PUBLIC NOTICE

US Army Corps
of Engineers
New York District
Jacob K. Javits Federal Building
New York, N.Y. 10278-0090
ATTN: Regulatory Branch

In replying refer to:
Public Notice Number: NAN-2015-00157-WOM
Issue Date: September 17, 2015
Expiration Date: October 17, 2015

To Whom It May Concern:

The New York District, Corps of Engineers has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344).

APPLICANT: Somers Realty Corporation
83 Calvert Street
Harrison, New York 10528

ACTIVITY: Construction of a 152 unit condominium development and attendant features. Installation of access roads would impact two on-site wetlands. On-site mitigation would occur, in the form of wetland creation.

WATERWAY: Muscoot River

LOCATION: Town of Somers, Westchester County, New York.

A detailed description and plans of the applicant's activity are enclosed to assist in your review.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

ALL COMMENTS REGARDING THE PERMIT APPLICATION MUST BE PREPARED IN WRITING AND MAILED TO REACH THIS OFFICE BEFORE THE EXPIRATION DATE OF THIS NOTICE, otherwise, it will be presumed that there are no objections to the activity. Comments provided will become a part of the public record for this action.

Comments submitted in response to this notice will be fully considered during the public interest review for this permit application. All written comments, including names and addresses, will be made a part of the administrative record, available to the public under the Freedom of Information Act. The Administrative Record, or portions thereof, may also be posted on a Corps of Engineers internet web site. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

Any person may request, in writing, before this public notice expires, that a public hearing be held to collect information necessary to consider this application. Requests for public hearings shall state, with particularity, the reasons why a public hearing should be held. It should be noted that information submitted by mail is considered just as carefully in the permit decision process and bears the same weight as that furnished at a public hearing.

Our preliminary determination is that the activity for which authorization is sought herein is not likely to adversely affect any Federally endangered or threatened species or their critical habitat. Pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1531), the District Engineer is consulting with the appropriate Federal agency to determine the presence of and potential impacts to listed species in the project area or their critical habitat.

Based upon a review of the latest published version of the National Register of Historic Places, there are no known sites eligible for, or included in, the Register within the permit area. Presently unknown archeological, scientific, prehistorical, or historical data may be lost by work accomplished under the required permit.

In addition to any required water quality certificate, the applicant has obtained or requested the following governmental authorization for the activity under consideration:

- New York State Department of Environmental Conservation

It is requested that you communicate the foregoing information concerning the activity to any persons known by you to be interested and who did not receive a copy of this notice. If you have any questions concerning this application, you may contact this office at (917) 790-8417 and ask for Melanie O'Meara.

In order for us to better serve you, please complete our Customer Service Survey located at http://www.nan.usace.army.mil/Missions/Regulatory/CustomerSurvey.aspx.

For more information on New York District Corps of Engineers programs, visit our website at http://www.nan.usace.army.mil.

for Christopher S. Mallery, Ph.D.
Acting Chief, Regulatory Branch

Enclosures

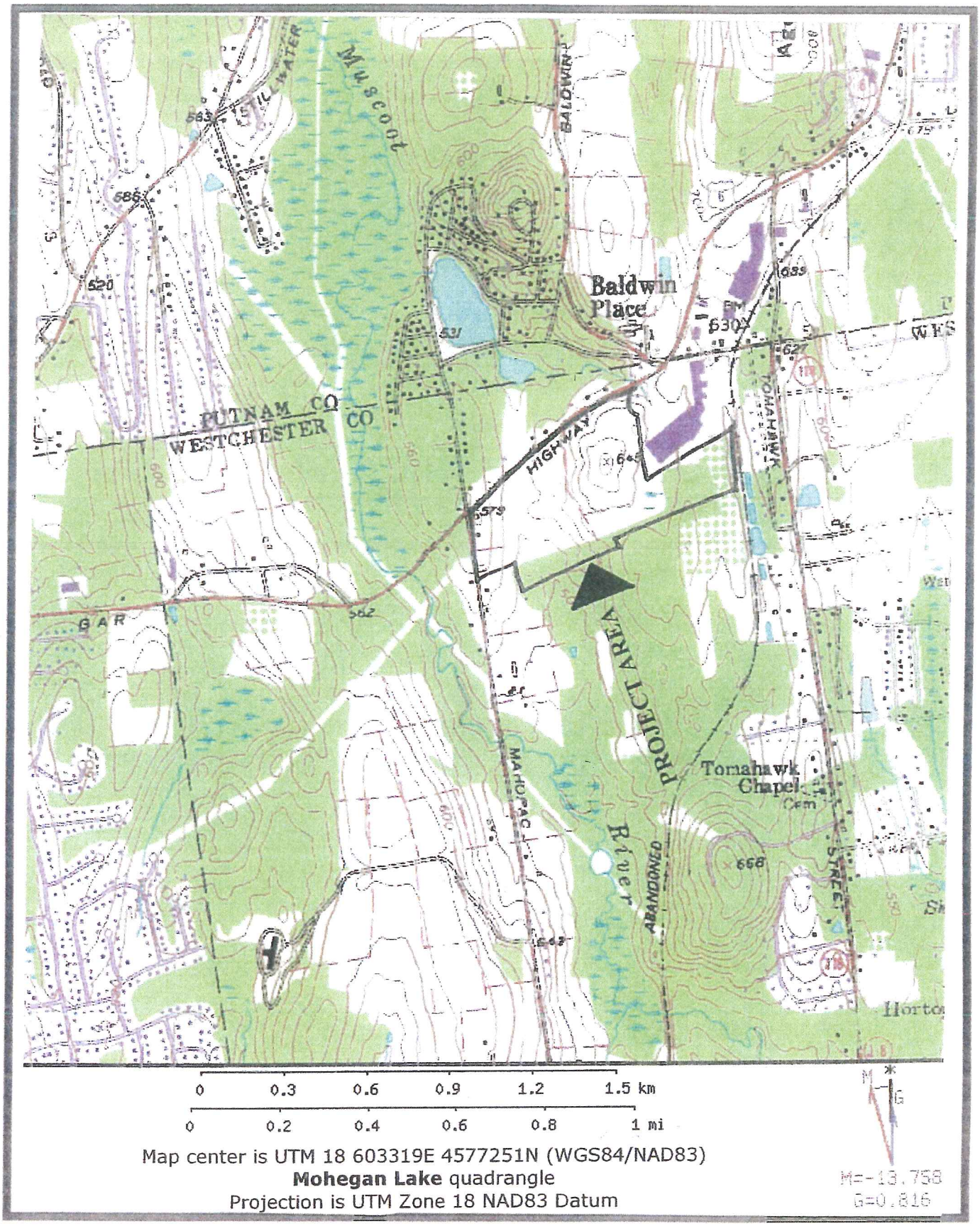
WORK DESCRIPTION

The applicant, Somers Realty Corporation, have requested Department of the Army authorization for construction of a 152 unit condominium development and attendant features. Installation of access roads would impact two on-site wetlands. The site is located in the Town of Somers, Westchester County, New York.

