

### **Right to Know/FOIL**

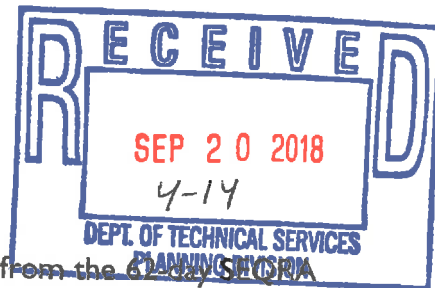
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Copies ..... <sup>1</sup> Planning Board  
 ..... Town Board  
 ..... Zoning Board  
 ..... Legal Dept.  
 ..... DOTS Director  
 ..... C.A.C.  
 ..... A.R.C.  
 ..... Applicant  
 .....  
 .....  
 Sent 9/20/18

September 18, 2018

Ms. Loretta Taylor, Chairperson  
Town of Cortlandt Planning Board  
1 Heady Street  
Cortlandt Manor, NY 10567

Re: Abee Rose Subdivision  
Maple Avenue, Hilltop Drive  
Mongoose Inc.  
Cortlandt Manor, NY  
TM #45.14-3-1, 45.15-1-1, & 45.10-2-1



Dear Chairperson Taylor and Board Members,

On behalf of our client, we grant the Planning Board a 9-day extension from the determination requirement counted from the close of the Public Hearing, from October 29 till November 7, 2018.

This document along with the attached memo from Tim Miller Associates, responds to the public comments that were raised during the July and August Public Hearings and written comment received by the Planning Board thru September 12, 2018 regarding the Abee Rose Subdivision plans last dated June, 26, 2018 with sheet 8 of 8 updated on August 21, 2018. Specific acknowledgment of the person or persons who commented are not iterated but instead, a comprehensive response to items of concern are outlined below.

We know that the residents of Hilltop Drive and Dickerson Road are in opposition to this project. It appears that no matter what is said in response to comments, they will probably remain in opposition to this project.

There were many emotional pleas raised and fears for what the development of these three single family homes would have on both long-term and short-term quality of life. Although the Planning Board process is a legal process with set standards and procedures, we understand that the existing residents of a community do not necessarily view the process in this manner.

They want you to stop this development. Both you and I know that legally, a project cannot be denied simply because it isn't popular. The State Environmental Quality Review Act (SEQRA) and the Town of Cortlandt Town Code, including the Zoning Chapter, Steep Slopes Chapter, Wetlands Chapter, tree removal etc, are in place to facilitate responsible development and allow property owners reasonable use of their land.

**History and development of the Plan**

The original application for a subdivision of this parcel in 2004 was for a 27-lot subdivision. It disturbed approximately 22 acres of land, proposed a common sewer treatment plant and included the removal of approximately 3,650 trees and the addition of 6.3 acres of impervious area.

After several iterations of the plan, a denial by the Planning Board and a lawsuit, the project went through many changes. Over time, the project settled into a six-lot subdivision, construction of 5 single family lots and a parcel for conservation and passive recreation. One of the residential lots was located off of Maple Avenue and the other 4 were located off of an extension of Hilltop Drive. There were additional iterations to the plan with different road locations, driveway locations, investigation of the impact of a T, Y or cul-de-sac turnaround, soil investigation, wetland delineations, steep slope analysis, and a biodiversity study. At the request of the town, pool locations were added to the house sites to more accurately depict the limits of disturbance.

The applicant returned to the Board in March of 2017, at which time the plan was developed further to include the preparation of a preliminary SWPPP and modifications based on a review by the Town Engineer.

During the fall of last year and after much negotiation, the Town made an agreement with the applicant to decrease the proposed lot count to 4 with 3 single family residences and 1 lot of over 104 acres to be dedicated to the Town for conservation and passive recreation.

### **Zoning**

This application is for 3 single family residences, that are in harmony with the surrounding uses, which are other single-family residences, a permitted use in the R-40 district.

### **Alternative if Subdivision is denied**

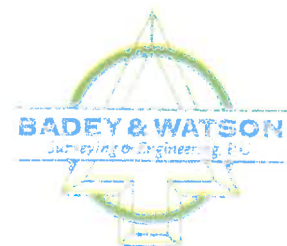
Again, there were many comments from the public asking that you “stop” this development. You must consider what could happen to this site if the subdivision was denied. Would it exist as it does today? Most likely not. The parcel is a buildable parcel, the owner could apply for a building permit from the Town of Cortlandt Building Department to construct one single family residence. It would not need Planning Board approval but would go thru a review by the Building and Engineering Departments. We considered what one single family residence would look like. We anticipate a large estate sized home with a long driveway would utilize the septic areas at the bottom of the hill. Such a project would still keep the need for the haul road. The limit of disturbance would be reduced to less than 5 acres, thereby eliminating the need for post stormwater mitigated practices. The number of trees to be removed would be about halved because the disturbance is about half. The length of construction would run for 12 to 18 months with many of the same requirements of delivery of material for construction of the infrastructure, home and septic system.

Denial of the subdivision does not eliminate construction at the site and does not significantly reduce the impacts associated with that developed, it does remove it from Planning Board Review process.

### **Stormwater**

Stormwater has been raised as an issue largely because of the number of trees that will be removed from the site.

A stormwater pollution prevention plan in accordance with NYSDEC General Permit 15-002 and the latest version of NYSDEC Stormwater Design Manual has been developed for the site.



A stormwater model of the existing condition was developed considering:

1. soil type
2. cover characteristics
3. time of concentration and
4. drainage patterns.

The site and offsite areas that contribute to the runoff were evaluated to the point where the wetland and unnamed tributary enter the existing 3 drainage culverts under Dickenson Road (NE corner of the site).

Peak flow events were calculated for the 1, 2, 10, 25, 50 & 100 year storm events. The Rainfall data was downloaded from the Cornell website that houses collected data for storm events in conjunction with the Northeast Regional Climate Center and the Natural Resources Conservation Services which is part of the USDA. This data is up to date and more reflective of the storm events of the recent past than when the rainfall data was updated every ten years or so.

A second model was developed for the post construction conditions. In this post construction model, the cover characteristics change. There is typically an increase in imperious surfaces (roads, roof, driveways etc.) and an increase in lawn area with a corresponding decrease in forest or meadow areas. There is also typically an increase in the time of concentration. These two factors result in an increase in the peak flow runoff when compared to the existing conditons. Post stormwater practices are then selected and sized to:

1. Treat water quality
2. Reduce runoff by recharging or infiltrating the additional runoff
3. And attenuate peak storm events to mimic existing conditions.

