

PLANNING BOARD
TOWN OF BERNE
PO Box 57
Berne, NY 12023

Date: July 7, 2016

Present: Richard Rapp (Chair), Mike Vincent, Debra Bajouwa, Todd Schwendeman, Wayne Emory (Board Liaison), Kathy Brown (Secretary)

Guests: Joseph Hammond, Steve Elsbree, Sue Hawkes-Teeter, Jackie Murray, Mark Sengenberger, Mark Hohengasser, Dawn Jordan, Lisa Carr, Nicole Carr, Kevin Demerest, Jody Jansen, Barbara Jansen, Mark Johnson, Tanya Langsten, Dorothy Langsten and other interested guests.

Public Hearing – Minor Subdivision, Paris/Willow Lane Lands, 1148 Bradt Hollow Rd.: Ms. Bajouwa moved to open the public hearing at 7:00 PM. Mr. Vincent seconded and the motion was approved, 4-0. The applicant intends to subdivide a 35.2 acre parcel into two lots of 5.2 acres and the remaining 30+/- acres. All notices were sent and published in the *Altamont Enterprise* and property owners with properties abutting this lot were notified via certified mail. No written correspondence from adjacent land owners was received. The Conservation Board report (see attached) was reviewed. Ms. Hawkes-Teeter asked why there was no building envelope on the map. Mr. Hammond said there was no particular reason why. Ms. Hawkes-Teeter also mentioned the historic value to the Town of the school house on the property. Mr. Hammond stated that there is no restriction or easement on the property and that it is privately owned. Mr. Vincent said he had spoken to the Berne Historical Society about the school house being of historic relevance. Perk test results were reviewed. There being no additional public comment, Ms. Bajouwa moved to close the public hearing. Mr. Schwendeman seconded and the hearing closed on a vote of 4-0.

Both Mr. Schwendeman and Ms. Bajouwa presented site visit reports. The Albany Co. Planning Board decision was reviewed and the Board agreed to over-rule the ACPB's determination. The Board reviewed the application under the State Environmental Quality Review Act as a Type II Action. Ms. Bajouwa moved to approve and allow the Chair to sign, according to Board agreement, the Agricultural Data Statement, the Environmental Assessment Form and the Albany Co. Planning Board recommendation. Mr. Vincent seconded and the motion passed, 4-0.

Mr. Bajouwa moved to approve the application for the Paris subdivision as proposed. Mr. Schwendeman seconded and the motion passed, 4-0.

Regular Meeting of July 7, 2016

Mr. Rapp called the meeting to order at 7:35 p.m.

Minutes: The minutes from the June 2, 2016 meeting were reviewed. Mr. Vincent moved to approve the minutes as amended. Mr. Bajouwa seconded and the motion passed, 4-0.

The minutes from the June 16, 2016 Albany Co. Communications Tower public hearing were reviewed. The official sign-in sheets and change of venue notification will be included in the minutes for the record. Mr. Vincent moved to approve the minutes as amended. Ms. Bajouwa seconded and the motion passed, 4-0.

Old Business:

Special Use Permit, Albany County Communications Tower, Jansen Lane: Representatives from Albany Co. discussed Board concerns from previous meetings. Saratoga County's emergency communication system was discussed. Mr. Rapp referred to a correspondence from the Murray Law Firm dated 7/7/2016 that included coverage maps, SEQRA guide sheets and an email from Carl Zeilman which Mr. Rapp read into the record (see attached). Propagation model accuracy was reviewed. Alternate sites and locations for additional towers were discussed.

The Board reviewed Section 6 CRR-NY 617.4 of New York Code Rules and Regulations (see attached) and all members of the board agreed that this would be considered a Type I action. Mr. Rapp read into the record a letter from the Town Attorney (see attached) determining that the tower is a type I action and that a SEQRA EAF long form be used for the application. Then all members reviewed SEQRA Handbook Type I actions Question #4 (see attached) with regard to Mr. Schwendeman's request to use the short EAF form and the fact that the short form may never be used for a Type I action. Ms. Bajouwa moved to use the NYS DEC SEQRA long form and consider the tower/application as a type I action. Mr. Vincent seconded. The motion passed 3-1 with the following role call: Rapp – AYE, Bajouwa – AYE, Vincent – AYE, Schwendeman – NAY.

Public comments from the June 16, 2016 public hearing were reviewed and discussed (see public comments/public hearing of 6/16/2016). Residents' concerns over preserving scenic vistas and the need for public health and safety - as detailed in the Town's draft comprehensive plan - were reviewed.

The SEQRA EAF Part II and III of the long form was reviewed (see attached) and completed by the Board. Mr. Vincent moved to approve Part II and Part III language and to declare a negative declaration with no significant impact on the environment and no further review necessary. Ms. Bajouwa seconded and the motion passed, 3-1 with the following role call: Rapp – AYE, Vincent – AYE, Bajouwa – AYE, Schwendeman – NAY. Mr. Rapp asked that the Secretary file and post SEQRA Parts II and III in accordance with applicable provisions of the law.

Mr. Vincent moved to approve the Albany County Interoperable Communication Tower special use permit with the following conditions:

- the applicant (Albany County) will remove the Tower should the technology become obsolete
- yearly maintenance reports will be submitted to the Town's Code Enforcement Officer and reviewed by the Planning Board.

Ms. Bajouwa seconded, and the motion passed 3-1 with the following role call: Rapp – AYE, Vincent – AYE, Bajouwa – AYE, Schwendeman – NAY. Mr. Vincent moved to amend the approval to include a total height limit on the tower of 160'. Ms. Bajouwa seconded and the motion passed, 3-1 with the following role call: Rapp – AYE, Vincent – AYE, Bajouwa – AYE, Schwendeman – NAY.

(A complete recording of the meeting is in the SUP file in Town Hall.)

New Business:

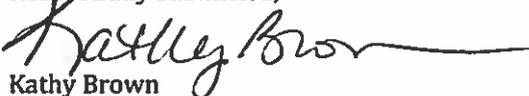
Carr/home occupation: postponed

Other Business:

Mr. Vincent mentioned that according to a letter from NYS Dept. of Parks and Recreation, the Helderberg Lutheran Church is considered a State Historic Site and is now eligible for grants and funding.

There being no further business before the Board, Ms. Bajouwa moved to adjourn the meeting at 11:24 p.m., seconded by Mr. Vincent, and the motion carried, 4-0.

Respectfully submitted,



Kathy Brown
Planning Board Secretary

Town of Berne Subdivision Site Visit Review Form



Application # _____
Parcel ID # _____

Property Owner: Paris
Date: 7/4/2016
Phone: _____

Property Address: Bradt Hollow Rd.

