND SURVEYING ADOPTED BY THE NEW YORK STATE ASSOCIATION OF PROFESSIONAL LAND SURVEYORS, INC., AND THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION. THE SURVEYOR HAS BEEN QUALIFIED TO THE PERSON FOR WHOM THIS STATE PLAN OR TO THE PERSON FOR WHOM THIS STATE PLAN IS TO BE MADE BY THE BOARD OF SURVEYING AND MAPPING, A BOARD OF PROFESSIONAL LAND SURVEYORS, INC., OR ANOTHER BOARD OF SURVEYING AND MAPPING, AS PROVIDED BY SECTION 13-100 OF THE GENERAL CODE OF PRACTICE FOR LAND SURVEYING.

**TERRY BERENDORFF COLLINS**  
 82 STARK RIDGE ROAD  
 BREWSTER, NEW YORK 10909  
 N.Y.S. LICENSE NO. 49691

**SURVEY OF PROPERTY**  
 TOWN OF SOUTHEAST

SCALE: 1" = 50'  
 MARCH 17, 2009  
 PUNNAM CO., N.Y.

**REVISIONS**

DATE	DESCRIPTION	BY

THE ALTERATION OF SURVEY MAPS BY ANYONE OTHER THAN THE ORIGINAL PREPARER IS UNLAWFUL. CONVEYING AND NOT IN THE GENERAL LICENSED LAND SURVEYORS SHALL NOT ALTER UNAUTHORIZED REVISIONS OR SURVEY PLANS. UNAUTHORIZED REVISIONS OR SURVEY PLANS ARE UNLAWFUL. THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION OR ADOPTION TO THIS SURVEY IS A VIOLATION OF SECTION 13-100 OF THE GENERAL CODE OF PRACTICE FOR LAND SURVEYING. ALL CERTIFICATIONS HEREON ARE VALID FOR THIS SURVEY AND NOT FOR ANY OTHER SURVEY OR SURVEY MAPS. THE SURVEYOR HAS BEEN QUALIFIED TO THE PERSON FOR WHOM THIS STATE PLAN IS TO BE MADE BY THE BOARD OF SURVEYING AND MAPPING, A BOARD OF PROFESSIONAL LAND SURVEYORS, INC., OR ANOTHER BOARD OF SURVEYING AND MAPPING, AS PROVIDED BY SECTION 13-100 OF THE GENERAL CODE OF PRACTICE FOR LAND SURVEYING.

**Town of Southeast**  
**Highway Department**

10 Palmer Road, Brewster, N.Y. 10509

(845) 279-2141  
Kevin Palmer  
Highway Superintendent

FAX (845) 279-3226

March 27, 2009

Supervisor Michael Rights  
Councilman Roger Gross  
Councilman Dick Honeck  
Councilman Paul Johnson  
Councilman Dwight Yee

Re: Access to Kelly Road

Dear Town Board Members:

In my capacity as the Acting/Interim Highway Superintendent for the Town of Southeast (the "Town"), I have given serious thought about the best way to address the concerns raised regarding the condition of Maple Road and the surrounding area. As you are all aware, there is a very distinct and vocal difference of opinion among the affected residents regarding the future of Maple Road and it is my hope to address as many of these concerns as possible without further polarizing the community.

Working with Councilman Dick Honeck and Town Attorney Willis Stephens, I have completed an extensive review of Town and County records concerning Enoch Crosby Road. Through this we have determined that the roadway that connects Enoch Crosby Road to Kelly Road in the Town of Carmel remains a *bona fide*, mapped town highway. This road was regularly maintained until sometime in the late 1950's and, for reasons that are not quite clear, the Southeast Town Highway Department stopped regular maintenance of a portion of this road. However, I have concluded that the road has never been abandoned or formally closed in accordance with the proper procedures set forth in the Highway Law.

I recently commissioned a survey of the Town's right of way to the Carmel Town line and Kelly Road which concluded that the paved portion of Kelly Road extends into the Town of Southeast several yards. In addition, the barrier apparently erected by the Town of Carmel Highway Department is actually within the Town of Southeast.

It is my belief that the best and most effective way to address the concerns of this community would be to improve the portion of the Town Right of Way connecting Enoch Crosby Road to the Carmel Town Line and Kelly Road. It is my considered opinion that the improvement of this stretch of highway will provide a necessary and appropriate alternative method of egress to and from Enoch Crosby Road for use by motorists and emergency vehicles alike. This will not only address the "convenience" aspect of movement in this region of Town, it will enhance the health, safety and welfare of our residents by affording a more reliable and direct route to area health care facilities. It is also my opinion that this roadway can be improved to an appropriate standard at a cost far less than that which would be required if we were to undertake to improve and pave Maple Road.

I therefore request that the Town Board appropriate to the Highway Department an amount not to exceed \$60,000.00, an amount which the Town Engineer and I estimate to be sufficient to improve the Town Highway between Enoch Crosby Road and Kelly Road to appropriate standards, which will provide residents and emergency vehicles unimpeded access year round.

If you have any questions or concerns, please do not hesitate to call.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Palmer". The signature is written in a cursive style with a large initial "K".

Kevin Palmer  
Acting/Interim Highway Superintendent

PROJECT ID NUMBER

APPENDIX C  
STATE ENVIRONMENTAL QUALITY REVIEW  
**SHORT ENVIRONMENTAL ASSESSMENT FORM**  
for UNLISTED ACTIONS Only

**PART 1 - PROJECT INFORMATION** (To be completed by Applicant or Project Sponsor)

1. APPLICANT / SPONSOR TOWN OF SOUTHEAST, NY	2. PROJECT NAME IMPROVEMENT OF ENOCH CROSBY ROAD EXTENSION
---	---

3. PROJECT LOCATION: TOWN OF SOUTHEAST Municipality	PUTNAM County
---	------------------

4. PRECISE LOCATION: Street Address and Road Intersections, Prominent landmarks etc - or provide map  
AREA CONSISTING OF TOWN HIGHWAY RIGHT OF WAY (ROW) LEADING FROM THE WESTERLY TERMINUS OF PAVEMENT OF ENOCH CROSBY ROAD, ALONG SUCH ROW, TO THE TOWN LINE OF THE TOWN OF CARMEL.

5. IS PROPOSED ACTION:  New  Expansion  Modification / alteration

6. DESCRIBE PROJECT BRIEFLY:  
ENOCH CROSBY ROAD EXTENDS FROM MAPLE ROAD TO A ROAD IN THE TOWN OF CARMEL KNOW AS "KELLY" ROAD. OVER THE YEARS THE TOWN HIGHWAY DEPARMENT CEASED MAINTAINING A PORTION OF ENOCH CROSBY ROAD, CONSISTING OF APPROXIMATELY 450 LINEAR FEET (HEREINAFTER THE "ENOCH CROSBY EXTENSION"). HISTORICALLY, THIS EXTENSION CONSISTED OF A DIRT OR GRAVEL WEARING COURSE. AT SOME POINT IN TIME, THE TOWN OF CARMEL IMPROVED AND PAVED KELLY ROAD, TO A POINT A FEW YARDS WITHIN THE TOWN OF SOUTHEAST AND ERECTED A STEEL BARRIER TO LIMIT ACCESS FROM CARMEL INTO THE TOWN OF SOUTHEAST. DUE TO HEALTH AND SAFETY CONCERNS RESULTING FROM SEASONAL CONDITIONS OF MAPLE ROAD, IT HAS BEEN DETERMINED THAT A SECOND METHOD OF EGRESS FROM THE ENOCH CROSBY NEIGHBORHOOD WOULD BE APPROPRIATE. IT IS FOR THIS REASON THAT THE TOWN BOARD PROPOSES TO FUND THE REHABILITATION OF THE ENOCH CROSBY ROAD EXTENSION.

7. AMOUNT OF LAND AFFECTED:  
Initially 2 acres Ultimately 2 acres

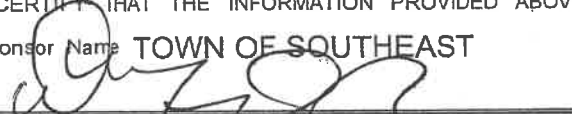
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER RESTRICTIONS?  
 Yes  No If no, describe briefly:

9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? (Choose as many as apply.)  
 Residential  Industrial  Commercial  Agriculture  Park / Forest / Open Space  Other (describe)

10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (Federal, State or Local)  
 Yes  No If yes, list agency name and permit / approval:  
NYS DEC / NYC DEP to rehabilitate crossing of intermittent stream crossing ROW

11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL?  
 Yes  No If yes, list agency name and permit / approval:

12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT / APPROVAL REQUIRE MODIFICATION?  
 Yes  No

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE  
Applicant / Sponsor Name TOWN OF SOUTHEAST Date: April 8, 2009  
Signature  SUPERVISOR - Southeast

If the action is a Coastal Area, and you are a state agency,  
complete the Coastal Assessment Form before proceeding with this assessment

**PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)**

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF.  
 Yes  No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.  
 Yes  No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:  
 Road construction will change surface hydrology and traffic patterns

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:  
 No.

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:  
 No, except for removal of some brush and second growth trees in ROW.

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:  
 No.

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:  
 No.

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:  
 Allow traffic to circulate in more than one direction providing options when other substandard roads need work

C7. Other impacts (including changes in use of either quantity or type of energy? Explain briefly:  
 N/A

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)? (If yes, explain briefly:  
 Yes  No

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? If yes explain:  
 Yes  No  
 The Extension has been impassable for several years. Residents on the Carmel (Kelly Road) end have enjoyed a "dead end" road and have voiced concern about it being restored as a through road

**PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)**

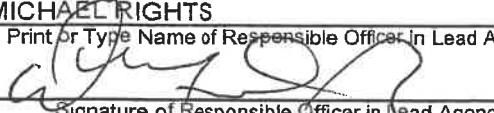
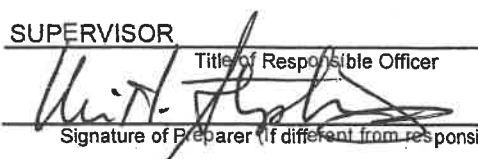
**INSTRUCTIONS:** For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question d of part ii was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide, on attachments as necessary, the reasons supporting this determination.

TOWN BOARD of the TOWN OF SOUTHEAST  APRIL 8, 2009   
 Name of Lead Agency Date

D. MICHAEL RIGHTS  SUPERVISOR   
 Print or Type Name of Responsible Officer in Lead Agency Title of Responsible Officer

   
 Signature of Responsible Officer in Lead Agency Signature of Preparer (if different from responsible officer)

Appendix A

State Environmental Quality Review
FULL ENVIRONMENTAL ASSESSMENT FORM

Purpose: The full EAF is designed to help applicants and agencies determine, in an orderly manner, whether a project or action may be significant. The question of whether an action may be significant is not always easy to answer. Frequently, there are aspects of a project that are subjective or unmeasurable. It is also understood that those who determine significance may have little or no formal knowledge of the environment or may not be technically expert in environmental analysis. In addition, many who have knowledge in one particular area may not be aware of the broader concerns affecting the question of significance.