This project will utilize Bioretention Areas & Rain Gardens to accomplish all these objectives.

We looked at our watershed in relation to the unnamed tributary that goes through Dickerson Road.

The Abee Rose watershed consisting of the site and contributing off-site area to the design point is 33± acres of which 25 acres will remain undisturbed. The area to the east that also contributes to this design point is 129.7 acres or 4 times the size, and the Dickerson Road watershed to this point is approximately 29.7 acres. More than 80% of watershed is beyond the scope of the project site. The 8 acres of disturbance is approximately 4% of the 192.4 acre watershed, a minor factor.

We all remember the video shown at the July public hearing of the torrential stormwater running thru Dickerson Road from what seems to be, this unnamed tributary during Hurricane Floyd.

Hurricane Floyd produced approximately 15 inches of rain, which is an extraordinary event that caused damaged from the Bahamas to Canada. It is neither practical nor required to model this type of extreme event. We modeled the 100 year storm event of 9.28" utilizing up to date rainfall data that accounts for many of the larger rainfall events of the past few years.



All rainfall events for the design point have been attenuated to at or below existing conditions. The SWPPP has been prepared in accordance with both the NYSDEC and Town of Cortlandt Stormwater Regulations. As such, there is no long-term impact from the stormwater from the project site.

Additionally, an Erosion and Sediment Control Plan was developed for the project and weekly inspection of those practices will be required during construction.

We also looked at the watershed to the pond located downstream at Lake Road and Watch Hill Road, as there were concerns that the Abee Rose development might impact this area. The entire watershed to the pond is approximately 1,866 acres, the Abee Rose watershed is just 33 acres or 1.7 % of the entire watershed. The disturbance for the project is less than 0.5% of the entire watershed, the additional impervious area of 1.2± acres is 0.06% of the watershed. It is clear that even without the proposed post stormwater mitigation practices, the Abee Rose development would not impact the peak flows at the pond.

In regard to the number of trees to be removed, it should be noted that over 119 acres of land will not be disturbed, preserving upward of 18,000 trees.

### **Traffic**

There will be construction traffic.

Materials will need to be delivered to the site. Many of the cut trees will be taken from the site. Contractors and trades will come to the site, some daily, some periodically, they will all park on-site. There will not be continual traffic all day for two years.

We anticipate 35± trucks for the site development including:

- Tree removal (20)
- Delivery of material (5)
- Asphalt (5)
- Misc (5)

Required for house site development:

25± Per house

- Conc truck ( 9 )
- Lumberyard (4)
- Plumb (1)
- Cabinetry (1)
- Heat eq. (1)
- Asphalt ( 8 )
- Septic pipe and tank (1)



There will certainly be periods when truck traffic is concentrated. This is necessary and will occur when tree stumps are removed from the site and when the access road is being constructed paved. Still, allowing for a 2 year construction period with 180 actual work days per year, the 110 trucks visiting the site, as estimated above will amount to an average of 1 truck every 3 work days.

### **Steep Slopes**

To comply with the Steep Slope ordinance, we have drafted findings pursuant to section 259 of the Town Code. Additional information on Steep Slope disturbance can be found in the Tim Miller Associates memo.

### **Blasting**

Blasting is not anticipated for the project. If during construction, the contractor determines that blasting will be necessary, the contractor will apply for a Blasting Permit from the Town of Cortlandt Building Dept and will comply with all requirement of the Blasting Code and Permit Regulations and Requirements.

### **Wetland**

Wetland impacts are discussed in the attached Tim Miller Associates memo.

We feel this is a comprehensive response to all comments and asked to be placed on the October 2, 2018 Planning Board agenda.

Thank you for you continued attention to this project.

Yours truly,

**BADEY & WATSON,**  
Surveying & Engineering, P.C.

By,



Margaret Smith McManus  
Senior Project Engineer

MSM/bms

Enc: Draft steep slope findings (12 copies)  
Tim Miller Associates memo and attachments (12 copies)

cc: Jay Russ, Mongoose, Inc.  
Fred Wells, Tim Miller Associates  
Anne Aicher, Shamberg Marwell & Hollis





**TIM  
MILLER  
ASSOCIATES, INC.**

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September 17, 2019

Loretta Taylor, Chairperson  
Town of Cortlandt Planning Board  
Town Hall - 1 Heady Street  
Cortlandt Manor, NY 10567-1249

RE: Abee Rose Subdivision Application

Dear Planning Board:

On behalf of the Applicant for Abee Rose Subdivision, we are providing supplemental information regarding this application to assist the Board in its deliberations in this matter.

Please refer to the attached project facts and additional information on construction impacts as discussed with the Planning Board.

Sincerely,

Frederick Wells, RLA  
Senior Vice President  
TIM MILLER ASSOCIATES, INC.

Copies 7 .....

- ..... Planning Board
- ..... Town Board
- ..... Zoning Board
- ..... Legal Dept.
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- ..... C.A.C.
- ..... A.P.C.
- ..... Applicant

Sent 9/24/18

## Summary of Project Facts - Abee Rose Subdivision

The Abee Rose project has undergone a number of changes since the original application. The product of the plan review is a project that has reduced potential impacts.

- the Town took ownership of 104 acres of the property as open space to permanently remove its development potential and preserve its habitats, including the lake
- the 2014 application for 5 single family house lots with a public road was downsized to 3 large lots with a narrower private road on 25 acres; 2/3 of the 25 acres will also remain undisturbed habitat; the houses are clustered in one area of the 129 acres and sited 530' or more from any existing house on Hilltop or Dickerson
- total area of disturbance to build the project is reduced by 0.63 acres, preserving 121.5 acres of the whole 129-acre tract; no trees are proposed to be cut for anything other than the road, septics and house sites; the Town's arborist identified 6 specimen trees on the property, only 3 will need to be removed
- the proposed lots have access off Hilltop Drive via a paved private road, reduced to 20' wide that reduced impervious surfaces; the private road will be maintained by the three lot owners; no development is proposed off Maple Avenue
- house sites, septic areas, and the private road turnaround are sited in areas of gentlest slope, using retaining walls to limit the extent of clearing and grading for the road and driveways
- the soils were tested and witnessed by County Health Dept. to identify the most suitable locations for the septic systems; a temporary construction road will provide access to build the septic areas for lots 1 and 2 which will be seeded over after construction
- wetland impact is reduced to 933 square feet to fill an isolated pocket wetland where the access road needs to go; permanent buffer disturbance is reduced to 2560 square feet for the private road; these impacts are offset by proposed 1880 square foot (2:1) expansion connecting wetlands A and B (see concept mitigation plan)
- the areas of temporary disturbance necessary to construct access and infrastructure will be revegetated with a mix of herbaceous and woody plants to re-establish the woodlands, other disturbed areas outside of the immediate house site will be reseeded with grasses and woodland perennials intended for low maintenance, if desired by the homeowner lawn grass will be planted only around the house (see concept landscape plan)
- visible markers are proposed to mark the 100-foot wetland buffer on the house lots to deter future wetland encroachment
- stormwater management designs and details to treat runoff to current NYSDEC water quality standards are proposed, including bio-retention basins and raingardens to promote infiltration
- all of these mitigation measures reduce impacts from the original project proposal