Site Visit performed by: T. Schuwendeman
on (date) 7/4/16

Description of subdivision requested 5.2 acres from 17 acre
larger parcel

Site Findings: open pasture, slopes moderately to
east, has old structure "Bradt Hollow School" on
western edge along Bradt Hollow Rd., no specific
potential siting details were available

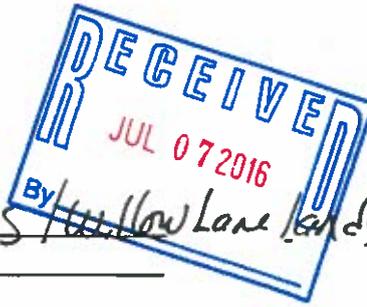
Recommendations:

none
see Conservation Board memo (June 30, 2016)

Other _____

Respectfully submitted,

Town of Berne Subdivision Site Visit Review Form



Application # _____
Parcel ID # 88.00-1-4

Property Owner: Glenn Paris / Hollow Lane Land
Date: _____
Phone: _____

Property Address: Bradt Hollow Road

Site Visit performed by: Debra Bajouwa
on (date) July 7 9AM

Description of subdivision requested Subdivide one small lot of 5.2 acres leaving remaining lands of 30 acres

Site

Findings: I observed the 5.2 acre parcel from open and treed areas from the line bordering Bradt Hollow Road. Noted the school house building located approx. in the middle of the proposed area of the road frontage for the parcel. The area around the building is fenced from the larger back parcel and appears to be mowed. Trees border the right side of the parcel and the proposed area moves into areas of tall grasses with some scrub areas while generally flat. There are areas of gentle rolling

Recommendations:

Slopes. A power line was observed crossing the parcel behind the school building. Most of the area opposite this parcel on Bradt Hollow appears to be hay field with one residence slightly beyond the parcel. Noted pink ribbons marking border lines along Bradt Hollow. There are barn structures on the remaining 30 acres appear to be under some renovation and cleanup. Equipment and people present at the time of the site visit working

Other Recommend approval following Albany County
modification

Respectfully submitted,

Debra Bajouwa



To: Town of Berne Planning Board
From: Town of Berne Conservation Board
Subject: Paris/Willow Lane subdivision
Date: June 30, 2016

Three members of the Conservation Board (Nancy Engel, Sue Hawkes-Teeter and Kathleen Moore) conducted a site review for the above-referenced subdivision on June 20, 2016. We have the following observations to make:

The property in question has been used most recently as pasture (Figure 1); the owner proposes to subdivide a 5.2 ac parcel from the larger landholding. The parcel is a sloping area with a northern aspect. It is bounded on the south and southeast by moist forest. A small woodland pond is on the neighboring property to the south. The vegetation on the property is mostly pasture and old field species, including a significant amount of Canada thistle.

The property is in an Agricultural District. The entire parcel contains soils of the Burdett Silt Loam type on 3-8% slopes. The main limitation for this soil type is the seasonal high water table, which must be accommodated if a house is going to have a basement, and which also is an issue for percolation of septic waste. The layer of dense clay below the surface soil contributes to the seasonal high water table and the slow percolation.

The Conservation Board has three main concerns about the proposed action:

- There is an historic structure on the property, near the road, namely the Bradt Hollow School, built in 1813 (Figures 2-4). This school is listed as one of the scenic and historic sites in the Open Space Index for the Town, and is the second stop on the driving tour of Scenic and Historic sites in the Town. It was restored and has been maintained over the years by volunteers. The CB would like to see some assurance--deed restriction, conservation easement, moving the building to public property-- that this historic resource will not be lost when the transfer of ownership of the parcel takes place. One option for the Town or for a public/private partnership of some kind would be to seek grant funding or a loan such as that provided by the Preservation League of New York State (<http://www.preservenys.org/epip-eligibility.html>).
- The site plan did not have a building envelope depicted on it, which we understand to be a requirement, even if there are no immediate plans to build on the parcel. Perc test holes are denoted on the plan and we observed the location of those. However, those test holes are near the uppermost corner of the proposed lot; therefore, any building constructed on the parcel

would be downhill of the proposed septic (perc test) location. A separate location for a well was not indicated on the site plan.

- The slope, while not extreme, is of moderate risk for erosion and surface runoff. Care should be taken during construction, or during any use that disturbs the surface, to prevent excessive erosion.

If these concerns are addressed, the Conservation Board sees no reason the proposed subdivision should not proceed, from an environmental quality standpoint.

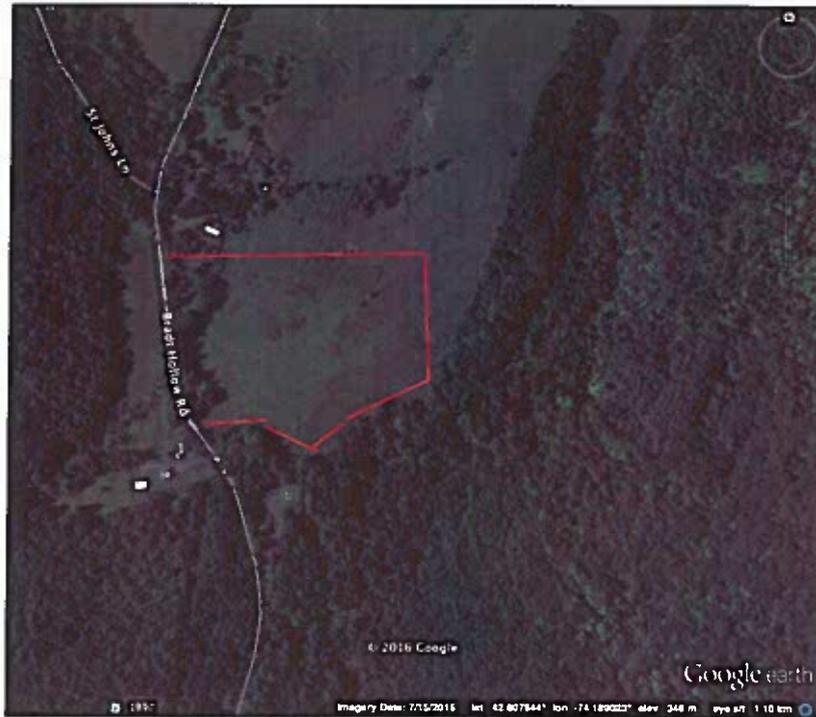


Figure 1 Overview of subdivision with rough outline of parcel in red.

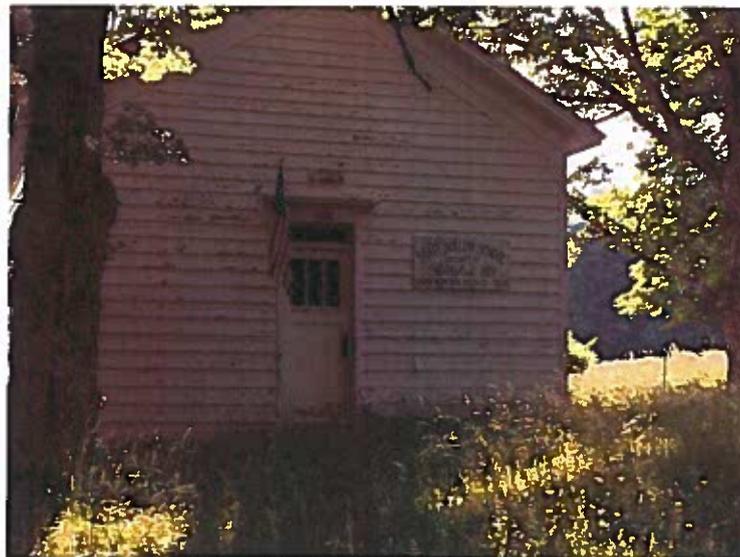


Figure 2. Bradt Hollow School House.



Figure 3. Sign on the Bradt Hollow School.