The full EAF is intended to provide a method whereby applicants and agencies can be assured that the determination process has been orderly, comprehensive in nature, yet flexible enough to allow introduction of information to fit a project or action.

Full EAF Components: The full EAF is comprised of three parts:

- Part 1: Provides objective data and information about a given project and its site. By identifying basic project data, it assists a reviewer in the analysis that takes place in Parts 2 and 3.
Part 2: Focuses on identifying the range of possible impacts that may occur from a project or action. It provides guidance as to whether an impact is likely to be considered small to moderate or whether it is a potentially-large impact. The form also identifies whether an impact can be mitigated or reduced.
Part 3: If any impact in Part 2 is identified as potentially-large, then Part 3 is used to evaluate whether or not the impact is actually important.

THIS AREA FOR LEAD AGENCY USE ONLY

DETERMINATION OF SIGNIFICANCE -- Type 1 and Unlisted Actions

Identify the Portions of EAF completed for this project: [checked] Part 1 [checked] Part 2 [checked] Part 3
Upon review of the information recorded on this EAF (Parts 1 and 2 and 3 if appropriate), and any other supporting information, and considering both the magnitude and importance of each impact, it is reasonably determined by the lead agency that:

- A. The project will not result in any large and important impact(s) and, therefore, is one which will not have a significant impact on the environment, therefore a negative declaration will be prepared.
B. Although the project could have a significant effect on the environment, there will not be a significant effect for this Unlisted Action because the mitigation measures described in PART 3 have been required, therefore a CONDITIONED negative declaration will be prepared.\*
C. The project may result in one or more large and important impacts that may have a significant impact on the environment, therefore a positive declaration will be prepared.

\*A Conditioned Negative Declaration is only valid for Unlisted Actions

FUNDING AND IMPROVEMENT OF ENOCH CROSBY ROAD EXTENSION

Name of Action

TOWN BOARD OF THE TOWN OF SOUTHEAST

Name of Lead Agency

D. MICHAEL RIGHTS

SUPERVISOR

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (If different from responsible officer)
Town Attorney

APRIL 8, 2009

Date

**PART 1--PROJECT INFORMATION**  
**Prepared by Project Sponsor**

NOTICE: This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

Name of Action Improvement of Enoch Crosby Road Extension

Location of Action (include Street Address, Municipality and County)

Westerly terminus of pavement of Enoch Crosby Road (westerly end), Town of Southeast, Putnam County, NY

Name of Applicant/Sponsor Town Board of the Town of Southeast

Address Town Hall, 1360 Route 22

City / PO Brewster State NY Zip Code 10500

Business Telephone 845-279-4313

Name of Owner (if different) N/A

Address N/A

City / PO N/A State N/A Zip Code N/A

Business Telephone N/A

Description of Action:

The funding and construction of improvements to a portion of Enoch Crosby Road within the Town of Southeast commencing at the westerly terminus of pavement along an existing, mapped town highway right of way (ROW) to a point where Enoch Crosby Road connects to Kelly Road at the Carmel Town Line.

The cost of improvement is approximately \$60,000.00 which would be appropriated to such purpose from other moneys currently within the Town Highway Fund.

The work would consist of improving a existing town highway that has fallen into disrepair from lack of use and attention. The existing sub-base would be replaced or enhanced where necessary and a new gravel / "item 4" wearing course installed. In addition, appropriate drainage diversion, detention and retentions facilities would by installed and an intermittent stream crossing improved to appropriate standard.

The portion of Enoch Crosby Road Extension to be improved would consist of approximately 450 linear feet.

**Please Complete Each Question--Indicate N.A. if not applicable**

**A. SITE DESCRIPTION**

Physical setting of overall project, both developed and undeveloped areas.

1. Present Land Use:  Urban  Industrial  Commercial  Residential (suburban)  Rural (non-farm)  
 Forest  Agriculture  Other Existing Town Highway ROW

2. Total acreage of project area: <1 acres.

APPROXIMATE ACREAGE	PRESENTLY	AFTER COMPLETION
Meadow or Brushland (Non-agricultural)	<u>&lt;1</u> acres	<u>&lt;1</u> acres
Forested	<u>0</u> acres	<u>0</u> acres
Agricultural (Includes orchards, cropland, pasture, etc.)	<u>0</u> acres	<u>0</u> acres
Wetland (Freshwater or tidal as per Articles 24,25 of ECL)	<u>0</u> acres	<u>0</u> acres
Water Surface Area	<u>0</u> acres	<u>0</u> acres
Unvegetated (Rock, earth or fill)	<u>0</u> acres	<u>0</u> acres
Roads, buildings and other paved surfaces	<u>&lt;1</u> acres	<u>&lt;1</u> acres
Other (Indicate type) <u>N/A</u>	<u>      </u> acres	<u>      </u> acres

3. What is predominant soil type(s) on project site?

- a. Soil drainage:  Well drained 55 % of site  Moderately well drained 40 % of site.  
 Poorly drained 5 % of site

- b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYS Land Classification System? N/A acres (see 1 NYCRR 370).

4. Are there bedrock outcroppings on project site?  Yes  No

- a. What is depth to bedrock variable (in feet)

5. Approximate percentage of proposed project site with slopes:

- 0-10% 50 %  10- 15% 50 %  15% or greater 0 %

6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or National Registers of Historic Places?  Yes  No

7. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks?  Yes  No

8. What is the depth of the water table? variable (in feet)

9. Is site located over a primary, principal, or sole source aquifer?  Yes  No

10. Do hunting, fishing or shell fishing opportunities presently exist in the project area?  Yes  No

11. Does project site contain any species of plant or animal life that is identified as threatened or endangered?  Yes  No

According to:

Identify each species:

12. Are there any unique or unusual land forms on the project site? (i.e., cliffs, dunes, other geological formations?)

Yes  No

Describe:

13. Is the project site presently used by the community or neighborhood as an open space or recreation area?

Yes  No

If yes, explain:

14. Does the present site include scenic views known to be important to the community?  Yes  No

15. Streams within or contiguous to project area:

Intermittent brook (unnamed)

a. Name of Stream and name of River to which it is tributary

N/A

16. Lakes, ponds, wetland areas within or contiguous to project area:

N/A

b. Size (in acres):

N/A

17. Is the site served by existing public utilities?  Yes  No
- a. If YES, does sufficient capacity exist to allow connection?  Yes  No
- b. If YES, will improvements be necessary to allow connection?  Yes  No
18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304?  Yes  No
19. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 617?  Yes  No
20. Has the site ever been used for the disposal of solid or hazardous wastes?  Yes  No

**B. Project Description**

1. Physical dimensions and scale of project (fill in dimensions as appropriate).
- a. Total contiguous acreage owned or controlled by project sponsor: < 1 acres.
- b. Project acreage to be developed: < 1 acres initially; < 1 acres ultimately.
- c. Project acreage to remain undeveloped: < 1 acres.
- d. Length of project, in miles: N/A (if appropriate)
- e. If the project is an expansion, indicate percent of expansion proposed. N/A %
- f. Number of off-street parking spaces existing N/A; proposed \_\_\_\_\_
- g. Maximum vehicular trips generated per hour: 0 (upon completion of project)?
- h. If residential: Number and type of housing units:
- |            | One Family | Two Family | Multiple Family | Condominium |
|------------|------------|------------|-----------------|-------------|
| Initially  | <u>N/A</u> | _____      | _____           | _____       |
| Ultimately | _____      | _____      | _____           | _____       |
- i. Dimensions (in feet) of largest proposed structure: N/A height; \_\_\_\_\_ width; \_\_\_\_\_ length.
- j. Linear feet of frontage along a public thoroughfare project will occupy is? 450 ft.
2. How much natural material (i.e. rock, earth, etc.) will be removed from the site? N/A tons/cubic yards.
3. Will disturbed areas be reclaimed  Yes  No  N/A
- a. If yes, for what intended purpose is the site being reclaimed?
- Road shoulder and drainage appurtenances.
- b. Will topsoil be stockpiled for reclamation?  Yes  No
- c. Will upper subsoil be stockpiled for reclamation?  Yes  No
4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? < 1 acres.

5. Will any mature forest (over 100 years old) or other locally-important vegetation be removed by this project?

Yes  No

6. If single phase project: Anticipated period of construction: 3 months, (including demolition)

7. If multi-phased:

a. Total number of phases anticipated N/A (number)

b. Anticipated date of commencement phase 1: \_\_\_\_\_ month \_\_\_\_\_ year, (including demolition)

c. Approximate completion date of final phase: \_\_\_\_\_ month \_\_\_\_\_ year.

d. Is phase 1 functionally dependent on subsequent phases?  Yes  No

8. Will blasting occur during construction?  Yes  No

9. Number of jobs generated: during construction N/A ; after project is complete

10. Number of jobs eliminated by this project 0 .

11. Will project require relocation of any projects or facilities?  Yes  No

If yes, explain:

12. Is surface liquid waste disposal involved?  Yes  No

a. If yes, indicate type of waste (sewage, industrial, etc) and amount \_\_\_\_\_

b. Name of water body into which effluent will be discharged \_\_\_\_\_

13. Is subsurface liquid waste disposal involved?  Yes  No Type \_\_\_\_\_

14. Will surface area of an existing water body increase or decrease by proposal?  Yes  No

If yes, explain:

15. Is project or any portion of project located in a 100 year flood plain?  Yes  No

16. Will the project generate solid waste?  Yes  No

a. If yes, what is the amount per month? \_\_\_\_\_ tons

b. If yes, will an existing solid waste facility be used?  Yes  No

c. If yes, give name \_\_\_\_\_ ; location \_\_\_\_\_

d. Will any wastes not go into a sewage disposal system or into a sanitary landfill?  Yes  No

e. If yes, explain:

17. Will the project involve the disposal of solid waste?  Yes  No

a. If yes, what is the anticipated rate of disposal? \_\_\_\_\_ tons/month.

b. If yes, what is the anticipated site life? \_\_\_\_\_ years.

18. Will project use herbicides or pesticides?  Yes  No

19. Will project routinely produce odors (more than one hour per day)?  Yes  No

20. Will project produce operating noise exceeding the local ambient noise levels?  Yes  No

21. Will project result in an increase in energy use?  Yes  No

If yes, indicate type(s)

22. If water supply is from wells, indicate pumping capacity N/A gallons/minute.

23. Total anticipated water usage per day N/A gallons/day.

24. Does project involve Local, State or Federal funding?  Yes  No

If yes, explain:

Road Improvement is estimated to cost \$60,000.00.