- construction impacts on the neighborhood in building three house lots will be temporary, periodic, and not persistent every hour or every day nor of unbearable intensity; project can be built in 24 months; refer to accompanying materials
- the owner is exercising the same rights that every other property owner has to use their land in accordance with zoning
- refer to Mitigation Summary of changes in impacts from the 2014 plan to the current site plan
- there is a history of environmental evaluations of this site on various ecological and bio-diversity topics in the Town's file conducted by the Town's consultants for the Abee Rose site which remain valid today, including studies in the 2001 DEIS, 2004 FEIS, 2014 EAF, 2014 wetland and tree surveys, 2014 and 2015 bio-diversity studies, with wetland functional analysis and additional vernal pool studies by Tim Miller Associates in 2014, 2017 and 2018.

9/17/18

## **Responses to Agency Correspondence - Abee Rose Subdivision**

### **The following are our responses to NYSDEC letter dated 9/5/18:**

Protection of Waters and Freshwater Wetlands - There are no State regulated waterbodies on the project site nor are there any waterbodies that are affected by this proposal. State regulated wetland A-32 was delineated by the Town's consultant in 2014, the boundary of which is shown on the site plans, and there is no proposed disturbance within 100 feet of the wetland boundary. By avoiding such disturbance, no NYSDEC freshwater wetland permit is needed for this project.

Additional (non-State regulated) wetland areas potentially regulated by the Town and the US Corps of Engineers were also delineated by the Town's consultant in 2014, surveyed and are shown on the site plans. The project has been designed to avoid all but one 933 square foot wetland pocket on the property located where the access road is proposed. This is an unavoidable impact because the multiple site layout studies done for this property have demonstrated that the only point of feasible site access, even for one house, would require filling this wetland pocket.

Water Quality Certification - Filling of the wetland will require conformance with the Federal Nationwide Permit (as well as a permit from the Town) and may require a Water Quality Certification from NYSDEC.

Species of concern - An assessment was conducted which concluded that the project site does not provide suitable habitat for the fence lizard, a rare animal potentially located on the property according to the NYSDEC Environmental Resource Mapper database (accessed online 9/14/18). Refer to additional information provided with the project EAF submitted in May 2014 for further information. (See attached.)

Cultural Resources - An assessment was conducted which concluded that development on the project site would not impact cultural resources. Refer to additional information provided with the project EAF submitted in May 2014 for further information. (See attached.)

### **The following are our responses to NYSDEC letter dated 1/8/15:**

Protection of Waters and Freshwater Wetlands - The project materials note the presence of Twin Lakes (a navigable waterbody) on the subject site (now within lands owned by the Town) and the project does not propose any excavation or filling below the mean high water line of any waterbody or contiguous wetlands identified as "navigable", or within 100 feet of such resources.

Species of concern - The NYSDEC indicates there are historical records of two state-listed species of concern: Fence Lizard and Bog Turtle. Refer to discussion above

regarding the fence lizard. NYSDEC identified the bog turtle record as historical data and determined that no further review in regards to impacts on bog turtles is required.

Cultural Resources - Refer to discussion above regarding assessment of impact on cultural resources.

**The following is our response to NYCDEP letter 8/27/18:**

Construction of impervious surfaces - The DEP comments refer to an illustrative plan that was part of an early submission for the project. No development or other disturbance (including construction of a gazebo or grading for a trail) is proposed within NYC's watershed boundary as part of the current site plan application. Further, no clearing or grading is proposed within 100 feet of a watercourse or wetland in the watershed.

9/17/18

**Natural resources.** [Question E.2.o. re. endangered species, page 12] A species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered is identified by NYSDEC EAF Mapper on or near the site.

One rare animal is indicated in the site area (NYSDEC Environmental Resource Mapper, accessed online 12/11/13):

Common Name: Fence Lizard

Scientific Name: *Sceloporus undulatus*

Date Last Documented: 1930

Location: Dickerson Mountain

NYS Protected Status: Rare Animal Threatened

A survey of the site was conducted in December 2001 by an independent consulting zoologist (Mr. Ed McGowen) referred by the NYSDEC to determine if suitable habitat for the fence lizard was available on-site (in FEIS Appendix A). The fence lizard (*Sceloporus undulatus*) survey found that potentially suitable habitat may exist near the western edge of the property, off the property near the summit of Dickerson Mountain. The report indicated the project site does not provide suitable habitat for fence lizard populations. If fence lizards actually occur at the summit of Dickerson Mountain, their home range could extend slightly onto the higher elevations of the project site near its western boundary (FEIS Response 6-6).

The proposed area of development in the current subdivision plan is considered to be beyond the range of the fence lizard.

No rare plants are indicated on site (NYSDEC Environmental Resource Mapper, accessed online 12/11/13).

**Cultural resources.** [Question E.3.f. re. designated public resources, page 13] An archaeologically sensitive area is identified by NYSDEC EAF Mapper on or near the site.

Based upon its review of the cultural resources survey conducted as part of the environmental impact statement for Abee Rose Estates (DEIS, March 2, 2004)<sup>1</sup>, NYS OPRHP determined that the project would have No Impact on any resources eligible for the National Register (OPRHP letter dated August 31, 2001, in FEIS Appendix B)<sup>2</sup>. The archaeological study (in DEIS Appendix H) identified two prehistoric use areas on the property, however, neither of these was deemed to be eligible for the National Register.