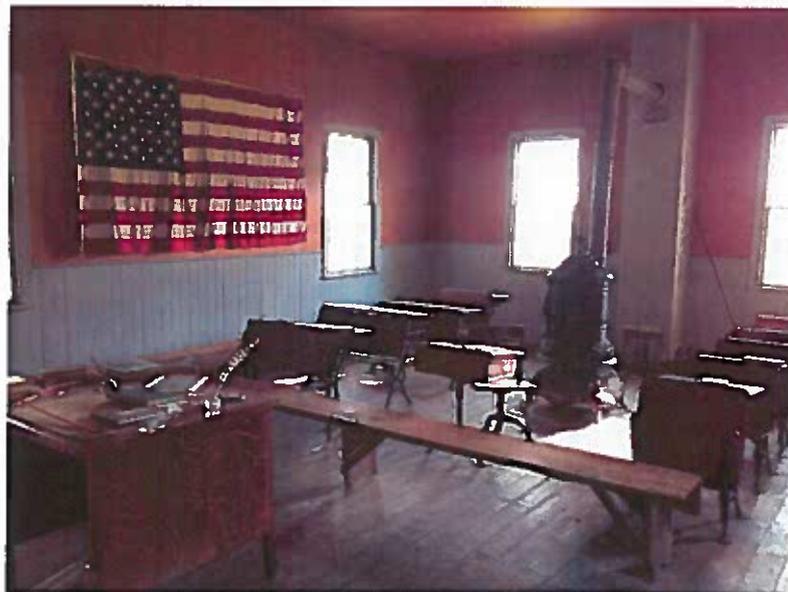


Figure 4. Interior of the Bradt Hollow School.

Paris-Dellarocco Site Review

To: Berne Planning Board
From: Berne Conservation Board
Date: April 21, 2008



Mr. Paris has submitted a proposal for the creation of two new lots on his property located at the junction of Canaday Hill Road and Bradt Hollow Road, in Berne. This site review will address the lots proposed on the Proposed Minor Paris and Dellarocco Subdivision.

Proposed Lot One would consist of 47.42 acres and lie to the north and east of the intersection previously mentioned. This lot has a history of pasturing livestock.

The soils contained in the northern portion of this proposed lot are typically very deep and moderately well drained. Erosion can be a consideration as runoff can be rapid on the steeper slopes. The proposed building and septic sites are located in the southern portion of the lot on the Burdett soil series, which contain very deep and somewhat poorly drained soils. The seasonal high water table can vary from ½ to 1 ½ feet from December to May in most years, which can pose a problem for the placement of septic systems or dwellings with basements.

A feature of environmental concern on this parcel is a stream of ecological and hydrological significance. It drains the steep terrain to the west, turns parallel to Bradt Hollow Road, and flows into the Fox Creek at West Berne. A portion of this lot contains a wooded slope above and along the stream. If logging is to take place on the property, the Conservation Board would recommend this occur on less severe slopes to mitigate the possibility of erosion on the steep terrain and that logging should occur under the guidance of a certified forester.

Several killdeer were observed during our most recent site visit to the lot.

Proposed Lot Two would consist of a total of 38.35 acres. A 24.11 acre parcel would lie to the north and east of the intersection of Canaday Hill and Bradt Hollow Roads and a 14.24 acre portion of the proposed lot sits to the south and east of the intersection.

Lot Two is comprised of Burdett soils which have been described above. Burdett soils are also moderately suited to many crops with the high water table being the main limitation.. Historically, the 24.11 acre portion of the proposed lot has been used for hay crops and has been noted to be wet a large portion of the year.

A Northern Shrike has been observed in this field for about a week last fall, as well as a large flock of migrating bobolinks.

The Conservation Board's main concern about this area is that historically it has been very productive agriculturally, and we would like to see it remain so. One option for protecting the land's function in a working landscape is to put it in a working farm conservation easement, or to obtain an agricultural easement. Either option would establish a management plan to provide for its ongoing agricultural productivity.



Figure 1 Overview of the Paris property at the corner of Bradt Hollow and Canaday Hill Roads.



Figure two shows stream running through proposed lot one.

TOWN COPY FILE

Full Environmental Assessment Form
Part 2 - Identification of Potential Project Impacts

Agency Use Only [If applicable]
Project: _____
Date: _____

Part 2 is to be completed by the lead agency. Part 2 is designed to help the lead agency inventory all potential resources that could be affected by a proposed project or action. We recognize that the lead agency's reviewer(s) will not necessarily be environmental professionals. So, the questions are designed to walk a reviewer through the assessment process by providing a series of questions that can be answered using the information found in Part 1. To further assist the lead agency in completing Part 2, the form identifies the most relevant questions in Part 1 that will provide the information needed to answer the Part 2 question. When Part 2 is completed, the lead agency will have identified the relevant environmental areas that may be impacted by the proposed activity.

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

Tips for completing Part 2:

- Review all of the information provided in Part 1.
- Review any application, maps, supporting materials and the Full EAF Workbook.
- Answer each of the 18 questions in Part 2.
- If you answer "Yes" to a numbered question, please complete all the questions that follow in that section.
- If you answer "No" to a numbered question, move on to the next numbered question.
- Check appropriate column to indicate the anticipated size of the impact.
- Proposed projects that would exceed a numeric threshold contained in a question should result in the reviewing agency checking the box "Moderate to large impact may occur."
- The reviewer is not expected to be an expert in environmental analysis.
- If you are not sure or undecided about the size of an impact, it may help to review the sub-questions for the general question and consult the workbook.
- When answering a question consider all components of the proposed activity, that is, the "whole action".
- Consider the possibility for long-term and cumulative impacts as well as direct impacts.
- Answer the question in a reasonable manner considering the scale and context of the project.

1. Impact on Land		<input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES
Proposed action may involve construction on, or physical alteration of, the land surface of the proposed site. (See Part 1, D.1)			
If "Yes", answer questions a - j. If "No", move on to Section 2.			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may involve construction on land where depth to water table is less than 3 feet.	E2d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may involve construction on slopes of 15% or greater.	E2f	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface.	E2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve the excavation and removal of more than 1,000 tons of natural material.	D2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may involve construction that continues for more than one year or in multiple phases.	D1e	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides).	D2e, D2q	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action is, or may be, located within a Coastal Erosion hazard area.	B1i	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

~~SECRET~~

Sent to:
DEC ENB
; Alb. Co. on 7/13

2. Impact on Geological Features

The proposed action may result in the modification or destruction of, or inhibit access to, any unique or unusual land forms on the site (e.g., cliffs, dunes, minerals, fossils, caves). (See Part 1. E.2.g)

NO

YES

If "Yes", answer questions a - c. If "No", move on to Section 3.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Identify the specific land form(s) attached: _____ _____	E2g	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may affect or is adjacent to a geological feature listed as a registered National Natural Landmark. Specific feature: _____	E3c	<input type="checkbox"/>	<input type="checkbox"/>
c. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

3. Impacts on Surface Water

The proposed action may affect one or more wetlands or other surface water bodies (e.g., streams, rivers, ponds or lakes). (See Part 1. D.2, E.2.h)

NO

YES

If "Yes", answer questions a - l. If "No", move on to Section 4.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may create a new water body.	D2b, D1h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water.	D2b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body.	D2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body.	E2h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments.	D2a, D2h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may include construction of one or more intake(s) for withdrawal of water from surface water.	D2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may include construction of one or more outfall(s) for discharge of wastewater to surface water(s).	D2d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies.	D2e	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action.	E2h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
j. The proposed action may involve the application of pesticides or herbicides in or around any water body.	D2q, E2h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
k. The proposed action may require the construction of new, or expansion of existing, wastewater treatment facilities.	D1a, D2d	<input checked="" type="checkbox"/>	<input type="checkbox"/>

I. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>
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4. Impact on groundwater
 The proposed action may result in new or additional use of ground water, or may have the potential to introduce contaminants to ground water or an aquifer. NO YES
 (See Part 1. D.2.a, D.2.c, D.2.d, D.2.p, D.2.q, D.2.t)
 If "Yes", answer questions a - h. If "No", move on to Section 5.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may require new water supply wells, or create additional demand on supplies from existing water supply wells.	D2c	<input type="checkbox"/>	<input type="checkbox"/>
b. Water supply demand from the proposed action may exceed safe and sustainable withdrawal capacity rate of the local supply or aquifer. Cite Source: _____	D2c	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may allow or result in residential uses in areas without water and sewer services.	D1a, D2c	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may include or require wastewater discharged to groundwater.	D2d, E2l	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in the construction of water supply wells in locations where groundwater is, or is suspected to be, contaminated.	D2c, E1f, E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may require the bulk storage of petroleum or chemical products over ground water or an aquifer.	D2p, E2l	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may involve the commercial application of pesticides within 100 feet of potable drinking water or irrigation sources.	E2h, D2q, E2l, D2c	<input type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

5. Impact on Flooding
 The proposed action may result in development on lands subject to flooding. NO YES
 (See Part 1. E.2)
 If "Yes", answer questions a - g. If "No", move on to Section 6.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in development in a designated floodway.	E2i	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in development within a 100 year floodplain.	E2j	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in development within a 500 year floodplain.	E2k	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in, or require, modification of existing drainage patterns.	D2b, D2e	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may change flood water flows that contribute to flooding.	D2b, E2i, E2j, E2k	<input type="checkbox"/>	<input type="checkbox"/>
f. If there is a dam located on the site of the proposed action, is the dam in need of repair, or upgrade?	E1e	<input type="checkbox"/>	<input type="checkbox"/>

g. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>
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6. Impacts on Air			
The proposed action may include a state regulated air emission source. (See Part 1, D.2.f., D,2,h, D.2.g) <i>If "Yes", answer questions a - f. If "No", move on to Section 7.</i>		<input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. If the proposed action requires federal or state air emission permits, the action may also emit one or more greenhouse gases at or above the following levels: i. More than 1000 tons/year of carbon dioxide (CO ₂) ii. More than 3.5 tons/year of nitrous oxide (N ₂ O) iii. More than 1000 tons/year of carbon equivalent of perfluorocarbons (PFCs) iv. More than .045 tons/year of sulfur hexafluoride (SF ₆) v. More than 1000 tons/year of carbon dioxide equivalent of hydrochloroflourocarbons (HFCs) emissions vi. 43 tons/year or more of methane	D2g D2g D2g D2g D2g D2h	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
b. The proposed action may generate 10 tons/year or more of any one designated hazardous air pollutant, or 25 tons/year or more of any combination of such hazardous air pollutants.	D2g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may require a state air registration, or may produce an emissions rate of total contaminants that may exceed 5 lbs. per hour, or may include a heat source capable of producing more than 10 million BTU's per hour.	D2f, D2g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may reach 50% of any of the thresholds in "a" through "c", above.	D2g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in the combustion or thermal treatment of more than 1 ton of refuse per hour.	D2s	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____		<input checked="" type="checkbox"/>	<input type="checkbox"/>

7. Impact on Plants and Animals			
The proposed action may result in a loss of flora or fauna. (See Part 1, E.2. m.-q.) <i>If "Yes", answer questions a - j. If "No", move on to Section 8.</i>		<input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may cause reduction in population or loss of individuals of any threatened or endangered species, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2o	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in a reduction or degradation of any habitat used by any rare, threatened or endangered species, as listed by New York State or the federal government.	E2o	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may cause reduction in population, or loss of individuals, of any species of special concern or conservation need, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2p	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in a reduction or degradation of any habitat used by any species of special concern and conservation need, as listed by New York State or the Federal government.	E2p	<input checked="" type="checkbox"/>	<input type="checkbox"/>

e. The proposed action may diminish the capacity of a registered National Natural Landmark to support the biological community it was established to protect.	E3c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result in the removal of, or ground disturbance in, any portion of a designated significant natural community. Source: _____	E2n	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may substantially interfere with nesting/breeding, foraging, or over-wintering habitat for the predominant species that occupy or use the project site.	E2m	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. The proposed action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat. Habitat type & information source: _____	E1b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i. Proposed action (commercial, industrial or recreational projects, only) involves use of herbicides or pesticides.	D2q	<input checked="" type="checkbox"/>	<input type="checkbox"/>
j. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

8. Impact on Agricultural Resources			
The proposed action may impact agricultural resources. (See Part 1. E.3.a. and b.)		<input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES
<i>If "Yes", answer questions a - h. If "No", move on to Section 9.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may impact soil classified within soil group 1 through 4 of the NYS Land Classification System.	E2c, E3b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may sever, cross or otherwise limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc).	E1a, E1b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in the excavation or compaction of the soil profile of active agricultural land.	E3b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may irreversibly convert agricultural land to non-agricultural uses, either more than 2.5 acres if located in an Agricultural District, or more than 10 acres if not within an Agricultural District.	E1b, E3a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may disrupt or prevent installation of an agricultural land management system.	E1 a, E1b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result, directly or indirectly, in increased development potential or pressure on farmland.	C2c, C3, D2c, D2d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed project is not consistent with the adopted municipal Farmland Protection Plan.	C2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

9. Impact on Aesthetic Resources The land use of the proposed action are obviously different from, or are in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource. (Part 1. E.1.a, E.1.b, E.3.h.) <i>If "Yes", answer questions a - g. If "No", go to Section 10.</i>				<input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur		
a. Proposed action may be visible from any officially designated federal, state, or local scenic or aesthetic resource.	E3h	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
b. The proposed action may result in the obstruction, elimination or significant screening of one or more officially designated scenic views.	E3h, C2b	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
c. The proposed action may be visible from publicly accessible vantage points: i. Seasonally (e.g., screened by summer foliage, but visible during other seasons) ii. Year round	E3h	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>		
d. The situation or activity in which viewers are engaged while viewing the proposed action is: i. Routine travel by residents, including travel to and from work ii. Recreational or tourism based activities	E3h E2q. E1c	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>		
e. The proposed action may cause a diminishment of the public enjoyment and appreciation of the designated aesthetic resource.	E3h	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
f. There are similar projects visible within the following distance of the proposed project: 0-1/2 mile 1/2 -3 mile 3-5 mile 5+ mile	D1a, E1a, D1f, D1g	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
g. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>		

10. Impact on Historic and Archeological Resources The proposed action may occur in or adjacent to a historic or archaeological resource. (Part 1. E.3.e, f. and g.) <i>If "Yes", answer questions a - e. If "No", go to Section 11.</i>				<input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur		
a. The proposed action may occur wholly or partially within, or substantially contiguous to, any buildings, archaeological site or district which is listed on or has been nominated by the NYS Board of Historic Preservation for inclusion on the State or National Register of Historic Places.	E3e	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
b. The proposed action may occur wholly or partially within, or substantially contiguous to, an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory.	E3f	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
c. The proposed action may occur wholly or partially within, or substantially contiguous to, an archaeological site not included on the NY SHPO inventory. Source: _____	E3g	<input checked="" type="checkbox"/>	<input type="checkbox"/>		

d. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>
e. If any of the above (a-d) are answered "Moderate to large impact may occur", continue with the following questions to help support conclusions in Part 3:			
i. The proposed action may result in the destruction or alteration of all or part of the site or property.	E3e, E3g, E3f	<input type="checkbox"/>	<input type="checkbox"/>
ii. The proposed action may result in the alteration of the property's setting or integrity.	E3e, E3f, E3g, E1a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
iii. The proposed action may result in the introduction of visual elements which are out of character with the site or property, or may alter its setting.	E3e, E3f, E3g, E3h, C2, C3	<input type="checkbox"/>	<input type="checkbox"/>

11. Impact on Open Space and Recreation
 The proposed action may result in a loss of recreational opportunities or a reduction of an open space resource as designated in any adopted municipal open space plan.
 (See Part 1. C.2.c, E.1.c., E.2.q.)
If "Yes", answer questions a - e. If "No", go to Section 12.