**25. Approvals required:**

	Yes	No	Type	Submittal Date
City, Town, Village Board	<input type="checkbox"/>	<input checked="" type="checkbox"/> <i>WHS</i> No <i>DWR</i>	Appropriation	4/8/09
City, Town, Village Planning Board	<input type="checkbox"/>	<input type="checkbox"/>		
City, Town Zoning Board	<input type="checkbox"/>	<input type="checkbox"/>		
City, County Health Department	<input type="checkbox"/>	<input type="checkbox"/>		
Other Local Agencies	<input type="checkbox"/>	<input checked="" type="checkbox"/> <i>WHS</i> <i>DWR</i>		
Other Regional Agencies	<input type="checkbox"/>	<input type="checkbox"/>	<u>NYCDEP SW3P- Gen. Pmt.</u>	
State Agencies	<input type="checkbox"/>	<input type="checkbox"/>	<u>NYSDEC</u> <u>NYSDEC Stream Crossing</u> <i>WHS</i> <i>DWR</i>	
Federal Agencies	<input type="checkbox"/>	<input type="checkbox"/>		

**C. Zoning and Planning Information**

1. Does proposed action involve a planning or zoning decision?  Yes  No

If Yes, indicate decision required:

- |   |   |  |                                      |
|---|---|--|--------------------------------------|
| <input type="checkbox"/> Zoning amendment | <input type="checkbox"/> Zoning variance    | <input type="checkbox"/> New/revision of master plan | <input type="checkbox"/> Subdivision |
| <input type="checkbox"/> Site plan        | <input type="checkbox"/> Special use permit | <input type="checkbox"/> Resource management plan    | <input type="checkbox"/> Other       |

2. What is the zoning classification(s) of the site?

Residential

3. What is the maximum potential development of the site if developed as permitted by the present zoning?

N/A

4. What is the proposed zoning of the site?

N/A

5. What is the maximum potential development of the site if developed as permitted by the proposed zoning?

N/A

6. Is the proposed action consistent with the recommended uses in adopted local land use plans?

Yes

No

7. What are the predominant land use(s) and zoning classifications within a ¼ mile radius of proposed action?

Residential

8. Is the proposed action compatible with adjoining/surrounding land uses with a ¼ mile?

Yes

No

9. If the proposed action is the subdivision of land, how many lots are proposed? N/A

a. What is the minimum lot size proposed? N/A

10. Will proposed action require any authorization(s) for the formation of sewer or water districts?  Yes  No

11. Will the proposed action create a demand for any community provided services (recreation, education, police, fire protection)?

Yes  No

a. If yes, is existing capacity sufficient to handle projected demand?  Yes  No

12. Will the proposed action result in the generation of traffic significantly above present levels?  Yes  No

a. If yes, is the existing road network adequate to handle the additional traffic.  Yes  No

**D. Informational Details**

Attach any additional information as may be needed to clarify your project. If there are or may be any adverse impacts associated with your proposal, please discuss such impacts and the measures which you propose to mitigate or avoid them.

**E. Verification**

I certify that the information provided above is true to the best of my knowledge.

Applicant/Sponsor Name TOWN OF SOUTHEAST Date April 8, 2009

Signature \_\_\_\_\_

Title Supervisor

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment.

## PART 2 - PROJECT IMPACTS AND THEIR MAGNITUDE

### Responsibility of Lead Agency

**General Information (Read Carefully)**

- ! In completing the form the reviewer should be guided by the question: Have my responses and determinations been **reasonable**? The reviewer is not expected to be an expert environmental analyst.
- ! The **Examples** provided are to assist the reviewer by showing types of impacts and wherever possible the threshold of magnitude that would trigger a response in column 2. The examples are generally applicable throughout the State and for most situations. But, for any specific project or site other examples and/or lower thresholds may be appropriate for a Potential Large Impact response, thus requiring evaluation in Part 3.
- ! The impacts of each project, on each site, in each locality, will vary. Therefore, the examples are illustrative and have been offered as guidance. They do not constitute an exhaustive list of impacts and thresholds to answer each question.
- ! The number of examples per question does not indicate the importance of each question.
- ! In identifying impacts, consider long term, short term and cumulative effects.

**Instructions (Read carefully)**

- a. Answer each of the 20 questions in PART 2. Answer **Yes** if there will be any impact.
- b. **Maybe** answers should be considered as **Yes** answers.
- c. If answering **Yes** to a question then check the appropriate box(column 1 or 2)to indicate the potential size of the impact. If impact threshold equals or exceeds any example provided, check column 2. If impact will occur but threshold is lower than example, check column 1.
- d. Identifying that an Impact will be potentially large (column 2) does not mean that it is also necessarily **significant**. Any large impact must be evaluated in PART 3 to determine significance. Identifying an impact in column 2 simply asks that it be looked at further.
- e. If reviewer has doubt about size of the impact then consider the impact as potentially large and proceed to PART 3.
- f. If a potentially large impact checked in column 2 can be mitigated by change(s) in the project to a small to moderate impact, also check the **Yes** box in column 3. A **No** response indicates that such a reduction is not possible. This must be explained in Part 3.

1	2	3
Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change

### Impact on Land

1. Will the Proposed Action result in a physical change to the project site?

NO  YES

**Examples that would apply to column 2**

- |  |                                     |                          |   |                             |
|--|-------------------------------------|--------------------------|---|-----------------------------|
| • Any construction on slopes of 15% or greater, (15 foot rise per 100 foot of length), or where the general slopes in the project area exceed 10%. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction on land where the depth to the water table is less than 3 feet.   | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes            | <input type="checkbox"/> No |
| • Construction of paved parking area for 1,000 or more vehicles.   | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes            | <input type="checkbox"/> No |
| • Construction on land where bedrock is exposed or generally within 3 feet of existing ground surface.   | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes            | <input type="checkbox"/> No |
| • Construction that will continue for more than 1 year or involve more than one phase or stage.  | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes            | <input type="checkbox"/> No |
| • Excavation for mining purposes that would remove more than 1,000 tons of natural material (i.e., rock or soil) per year.                         | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> Yes            | <input type="checkbox"/> No |

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Construction or expansion of a sanitary landfill.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Construction in a designated floodway.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

substandard surface of existing mapped highway would be improved through installation of new base and wearing course and drainage facilities.

2. Will there be an effect to any unique or unusual land forms found on the site? (i.e., cliffs, dunes, geological formations, etc.)

NO  YES

• Specific land forms:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
------------------------	--------------------------	--------------------------	--

**Impact on Water**

3. Will Proposed Action affect any water body designated as protected? (Under Articles 15, 24, 25 of the Environmental Conservation Law, ECL)

NO  YES

**Examples** that would apply to column 2

• Developable area of site contains a protected water body.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Dredging more than 100 cubic yards of material from channel of a protected stream.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Extension of utility distribution facilities through a protected water body.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Construction in a designated freshwater or tidal wetland.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

4. Will Proposed Action affect any non-protected existing or new body of water?

NO  YES

**Examples** that would apply to column 2

• A 10% increase or decrease in the surface area of any body of water or more than a 10 acre increase or decrease.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Construction of a body of water that exceeds 10 acres of surface area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

Small to Moderate Impact

Potential Large Impact

Can Impact Be Mitigated by Project Change

5. Will Proposed Action affect surface or groundwater quality or quantity?

NO  YES

**Examples that would apply to column 2**

- Proposed Action will require a discharge permit.  Small to Moderate Impact  Potential Large Impact  Yes  No
- Proposed Action requires use of a source of water that does not have approval to serve proposed (project) action.  Small to Moderate Impact  Potential Large Impact  Yes  No
- Proposed Action requires water supply from wells with greater than 45 gallons per minute pumping capacity.  Small to Moderate Impact  Potential Large Impact  Yes  No
- Construction or operation causing any contamination of a water supply system.  Small to Moderate Impact  Potential Large Impact  Yes  No
- Proposed Action will adversely affect groundwater.  Small to Moderate Impact  Potential Large Impact  Yes  No
- Liquid effluent will be conveyed off the site to facilities which presently do not exist or have inadequate capacity.  Small to Moderate Impact  Potential Large Impact  Yes  No
- Proposed Action would use water in excess of 20,000 gallons per day.  Small to Moderate Impact  Potential Large Impact  Yes  No
- Proposed Action will likely cause siltation or other discharge into an existing body of water to the extent that there will be an obvious visual contrast to natural conditions.  Small to Moderate Impact  Potential Large Impact  Yes  No
- Proposed Action will require the storage of petroleum or chemical products greater than 1,100 gallons.  Small to Moderate Impact  Potential Large Impact  Yes  No
- Proposed Action will allow residential uses in areas without water and/or sewer services.  Small to Moderate Impact  Potential Large Impact  Yes  No
- Proposed Action locates commercial and/or industrial uses which may require new or expansion of existing waste treatment and/or storage facilities.  Small to Moderate Impact  Potential Large Impact  Yes  No
- Other impacts:  Small to Moderate Impact  Potential Large Impact  Yes  No

Small to Moderate Impact

Potential Large Impact

Can Impact Be Mitigated by Project Change

6. Will Proposed Action alter drainage flow or patterns, or surface water runoff?

NO  YES

Examples that would apply to column 2

- Proposed Action would change flood water flows
- Proposed Action may cause substantial erosion.
- Proposed Action is incompatible with existing drainage patterns.
- Proposed Action will allow development in a designated floodway.
- Other impacts:

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

New drainage facilities would be installed to improve drainage characteristics of existing highway

**IMPACT ON AIR**

7. Will Proposed Action affect air quality?

NO  YES

Examples that would apply to column 2

- Proposed Action will induce 1,000 or more vehicle trips in any given hour.
- Proposed Action will result in the incineration of more than 1 ton of refuse per hour.
- Emission rate of total contaminants will exceed 5 lbs. per hour or a heat source producing more than 10 million BTU's per hour.
- Proposed Action will allow an increase in the amount of land committed to industrial use.
- Proposed Action will allow an increase in the density of industrial development within existing industrial areas.
- Other impacts:

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**IMPACT ON PLANTS AND ANIMALS**

8. Will Proposed Action affect any threatened or endangered species?

NO  YES

Examples that would apply to column 2

- Reduction of one or more species listed on the New York or Federal list, using the site, over or near the site, or found on the site.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
--------------------------	--------------------------	------------------------------	-----------------------------

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Removal of any portion of a critical or significant wildlife habitat.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Application of pesticide or herbicide more than twice a year, other than for agricultural purposes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

9. Will Proposed Action substantially affect non-threatened or non-endangered species?

NO  YES

**Examples that would apply to column 2**

• Proposed Action would substantially interfere with any resident or migratory fish, shellfish or wildlife species.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action requires the removal of more than 10 acres of mature forest (over 100 years of age) or other locally important vegetation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