The work would involve construction of a 152 unit condominium development, and attendant features, as part of an on-going residential development project. Proposed wetland impacts would include the construction of access roads, resulting in approximately 0.53 acres of permanent wetland disturbance due to two road crossings. No buildings or other development features would impact on-site waters. Although there are a total of five delineated wetlands on-site, only Wetland A and Wetland E would be impacted by the road crossings. A town-required access road improvement on the northern edge of the property would cross the narrowest portion of Wetland A, resulting in an approximately 0.14 acre impact. Fill would be placed within Wetland A to improve the existing road and an approximately 36-inch diameter culvert installed to allow water flow to continue under the road. Proposed impacts to Wetland E would include approximately 0.39 acres of fill to construct an access road to an eastern section of the development site. Two approximately 12-inch diameter culverts would be installed under the road.

Temporary impacts at each road construction area, totaling approximately 525 linear feet (0.02 acres) would include erosion control device installation. Work would be timed to coincide with low seasonal rainfall periods. To compensate for unavoidable impacts, mitigation would be completed onsite resulting in the creation of approximately 0.86 acres of wetlands (a 0.33 acre increase of wetlands on the site (1.6:1 ratio)), as well as the enhancement of additional wetland and wetland buffer areas.

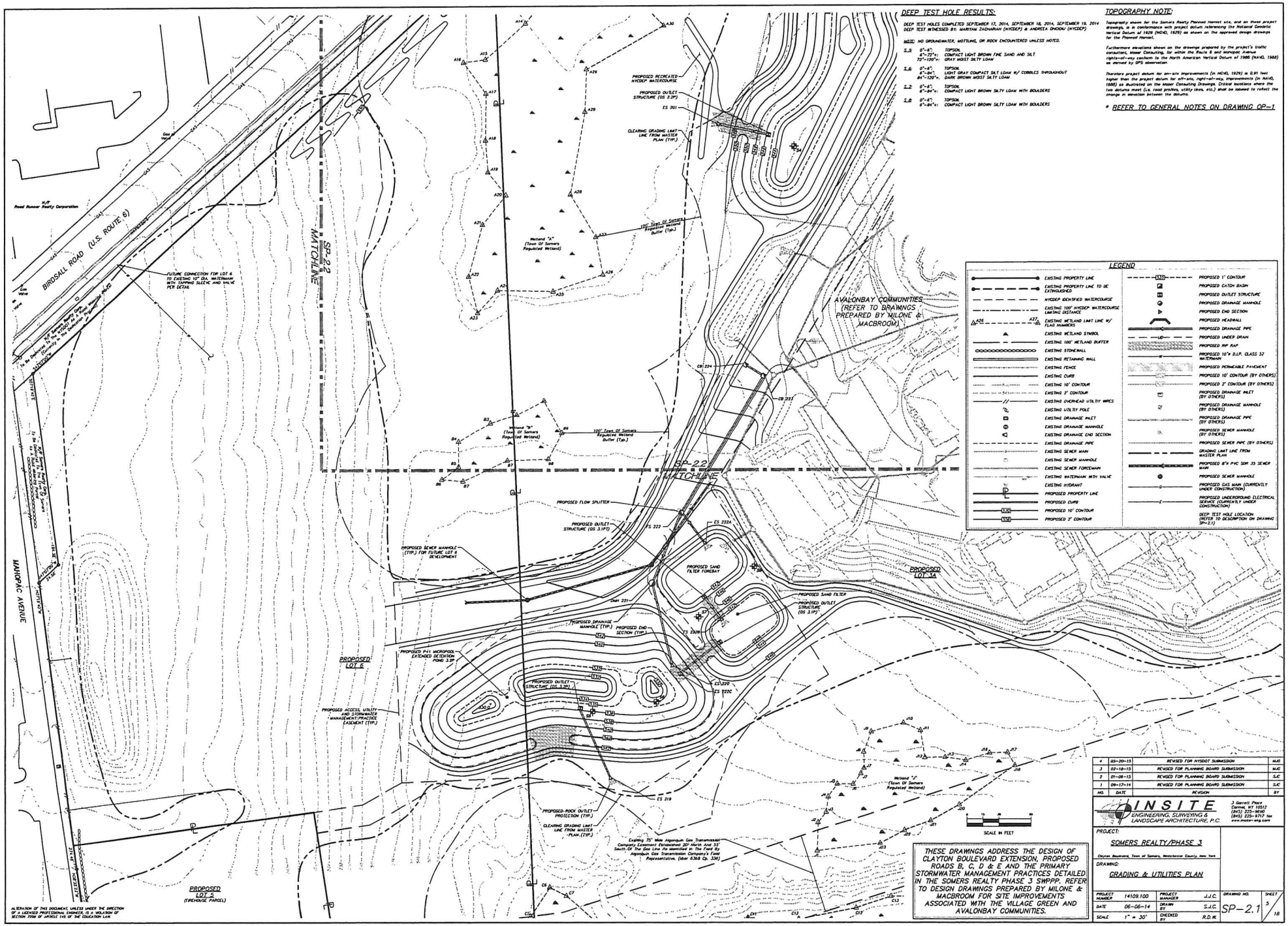
The stated purpose of this project is to provide residential housing in the Town of Somers.