NO YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in an impairment of natural functions, or "ecosystem services", provided by an undeveloped area, including but not limited to stormwater storage, nutrient cycling, wildlife habitat.	D2e, E1b E2h, E2m, E2o, E2n, E2p	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the loss of a current or future recreational resource.	C2a, E1c, C2c, E2q	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may eliminate open space or recreational resource in an area with few such resources.	C2a, C2c E1c, E2q	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in loss of an area now used informally by the community as an open space resource.	C2c, E1c	<input type="checkbox"/>	<input type="checkbox"/>
e. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

12. Impact on Critical Environmental Areas
 The proposed action may be located within or adjacent to a critical environmental area (CEA). (See Part 1. E.3.d)
If "Yes", answer questions a - c. If "No", go to Section 13.

NO YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in a reduction in the quantity of the resource or characteristic which was the basis for designation of the CEA.	E3d	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in a reduction in the quality of the resource or characteristic which was the basis for designation of the CEA.	E3d	<input type="checkbox"/>	<input type="checkbox"/>
c. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

13. Impact on Transportation
 The proposed action may result in a change to existing transportation systems. NO YES
 (See Part 1. D.2.j)
 If "Yes", answer questions a - f. If "No", go to Section 14.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Projected traffic increase may exceed capacity of existing road network.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the construction of paved parking area for 500 or more vehicles.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action will degrade existing transit access.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action will degrade existing pedestrian or bicycle accommodations.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may alter the present pattern of movement of people or goods.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

14. Impact on Energy
 The proposed action may cause an increase in the use of any form of energy. NO YES
 (See Part 1. D.2.k)
 If "Yes", answer questions a - e. If "No", go to Section 15.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action will require a new, or an upgrade to an existing, substation.	D2k	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The 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 commercial or industrial use.	D1f, D1q, D2k	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may utilize more than 2,500 MWhrs per year of electricity.	D2k	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve heating and/or cooling of more than 100,000 square feet of building area when completed.	D1g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Other Impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

15. Impact on Noise, Odor, and Light
 The proposed action may result in an increase in noise, odors, or outdoor lighting. NO YES
 (See Part 1. D.2.m., n., and o.)
 If "Yes", answer questions a - f. If "No", go to Section 16.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may produce sound above noise levels established by local regulation.	D2m	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in blasting within 1,500 feet of any residence, hospital, school, licensed day care center, or nursing home.	D2m, E1d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in routine odors for more than one hour per day.	D2o	<input checked="" type="checkbox"/>	<input type="checkbox"/>

d. The proposed action may result in light shining onto adjoining properties.	D2n	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in lighting creating sky-glow brighter than existing area conditions.	D2n, E1a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

16. Impact on Human Health The proposed action may have an impact on human health from exposure to new or existing sources of contaminants. (See Part I.D.2.q., E.1. d. f. g. and h.) <i>If "Yes", answer questions a - m. If "No", go to Section 17.</i>			
		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action is located within 1500 feet of a school, hospital, licensed day care center, group home, nursing home or retirement community.	E1d	<input type="checkbox"/>	<input type="checkbox"/>
b. The site of the proposed action is currently undergoing remediation.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
c. There is a completed emergency spill remediation, or a completed environmental site remediation on, or adjacent to, the site of the proposed action.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
d. The site of the action is subject to an institutional control limiting the use of the property (e.g., easement or deed restriction).	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may affect institutional control measures that were put in place to ensure that the site remains protective of the environment and human health.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action has adequate control measures in place to ensure that future generation, treatment and/or disposal of hazardous wastes will be protective of the environment and human health.	D2t	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action involves construction or modification of a solid waste management facility.	D2q, E1f	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may result in the unearthing of solid or hazardous waste.	D2q, E1f	<input type="checkbox"/>	<input type="checkbox"/>
i. The proposed action may result in an increase in the rate of disposal, or processing, of solid waste.	D2r, D2s	<input type="checkbox"/>	<input type="checkbox"/>
j. The proposed action may result in excavation or other disturbance within 2000 feet of a site used for the disposal of solid or hazardous waste.	E1f, E1g E1h	<input type="checkbox"/>	<input type="checkbox"/>
k. The proposed action may result in the migration of explosive gases from a landfill site to adjacent off site structures.	E1f, E1g	<input type="checkbox"/>	<input type="checkbox"/>
l. The proposed action may result in the release of contaminated leachate from the project site.	D2s, E1f, D2r	<input type="checkbox"/>	<input type="checkbox"/>
m. Other impacts: _____ _____			

17. Consistency with Community Plans The proposed action is not consistent with adopted land use plans. (See Part 1. C.1, C.2. and C.3.) <i>If "Yes", answer questions a - h. If "No", go to Section 18.</i>			
		<input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action's land use components may be different from, or in sharp contrast to, current surrounding land use pattern(s).	C2, C3, D1a E1a, E1b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action will cause the permanent population of the city, town or village in which the project is located to grow by more than 5%.	C2	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action is inconsistent with local land use plans or zoning regulations.	C2, C2, C3	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action is inconsistent with any County plans, or other regional land use plans.	C2, C2	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may cause a change in the density of development that is not supported by existing infrastructure or is distant from existing infrastructure.	C3, D1c, D1d, D1f, D1d, E1b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action is located in an area characterized by low density development that will require new or expanded public infrastructure.	C4, D2c, D2d D2j	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may induce secondary development impacts (e.g., residential or commercial development not included in the proposed action)	C2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Other: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

18. Consistency with Community Character The proposed project is inconsistent with the existing community character. (See Part 1. C.2, C.3, D.2, E.3) <i>If "Yes", answer questions a - g. If "No", proceed to Part 3.</i>			
		<input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may replace or eliminate existing facilities, structures, or areas of historic importance to the community.	E3e, E3f, E3g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may create a demand for additional community services (e.g. schools, police and fire)	C4	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may displace affordable or low-income housing in an area where there is a shortage of such housing.	C2, C3, D1f D1g, E1a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may interfere with the use or enjoyment of officially recognized or designated public resources.	C2, E3	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action is inconsistent with the predominant architectural scale and character.	C2, C3	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Proposed action is inconsistent with the character of the existing natural landscape.	C2, C3 E1a, E1b E2g, E2h	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

PRINT FULL FORM

Project

Date

Full Environmental Assessment Form
Part 3 - Evaluation of the Magnitude and Importance of Project Impacts
and
Determination of Significance

Part 3 provides the reasons in support of the determination of significance. The lead agency must complete Part 3 for every question in Part 2 where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.

Based on the analysis in Part 3, the lead agency must decide whether to require an environmental impact statement to further assess the proposed action or whether available information is sufficient for the lead agency to conclude that the proposed action will not have a significant adverse environmental impact. By completing the certification on the next page, the lead agency can complete its determination of significance.

Reasons Supporting This Determination:

To complete this section:

- Identify the impact based on the Part 2 responses and describe its magnitude. Magnitude considers factors such as severity, size or extent of an impact.
- Assess the importance of the impact. Importance relates to the geographic scope, duration, probability of the impact occurring, number of people affected by the impact and any additional environmental consequences if the impact were to occur.
- The assessment should take into consideration any design element or project changes.
- Repeat this process for each Part 2 question where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.
- Provide the reason(s) why the impact may, or will not, result in a significant adverse environmental impact
- For Conditional Negative Declarations identify the specific condition(s) imposed that will modify the proposed action so that no significant adverse environmental impacts will result.
- Attach additional sheets, as needed.