**IMPACT ON AGRICULTURAL LAND RESOURCES**

10. Will Proposed Action affect agricultural land resources?

NO  YES

**Examples that would apply to column 2**

• The Proposed Action would sever, cross or limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Construction activity would excavate or compact the soil profile of agricultural land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• The Proposed Action would irreversibly convert more than 10 acres of agricultural land or, if located in an Agricultural District, more than 2.5 acres of agricultural land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• The Proposed Action would disrupt or prevent installation of agricultural land management systems (e.g., subsurface drain lines, outlet ditches, strip cropping); or create a need for such measures (e.g. cause a farm field to drain poorly due to increased runoff).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

**IMPACT ON AESTHETIC RESOURCES**

11. Will Proposed Action affect aesthetic resources? (If necessary, use the Visual EAF Addendum in Section 617.20, Appendix B.)  
 NO     YES

**Examples that would apply to column 2**

• Proposed land uses, or project components obviously different from or in sharp contrast to current surrounding land use patterns, whether man-made or natural.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed land uses, or project components visible to users of aesthetic resources which will eliminate or significantly reduce their enjoyment of the aesthetic qualities of that resource.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Project components that will result in the elimination or significant screening of scenic views known to be important to the area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

**IMPACT ON HISTORIC AND ARCHAEOLOGICAL RESOURCES**

12. Will Proposed Action impact any site or structure of historic, prehistoric or paleontological importance?  
 NO     YES

**Examples that would apply to column 2**

• Proposed Action occurring wholly or partially within or substantially contiguous to any facility or site listed on the State or National Register of historic places.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Any impact to an archaeological site or fossil bed located within the project site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action will occur in an area designated as sensitive for archaeological sites on the NYS Site Inventory.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

1	4	-
Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

• Other impacts:

**IMPACT ON OPEN SPACE AND RECREATION**

13. Will proposed Action affect the quantity or quality of existing or future open spaces or recreational opportunities?

NO  YES

**Examples that would apply to column 2**

- The permanent foreclosure of a future recreational opportunity.
- A major reduction of an open space important to the community.
- Other impacts:

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**IMPACT ON CRITICAL ENVIRONMENTAL AREAS**

14. Will Proposed Action impact the exceptional or unique characteristics of a critical environmental area (CEA) established pursuant to subdivision 6NYCRR 617.14(g)?

NO  YES

List the environmental characteristics that caused the designation of the CEA.

**Examples that would apply to column 2**

- Proposed Action to locate within the CEA?
- Proposed Action will result in a reduction in the quantity of the resource?
- Proposed Action will result in a reduction in the quality of the resource?
- Proposed Action will impact the use, function or enjoyment of the resource?
- Other impacts:

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Small to Moderate Impact

Potential Large Impact

Can Impact Be Mitigated by Project Change

IMPACT ON TRANSPORTATION

15. Will there be an effect to existing transportation systems?

NO  YES

Examples that would apply to column 2

- Alteration of present patterns of movement of people and/or goods.
- Proposed Action will result in major traffic problems.
- Other impacts:

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Improvement of town highway will give residents an alternative method of egress from the Enoch Crosby neighborhood which may result in a moderate increase in traffic along Kelly Rd
--

IMPACT ON ENERGY

16. Will Proposed Action affect the community's sources of fuel or energy supply?

NO  YES

Examples that would apply to column 2

- Proposed Action will cause a greater than 5% increase in the use of any form of energy in the municipality.
- Proposed Action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two family residences or to serve a major commercial or industrial use.
- Other impacts:

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

--

NOISE AND ODOR IMPACT

17. Will there be objectionable odors, noise, or vibration as a result of the Proposed Action?

NO  YES

Examples that would apply to column 2

- Blasting within 1,500 feet of a hospital, school or other sensitive facility.
- Odors will occur routinely (more than one hour per day).
- Proposed Action will produce operating noise exceeding the local ambient noise levels for noise outside of structures.
- Proposed Action will remove natural barriers that would act as a noise screen.
- Other impacts:

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

--

1  
Small to  
Moderate  
Impact

2  
Potential  
Large  
Impact

3  
Can Impact Be  
Mitigated by  
Project Change

### IMPACT ON PUBLIC HEALTH

18. Will Proposed Action affect public health and safety?

NO  YES

- Proposed Action may cause a risk of explosion or release of hazardous substances (i.e. oil, pesticides, chemicals, radiation, etc.) in the event of accident or upset conditions, or there may be a chronic low level discharge or emission.
- Proposed Action may result in the burial of "hazardous wastes" in any form (i.e. toxic, poisonous, highly reactive, radioactive, irritating, infectious, etc.)
- Storage facilities for one million or more gallons of liquefied natural gas or other flammable liquids.
- Proposed Action may result in the excavation or other disturbance within 2,000 feet of a site used for the disposal of solid or hazardous waste.
- Other impacts:

Yes  No

Yes  No

Yes  No

Yes  No

Yes  No

The opening of an alternative egress to the neighborhood will enhance public health and safety by allowing emergency vehicles to move freely with reduced access time to area hospital.

### IMPACT ON GROWTH AND CHARACTER OF COMMUNITY OR NEIGHBORHOOD

19. Will Proposed Action affect the character of the existing community?

NO  YES

#### Examples that would apply to column 2

- The permanent population of the city, town or village in which the project is located is likely to grow by more than 5%.
- The municipal budget for capital expenditures or operating services will increase by more than 5% per year as a result of this project.
- Proposed Action will conflict with officially adopted plans or goals.
- Proposed Action will cause a change in the density of land use.
- Proposed Action will replace or eliminate existing facilities, structures or areas of historic importance to the community.
- Development will create a demand for additional community services (e.g. schools, police and fire, etc.)

Yes  No

Yes  No

Yes  No

Yes  No

Yes  No

Yes  No

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Proposed Action will set an important precedent for future projects.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action will create or eliminate employment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

Re-opening of Enoch Crosby Road through Kelly Road will create conflict in neighboring community that has grown to expect Kelly Road to remain a "dead end"

20. Is there, or is there likely to be, public controversy related to potential adverse environment impacts?

NO  YES

**If Any Action in Part 2 Is Identified as a Potential Large Impact or If you Cannot Determine the Magnitude of Impact, Proceed to Part 3**

## Part 3 - EVALUATION OF THE IMPORTANCE OF IMPACTS

### Responsibility of Lead Agency

Part 3 must be prepared if one or more impact(s) is considered to be potentially large, even if the impact(s) may be mitigated.

**Instructions** (If you need more space, attach additional sheets)

Discuss the following for each impact identified in Column 2 of Part 2:

1. Briefly describe the impact.
2. Describe (if applicable) how the impact could be mitigated or reduced to a small to moderate impact by project change(s).
3. Based on the information available, decide if it is reasonable to conclude that this impact is **important**.

To answer the question of importance, consider:

- ! The probability of the impact occurring
- ! The duration of the impact
- ! Its irreversibility, including permanently lost resources of value
- ! Whether the impact can or will be controlled
- ! The regional consequence of the impact
- ! Its potential divergence from local needs and goals
- ! Whether known objections to the project relate to this impact.

Re-establishing Kelly Road as a "through road" is expected to cause inter-town conflict because the residents of Kelly Road have always known Kelly Road as a dead end. The purpose for improving Enoch Crosby Extension to Kelly is to enhance the health and safety of all residents and improve the accessibility of the Enoch Crosby community. The area to be improved has been a mapped town highway for as long as records exist. There is no record of the road having been ever formally closed or abandoned on either the Town of Southeast or the Town of Carmel end. Kelly road is a public thoroughfare and any concern about the safety of that road way can be addressed and mitigated by the imposition and enforcement of appropriate speed limits.

# Stormwater Pollution Prevention Plan

## Maple Road Improvements at Enoch Crosby Road

Town of Southeast

Putnam County, New York

---

June 1, 2007

Prepared by

Nathan L. Jacobson & Associates, P.C.  
86 Main Street, P.O. Box 337  
Chester, Connecticut 06412-0337  
(860) 526-9591

Consulting Civil and Environmental Engineers Since 1972

# Stormwater Pollution Prevention Plan Maple Road Improvements

Town of Southeast  
Putnam County, New York

## Project Narrative

### **Project Location and History**

Maple Road is an existing partially gravel surfaced road located on the west side of the Middle Branch Reservoir, a reservoir in the East of Hudson Watersheds of the New York City public water supply system. In 2004 a plan was prepared to improve approximately one half mile of the existing gravel road, beginning at the end of the existing paved portion of Maple Road (just south of the sharp corner east of Yonkers Avenue) and extending southerly through the intersection with Enoch Crosby Road. That plan included paving of the roadway and enhancement of storm drainage systems including the installation of several hydronamic separators at stormwater conveyance system discharge points. The proposed conceptual plan was reviewed by the NYCDEP and found to be acceptable, subject to the submission for a formal Stormwater Pollution Prevention Plan. However after consideration by the Town of Southeast, it was decided not to proceed with the entire paving project.

At this time the Town desires to pave only the area at the intersection of Maple Road and Enoch Crosby Road. Specifically, the proposed pavement would extend approximately 75 feet in each direction along Maple Road from the center line of the intersection.

### **Project Need**

The Town of Southeast recognizes that increased traffic volumes over the past several years have resulted in an increase in the level and frequency of maintenance required to keep Maple Road in a stable and safe condition. As noted above, while consideration to paving a significant length of the road was previously considered, the proposed area to be paved is now limited to the intersection at Enoch Crosby Road because this is most impacted by vehicle traffic and turning movements and will receive the most benefit from the increased stabilization provided by a bituminous pavement surface.

### **Project Description**

The scope of this project includes resurfacing a portion of Maple Road approximately 150 feet in length and 22 feet in width at the intersection of Enoch Crosby Road. Existing surface drainage patterns will be maintained as sheet flow and roadside swales will be enhanced to promote filtration and infiltration of stormwater runoff. This is a paving project and no regrading or geometric improvements to the roadway are proposed. Site disturbance and impacts will be limited to the roadway and immediate shoulder area.

## Compliance with Applicable Regulations and Standards

Because of the minimal nature of the project and limitations imposed by the limited area of Maple Road right of way, compliance with all of the specific recommendations of the New York State Department of Environmental Conservation's (NYSDEC's) Stormwater Management Design Manual could not be met. The area required to construct a stormwater pond or wetland is not available within the right of way. Alternatively, it is felt that the most practical and beneficial way to control surface runoff is to maintain existing drainage patterns and utilize filtration and infiltration from roadsides swales.

## Drainage Analysis

The contributing watershed to the project site is approximately 2.19 acres, comprised mainly of residential properties. The USDA Soil Conservation Service (SCS) soils map for the area indicates that the watershed soils are classified as hydrologic soil group (HSG) B.

Of the total watershed area of 2.19 acres, only 0.15 acres will actually be disturbed and 0.086 acres of the gravel road surface will become impervious. The imperviousness of the overall watershed will be increased to 5% (proposed).