Map center is UTM 18 603319E 4577251N (WGS84/NAD83)
Mohegan Lake quadrangle
Projection is UTM Zone 18 NAD83 Datum

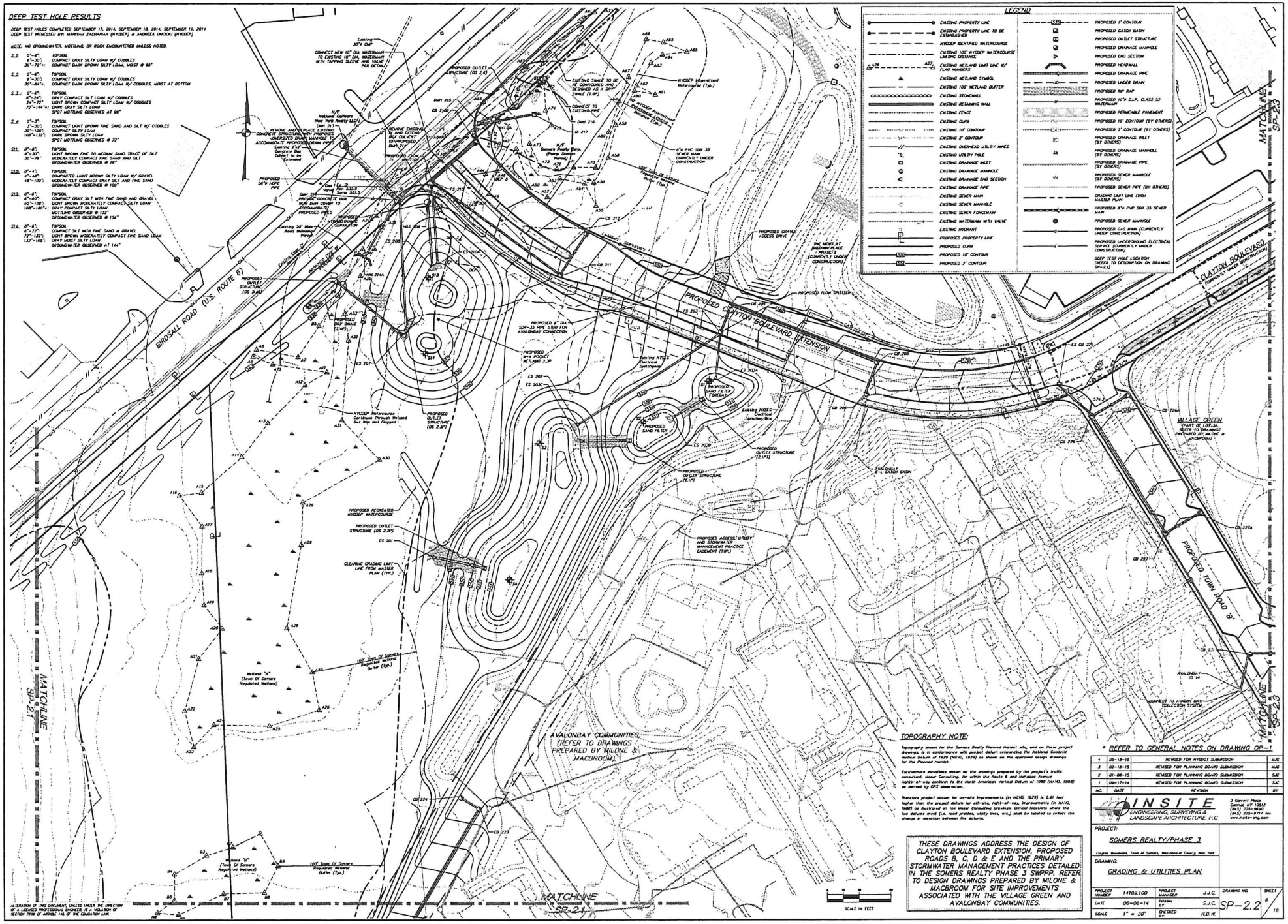
USACE PROJECT FILE NUMBER: NAN-2015-00157-WOM SHEET 1 OF 7

APPLICANT: SOMERS REALTY CORPORATION



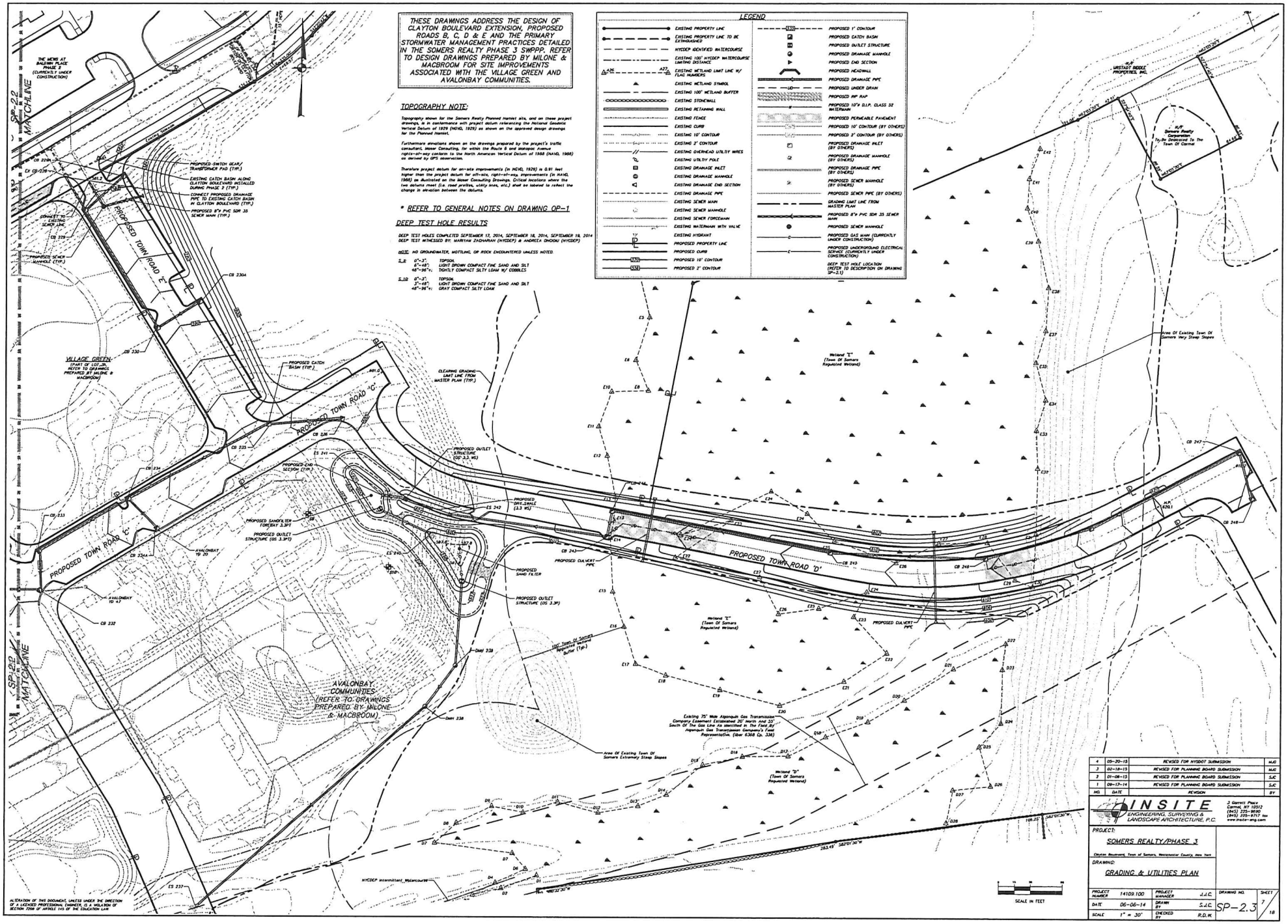
USACE PROJECT FILE NUMBER: NAN-2015-00157-WOM SHEET 2 OF 7