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<sup>1</sup> Abee Rose Estates Draft Environmental Impact Statement, dated July 24, 2001, accepted July 24, 2001, prepared by Tim Miller Associates.

<sup>2</sup> Abee Rose Estates Final Environmental Impact Statement, dated March 2, 2004, accepted March 2, 2004, 2 volumes, prepared by Tim Miller Associates.

## Unavoidable Construction Impacts - Abee Rose Subdivision

### Construction Impacts at Abee Rose Subdivision

- Virtually any construction project will result in temporary, unavoidable noise impacts.
- Noise is typically generated by: the operation of heavy equipment; tree removal equipment; excavation and rock removal; and truck traffic relating to material and equipment deliveries.
- These are short term impacts.

Tables 1 and 2 show typical human perception and responses to increased noise levels.

- A one decibel change in sound level (dBA<sup>1</sup>) is the smallest change detectable to the human ear under laboratory conditions. To the average person, a noise level increase of 5 dBA is noticeable; an increase of 20 dBA may be dramatic.
- Annoyance to people frequently results from increases of 10 dBA or more, depending upon the frequency and duration of the noise.
- Daytime ambient noise levels typically increase due to the increased human activity, especially near roads.

<b>Table 1</b>	
<b>Perception of Changes in Noise Levels</b>	
<b>Change (dBA)</b>	<b>Average Ability to Perceive Changes in Noise Levels</b>
	<b>Human Perception of Change</b>
2-3	Barely perceptible
5	Readily Noticeable
10	A doubling or halving of the loudness of sound
20	A dramatic change
40	Difference between a faintly audible sound and a very loud sound

Source: Bolt Baranek and Neuman, Inc. *Fundamentals and Abatement of Highway Traffic Noise*, Report No. PB-222-703. Prepared for Federal Highway Administration, June 1973.

<b>Table 2</b>		
<b>Community Response to Increases in Noise Levels</b>		
	<b>Estimated Community Response</b>	
<b>Change (dBA)</b>	<b>Category</b>	<b>Description</b>
0	None	No observed reaction
5	Little	Sporadic complaints
10	Medium	Widespread complaints
15	Strong	Threats of community action
20	Very strong	Vigorous community action

Source: International Standard Organization, *Noise Assessment with Respect to Community Reactions*, 150/TC 43. (New York: United Nations, November 1969.)

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<sup>1</sup> dBA is a measurement of sound pressure adapted to the human ear response to sound (decibels, A weighted).

Table 3 lists typical noise levels associated with various settings.

Activity	dBA
Subway Platform	100
Sidewalk, Passing Truck	90
Sidewalk, Typical Highway	80
Typical Urban Area	60-70
Typical Suburban Area	50-60
Quiet Suburban Area at Night	40-50
Typical Rural Area at Night	30-40
Threshold of Hearing	1

Sources: Cowan, James, *Handbook of Environmental Acoustics*, 1994.  
Egan, David, *Architectural Acoustics*, 1998.

### **Expected Construction Noise**

- Initial construction disturbance closest to existing residences will involve tree removals and road construction during the first few months.
- Subsequent disturbances for the project infrastructure and first house lot will occur periodically over a period of about 11 months and will occur inside the site at least 200 feet from the closest house.
- Construction for the other two houses during the subsequent 11 months (or less) will occur 400 feet and greater from the closest house.
- Noise is attenuated by distance and other factors (like wind, background noise, topography). Noise intensity decreases over distance on the order of 20 dBA over a distance of 500 feet, not accounting for other attenuating factors.
- Construction sequencing and staging will move the construction operations from initial activities at the site entrance from Hilltop Drive to interior locations that are at least 400 feet from any existing house in the Dickerson neighborhood.

Table 4 shows representative maximum sound levels for diesel powered equipment and other construction activities at a range of receptor distances.

Equipment/Activity	50 feet	200 feet	500 feet	1000 feet
Backhoe	82-84	70-72	62-64	56-58
Blasting	93-94	81-82	73-74	67-68
Generator	71-87	59-75	51-67	45-61
Hauler	83-86	71-74	63-66	57-60
Loader	86-90	74-78	66-70	60-64
Rock Drill	83-99	71-87	63-79	57-73
Trucks	81-87	69-75	61-67	55-61

Source: Compiled from various sources by Tim Miller Associates, Inc.

The extent of noise impact to the local residents will vary considerably depending on the location of the work and the equipment involved. Noise levels of "heavy" construction equipment typically ranges from 79 to 92 decibels (dBA) when measured 50 feet from the source. For example, noise-generating activity at say 400 feet inside the property line at Abee Rose would be reduced to 72 decibels or lower at the property line, which is the typical level of noise along a suburban road.

Construction equipment on-site and truck traffic relating to material and equipment deliveries will typically create periodic and intermittent noise. These levels will be temporary and short term.

- Impact of Operational Noise - Once the three houses are built and occupied, noise levels will return to the ambient noise now experienced in this rural / suburban setting.

### **Mitigation Measures**

Town of Cortlandt Code Section 197-16 restricts noise-generating construction activities to certain hours. Contractors are obliged to follow the hours in the Code.

It is unavoidable that construction activities will result in periods of elevated noise during workdays while the project is under construction. Times when the operation of construction machinery and equipment is permitted by the Town Code are:

- Monday through Friday, during the hours of 7:00 a.m to 7:00 p.m.
- Saturday during the hours 8:00 a.m. to 7:00 p.m. and no activity on holidays.

Site excavation will include rock removal. Mechanical rock-breaking equipment will be used to the greatest extent practical. Rock crushing equipment may be used on the site. It is not anticipated that blasting will be needed to remove rock, however, controlled blasting remains an option if it is found to be necessary to remove some rock. The contractor must obtain a blasting permit from the Town of Cortlandt and follow protocols based on applicable New York State law, Town of Cortlandt Code Chapter 161 and acceptable practice. Conventional blasting practices include specific safety and insurance requirements to protect against human hazards and avoid or mitigate property damage.

The applicant has offered to install 20 MPH signs for construction trucks on Dickerson Road for the duration of construction of the three homes.