Peak flow rates and runoff volumes were computed for pre- and post-developed conditions using the National Resources Conservation Service's (NRCS) WinTR-55 computer program. WinTR-55 is a Windows based implementation of the Soil Conservation Service's Technical Release 55: Urban Hydrology for Small Watersheds.

A summary of the pre-construction and post-construction peak runoff rates is provided below. The values below indicate that overall peak flow rates are small and increases in post-construction peak flow rates are minimal.

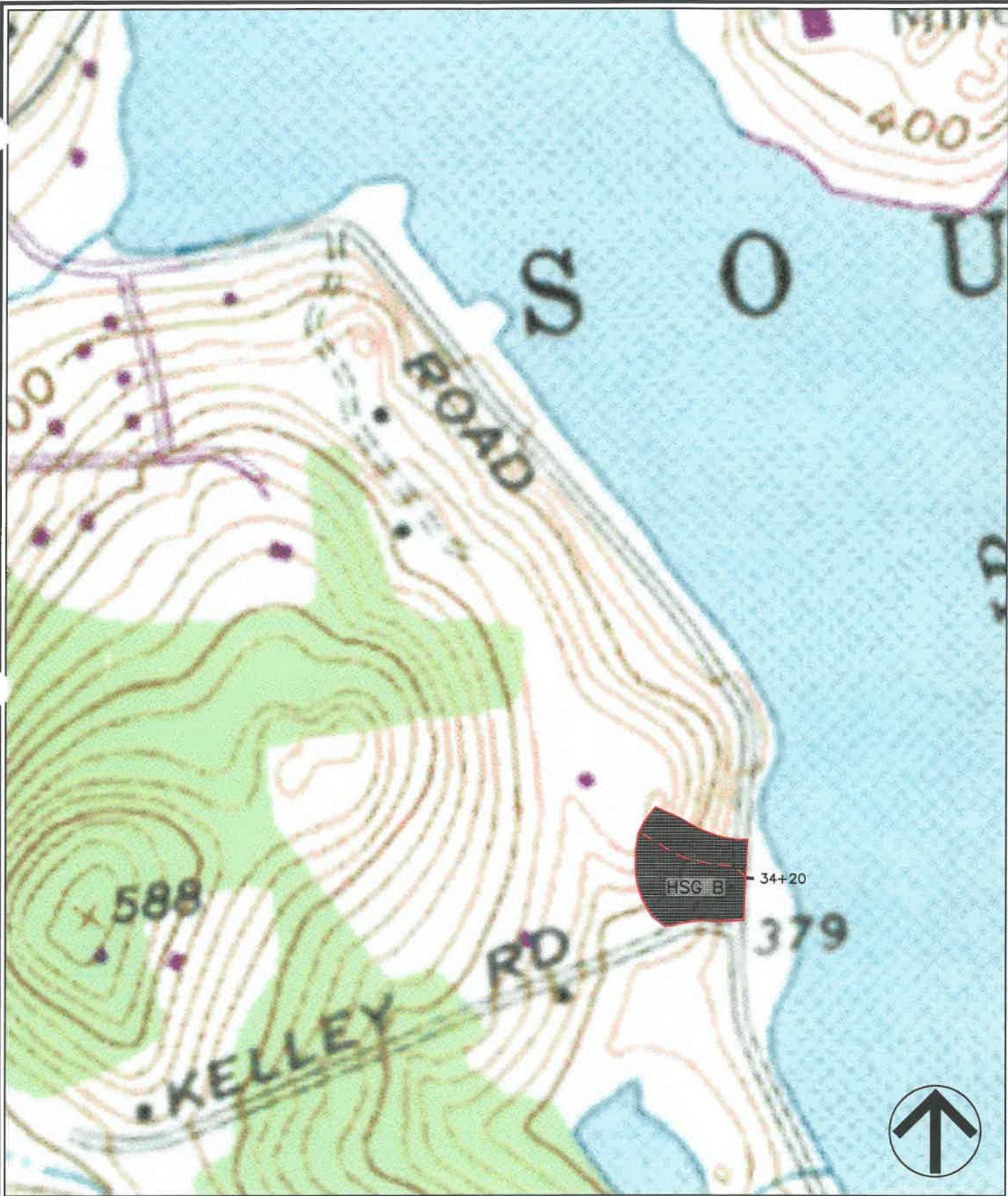
	<u>PEAK FLOW RATES</u>			
	2-Year (cfs)	10 Year (cfs)	25 Year (cfs)	100 Year (cfs)
Pre-construction:	1.33	3.19	4.62	6.90
Post-construction:	1.44	3.35	4.80	7.12

## Pollutant Loading Analysis

Annual pollutant loads were generated using the spreadsheet method. Pollutant concentrations for various land uses were taken from a table published by the Terrene Institute in 1996. Removal efficiencies for grassed swales with stone check dams are from the publication *Reducing the Impacts of Stormwater Runoff from new Development*, prepared by the NYSDEC.

Pre-construction and post-construction pollutant loadings have been calculated for total nitrogen (TN), total phosphorus (TP), total suspended solids (TSS) and biological oxygen demand (BOD). A tabular summary of these pollutant loadings is as follows:

	<u>ANNUAL POLLUTANT LOADS</u>			
	<u>TN</u> <u>(lb)</u>	<u>TP</u> <u>(lb)</u>	<u>TSS</u> <u>(lb)</u>	<u>BOD</u> <u>(lb)</u>
Pre-construction:	18	0.5	43	147
Post-construction:	18	0.5	39	147



Date: JUNE, 2007

Project No. 0054-0130

Scale: 1"=400'

Figure No. 1

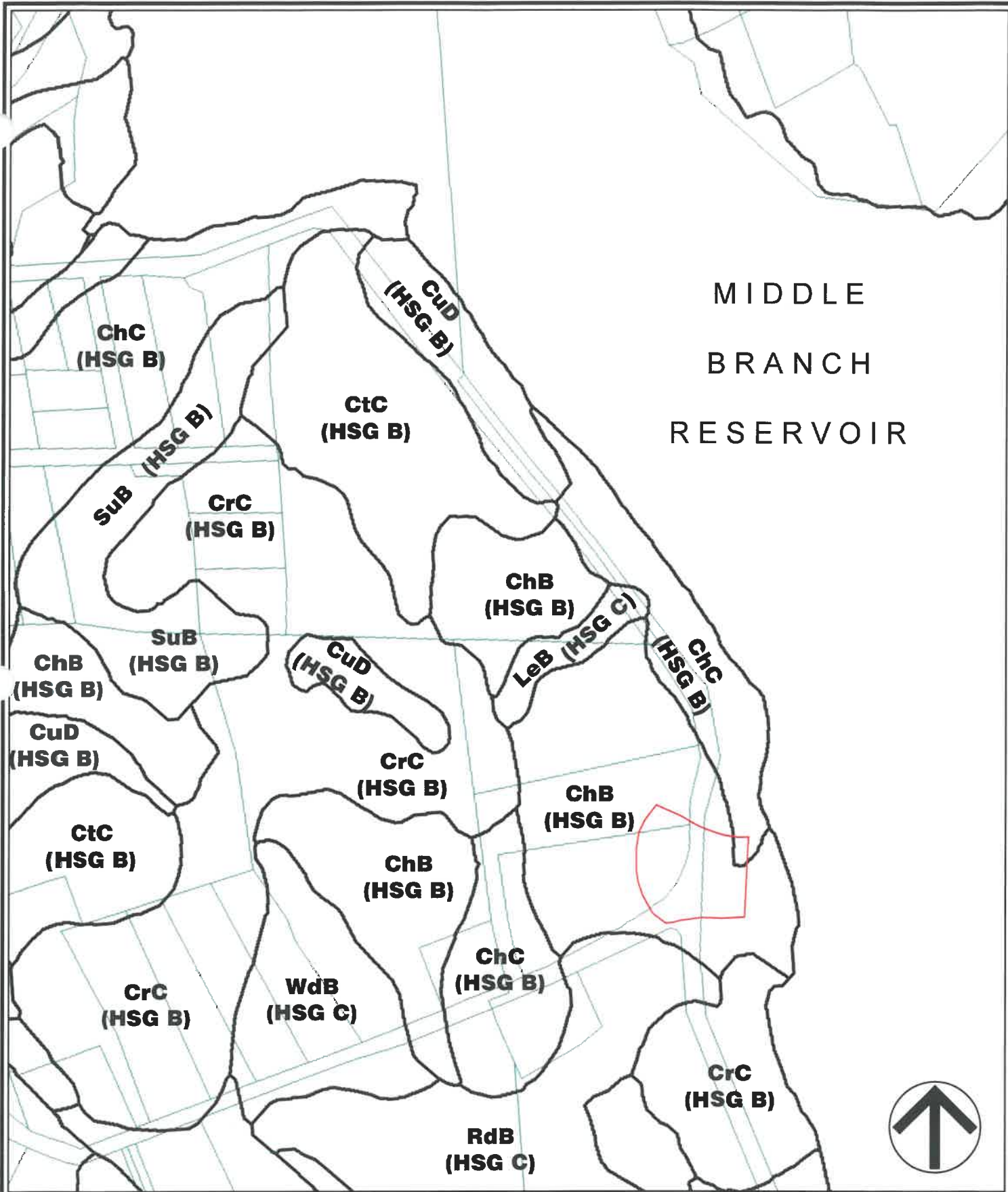
MAPLE ROAD IMPROVEMENTS  
SOUTHEAST, NEW YORK

DRAINAGE AREA MAP



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www.nlja.com  
Consulting Civil and Environmental Engineers Since 1972

MIDDLE  
BRANCH  
RESERVOIR



Date: JUNE, 2007

Project No. 0054-0130

Scale: 1"=400'

Figure No. 2

MAPLE ROAD IMPROVEMENTS  
SOUTHEAST, NEW YORK

USDA SOILS MAP



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**NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION  
APPLICATION FOR REVIEW AND APPROVAL OF STORMWATER POLLUTION  
PREVENTION PLANS AND CROSSING, PIPING OR DIVERSION PERMITS**

You are encouraged to participate in an optional pre-application consultation to discuss your proposal and any specific requirements for Department review and approval. Please contact the appropriate Department office listed on page 2 of the Applicant's Guide to Stormwater Pollution Prevention Plans and Crossing, Piping or Diversion Permits to arrange a pre-application meeting.

Applicant/Designated representative:  
Name: Town of Southeast  
Address: 1 Main Street  
Brewster, NY 10509  
Phone: 845-279-2141

Design Professional:  
Name: Nathan L. Jacobson & Associates, P.C.  
Address: 86 Main Street, P.O. Box 337  
Chester, CT 06412  
Phone: 860-526-9591

Project Location: Address: Maple Road  
Town: Southeast  
Subdivision name: N/A  
Reservoir Basin: Middle Branch

Tax Map Parcel: N/A  
County: Putnam  
Lot number: N/A

Type of Approval Sought:  Stormwater Pollution Prevention Plan  
 Crossing, Piping or Diversion Permit

Submissions must include four copies of all plans and supporting documents.