APPLICANT: SOMERS REALTY CORPORATION



USACE PROJECT FILE NUMBER: NAN-2015-00157-WOM SHEET 3 OF 7

APPLICANT: SOMERS REALTY CORPORATION



USACE PROJECT FILE NUMBER: NAN-2015-00157-WOM SHEET 4 OF 7

APPLICANT: SOMERS REALTY CORPORATION

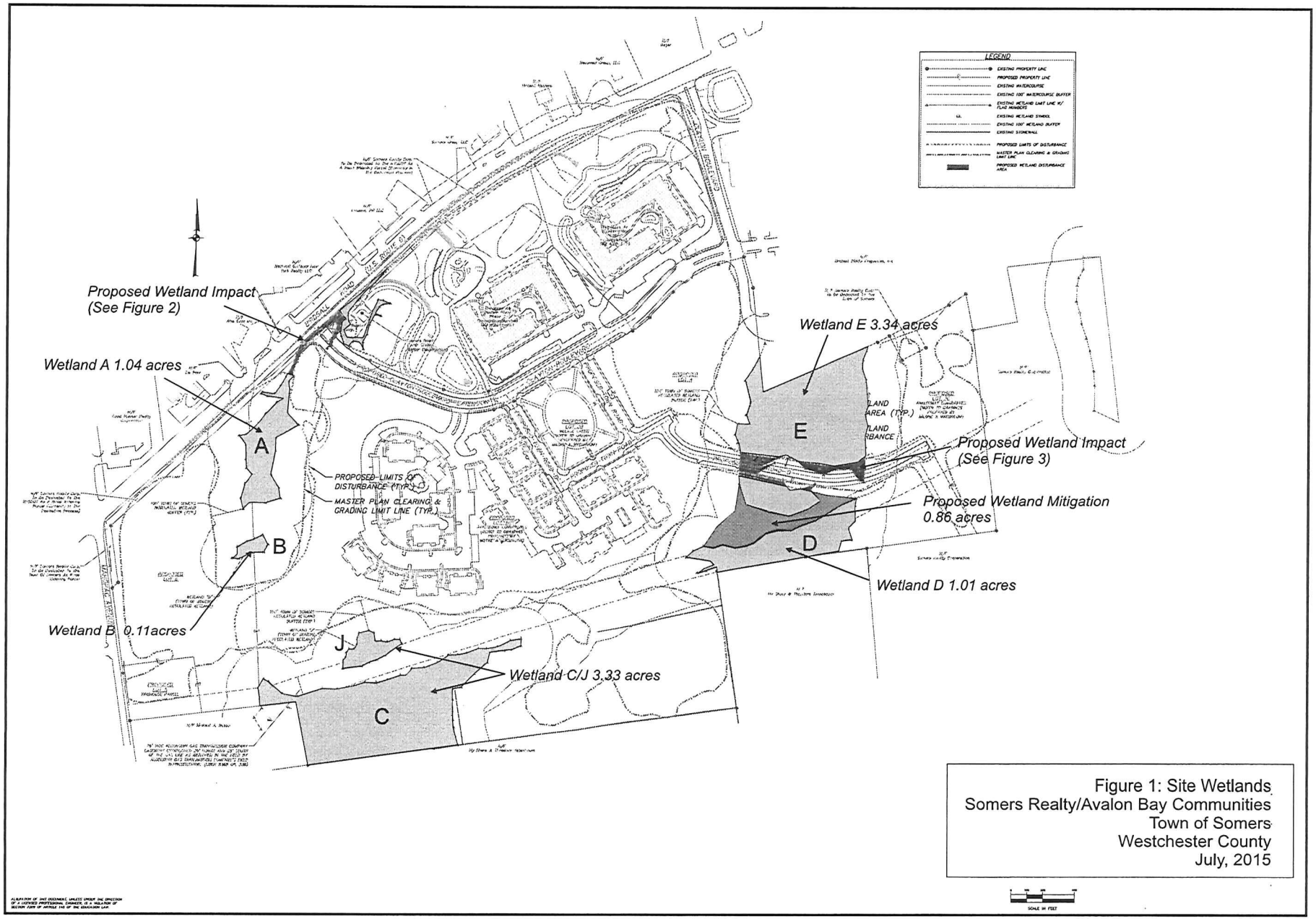


Figure 1: Site Wetlands
Somers Realty/Avalon Bay Communities
Town of Somers
Westchester County
July, 2015