## Mitigation Summary - Abee Rose Subdivision

Comparison of Disturbances from 2014 Plan (acres)			
	Current Plan	2014 Plan	Difference
Total disturbance area	8.25	8.88	(0.63)
Steep slope disturbance	5.06	4.94	0.12
Wetland disturbance	0.02	0.18	(0.16)
Wetland buffer disturbance	0.47	1.33	(0.86)
Vernal pool CUH disturbance	5.98	6.23	(0.25)
<i>Total site undisturbed (incl. OS dedication)</i>	<i>121.51</i>	<i>119.87</i>	<i>1.63</i>

CUH = Critical upland habitat surrounding vernal pool (Calhoun and Klemens)

Slopes Disturbance Lot-by-Lot (acres)					
Color	Slope Range	Lot 1	Lot 2	Lot 3	Total
	0% to 15%	1.44	0.63	1.12	3.19
	15% to 20%	0.59	0.29	0.29	1.17
	20% to 30%	0.83	0.45	0.49	1.77
	>30%	0.73	0.73	0.66	2.12
	Total acres disturbed	3.58	2.10	2.57	8.25
	Existing steep slopes (>15%)	9.51	4.79	4.13	18.42
	Total steep slopes disturbed	2.15	1.47	1.44	5.06
	<i>Percent steep slopes undisturbed</i>	<i>77%</i>	<i>69%</i>	<i>65%</i>	<i>73%</i>

Tree Removals Lot-by-Lot				
	Lot 1	Lot 2	Lot 3	Total
Existing trees (estimated)	1738	795	872	3405
Trees to be removed	584	262	323	1169
Town protected trees (§283) to be removed	0	1	0	1
Existing trees on entire site (estimated) .....				16005
<i>Percent trees to be preserved</i> .....				<i>93%</i>

Existing number of trees is estimated from overall tree survey count: 3491 trees on 25.9 acres = 135 trees average per acre.  
 §283 tree is #884 butternut 20", located in proposed driveway pavement area.

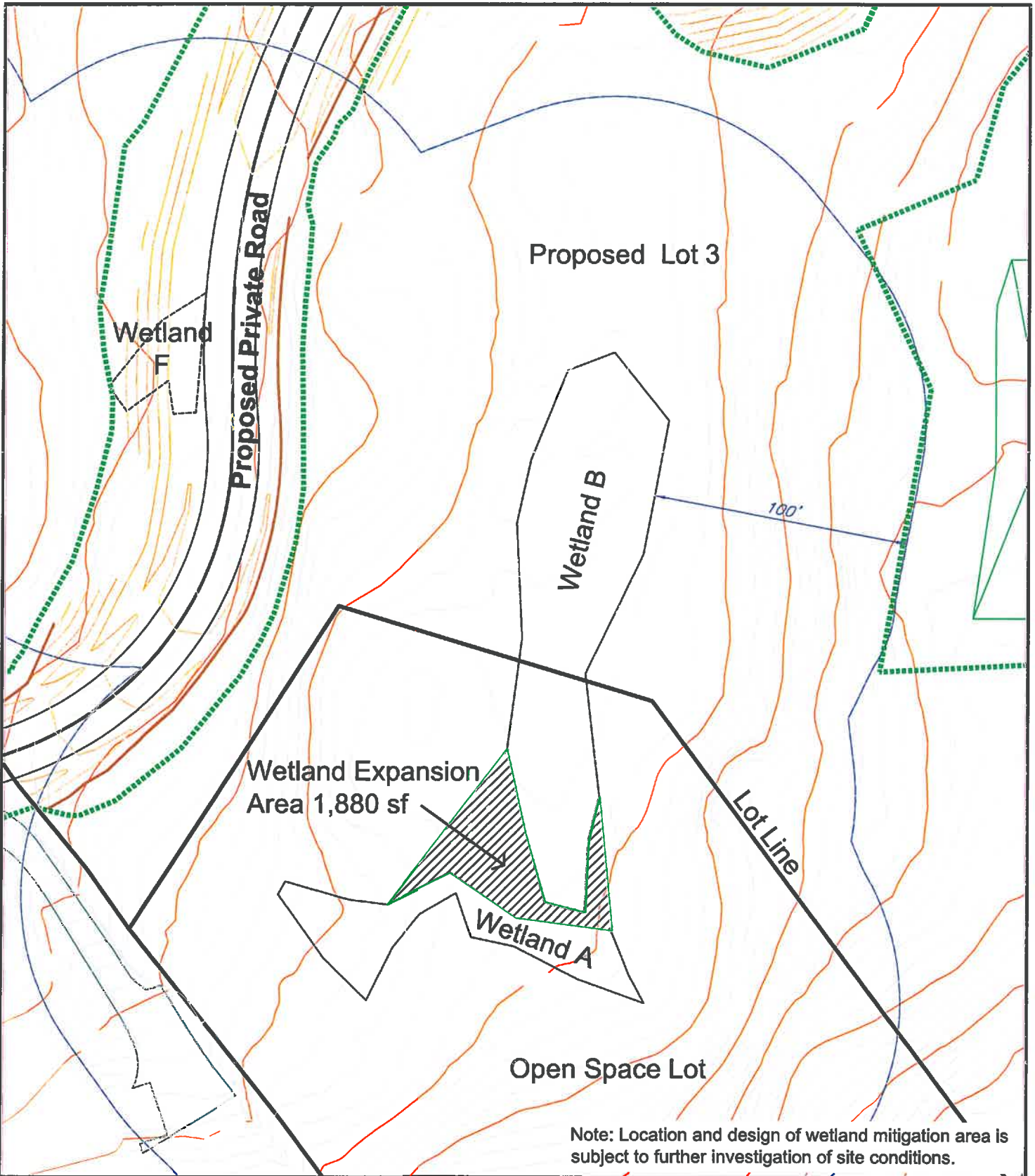
Wetlands Disturbance Lot-by-Lot (acres)				
	Lot 1	Lot 2	Lot 3	Total
Existing wetlands	0.54	0.00	0.12	0.66
Wetland filled	0.02	0.00	0.00	0.02
Existing wetland buffer	4.81	1.62	2.30	8.73
Buffer disturbance (temporary)	0.20	0.00	0.14	0.34
Buffer disturbance (permanent)	0.06	0.00	0.07	0.13
Existing wetlands on entire site (excluding lake) .....				13.33
<i>Percent wetlands preserved</i> .....				<i>99.85%</i>

Earthwork			
	Cut	Fill	Net
Total site with road & infrastructure	11,403 cy	11,738 cy	335 cy fill

Earthwork will be adjusted in the field to balance. There will be no excess cut or fill.