All applications must include narratives, plans, details, and specifications providing the following information:

- Project Description
- Description of Existing Conditions
- Description of Proposed Conditions
- Operations and Maintenance Plans

General Requirements for submission are set forth in Section 3.1 of the Applicant's Guide to Stormwater Pollution Prevention plans and Crossing, Piping or Diversion Permits. Supplemental required information for each type of approval is described in Sections 3.2 and 3.3 (Stormwater Pollution Prevention Plans and Crossing, Piping or Diversion Permits, respectively). Also see Appendix A for a checklist of items to be included in the submission.

**Notice of Cost-Sharing Funds**

Certain costs incurred in the design, implementation, and maintenance of Stormwater Pollution Prevention Plans may be eligible for Department funding. Refer to Section 3.4 and Appendix F of the Applicant's Guide to Stormwater Pollution Prevention plans and Crossing, Piping or Diversion Permits.

I believe this application to be complete and in compliance with the Regulations.

Thomas H. Fenton  
(Signature)

June 6, 2007  
(Filing Date)

Thomas H. Fenton, P.E.  
(Print Name)

PROJECT ID NUMBER

617.20  
Appendix C  
State Environmental Quality Review  
**SHORT ENVIRONMENTAL ASSESSMENT FORM**  
For UNLISTED ACTIONS Only

SEQR

**PART I-PROJECT INFORMATION** (To be completed by Applicant or Project Sponsor)

1. APPLICANT/SPONSOR Town of Southeast	2. PROJECT NAME Intersection Paving Maple Road / Enoch Crosby Road
3. PROJECT LOCATION: Municipality Southeast County Putnam	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map)  Maple Road at the intersection with Enoch Crosby Road	
5. IS PROPOSED ACTION: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/Alteration	
6. DESCRIBE PROJECT BRIEFLY:  Bituminous paving of a 22' x 150' portion of Maple Road at the intersection of Enoch Crosby Road.	
7. AMOUNT OF LAND AFFECTED: Initially 0.2 acres Ultimately 0.2 acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? (Choose as many as apply.) <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency, name, and permit/approval:	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency name and permit/approval	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/Sponsor name: James Lawlor, Town of Southeast Highway Superintendent Date: 06-06-07	
Signature: _____	

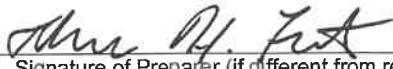
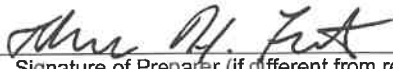
**If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment.**

**PART II-IMPACT ASSESSMENT (To be completed by Lead Agency)**

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF	
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superceded by another involved agency.	
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)	
C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:	
C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:	
C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:	
C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly.	
C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:	
C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:	
C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:	
D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)? If yes, explain briefly:	
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY REALTED TO POTENTIAL ENVIRONMENTAL IMPACTS? If yes, explain:	
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**PART III-DETERMINATION OF SIGNIFICANCE (To be completed by Agency)**

**INSTRUCTIONS:** For each adverse effect identified above, determine whether it is substantial, large, important, or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e., urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question d of part ii was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

<input type="checkbox"/> Check this box if you have identified one or more potentially large or significant adverse impacts that <b>MAY</b> occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.	
<input checked="" type="checkbox"/> Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action <b>WILL NOT</b> result in any significant adverse environmental impacts <b>AND</b> provide, on attachments as necessary, the reasons supporting this determination.	
Town of Southeast	06-06-07
Name of Lead Agency	Date
James Lawlor	Town of Southeast Highway Superintendent
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
	
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from responsible officer)



## Location Information

## Project Site Information

Project/Site Name

M A P L E R O A D I M P R O V E M E N T S

Street Address (NOT P.O. BOX)

M A P L E R O A D

City/Town/Village (THAT ISSUES BUILDING PERMIT)

S O U T H E A S T

State

N Y

Zip

1 0 5 0 9 - 1 4 0 1

County

P U T N A M E

DEC Region (if known)

3

Name of Nearest Cross Street

E N O C H C R O S B Y R O A D

Distance to Nearest Cross Street (Feet)

0

Direction to Nearest Cross Street

 North
  South
  East
  West

1. Provide the Geographic Coordinates for the project site in NYTM Units. To do this you **must** go to the NYSDEC Stormwater Interactive Map on the DEC website at:

[www.dec.state.ny.us/website/imsmaps/stormwater/viewer.htm](http://www.dec.state.ny.us/website/imsmaps/stormwater/viewer.htm)

Zoom into your Project Location such that you can accurately click on the centroid of your site. Once you have located your project site go to the dropdown menu on the left and choose "Get Coordinates". Click on the center of your site and a small window containing the X, Y coordinates in UTM will pop up. Transcribe these coordinates into the boxes below. For problems with the interactive map use the help function.

X Coordinates (Easting)

6 1 3 1 4 5

Y Coordinates (Northing)

4 5 8 4 8 4 0

2. What is the nature of this construction project?

- New Construction  
 Redevelopment with increase in imperviousness  
 Redevelopment with no increase in imperviousness



10. Is this a phased project? (if yes, The SWPPP must address all planned phases)

Yes  No

11. Enter the planned start and end dates of the disturbance activities

Start Date: 08 / 01 / 2007 - End Date: 08 / 30 / 2007

Receiving System(s)

12. Provide the name of the nearest, natural, classified surface waterbody(ies) into which construction site runoff has the potential to discharge.

M I D D L E B R A N C H R E S E R V O I R

For Questions 13 and 14 refer to the Instruction Manual for a subset of 303(d) segments and TMDL watersheds subject to Condition A of the permit. These waterbodies and watersheds have been identified for regulation within the stormwater program due to some level of impairment by nutrients, silt or sediment. The Instruction Manual can be accessed at [www.dec.state.ny.us/website/dow/toolbox/instr\\_man.pdf](http://www.dec.state.ny.us/website/dow/toolbox/instr_man.pdf)

13. Has the surface waterbody(ies) in question 12 been identified as a 303(d) segment?

Yes  No

14. Is this project located in a TMDL Watershed?

Yes  No

\*NOTE: If you answered Yes to either question 13 or 14, Pursuant to Part I.D.3.(b) of the permit, you must have your SWPPP prepared and certified by a licensed/certified professional and the SWPPP is subject to a 60-business day review.

15. Does the site runoff enter a separate storm sewer system including roadside drains, swales, ditches, culverts, etc? (if no, skip question 16 )

Yes  No  Unknown

16. What is the name of the municipality/entity that owns the separate storm sewer system?

T O W N O F S O U T H E A S T

17. Does any runoff from the site enter a sewer classified as a Combined Sewer?

Yes  No  Unknown

Stormwater Pollution Prevention Plan (SWPPP)

18. Has the required Erosion and Sediment Control component of the SWPPP been developed in conformance with the current NYS Standards and Specifications for Erosion and Sediment Control (aka Blue Book) ?

Yes No

19. Does this construction activity require the development of a SWPPP that includes Water Quality and Quantity Control components (Post-Construction Stormwater Management Practices) If no, Skip question 20

Yes No

20. Have the Water Quality and Quantity Control components of the SWPPP been developed in conformance with the current NYS Stormwater Management Design Manual ?

Yes No

NOTE: If you answered no to question 18 or 20, Pursuant to Part I.D.3.(b) of the permit, you must have your SWPPP prepared and certified by a licensed/certified professional and the SWPPP is subject to a 60-business day review. Please provide further details in the details/comment section on the last page of this form.

21. The Stormwater Pollution Prevention Plan (SWPPP) was prepared by:

- Professional Engineer (P.E.)
Soil and Water Conservation District (SWCD)
Registered Landscape Architect (R.L.A)
Certified Professional in Erosion and Sediment Control (CPESC)
Owner/Operator
Other

SWPPP Preparer Information

(if different from Owner/Operator info)

SWPPP Preparer

NATHAN L. JACOBSON & ASSOCIATES, INC.

Contact Name (Last, Space, First)

FENTON THOMAS

Mailing Address

PO BOX 337

City

CHESTER

State

CT

Zip

06412 - 0337

Phone

860 - 526 - 9591

Fax

860 - 526 - 5416

Email

TFENTON@NLJA.COM

Stormwater Pollution Prevention Plan (SWPPP)

Erosion and Sediment Control Practices

22. Has a construction sequence schedule for the planned management practices been prepared?

Yes  No

23. Select all of the erosion and sediment control practices that will be employed on the project site.

Temporary Structural

- Check Dams
- Construction Road Stabilization
- Dust Control
- Earth Dike
- Level Spreader
- Perimeter Dike/Swale
- Pipe Slope Drain
- Portable Sediment Tank
- Rock Dam
- Sediment Basin
- Sediment Traps
- Silt Fence
- Stabilized Construction Entrance
- Storm Drain Inlet Protection
- Straw/Hay Bale Dike
- Temporary Access Waterway Crossing
- Temporary Stormdrain Diversion
- Temporary Swale
- Turbidity Curtain
- Water bars

Biotechnical

- Brush Matting
- Wattling

Other

Vegetative Measures

- Brush Matting
- Dune Stabilization
- Grassed Waterway
- Mulching
- Protecting Vegetation
- Recreation Area Improvement
- Seeding
- Sodding
- Straw/Hay Bale Dike
- Streambank Protection
- Temporary Swale
- Topsoiling
- Vegetating Waterways

Permanent Structural

- Debris Basin
- Diversion
- Grade Stabilization Structure
- Land Grading
- Lined Waterway (Rock)
- Paved Channel (Concrete)
- Paved Flume
- Retaining Wall
- Riprap Slope Protection
- Rock Outlet Protection
- Streambank Protection



Stormwater Pollution Prevention Plan (SWPPP)  
Water Quality and Quantity Control

25. Provide the total water quality volume required and the total provided for the site.

**Total Water Quality Volume (WQv)**

WQv Required  
   .    acre-feet
WQv Provided  
   .    acre-feet

26. Provide the following Unified Stormwater Sizing Criteria for the site.

**Total Channel Protection Storage Volume (CPv)** - Extended detention of post-developed 1 year, 24 hour storm event

CPv Required  
   .    acre-feet
CPv Provided  
   .    acre-feet

The need to provide for channel protection has been waived because

Site discharges directly to fourth order stream or larger

**Total Overbank Flood Control Criteria (Qp)** - Peak discharge rate for the 10 year storm

Pre-Development  
   .    CFS
Post-development  
   .    CFS

**Total Extreme Flood Control Criteria (Qf)** - Peak discharge rate for the 100 year storm

Pre-Development  
   .    CFS
Post-development  
   .    CFS

The need to provide for flood control has been waived because

Site discharges directly to fourth order stream or larger

Downstream analysis reveals that flood control is not required

**IMPORTANT:** For questions 27 and 28 impervious area should be calculated considering the project site and all offsite areas that drain to the post-construction stormwater management practice(s) (Total Drainage Area = Project Site + Offsite areas)

27. Pre-Construction Impervious Area - As a percent of the Total Drainage Area enter the percentage of the existing impervious areas before construction begins.