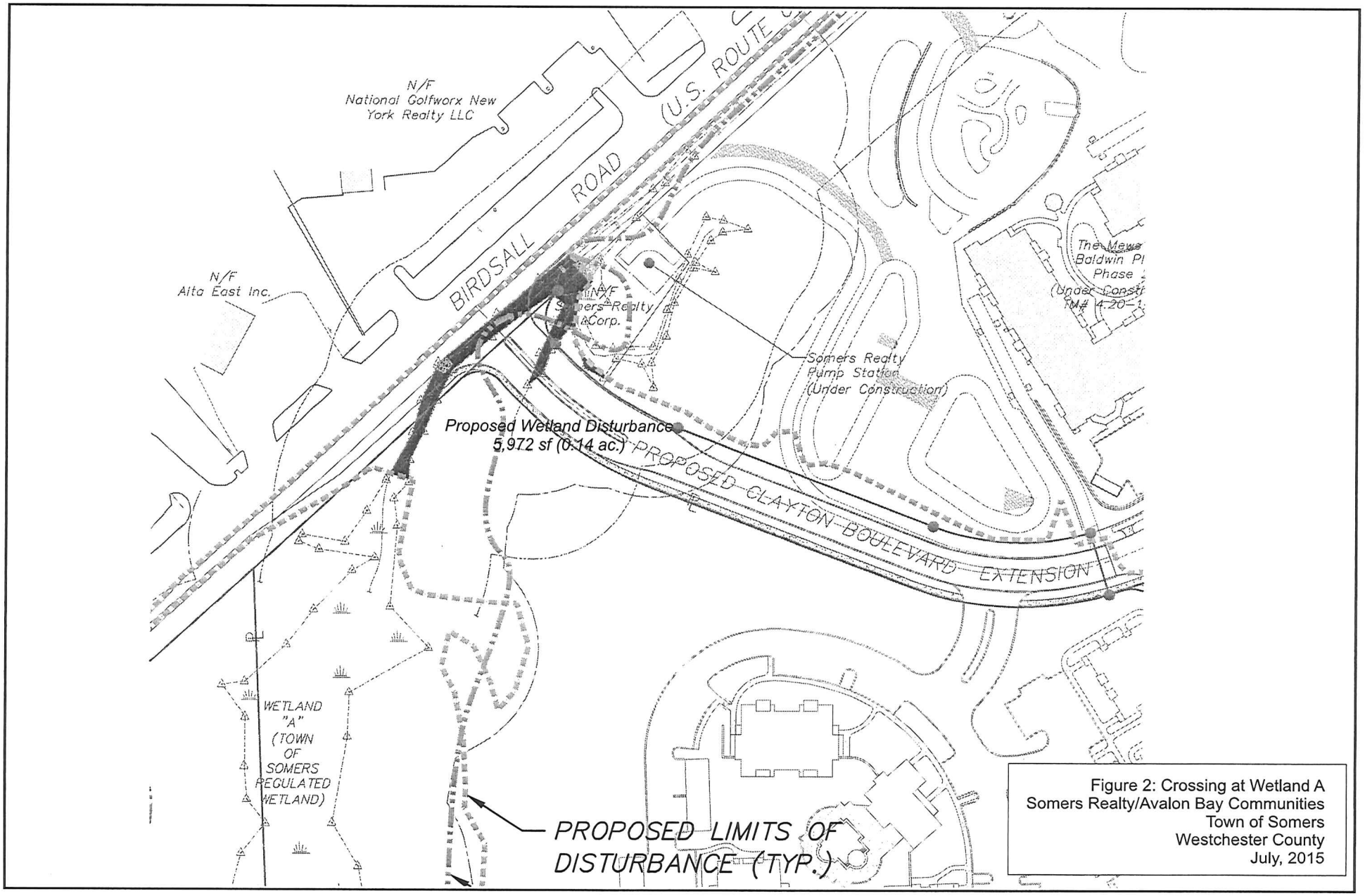


Figure 2: Crossing at Wetland A
Somers Realty/Avalon Bay Communities
Town of Somers
Westchester County
July, 2015

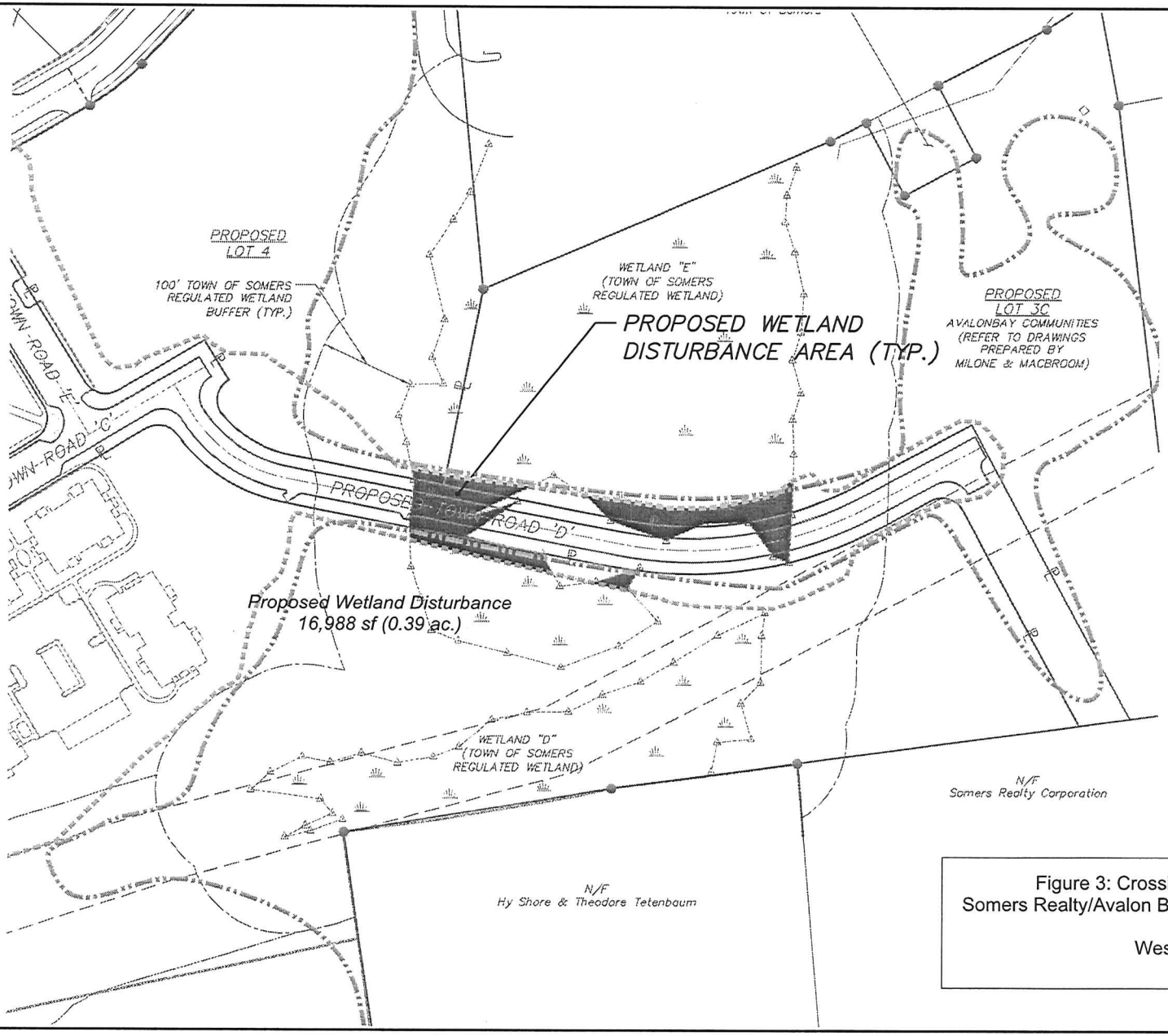


Figure 3: Crossing at Wetland E
Somers Realty/Avalon Bay Communities
Town of Somers
Westchester County
July, 2015

PLANNING • ENVIRONMENTAL • WETLANDS
TMA
WMI

TIM MILLER ASSOCIATES/
WETLAND MITIGATION INC
10 NORTH STREET
COLD SPRING, NY 10516
845 265 4400

PROJECT ENGINEERS:
INSITE ENGINEERING, SURVEYING AND
LANDSCAPE ARCHITECTURE, PC

SOMERS REALTY CORP.