Sources of data: Badey & Watson 2018 plans; DEIS 2001. Tabulated by Tim Miller Associates.  
 4/18/2018

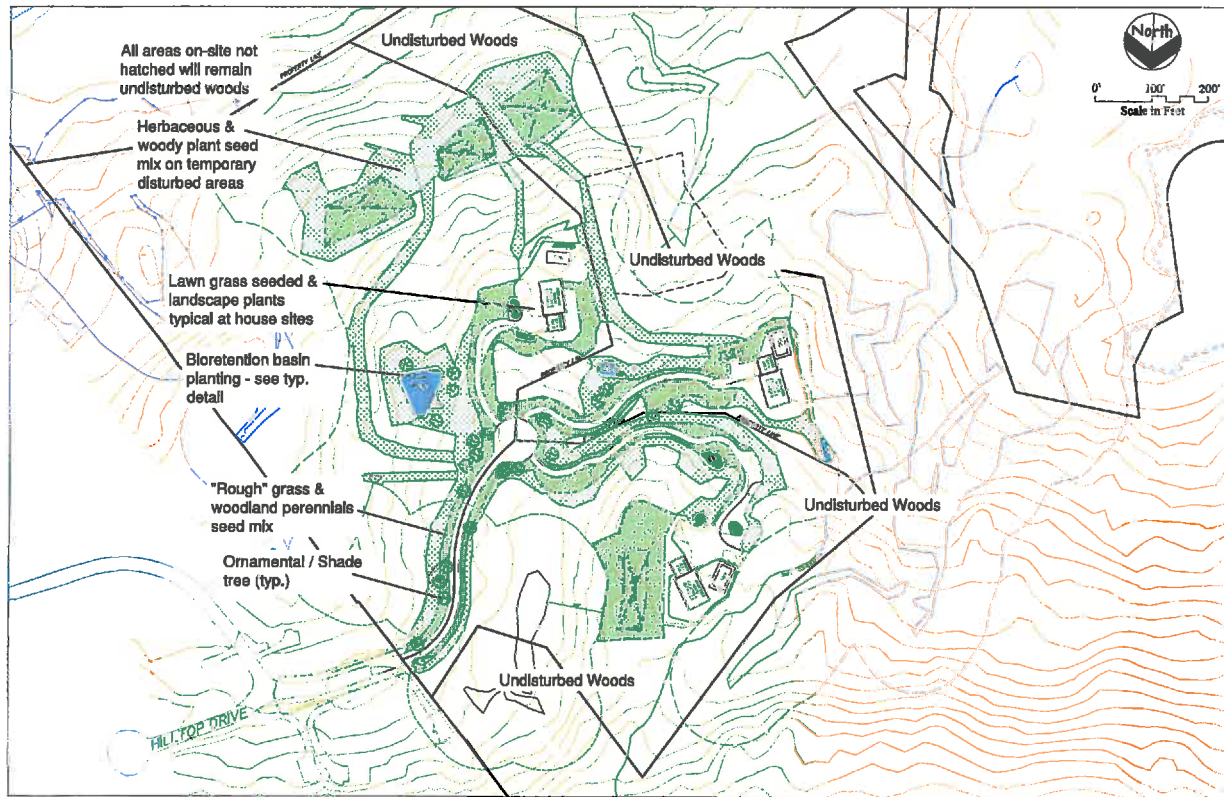




Wetland Disturbance by Project - 933 sf  
 Mitigation Area Required (2:1) - 1,866 sf  
 Mitigation Area Provided - 1,880 sf

**Conceptual Wetland Mitigation Plan**  
**Abee Rose Subdivision**  
**Hilltop Drive, Town of Cortlandt**  
**September 17, 2018**

Scale: 1"=50'



## Abee Rose Subdivision - Concept Landscape Plan

9.17.18

Tom Miller Associates, Inc., Cold Spring NY 10516

- Copies ..... 1 Planning Board
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- ..... C.A.C.
- ..... A.R.C.

**JAMES BRYAN BACON, ESQ., P.C.**

Attorney and Counselor at Law

P.O. Box 575  
 New Paltz, New York 12561  
 (845) 419-2338



..... Applicant  
 ..... Friswells, LLC.  
 Loretta Taylor, Chairperson *Margaret McManis, P.E.*  
 Planning Board of the Town of Cortlandt  
 1 Steady St *9/14/17*  
 Cortlandt Manor, NY 10567

September 12, 2018

*Re: PB 4-14; Comments on Application by Mongoose Inc., for Preliminary Plat approval and Steep Slope, Wetland and Tree Removal permits for a 3 lot subdivision*

Dear Ms. Taylor and Members of the Board,

Thank you for the opportunity to submit comments on the above project proposed by Mongoose, Inc. (Applicant). Please accept these comments on behalf of Donald Liebman who lives on Dickerson Road in proximity to the project.

As noted at the August 28, 2018 public hearing, I have been examining this project in its various forms since its inception. Unfortunately many of the same concerns remain as the topography has not changed. Even though the building envelope has been reduced the intensity of impacts to steep slopes seems to have been magnified. There are also concerns regarding all of the secondary impacts that occur with damaging steep slopes such as stormwater runoff, impacts to downgradient wetlands and the loss of trees.

Fortunately, the Town Code provides clear guidance and standards for the issuance of steep slope permits. As below, the applicant bears a heavy burden of proof in demonstrating that there is essentially no other option available other than disturbing steep slopes.

An increased threshold of evidence is required where the project disturbs slopes in excess of 30%. Specifically, the applicant must demonstrate by “clear and convincing evidence” that there are “exceptional” and “compelling circumstances” favoring the disturbance “including that no other reasonable use of the site, lot or parcel is possible without disturbance to the steep slope area.” Town Code §259-1, §259-6 (I)(1), (2).

As below, the applicant has not met that burden.

**Town of Cortlandt Steep Slopes Law (Chapter 259)**

Cortlandt first adopted its Steep Slopes law in 1992 issuing findings that:

Steep slopes and adjacent watercourses and wetlands have been or are in jeopardy of being damaged or destroyed by unregulated filling, excavating, building, clearing and other such acts which are inconsistent with the natural condition or acceptable uses of steep slopes...

The Town's experience with past development has shown that the inadequately controlled disturbance of certain steep slopes can lead to the failure of slopes and the mass movement of earth; rock- and landslides; damage to natural environment, man-made structures and personal safety; and the degradation of aesthetics...