1 %

28. Post-Construction Impervious Area - As a percent of the Total Drainage Area enter the percentage of the future impervious areas that will be created/remain on the site after completion of construction.

5 %

29. Indicate the total number of permanent stormwater management practices to be installed

1

30. Provide the total number of stormwater discharge points from the site (include discharges to either surface waters or to separate storm sewer systems)

1



## Pre-Construction Peak Flow Rates

---

WinTR-55 Current Data Description

--- Identification Data ---

User: KLD Date: 6/5/2007  
Project: 0054-0130 Units: English  
SubTitle: Pre-Construction Peak Flow Rates Areal Units: Acres  
State: New York  
County: Putnam  
Filename: L:\00540130\2007 SPPP\Pre\_Construction\_Peak\_Flow\_Rates.w55

--- Sub-Area Data ---

Name	Description	Reach	Area(ac)	RCN	Tc
34+20	Drain into @ 34+20	Outlet	2.19	66	0.241

Total area: 2.19 (ac)

--- Storm Data ---

Rainfall Depth by Rainfall Return Period

2-Yr (in)	5-Yr (in)	10-Yr (in)	25-Yr (in)	50-Yr (in)	100-Yr (in)	1-Yr (in)
3.5	4.5	5.0	6.0	7.0	7.5	2.7

Storm Data Source: Putman County, NY (NRCS)  
Rainfall Distribution Type: Type III  
Dimensionless Unit Hydrograph: <standard>

KLD

0054-0130  
Pre-Construction Peak Flow Rates  
Putnam County, New York

Storm Data

Rainfall Depth by Rainfall Return Period

2-Yr (in)	5-Yr (in)	10-Yr (in)	25-Yr (in)	50-Yr (in)	100-Yr (in)	1-Yr (in)
3.5	4.5	5.0	6.0	7.0	7.5	2.7

Storm Data Source: Putnam County, NY (NRCS)  
Rainfall Distribution Type: Type III  
Dimensionless Unit Hydrograph: <standard>

KLD

0054-0130  
Pre-Construction Peak Flow Rates  
Putnam County, New York

Watershed Peak Table

Sub-Area or Reach Identifier	Peak Flow by Rainfall Return Period						
	2-Yr (cfs)	5-Yr (cfs)	10-Yr (cfs)	25-Yr (cfs)	50-Yr (cfs)	100-Yr (cfs)	1-Yr (cfs)
-----							
SUBAREAS							
34+20	1.33	2.53	3.19	4.62	6.12	6.90	0.55
REACHES							
OUTLET	1.33	2.53	3.19	4.62	6.12	6.90	0.55

KLD

0054-0130  
Pre-Construction Peak Flow Rates  
Putnam County, New York

Hydrograph Peak/Peak Time Table

Sub-Area or Reach Identifier	Peak Flow and Peak Time (hr) by Rainfall Return Period						
	2-Yr (cfs) (hr)	5-Yr (cfs) (hr)	10-Yr (cfs) (hr)	25-Yr (cfs) (hr)	50-Yr (cfs) (hr)	100-Yr (cfs) (hr)	1-Yr (cfs) (hr)
-----							
SUBAREAS							
34+20	1.33 12.21	2.53 12.19	3.19 12.19	4.62 12.19	6.12 12.19	6.90 12.18	0.55 12.25
REACHES							
OUTLET	1.33	2.53	3.19	4.62	6.12	6.90	0.55

KLD

0054-0130  
Pre-Construction Peak Flow Rates  
Putnam County, New York

Sub-Area Summary Table

Sub-Area Identifier	Drainage Area (ac)	Time of Concentration (hr)	Curve Number	Receiving Reach	Sub-Area Description
34+20	2.19	0.241	65	Outlet	Drain into @ 34+20
-----					
Total Area:	2.19 (ac)				

KLD

0054-0130  
Pre-Construction Peak Flow Rates  
Putnam County, New York

Sub-Area Time of Concentration Details

Sub-Area Identifier/	Flow Length (ft)	Slope (ft/ft)	Mannings's n	End Area (sq ft)	Wetted Perimeter (ft)	Velocity (ft/sec)	Travel Time (hr)
-----							
34+20							
SHEET	100	0.0240	0.240				0.211
SHALLOW	550	0.1030	0.050				0.030
						Time of Concentration	0.241
							=====

KLD

0054-0130  
Pre-Construction Peak Flow Rates  
Putnam County, New York

Sub-Area Land Use and Curve Number Details

Sub-Area Identifier	Land Use	Hydrologic Soil Group	Sub-Area Area (ac)	Curve Number
34+20	Paved parking lots, roofs, driveways	B	.028	98
	Gravel (w/ right-of-way)	B	.11	85
	Residential districts (2 acre)	B	2.053	65
	Total Area / Weighted Curve Number		2.19	66
			====	==

Post-Construction Peak Flow Rates

---

WinTR-55 Current Data Description

--- Identification Data ---

User: KLD Date: 6/5/2007  
Project: 0054-0130 Units: English  
SubTitle: Post-Construction Analysis of Peak FlowRates  
Areal Units: Acres  
State: New York  
County: Putnam  
Filename: L:\00540130\2007 SPPP\Post\_Construction\_Peak\_Flow\_Rates.w55

--- Sub-Area Data ---

Name	Description	Reach	Area(ac)	RCN	Tc
34+20	Drain into @ 34+20	Outlet	2.19	67	0.241

Total area: 2.19 (ac)

--- Storm Data ---

Rainfall Depth by Rainfall Return Period

2-Yr (in)	5-Yr (in)	10-Yr (in)	25-Yr (in)	50-Yr (in)	100-Yr (in)	1-Yr (in)
3.5	4.5	5.0	6.0	7.0	7.5	2.7

Storm Data Source: Putman County, NY (NRCS)  
Rainfall Distribution Type: Type III  
Dimensionless Unit Hydrograph: <standard>

KLD

0054-0130  
Post-Construction Analysis of Peak Flow Rates  
Putnam County, New York

Storm Data

Rainfall Depth by Rainfall Return Period

2-Yr (in)	5-Yr (in)	10-Yr (in)	25-Yr (in)	50-Yr (in)	100-Yr (in)	1-Yr (in)
3.5	4.5	5.0	6.0	7.0	7.5	2.7

Storm Data Source: Putnam County, NY (NRCS)  
Rainfall Distribution Type: Type III  
Dimensionless Unit Hydrograph: <standard>

KLD

0054-0130  
Post-Construction Analysis of Peak Flow Rates  
Putnam County, New York

Watershed Peak Table

Sub-Area or Reach Identifier	Peak Flow by Rainfall Return Period						
	2-Yr (cfs)	5-Yr (cfs)	10-Yr (cfs)	25-Yr (cfs)	50-Yr (cfs)	100-Yr (cfs)	1-Yr (cfs)
-----							
SUBAREAS							
34+20	1.44	2.68	3.35	4.80	6.33	7.12	0.63
REACHES							
OUTLET	1.44	2.68	3.35	4.80	6.33	7.12	0.63

KLD

0054-0130  
Post-Construction Analysis of Peak Flow Rates  
Putnam County, New York

Hydrograph Peak/Peak Time Table

Sub-Area or Reach Identifier	Peak Flow and Peak Time (hr) by Rainfall Return Period						
	2-Yr (cfs) (hr)	5-Yr (cfs) (hr)	10-Yr (cfs) (hr)	25-Yr (cfs) (hr)	50-Yr (cfs) (hr)	100-Yr (cfs) (hr)	1-Yr (cfs) (hr)
-----							
SUBAREAS							
34+20	1.44 12.20	2.68 12.20	3.35 12.20	4.80 12.18	6.33 12.18	7.12 12.18	0.63 12.23
REACHES							
OUTLET	1.44	2.68	3.35	4.80	6.33	7.12	0.63

KLD

0054-0130  
Post-Construction Analysis of Peak Flow Rates  
Putnam County, New York

Sub-Area Summary Table

Sub-Area Identifier	Drainage Area (ac)	Time of Concentration (hr)	Curve Number	Receiving Reach	Sub-Area Description
34+20	2.19	0.241	67	Outlet	Drain into @ 34+20
Total Area: 2.19 (ac)					

KLD

0054-0130  
Post-Construction Analysis of Peak Flow Rates  
Putnam County, New York

Sub-Area Time of Concentration Details

Sub-Area Identifier/	Flow Length (ft)	Slope (ft/ft)	Mannings's n	End Area (sq ft)	Wetted Perimeter (ft)	Velocity (ft/sec)	Travel Time (hr)
-----							
34+20							
SHEET	100	0.0240	0.240				0.211
SHALLOW	550	0.1030	0.050				0.030
						Time of Concentration	0.241
							=====

KLD

0054-0130  
Post-Construction Analysis of Peak Flow Rates  
Putnam County, New York

Sub-Area Land Use and Curve Number Details

Sub-Area Identifier	Land Use	Hydrologic Soil Group	Sub-Area Area (ac)	Curve Number
34+20	Paved parking lots, roofs, driveways	B	.114	98
	Gravel (w/ right-of-way)	B	.024	85
	Residential districts (2 acre)	B	2.053	65
	Total Area / Weighted Curve Number		2.19	67
			====	==

## Pollutant Loading Calculations

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## Maple Road Improvements, Town of Southeast, Putnam County, New York

### PRE-DEVELOPED Watershed Data:

Land Use	Drainage Area, ac.	Ia, %	Rv, in.	R, in.	TN		TP		TSS		BOD	
					C, mg/L	L, lb.	C, mg/L	L, lb.	C, mg/L	L, lb.	C, mg/L	L, lb.
Wooded	0.000	2	0.068	2.94	1.74	0.00	0.11	0.00	51	0.00	3	0.00
2 ac. Residential	2.053	11	0.149	6.45	5.15	15.41	0.52	0.27	70	21.99	38	98.19
Gravel Road	0.110	85	0.815	35.28	2.65	2.32	0.43	0.18	141	15.55	24	36.26
Asphalt Road	0.028	98	0.932	40.35	2.65	0.68	0.43	0.06	141	5.17	24	12.07
<b>TOTAL</b>	<b>2.191</b>			<b>85.02</b>		<b>18.41</b>		<b>0.52</b>		<b>42.71</b>		<b>146.52</b>