TOWN OF SOMERS
COUNTY OF WESTCHESTER, NEW YORK

ACOE WETLAND CREATION AND ENHANCEMENT PLAN

SECTION 4.20 BLOCK 1 LOT 15

SCALE
1" = 200'

DRAWING NUMBER
1

Wetland Mitigation Narrative and Specification
Somers Realty Corp./Avalon Bay Communities
Route 6, Town of Somers, NY
July 29, 2015

Project Description

The applicant proposes the development of 38.3 acres in conformance with the existing Planned Hamlet zoning. There are approximately nine acres of jurisdictional wetlands on this site, which are regulated by the USACE. The site wetlands are not regulated by the New York State DEC. The applicant is proposing the filling of up to 0.53 acres of federally regulated wetland. This level of fill is necessary for the completion of the roads and infrastructure to Town standards. A total of 0.86 acres of expanded or constructed wetland, as described below, is proposed to offset this wetland disturbance. Fill activities are related to numerous small fill areas for completion of road grading or crossing of wetlands to complete the road configuration; no building sites are within wetland areas. Existing site wetlands are generally scrub shrub wetlands created within a former soil mine site. The site is part of the Muscoot River drainage basin. Two areas of open water exist on the property; neither of these wetlands will be directly impacted.

Mitigation Proposal

The applicant is proposing a three-tier approach to mitigating the encroachments into federal wetlands.

Wetland Expansion. It is proposed to expand the existing wetland, resulting in an increase of 0.33 acres for a 1.6:1 ratio. The wetland expansion is described in greater detail below.

Wetland Restoration. Several areas of the existing wetland are dominated by invasive plant species, particularly common reed (Phragmites australis) and purple loosestrife (Lythrum salicaria). It is proposed to actively remove these species by hand in those areas where the plants are most dominant.

Wetland Creation Proposal

It is proposed to construct 0.86 acres of new wetland adjacent to the delineated site wetlands. Using this "shared hydrology" approach, upland areas adjacent to the site wetlands will be excavated to elevations consistent with the wetlands, hydrology will be diverted to the new area where appropriate, and vegetation planted that is consistent with the native vegetation found in the site wetlands.

Site Selection. The area of proposed wetland construction was chosen due to its proximity to existing wetlands, suitable subsoils for retention of hydrology, and position in the watershed to ensure a regular source of hydrology from sources other than direct precipitation. It is also located on a parcel that will not contain future building sites, ensuring long term viability and preservation. An additional factor was ease of access to the area for both initial excavation and planting and long term maintenance.

Functional Replacement. As stated above, the applicant will replace 0.53 acres of existing wetlands with a contiguous area of wetland totaling 0.86 acres. The wetlands to be lost are generally areas that have been affected by previous site activity, including existing asphalt near the site entrance at Route 6. They are however, all small parts of a larger wetland system. The new wetland areas will be larger and contiguous, and will be an improvement functionally when compared to the areas that will be lost. These areas will provide better storage of stormwater flows, along with the water quality treatment that comes with that storage, and will improve wildlife habitat by providing a greater diversity of seed and berry-bearing native trees and shrubs. The goal of the planting plan is to ultimately create a wooded wetland corridor with vernal pool hydrology in some isolated areas.

Grading Details

It is proposed to excavate the mitigation area in order to establish pools and flow paths as shown on the grading plan. These areas will be accessed for purposes of the wetland mitigation construction from the

proposed road. If suitable, topsoil removed from excavated area will be used within the new wetlands as replacement of organic material for surface preparation. Soil erosion and sediment control fencing will be installed at the outer and down slope limits of the proposed wetland expansion. The location of the proposed mitigation will be cleared as necessary, but with an eye toward preserving any trees or shrubs adjacent to the work area; some may be removed and stockpiled for replanting after completion of grading.

Where available, the upper one foot of topsoil will be stripped from the site and set aside from other site grading materials. The temporary storage area will be an upland site either removed from wetlands by 100 feet or separated from same by a soil erosion and sediment control fence. All excavations will be to finished grade elevations as indicated in the mitigation drawings. Per the above, topsoil will be stripped from the site and stockpiled for use in finishing grading. The stockpiled topsoil will be returned to the site to create a planting surface four to six inches deep for the wetland mitigation plantings as described above. Finished soils at the invert of the mitigation sites will be of landscape quality. The finished surfaces of the planting area will be smooth within specified tolerances in uniform levels or slopes between points where elevations are indicated or between such points and existing grades. The accepted grading tolerance will be a smooth and even surface, free of voids, and within 0.25 feet of the specified elevation. Leaving the surface rough, creating mounds and kettles for a variable microtopography can be beneficial. During the course of earthwork, inspections will be schedule at a frequency to be determined by the engineer/environmental consultant but no less than weekly. Some changes to the grades may be appropriate to establish flow paths and preserve trees. These determinations will be made by the wetland specialist supervising the grading.

Planting Details

Plant choices for the wetland expansion were made according to existing site conditions and locally common species. All planting will proceed by hand. Materials will be brought to the site in good condition (see below) and then placed in central drop locations. The materials will then be hand-carried to their planting locations and in turn, planted by hand. Only rounded, shallow planting shovels will be used in this effort.

Criteria for selecting plant material will include (1) the plant's ability to withstand the expected light and saturation conditions; (2) its demonstrated survival on this site and other nearby sites; (3) the plant must be native and non-invasive; and (4) whether the plant material is available at nurseries in the same region as the site. See Table 1 for complete plant species list. Seed mix was chosen based on the species' ability to survive in moist areas adjacent to the road with some sun.