Regulation can prohibit the degradation of steep slopes and allow reasonable use of private property by encouraging flexible design of development so as to avoid disturbance of steep slopes...

this chapter recognizes the rights of owners of property exhibiting steep slopes to use their property for reasonable purposes consistent with other regulations and controls, provided that such use.... does not result in a significant loss or degradation of steep slopes...

It is declared to be the intent of the Town of Cortlandt to preserve steep slopes to the greatest extent practicable...

Town Code §259-2(A)-(I).

The Legislative Intent of the law states in part:

[T]he Town recognizes that disturbance or alteration of steep slope areas may be necessary in some cases involving only moderately steep slopes (grades of between 15% and 30%), and in exceptional cases involving grades of 30% or greater in which compelling circumstances have been clearly demonstrated, including that no other reasonable use of the site, lot or parcel is possible without disturbance to the steep slope area.

§259-1.

The law's "standards for approval" provides that the Planning Board "*shall consider, and make specific findings addressing*, the consistency of the proposed activity with the findings set forth in § 259-2." § 259-6, emphasis added.

Section 259-6 states in turn that the applicant must prove that [t]he proposed activity constitutes the minimum disturbance necessary to allow the property owner a reasonable use of the property. §259-6(G).

In fact, the Code provides two tiers regarding the “burden of proof” an applicant must demonstrate in order to be issued a permit to disturb slopes in excess of 15% and 30%.

The presumption in all cases shall be that no disturbance or alteration of any steep slope shall be approved by the approval authority. The applicant **shall in all cases have the burden of proof of demonstrating, by clear and convincing evidence**, that the proposed activity is fully consistent with each of the findings set forth in § 259-2 and that each of the standards for approval set forth in Subsections A through G above has been fully and completely met.

§259-6 (I)(1), emphasis added.

*With respect to applications involving proposed disturbance or alteration of any steep slope with a grade of 30% or greater, the applicant shall have the additional burden of demonstrating, again by **clear and convincing evidence**, that the applicant's **circumstances are compelling and exceptional**, including, at a minimum, demonstrating by clear and convincing evidence **that no reasonable use of the site, lot, or parcel is possible** without disturbance to a steep slope area having a grade of 30% or greater.*

§259-6 (I)(2), emphasis added.

Here, the Applicant’s 4/18/18 “Summary of Current Project Facts” states the project will disturb approximately 8.25 acres. The submission further indicates the following steep slope impacts:

- Lot #1 - 2.51 acres exceed 15% slope - .73 acres exceed 30%. (Mr. Miller’s analysis was unclear as to whether he included the slope cuts for the 943 foot Temporary<sup>1</sup> Haul Road. The Applicant’s “Profile Map” showed 150’ of the temporary road at 19.8% grade and 300’ at a 19.9% grade.)

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<sup>1</sup> The Code’s definition of “disturbance” does not make a distinction between a “temporary” and “permanent” disturbance. The Applicant indicated at the August 28, 2018 meeting that building a temporary haul road over steep slopes was somehow different from a permanent impact. That is incorrect. The temporary haul road will permanently remove trees, roots and bedrock thereby

- Lot #2 - 1.47 acres exceed 15% slope - .73 acres exceed 30%
- Lot #3 - 1.44 acres exceed 15% slope - .66 acres exceed 30%

Thus, in total, the project would disturb a total of 7.57 acres of steep slopes - 5.42 acres exceeding 15% slopes and 2.12 acres exceeding 30% slopes.

Consequently, 91.8% of the project's 8.25 acres of disturbance are to steep slopes.

The applicant has not established by any evidence, much less "clear and convincing evidence," that the corporation's circumstances are "compelling and exceptional."

The Planning Board's sole duty is to apply the standards and guidelines of the Town Code. Regarding whether the Applicant's circumstances are compelling and exceptional the Planning Board should consider that in this matter:

- A corporation invested in property burdened by severe development constraints.
- A reasonable prudent buyer with investment-backed expectations would have exercised due diligence investigating the site and understood that developing lands in excess of 30% slope was not only challenging from an engineering standpoint but specific standards in the Town's steep slopes law would have to be addressed.
- Mongoose is a private for-profit corporation that does not intend to use the property for public purposes or to benefit the general public.

While the Planning Board's duty is to apply the Town Code as written, it may be wondering when a regulation becomes a taking of property under the Constitution.

The Town's steep slope law is not in jeopardy. The United States Supreme Court holds that a taking occurs when regulations on land use result in a total economic loss. *Lucas v South Carolina*, 112 S.Ct. 2886 (1992). For example, in *Palazzolo v. Rhode Island*, 121 S.Ct. 2448 (2001), a regulation caused a 93.7% diminution in value of private land but was not a taking. Thus, under *Lucas*, one must prove that (1) the regulation has essentially rendered a piece of property economically valueless, and (2) there must be no nuisance-based law that justifies the regulation.

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destabilizing the slope. Therefore, the Applicant must meet the same burden of proof to show compelling circumstances consistent with all of the Code's steep slope provisions.

Here, Cortlandt's steep slopes law is constitutionally grounded by its extensive findings, legislative intent and the history in areas of the Town where stormwater, erosion, property damage and flooding problems resulted by developing steep slopes, ironically in the very area of this development.

Indeed, during the review of this project, residents showed a video clip of the hurricane flood waters running down Dickerson Road downgradient from the intersection of Hilltop Drive and originating from the area where the Applicant seeks to commence construction. Experience proves that the area sought to be developed is highly susceptible to erosion and flooding.

Thus, again, the Applicant has not met the specific guidelines of the steep slopes law – especially the second tier - and has offered no “compelling and exceptional” circumstances whatsoever that there is “no reasonable use” of the property but a 3-lot subdivision.

Therefore, the application should be denied.

#### **Wetlands Impacts (Town Code Chapter 179)**

The intent of the Town wetlands ordinance is to “avoid, minimize or mitigate the loss or degradation of the Town's wetlands.” Town Code §179-1(D). Thus, “[p]ermits will be issued by the approval authority pursuant to this chapter only if the approval authority shall find that... The proposed regulated activity minimizes the degradation to or loss of any part of the wetland.” Town Code §179-6(D)(5).

And, if federal law is more protective, it will apply. Town Code §179-8(B).

In fact, federal law states that “practicable alternatives... are presumed to be available, unless clearly demonstrated otherwise” with regard to filling wetlands. 40 C.F.R. §230.10.