### POST-DEVELOPED, UNTREATED Watershed Data:

Land Use	Drainage Area, ac.	Ia, %	Rv, in.	R, in.	TN		TP		TSS		BOD	
					C, mg/L	L, lb.	C, mg/L	L, lb.	C, mg/L	L, lb.	C, mg/L	L, lb.
Wooded	0.000	2	0.068	2.94	1.74	0.00	0.11	0.00	51	0.00	3	0.00
2 ac. Residential	2.053	11	0.149	6.45	5.15	15.41	0.52	0.27	70	21.99	38	98.19
Gravel Road	0.024	85	0.815	35.28	2.65	0.51	0.43	0.04	141	3.39	24	7.91
Asphalt Road	0.114	98	0.932	40.35	2.65	2.75	0.43	0.25	141	21.07	24	49.14
<b>TOTAL</b>	<b>2.191</b>			<b>85.02</b>		<b>18.67</b>		<b>0.56</b>		<b>46.45</b>		<b>155.24</b>

### POST-DEVELOPED, TREATED Watershed Data:

Land Use	Removal Efficiencies, %				TN, lb.		TP, lb.		TSS, lb.		BOD, lb.	
	TN	TP	TSS	BOD	Raw	Treated	Raw	Treated	Raw	Treated	Raw	Treated
Wooded	0	0	0	0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2 ac. Residential	0	0	0	0	15.41	15.41	0.27	0.27	21.99	21.99	98.19	98.19
Asphalt Road	20	20	20	0	2.75	2.20	0.25	0.20	21.07	16.85	49.14	49.14
<b>TOTAL</b>					<b>18.17</b>	<b>17.62</b>	<b>0.52</b>	<b>0.47</b>	<b>43.06</b>	<b>38.84</b>	<b>147.33</b>	<b>147.33</b>

#### NOTES:

$Rv = 0.05 + 0.9 (Ia)$  (Runoff Coefficient) Ia = Impervious Fraction

$R = P * Pj * Rv$  (Annual Runoff, inches)

$P = 48.1$  (Annual Rainfall, inches, Putnam County)  
 $Pj = 0.9$  Fraction of Rainfall events that produce runoff

$L = 0.226 * R * C * A$

L = Annual Load, lbs.  
R = Annual Runoff, inches  
C = Pollutant Concentration, mg/L  
A = Drainage Area, acres

indicates data input by user

June, 2007

Constant concentrations used for spreadsheet method

Land Use Category	BOD	COD	TSS	TDS	TP	DP	TKN	NO <sub>2</sub> /NO <sub>3</sub>	TN	Pb	Cu	Zn	Cd
Forest/ Rural Open	3	27	51	415	0.11	0.03	0.94	0.8	1.74	0	0	0	0
Urban	3	27	51	415	0.11	0.03	0.94	0.8	1.74	0.014	0	0.04	0.001
Agriculture/ Pasture	3	53	145	415	0.37	0.09	1.92	4.06	5.98	0	0	0	0
Low Density Residential	38	124	70	144	0.52	0.27	3.32	1.83	5.15	0.057	0.026	0.161	0.004
Medium Density Residential	38	124	70	144	0.52	0.27	3.32	1.83	5.15	0.18	0.047	0.176	0.004
High Density Residential	14	79	97	189	0.24	0.08	1.17	2.12	3.29	0.041	0.033	0.218	0.003
Commercial	21	80	77	294	0.33	0.17	1.74	1.23	2.97	0.049	0.037	0.156	0.003
Industrial	24	85	149	202	0.32	0.11	2.08	1.89	3.97	0.072	0.058	0.671	0.005
Highways	24	103	141	294	0.43	0.22	1.82	0.83	2.65	0.049	0.037	0.156	0.003
Water/ Wetlands	4	6	6	12	0.08	0.04	0.79	0.59	1.38	0.011	0.007	0.003	0.001

Adapted from NURP (1983), Horner et al. (1994), and Cave et al. (1994)

BOD	Biochemical Oxygen Demand	TKN	Total Kjeldahl Nitrogen
COD	Chemical Oxygen Demand	NO <sub>2</sub> /NO <sub>3</sub>	Nitrates /Nitrites
TSS	Total Suspended Solids	TN	Total Nitrogen (TKN + NO <sub>2</sub> /NO <sub>3</sub> )
TDS	Total Dissolved Solids	Pb	Lead
TP	Total Phosphorus	Cu	Copper
DP	Dissolved Phosphorus	Zn	Zinc
		Cd	Cadmium

All units in milligrams per Liter (mg/L)

Source: Terrene Institute, 1996

## Exhibit 4.1 (cont'd)

### New York Rainfall Maps for Different Rainfall Frequencies

#### RAINFALL LIST BY COUNTY

The frequency values listed below are average values for the County. Please check these against the maps on pages 4.29 through 4.31 for your county. In certain areas of the county, jobs may require higher or lower rainfall values.  
Amended July 30, 2002

COUNTY	RAINFALL FOR EACH FREQUENCY							Average Annual Rainfall
	1YR	2YR	5YR	10YR	25 YR	50YR	100YR	
ALBANY	2.4	2.9	3.7	4.5	4.9	5.5	7.0	37.9
ALLEGANY	2.2	2.6	3.2	3.8	4.3	4.8	5.3	37.0
BRONX	2.7	3.5	4.5	5.0	6.0	7.0	7.5	46.2
BROOME	2.4	2.8	3.5	4.2	4.8	5.3	6.2	38.8
CATTARAUGUS	2.2	2.5	3.2	3.7	4.2	4.7	5.2	43.3
CAYUGA	2.2	2.5	3.2	3.8	4.4	4.8	5.3	37.1
CHAUTAUQUA	2.1	2.5	3.1	3.6	4.1	4.6	4.9	45.3
CHEMUNG	2.3	2.7	3.4	3.9	4.6	5.0	5.6	34.9
CHENANGO	2.3	2.8	3.4	4.0	4.8	5.0	6.0	40.0
CLINTON	2.0	2.5	3.1	3.5	4.0	4.5	4.9	34.2
COLUMBIA	2.5	3.0	4.0	4.7	5.5	6.0	7.8	42.3
CORTLAND	2.3	2.7	3.4	3.9	4.6	4.9	5.6	40.5
DELAWARE	2.5	2.9	4.0	4.5	5.0	5.5	7.9	42.1
DUTCHESS	2.8	3.5	4.5	5.0	6.0	7.0	8.0	43.3
ERIE	2.1	2.5	3.1	3.6	4.0	4.5	4.9	40.4
ESSEX	2.1	2.5	3.2	3.6	4.2	4.6	5.1	39.5
FRANKLIN	2.0	2.5	3.0	3.5	4.0	4.5	4.8	39.8
FULTON	2.3	2.6	3.4	3.9	4.6	4.9	5.5	46.3
GENESEE	2.1	2.5	3.1	3.6	4.1	4.6	4.9	34.8
GREENE	3.0	3.0	4.5	5.0	6.0	7.0	8.0	41.5
HAMILTON	2.2	2.5	3.2	3.7	4.3	4.7	5.4	49.7
HERKIMER	2.2	2.5	3.2	3.7	4.4	4.7	5.5	47.9
JEFFERSON	2.1	2.5	3.0	3.5	4.0	4.5	4.7	39.0
KINGS	2.7	3.5	4.5	5.0	6.0	7.0	7.5	44.3
LEWIS	2.3	2.5	3.1	3.6	4.2	4.5	4.8	48.1
LIVINGSTON	2.2	2.5	3.2	3.7	4.2	4.7	5.0	32.6
MADISON	2.3	2.6	3.3	3.8	4.6	4.9	5.5	40.9
MANHATTAN	2.7	3.5	4.5	5.0	6.0	6.5	7.5	46.1
MONROE	2.2	2.5	3.1	3.6	4.1	4.6	4.9	31.9
MONTGOMERY	2.4	2.7	3.4	3.9	4.7	5.0	5.7	40.9
NASSAU	2.7	3.5	4.5	5.0	6.0	7.0	7.5	44.5
NIAGARA	2.1	2.5	3.0	3.5	4.0	4.5	4.8	34.9
ONEIDA	2.3	2.5	3.2	3.8	4.5	4.8	5.4	47.8

**Exhibit 4.1 (cont'd)**  
**New York Rainfall Maps for Different Rainfall Frequencies**

COUNTY	RAINFALL FOR EACH FREQUENCY							Average Annual Rainfall
	1YR	2YR	5YR	10YR	25 YR	50YR	100YR	
ONONDAGA	2.2	2.6	3.2	3.8	4.5	4.8	5.2	40.1
ONTARIO	2.2	2.5	3.2	3.7	4.3	4.7	5.0	33.3
ORANGE	2.9	3.5	4.5	5.5	6.5	7.0	8.0	45.1
ORLEANS	2.1	2.5	3.0	3.5	4.0	4.5	4.8	32.9
OSWEGO	2.2	2.5	3.1	3.6	4.3	4.6	4.9	44.7
OTSEGO	2.4	2.8	3.4	4.0	4.8	5.0	5.9	40.7
PUTNAM	2.7	3.5	4.5	5.0	6.0	7.0	7.5	48.1
QUEENS	2.7	3.5	4.5	5.0	6.0	7.0	7.5	43.3
RENSSELAER	2.4	2.7	3.5	4.3	4.9	5.5	6.3	40.1
RICHMOND	2.7	3.5	4.5	5.0	6.0	7.0	7.5	46.3
ROCKLAND	2.7	3.5	4.5	5.0	6.0	7.0	7.5	48.5
SARATOGA	2.3	2.6	3.4	3.9	4.7	5.0	5.8	41.6
SCHENECTADY	2.4	2.8	3.5	4.0	4.8	5.2	5.8	40.3
SCHOHARIE	2.4	2.8	3.7	4.5	4.9	5.5	7.0	39.4
SCHUYLER	2.3	2.6	3.3	3.8	4.5	4.9	5.5	34.9
SENECA	2.2	2.5	3.3	3.8	4.4	4.8	5.2	33.5
ST. LAWRENCE	2.0	2.5	3.0	3.5	4.0	4.5	4.8	38.4
STEUBEN	2.2	2.6	3.3	3.8	4.5	4.8	5.5	33.1
SUFFOLK	2.7	3.5	4.5	5.0	6.0	7.0	7.5	45.7
SULLIVAN	3.0	3.5	4.5	5.0	6.0	7.0	8.0	45.4
TIOGA	2.3	2.8	3.4	4.0	4.7	5.0	5.8	36.7
TOMPKINS	2.3	2.7	3.4	3.9	4.6	4.9	5.5	37.1
ULSTER	3.5	4.0	5.0	6.0	6.5	7.0	8.0	47.1
WARREN	2.2	2.5	3.3	3.8	4.4	4.8	5.4	42.8
WASHINGTON	2.3	2.6	3.4	3.9	4.6	5.0	5.8	38.9
WAYNE	2.2	2.5	3.1	3.7	4.2	4.7	4.9	36.4
WESTCHESTER	2.8	3.5	4.5	5.0	6.0	7.0	7.5	48.2
WYOMING	2.2	2.5	3.1	3.6	4.2	4.6	4.9	39.0
YATES	2.2	2.5	3.3	3.8	4.4	4.8	5.2	33.2