Planting will be done in spring or early summer (between April 1 and July 1). Shrubs may also be planted in the late summer to early fall (September 1 to October 30). In all cases, a hole will be dug twice as deep as the root ball. The only shovels allowed are rounded, shallow spades. The hole will then be backfilled with a thin layer (two to four inches) of rich, organic topsoil, the plant placed inside, the hole backfield to the top and then gently tamped down. Container-grown plant material delivered to the job site will be inspected to assure moist soil/root masses. Any dry and light weight plants will not be accepted. If not planted immediately the container will be stored out of the sun and wind and kept moist (i.e., a means of watering will be provided and watering will occur daily). When removed from the containers, the plants will be the size of the specified container. If in leaf, the plants will appear healthy with no spots, leaf damage, discoloration, insects or fungus. If not in leaf, the buds will be firm and free of damage, discoloration, insects or fungus. Containers will be a minimum of quart size for shrubs and gallon size for trees. Plants not having an abundance of well developed terminal buds on the leaders and branches will be rejected. The stems and branches of all plants will be turgid and the cambium healthy or the plants rejected. Seeding within wetland areas should not be completed when there is more than two inches of standing water, or in areas that are likely to be flooded. Seeds should be broadcast by hand or knapsack seeder using the proper seeding rate (3.5 pounds per acre), and carefully proportioning seed for the entire area. Cover with a light layer of straw mulch following seeding.

Plan Notes

1. Prior to commencement of site work, silt fence is to be placed at limit of disturbance.
2. Regrade area and spread topsoil four to six inches deep using existing stockpiles. Final grading is to be generally completed as shown on this plan. Some field adjustment to achieve desired flow paths is acceptable.
3. Trees to remain will be identified prior to the commencement of site grading. These trees will be flagged in the field prior to the commencement of any clearing or excavation. Leave smaller existing trees in assumed area of disturbance to the extent practicable. Field adjustments to the grading plan may be necessary in order to ensure minimal impacts to roots of trees to be saved.
4. Hay and seed area of wetland expansion with Ernst Conservation Seeds Northeast Wetland Hummock Mix or equivalent. Companion seed with annual ryegrass as per grower's recommendations.
5. Trees and shrubs will be planted within the proposed wetland creation area as specified on the plan and the table above.

Monitoring and Maintenance

At least one pre-construction meeting will occur between the chosen grading and/or planting contractor/subcontractor and the site environmental systems planner prior to beginning construction on site. The construction monitor will have experience in wetland construction and a Bachelor of Science degree in Natural and/or Physical Resources.

Monitoring and maintenance efforts for the mitigation plantings will take place over a five year period following construction. This will include bi-weekly visits for the first growing season, and then twice a year for the next two years, with additional inspections as required depending on conditions. The applicant's environmental monitor will conduct a survey of the site and site conditions will be noted and adjusted as necessary. An annual report will be provided to the Town of Somers and the Army Corps of Engineers at the end of the growing season for each of the three years. These reports will include the following information:

1. All plant species, along with their estimated relative frequency and percent cover, shall be identified by using plots measuring 10 feet by 10 feet, with at least one representative plot located in each of the habitat types within the mitigation site. For this proposal, there are two plots identified on the plan view planting plan.
2. Vegetation cover maps, at a scale of one inch equals 100 or larger, shall be prepared for each growing season.
3. Photographs showing all representative areas of the mitigation site shall be taken at least once each year during the period between 1 June and 15 August.
4. Surface water and groundwater elevations in representative areas of the mitigation site shall be recorded twice a month during April through September of each year. The location of the monitoring wells are shown on the plan view grading plan.

Plantings will meet or exceed and 85 percent survival rate by the end of the second growing season. If this goal is not met, the site will be re-evaluated, and re-grading and/or replanting will be completed as necessary. Invasive species (i.e., Lythrum salicaria and Phragmites australis) will not constitute more than 10 percent of the vegetative community. If this goal is exceeded, measures will be taken to eradicate the invasive species.

Invasive Species Monitoring and Control Program

Autumn olive, oriental bittersweet and multifloral rose are all noted as present within the project site. These invasive species favor areas of disturbed soils and edge areas, aspects which will be prevalent with construction of the proposed action as currently designed.

By controlling exotic vegetation, and reducing deer populations due to increased human activity on the site, nearby native plants will have less competition and therefore have more resources available for their own growth. An invasive species monitoring and control program will be implemented at the project site as part of the overall development plan. Species targeted for removal include the following:

Tree-of-heaven (Ailanthus altissima)
Multiflora rose (Rosa multiflora)
Mugwort (Artemisia vulgaris)
Autumn olive (Eleagnus umbellata)
Garlic mustard (Alliaria petiolata)
Purple loosestrife (Lythrum salicara)
Common reed (Phragmites australis)
Oriental bittersweet (Celastrus orbiculatus)
Porcelainberry (Ampelopsis brevipedunculata)
Japanese Barberry (Berberis thunbergii)
Japanese Stilt Grass (Microstegium vimeneum)
Winged Euonymus (Euonymus alatus)