18.e Moderate to Large Impact - Reasoning Part 3 - The proposed action is inconsistent with predominant architectural scale and character. It is the Board's reasonable opinion that the action may have been moderate and short term impact that is unlikely to occur; resulting in no significant adverse environmental impact based on the review of the EAF and the Board's evaluation that the project has met the requirements necessary for issuance of a special use permit.

18.f Moderate to Large Impact - Reasoning Part 3 - The proposed action is inconsistent with predominant architectural scale and character. It is the Board's reasonable opinion that the action may have been moderate and short term impact that is unlikely to occur; resulting in no significant adverse environmental impact based on the review of the EAF and the Board's evaluation that the project has met the requirements necessary for issuance of a special use permit. Additionally, the site does not have any unique geological features nor will any surface water features be affected by the project.

*All items above have also been taken into account, including the Albany County Planning Board's recommendation: "defer to local consideration - this board has found that the proposed action will have no significant county-wide or inter-municipal impact."

Determination of Significance - Type I and Unlisted Actions

SEQR Status: Type I Unlisted

Identify portions of EAF completed for this Project: Part 1 Part 2 Part 3

Upon review of the information recorded on this EAF, as noted, plus this additional support information

and considering both the magnitude and importance of each identified potential impact, it is the conclusion of the **Town of Berne Planning Board** as lead agency that:

A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

B. Although this project could have a significant adverse impact on the environment, that impact will be avoided or substantially mitigated because of the following conditions which will be required by the lead agency:

There will, therefore, be no significant adverse impacts from the project as conditioned, and, therefore, this conditioned negative declaration is issued. A conditioned negative declaration may be used only for UNLISTED actions (see 6 NYCRR 617.d).

C. This Project may result in one or more significant adverse impacts on the environment, and an environmental impact statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those impacts. Accordingly, this positive declaration is issued.

Name of Action: **Albany County Interoperable Communications Tower**

Name of Lead Agency: **Town of Berne Planning Board**

Name of Responsible Officer in Lead Agency: **Richard Rapp**

Title of Responsible Officer: **Chairman**

Signature of Responsible Officer in Lead Agency: **Richard R. Rapp**

Date: **7/7/2016**

Signature of Preparer (if different from Responsible Officer) **Kathy Brown**

Date: **7/11/2016**

For Further Information:

Contact Person: **Kathy Brown**

Address: **Town of Berne, PO Box 57**

Telephone Number: **518-871-1448**

E-mail: **bernepbandzba@gmail.com**

For Type 1 Actions and Conditioned Negative Declarations, a copy of this Notice is sent to:

Chief Executive Officer of the political subdivision in which the action will be principally located (e.g., Town / City / Village of)

Other involved agencies (if any)

Applicant (if any)

Environmental Notice Bulletin: <http://www.dec.ny.gov/enb/enb.html>

PRINT FULL FORM

WestlawNext New York Codes, Rules and Regulations



6 CRR-NY 617.4
NY-CRR

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK
TITLE 6. DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CHAPTER VI. GENERAL REGULATIONS
PART 617. STATE ENVIRONMENTAL QUALITY REVIEW

6 CRR-NY 617.4
6 CRR-NY 617.4

617.4 Type I actions.

(a) The purpose of the list of Type I actions in this section is to identify, for agencies, project sponsors and the public, those actions and projects that are more likely to require the preparation of an EIS than Unlisted actions. All agencies are subject to this Type I list.

(1) This Type I list is not exhaustive of those actions that an agency determines may have a significant adverse impact on the environment and require the preparation of an EIS. However, the fact that an action or project has been listed as a Type I action carries with it the presumption that it is likely to have a significant adverse impact on the environment and may require an EIS. For all individual actions which are Type I or Unlisted, the determination of significance must be made by comparing the impacts which may be reasonably expected to result from the proposed action with the criteria listed in section 617.7(c) of this Part.

(2) Agencies may adopt their own lists of additional Type I actions, may adjust the thresholds to make them more inclusive, and may continue to use previously adopted lists of Type I actions to complement those contained in this section. Designation of a Type I action by one involved agency requires coordinated review by all involved agencies. An agency may not designate as Type I any action identified as Type II in section 617.5 of this Part.

(b) The following actions are Type I if they are to be directly undertaken, funded or approved by an agency:

(1) the adoption of a municipality's land use plan, the adoption by any agency of a comprehensive resource management plan or the initial adoption of a municipality's comprehensive zoning regulations;

(2) the adoption of changes in the allowable uses within any zoning district, affecting 25 or more acres of the district;

(3) the granting of a zoning change, at the request of an applicant, for an action that meets or exceeds one or more of the thresholds given elsewhere in this list;

(4) the acquisition, sale, lease, annexation or other transfer of 100 or more contiguous acres of land by a state or local agency;

(5) construction of new residential units that meet or exceed the following thresholds:

(i) 10 units in municipalities that have not adopted zoning or subdivision regulations;

(ii) 50 units not to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;

(iii) in a city, town or village having a population of less than 150,000, 250 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;

(iv) in a city, town or village having a population of greater than 150,000 but less than 1,000,000, 1,000 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works; or

(v) in a city or town having a population of greater than 1,000,000, 2,500 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;

(6) activities, other than the construction of residential facilities, that meet or exceed any of the following thresholds; or the expansion of existing nonresidential facilities by more than 50 percent of any of the following thresholds:

(i) a project or action that involves the physical alteration of 10 acres;

(ii) a project or action that would use ground or surface water in excess of 2,000,000 gallons per day;

(iii) parking for 1,000 vehicles;

- (iv) in a city, town or village having a population of 150,000 persons or less, a facility with more than 100,000 square feet of gross floor area;
- (v) in a city, town or village having a population of more than 150,000 persons, a facility with more than 240,000 square feet of gross floor area;
- (7) any structure exceeding 100 feet above original ground level in a locality without any zoning regulation pertaining to height;
- (8) any Unlisted action that includes a nonagricultural use occurring wholly or partially within an agricultural district (certified pursuant to Agriculture and Markets Law, article 25-AA, sections 303 and 304) and exceeds 25 percent of any threshold established in this section;
- (9) any Unlisted action (unless the action is designed for the preservation of the facility or site) occurring wholly or partially within, or substantially contiguous to, any historic building, structure, facility, site or district or prehistoric site that is listed on the National Register of Historic Places, or that has been proposed by the New York State Board on Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination for inclusion in the National Register, or that is listed on the State Register of Historic Places (The National Register of Historic Places is established by 36 *Code of Federal Regulations* [CFR] parts 60 and 63, 1994 [see section 617.17 of this Part]);
- (10) any Unlisted action, that exceeds 25 percent of any threshold in this section, occurring wholly or partially within or substantially contiguous to any publicly owned or operated parkland, recreation area or designated open space, including any site on the Register of National Natural Landmarks pursuant to 36 CFR part 62, 1994 (see section 617.17 of this Part); or
- (11) any Unlisted action that exceeds a Type I threshold established by an involved agency pursuant to section 617.14 of this Part.

CROSS REFERENCES:

Preparation of environmental impact statement, Environmental Conservation Law § 8-0109.
Coordination of reporting; limitations; lead agency, Environmental Conservation Law § 8-0111.
Rules and regulations, Environmental Conservation Law § 8-0113.
Phased implementation, Environmental Conservation Law § 8-0117.