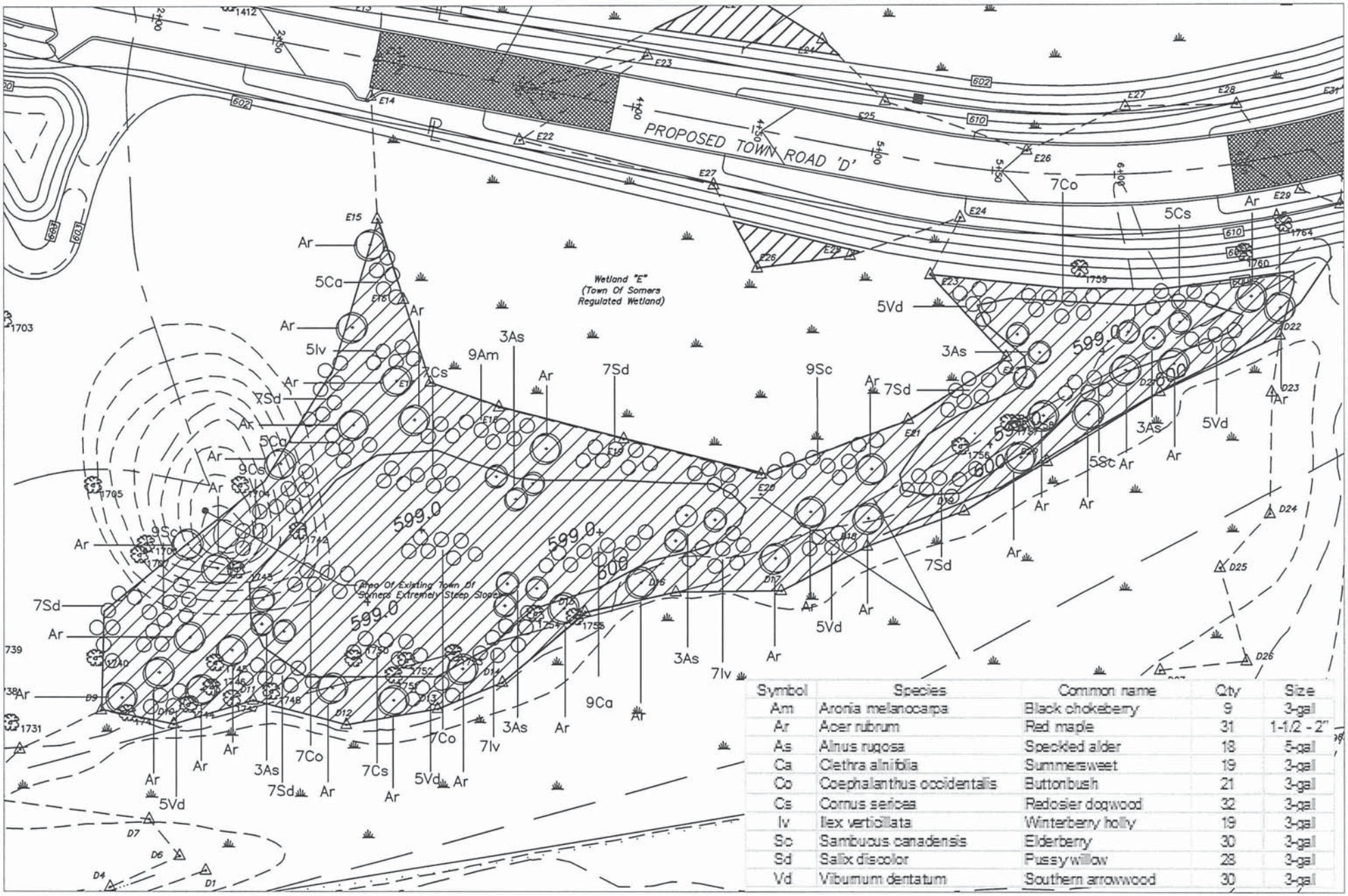
The above listed species and all other invasive non-native plants that are detrimental to the ecology of the project site will be removed during site development to the extent practicable. The goal of this program is to reduce the presence of exotic/invasive species to a threshold of less than ten percent total cover within the areas shown on the Wetland Restoration and Buffer Enhancement Plan (the "Plan"). A qualified biologist/botanist will supervise the removal of invasive species. Invasive species can be removed in several ways, depending on the location and species of the plant:

1. If a shrub is isolated and does not have its root system entwined with other plants, it may be removed mechanically. As much of the root system as possible should be removed to prevent the possibility of the invasive plant sprouting from root pieces left behind.
2. If a shrub is growing amongst other native plants in a way that uprooting it may disturb surrounding native plants warranting preservation, the plant will be most safely and effectively removed by chemical means. To remove by chemical means, the plant shall first be cut back to a few stubs and stumps, about twelve inches from the base. An EPA approved solution of glyphosate (Round-up or equivalent) shall be painted on the ends of the stumps. This technique shall be applied in the early fall months before the onset of plant dormancy. Proper notification must be made prior to the application of all restricted pesticides, and application made by a licensed applicator, if required. During project construction, glyphosate will only be applied by a licensed herbicide applicator, as coordinated with the Environmental Site Monitor. Only hand-cutting and removal will be allowed within the Wetland Controlled Area. This approach is consistent with the goals and objectives of the Integrated Pest Management Program.
3. Highly invasive groundcovers, such as Japanese honeysuckle, are difficult to eliminate due to their habit of rooting along the stem. Groundcovers of this type shall be sprayed with glyphosate, using a very close and targeted application during the active growing season. If the plant is growing among other herbaceous or shrub material that would be harmed by spraying, the glyphosate shall be applied by brush or mechanical removal should be considered. Repeated treatments may be necessary to remove the plant completely.
4. Highly invasive annuals, such as garlic mustard, are difficult to eliminate due to their growth from seed that is widespread among the soil seed bank where the plants are found. Several methods may be utilized in removing this type of invasive plants. If the species is growing densely without other plants, the area will be sprayed with glyphosate during the active growing season, following the manufacturer's recommendations. Species will also be removed by hand. Both methods should be performed before plants set seed. Both methods shall be performed multiple times over a season and possibly over several seasons to completely eradicate the target species.

Monitoring and Maintenance Schedule

Following development of the site, a maintenance plan will include the regular inspection of undisturbed areas as shown on the Plan, and removal of these species as necessary. This represents the transitional areas that are most susceptible to opportunistic settling of invasive species. It is anticipated that a schedule of inspections three times a year for the first three years following full project build out (early, mid and late growing season) will be adequate for the identification and removal of the invasive species in this area.

Symbol	Species	Common name	Qty	Size
Am	Aronia melanocarpa	Black chokeberry	9	3-gal
Ar	Acer rubrum	Red maple	31	1-1/2 - 2"
As	Alnus rugosa	Speckled alder	18	5-gal
Ca	Clethra alnifolia	Summersweet	19	3-gal
Co	Coephalanthus occidentalis	Buttonbush	21	3-gal
Cs	Cornus sericea	Redosier dogwood	32	3-gal
Iv	Ilex verticillata	Winterberry holly	19	3-gal
Sc	Sambucus canadensis	Elderberry	30	3-gal
Sd	Salix discolor	Pussy willow	28	3-gal
Vd	Viburnum dentatum	Southern arrowwood	30	3-gal



Symbol	Species	Common name	Qty	Size
Am	Aronia melanocarpa	Black chokeberry	9	3-gal
Ar	Acer rubrum	Red maple	31	1-1/2 - 2"
As	Alnus rugosa	Speckled alder	18	5-gal
Ca	Clethra alnifolia	Summersweet	19	3-gal
Co	Coephalanthus occidentalis	Buttonbush	21	3-gal
Cs	Cornus sericea	Redosier dogwood	32	3-gal
Iv	Ilex verticillata	Winterberry holly	19	3-gal
Sc	Sambucus canadensis	Elderberry	30	3-gal
Sd	Salix discolor	Pussy willow	28	3-gal
Vd	Viburnum dentatum	Southern arrowwood	30	3-gal

ACOE Wetland Creation and Enhancement Plan
Somers Realty/Avalon Bay Communities
Town of Somers, NY
July 31, 2015