RESEARCH REFERENCES AND PRACTICE AIDS:

National Environmental Policy Act of 1969, Generally, 42 U.S.C.A. § 4321.
12 NY Jur 2d, Buildings, Zoning, and Land Controls § 165.
55 NY Jur 2d, Environmental Rights and Remedies §§ 57--62, 64.
77 NY Jur 2d, Mines and Minerals § 65.
61A Am Jur 2d, Pollution Control §§ 46, 47.
6 CRR-NY 617.4
Current through June 15, 2016

END OF DOCUMENT

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Rick Rapp

From: William Conboy <conboylaw2@gmail.com>
Sent: Tuesday, June 14, 2016 3:13 PM
To: Rick Rapp
Subject: Tower



Hi Rick, I wanted to email as a follow up to or phone discussion regarding SEQR for the 911 tower. I wanted to recommend that the long form Environmental Assessment Form is used. The law requires that at a minimum the short form is used for an Unlisted Action, but the long form should be used when additional information may be needed. In the situation of the 911 tower, and the fact that there is a great deal of interest from the community, the additional information is necessary.

Then long form would give the Town the most information possible to make a determination and therefore a better option. I spoke with the attorney for the Town of Rensselaerville who is dealing with a similar situation (911 tower location) in that town, an Article 78 law suit was brought against the town and they are currently awaiting a decision from the Judge. Rensselaerville initially did the short form EAF and later required the long form (with the additional information). Also, I discussed the situation with the NYS Department of State Local Government Services and they agreed the long form should be used in this instance. Please feel free to contact me with any questions at your convenience.

Thanks, Bill Conboy

—
William J. Conboy, III
5 Meadow Lane
Albany, NY 12208
Phone 518.368.3477



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July 7, 2016

VIA HAND DELIVERY

Town of Berne Planning Board
PO Box 57
Berne, NY 12023

Re: Albany County Public Safety Radio Communications & Microwave Network
180-foot Communications Tower at 28 Jansen Lane

Dear Chairman Rapp and Planning Board Members:

Thank you for the Board's continued review of Albany County's proposed 180-foot communications tower at 28 Jansen Lane in the Town (the "Project") to support its new County-wide Public Safety Radio Communications and Microwave Network.

In further support of the Project, we respectfully submit the enclosed radio coverage maps:

1. The first map illustrates the lack of radio coverage from Albany County's existing VHF analog antennas at the Pond Hill and CRB towers. The County is replacing its existing VHF system because it employs 1950's technology and employs equipment that is no longer manufactured and that is incapable of interfacing with current digital technologies to achieve interoperability with all public safety agencies that respond to emergency events in the area. As such, Albany County's existing system is at the end of its useful life and, as confirmed by testimony during the public hearings on this Project, first responders in the area experience first-hand the lack of radio coverage from the existing system.

2. The second map illustrates the new portable radio coverage that will be achieved by the Project in the area where the existing system lacks coverage.

3. The third map illustrates the new portable radio coverage that will be achieved with all sites in the County-wide system, including continued use of the Pond Hill and CRB towers.

In response to a June 30, 2016 public comment letter, we respectfully submit the following:

1. We have confirmed with the County's visual consultant who conducted the crane test that a Planning Board member was on site for the crane-test as stated in our prior letter of June 27, 2016 but that the member did not opt to travel with the consultant to photograph the crane from viewpoints in the Town. We have further confirmed that the County selected local viewpoints to

Town of Berne Planning Board
July 7, 2016
Page 2

be analyzed during the crane test based on its discussions at public meetings of the Planning Board and as identified on the Town's Scenic View Map (previously provided).

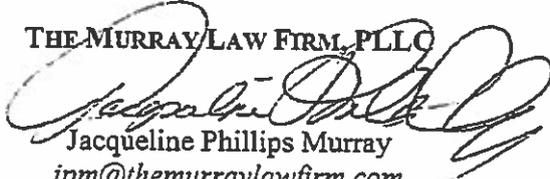
3. To the extent that the Saratoga County emergency radio system is cited as an example for Albany County to follow in designing its county-wide public safety emergency system, we have confirmed that Saratoga County has filed two (2) applications with the Adirondack Park Agency to increase the height of its towers at Edinburgh and at Fraker Mountain because they are of insufficient height to make microwave paths needed to back haul its public safety radio communications (see enclosed list of pending APA Permit Applications and e-mail from the Saratoga County Director of Emergency Services). Saratoga County's system lacks such microwave connections and, as such, its radio communications "consistently fails causing issues to [its] 800 Mhz radio network."

4. Per the enclosed New York State Department of Environmental Conservation ("NYSDEC") "Frequently Asked Questions Regarding The SEQR Environmental Assessment Forms", the Planning may not continue to use the pre-October 7, 2013 EAFs. Therefore, the Planning Board correctly did not require the County to file a Visual Environmental Assessment Form Addendum, because the NYSDEC eliminated that form for use after October 7, 2013.

We thank the Board for its continued consideration of this Project.

Very truly yours,

THE MURRAY LAW FIRM, PLLC



Jacqueline Phillips Murray

jpm@themurraylawfirm.com

JPM/lb
Enclosures

Jacqueline Phillips Murray

From: Carl Zeilman <czeilman@saratogacountyny.gov>
Sent: Thursday, July 07, 2016 2:34 PM
To: Jacqueline Phillips Murray
Subject: Saratoga County

Jacqui,

Per our conversation, Saratoga County has recently submitted an application to increase the height of one of our towers located in the Adirondack Park. The increase will allow us to connect our microwave radio network to additional locations and give us the 99.999 that we are looking for. The T1 infrastructure currently in place is unreliable and consistently fails causing issues to our 800Mhz radio network.

Carl P. Zeilman, Director
Saratoga County
Office of Emergency Services
25 West High Street, Ballston Spa, NY 12020
Ph: 518.885.2232
www.saratogacountyny.gov



Received EPS Number Project sponsor Town LUA Schedule Status Status Date Notes (Project)

Received EPS Number	Project sponsor	Town	LUA	Schedule	Status	Status Date	Notes (Project)
2016-02-1	90 2016-0031 NYSDOT	Keene	RW	6	1	2016-02-17	GP2002G-3AAR for wetland impacts related to culvert C120054 rehabilitation/fining on RI 9N over Spruce Hill Brook (PIN 1809.98 C120054).
2016-02-1	35, 3 2016-0032 North Meadow Ranch	North Elba	RM	1	1	2016-02-19	Two-lot subdivision in Resource Management land use area.
2016-02-1	60 2016-0033 Pierce, Kevin & Yvon	Willisboro	RU	1	1	2016-02-19	Two-lot subdivision within 1/4 mile of the Boquet River, a recreational river under the New York State Wild, Scenic and Recreational Rivers System Act.
2016-02-1	30 2016-0034 Perkoit, Jude & Sara	Chesterfield	RM	1	1	2016-02-19	Two-lot subdivision of 9.63 acres to create a 1.79 acre building lot (Lot 1) and a 7.8 acre building lot (Lot 2), each for construction of a single family dwelling and installation of an on-site wastewater treatment system.
2016-02-1	90 2016-0035 NYSDOT	Keene	RW	6	1	2016-02-19	GP2002G-3AAR for wetland impacts related to culvert rehabilitation/replacement on RI 73 over Cascade Brook (PIN 1809.98 - C120082).
2016-02-2	57 2016-0036 Downs, John & Robin	Peru	RU	1	1	2016-02-22	Two-lot subdivision involving wetlands.
2016-02-1	34, 3 2016-0037 Lyme Timber Compa	Franklin	RM	2	3	2016-02-25	Timber harvesting on a 192 acre portion of Lyme's 18,997 acre Kushaqua Tract, consisting of the overstory removal of an established shelterwood system.
2016-02-2	60, 3 2016-0038 Horton, Brian	Northampton	MIU	2	1	2016-02-24	Construction of a commercial use seasonal restaurant with associated parking, on-site wastewater treatment system, water supply and signage.
2016-02-2	36 2016-0039 Safford, Thomas	Clifton	RM	1	1	2016-02-25	Two-lot subdivision in a Resource Management area creating two, 1.44 acre lots, each of which will be improved by existing development.
2016-02-2	28 2016-0042 Warren County SWC		G	6	1	2016-02-29	GF2015G-2 for management of aquatic invasive species in Schroon Lake.
2016-02-2	33 2016-0044 Mayer, Mark J. and S	Webb	LIU	1	1	2016-02-29	Subdivision of 7.12 acres into two lots involving wetlands. Construction of one single family dwelling to be served by an individual on-site waste water treatment system and well water supply on each lot.
2016-02-2	59 2016-0045 Proulx, Jack & Karen	Johnsburg	U	1	1	2016-02-29	Two-lot subdivision creating a 2.14 acre lot improved by a pre-existing single family dwelling and accessory structures, and a 1.44 acre lot improved by an existing single family dwelling. No new land use or development is proposed. Material change to amend the height of the previously authorized tower (with associated equipment).
2016-02-1	19 2016-0048 Board of Selectmen of Johnsonburg	Johnsonburg	RU	2	1	2016-02-18	

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BY

EPS Code Key

10 T. Saahing	19 V. Yannick	23 C. Parker	25 E. Sutzek	26 M. Hannon	28 L. Walrath	1 Minor Project	2 Major Project	3 Variance
20 S. Parker	30 T. Darrah	31 A. Lynch	32 R. Weber	33 S. McSherry	35 M. Adams	4 State Project	5 Permit Amend	6 General Permit
36 T. Fravor	80 Gen. Permit							

Status Code Key

0 Ref. to Enforce.	1 App. Rec. or Addl. Inf. Rec.	3 Comp. App.	4 Dec. to Proc. to Public Hearing
5 Ck. Ext. to Date Certain	6 Comm. Public Hearing	7 Hearing Record Rec. or Closed	8 Decision Issued
		9 Project Inactive	

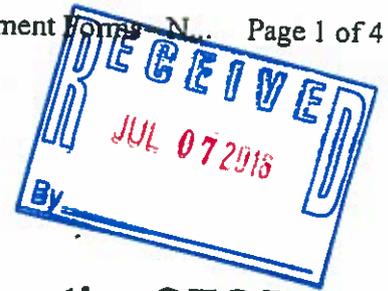
Schedule Code Key

1	2	3	4	5	6
Minor Project	Major Project	Variance	State Project	Permit Amend	General Permit

Thursday, March 03, 2016



Department of
Environmental
Conservation



Frequently Asked Questions Regarding the SEQR Environmental Assessment Forms

On January 25, 2012, the New York State Department of Environmental Conservation (DEC) adopted new "Short" and "Full" Environmental Assessment forms (EAFs). The new EAFs became effective on October 7, 2013. The new forms are designed to work with the new Short-EAF and Full-EAF workbooks and the "EAF Mapper" software program - which the DEC expects will improve and modernize environmental impact analysis and the SEQR process. Here are frequently asked questions regarding the new forms, workbooks, and the EAF Mapper software program.

Q. When should we start using the new EAFs?

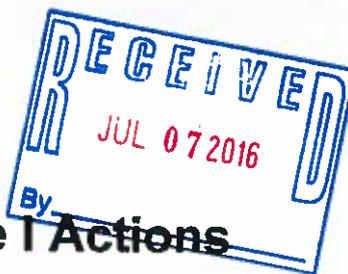
The new model environmental assessment forms (EAFs) took effect on Monday, October 7, 2013. Project sponsors that submit an EAF in support of an application for funding or a discretionary approval from a state or local agency on or after October 7, 2013 must use the new model EAF forms. If the project sponsor has submitted Part I of the EAF before October 7, 2013 then the lead agency should complete parts 2 and 3 using the pre-October 7, 2013 EAF.

Q. Can an agency continue to use the pre-October 7, 2013 EAFs after October 7, 2013?

No. On or after October 7, 2013, agencies must use the new EAF forms except in cases where Part I was submitted by the project sponsor to an agency before October 7, 2013. However, DEC recommends that the current EAF forms should be used even for those actions where a Part 1 was completed and submitted prior to October 7, 2013 since sufficient time has passed to effectively render the old forms obsolete.



Department of
Environmental
Conservation



A. SEQR Handbook: Type I Actions

In This Section You Will Learn:

- what is a Type I action;
- how do we treat Type I actions (EAF, EIS, hearings);
- what is an Unlisted action and how is it different that Type I and II.

All regulation links leave DEC website.

ACTIONS REQUIRING REVIEW

1. What actions require review?

Classes of actions identified as "Type I" or "Unlisted" must be reviewed further under SEQR to determine the potential for significant adverse environmental impacts.

TYPE I ACTIONS

2. What is a "Type I" Action?

A Type I action means an action or class of actions that is more likely to have a significant adverse impact on the environment than other actions or classes of actions. Type I actions are listed in the statewide SEQR regulations (617.4), or listed in any involved agency's SEQR procedures. The Type I list in 617.4 contains numeric thresholds; any actions that will equal or exceed one or more of the thresholds would be classified as Type I.

3. Are there required procedures for the treatment of Type I actions?

Yes. A full Environmental Assessment Form (EAF) must be submitted to the lead agency for all Type I actions, and the lead agency must always coordinate the SEQR review process with other involved agencies.

4. May a short EAF ever be used in place of a full EAF for Type I actions?

No. The short EAF may never be used for Type I actions.

5. Can a lead agency waive or excuse the requirement of filing an EAF?

Yes. The lead agency may waive the requirement for an EAF if a project proposal is accompanied by a draft EIS instead. [see 617.6(a)(4)].

6. What is the decision to prepare an Environmental Impact Statement (EIS) based on?

An EIS is warranted when the lead agency, after review of application documentation related to the proposed action, decides that the action as proposed is likely to cause at least one significant adverse impact to the environment.

7. How are determinations of significance documented for a Type I action?

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TOWN OF BERNE, NY

To: Representatives of the Town of Berne

Regarding: A Radio Tower

July 7, 2016

Dear Sir or Madam,

It has come to my attention that the Town is considering the construction of a radio tower. I have a tower on my property. If this is something the town might consider renting I would like to talk with your representative.

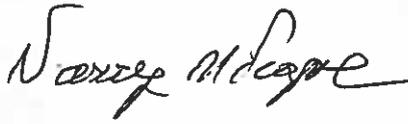
This is the tower information

658 Sickle Hill Rd, Berne
74 10 35 42 34 53
1840' ASL
Rohn 45 160ft

There is a building next to the tower for the housing of equipment. There is currently no radio on the tower.

Nancy M Payne
872-2209 h
505 0619 m

nmpmountaintop@juno.com



file
m
07/07/16

CHANGE OF VENUE
NOTICE OF APPLICATION, MEETING
AND PUBLIC HEARING FOR COMMUNICATIONS
TOWER AND RELATED FACILITIES

PLEASE TAKE NOTICE that the Public Hearing for the Special Use Permit for the public safety communications facility to be located on 28 Jansen Lane in the Town of Berne, scheduled for June 16, 2016 at 7:00PM will now be held at the Town of Berne Senior Center located at 1360 Helderberg Trail, Berne, NY.

DATED: June 9, 2016
BY ORDER OF THE PLANNING BOARD
RICHARD RAPP, CHAIRMAN

posted 6/08/16
by Mike Vincent
at
member of planning Bd