The Tim Miller analysis indicates that the project will impact 8.73 acres of wetland buffer and fill in .02 acres of wetlands which includes a potential vernal pool. The lower part of the site includes high quality wetlands susceptible to stormwater pollution as described by Erik Kiviat in Hudsonia's environmental report previously submitted (and included herewith).

In this matter, a practical alternative may exist that would entirely avoid wetlands if the access road were the width of a driveway instead of a 20 foot wide road, (or was shifted away from the wetlands).

**Stormwater Impacts (Town Code Chapter 262)**

One of the primary objectives of the Town's stormwater ordinance is to:

Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality.

Town Code §262-4(D).

The Applicant's Stormwater Pollution Prevention Plan (SWPPP) states that one of its goals is "to minimize the impact to the quality of runoff exiting the site." (SWPPP dated 4/18/18 at pg. 13).

However, the SWPPP considered stormwater volume but not stormwater quality. The SWPPP simply states that if they follow certain procedures there will be no impacts to water quality.

That is insufficient.

The Applicant should identify the downgradient water quality of receiving waters such as Wetland A-32 and analyze pre and post development phosphorus loads to determine whether the project could result in changes to A-32's wetland chemistry or violate water quality standards.

The previously submitted report by Rahul Verma, P.E., (and by Hudsonia), are relevant as they detail the negative effect erosion and stormwater will have on downgradient environmental resources.

In fact, the NYS Stormwater Design Manual (2015), "green practices," recommends that no construction occur on steep slopes:

Development on slopes with a grade of 15% or greater should be avoided, if possible, to limit soil loss, erosion, excessive stormwater runoff and the degradation of surface water. Excessive grading should be avoided on all slopes (Figure 5.7), as should the flattening of hills and ridges. Steep slopes should be kept in an undisturbed natural condition to help stabilize hillsides and soils. **On slopes greater than 25%, no development, re-grading, or stripping of vegetation should be considered.**

Id. at p. 5-11, emphasis added.



**Cortlandt's Tree Ordinance (Town Code Chapter 283)**

The Town's legislative findings are that "no changes should be permitted in [the natural] topography except those which are absolutely necessary in order to permit the proper and appropriate use of the land." Town Law §283-1(C).

In determining whether to allow the tree removal, the Code directs the Planning Board to consider whether:

The tree removal will have a significant negative effect upon... Erosion potential and drainage patterns in the vicinity.

§283-7(B)(2)(a).

Here, the Applicant proposes to cut 1169 trees of the 3405 located on lots 1, 2 and 3. (4/18/18 Tim Miller Analysis).

Along with the tree removal, the Applicant proposes to cut 11,403 cubic yards of soils and rock. That is enough material to fill a football field to a height of 5 feet eight inches.<sup>2</sup> Or on a smaller scale, this material would fill a basketball court to height of over 65 feet.<sup>3</sup>

Considering that 91.8% of the project's disturbance to soils will be on steep slopes, the magnitude of impact is rather shocking as one would not expect a 3-lot subdivision to require 11 thousand cubic yards of soils disturbance.

Thus, the project will permanently alter drainage patterns in the area. The potential for soil creep remains because the disturbance of large areas of steep slopes necessarily alters the path of seasonal groundwater seeps which over time will find new pathways and destabilize newly graded steep slopes. The Applicant cannot replace the stability of the existing steep slopes held in place for eons by intertwined boulders, ledges and roots.

Finally, Chapter 265-15(A) requires that: "[a]reas proposed for dwelling purposes shall be free from hazard to life or property due to flooding, lack of access to required utilities, lack of adequate access by emergency vehicles or services or other comparable hazard." "A dead-end street shall not exceed five hundred (500) feet in length," (265-17[F]) and the grade of minor streets shall not exceed 10%. 265-18(B).

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<sup>2</sup> A football field is 100 x 60 yds. or 6000 sq. yds.

<sup>3</sup> A basketball court is 94' x 50' or 31.3 x 16.6 yds. equaling 519.58 sq. yds.  $11,403 \div 519.58 = 21.94$  yds. or 65.84 feet.

With these standards in mind, the Applicant's proposed driveways are a public safety concern due to their length and slopes:

- Lot #1 driveway length is 299 feet with a 13.5% slope for a distance of 150 feet.
- Lot #2 driveway length is 450 feet, 11.5% slope for a distance of 150 feet.
- Lot #3 driveway length is 648 feet, 12% slope for 70 feet and another 250 feet.

Consequently, given the length of these driveways and the slopes involved, the design layout will place the occupants of these homes at risk during the winter and during storms. That level of risk is contrary to the intent of the Town's subdivision regulations.

### **Conclusion**

The Applicant invested \$100,000 in property which for development purposes offered extremely challenging terrain. Due diligence by prior investors concluded that the property was all but undevelopable. Mongoose, Inc. is not guaranteed a return on that poor investment. As I noted at the public hearing, we all know persons (or corporations) that have lost fortunes far exceeding 100K due to poor investment choices or due to unforeseen market fluctuations.

Fortunately, the Town Code provides clear guidance and standards regarding the evidence necessary to issue permits for projects impacting steep slopes, wetlands, trees and stormwater runoff.

Given these standards, it is clear the Applicant has not met the Town Code's standards requiring a showing by clear and convincing evidence that compelling and exceptional circumstances exist allowing disturbance of 7.57 acres of steep slopes, 2.12 acres of which exceed 30%. And, the Applicant has not demonstrated that there is no reasonable use of the site except for the currently proposed 3-lot subdivision.

For all the above reasons, the Applicant's proposed Preliminary Plat Plan and Steep Slope, Wetland and Tree Removal permits should be denied. Thank you again for the opportunity to submit written comments.

Respectfully,

  
James Bacon

**Chris Kehoe**

**From:** Ken Grossberger Liz Peterson <kjg2@msn.com>  
**Sent:** Tuesday, September 11, 2018 11:22 PM  
**To:** Chris Kehoe  
**Subject:** Fw: Proposed Abee Rose development



Dear Mr. Kehoe,

I am forwarding the below email as the original one bounced back as non-deliverable to your email address. This strangely happens every time I have attempted to email you. I hope that this goes through this time.

Thank you,  
Liz Peterson

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..... Town Board

..... Zoning Board

..... Legal Dept.

..... DOTS Director

..... C.A.C.

..... A.R.C.

..... Applicant

*File # 11), RLA*

**From:** Ken Grossberger Liz Peterson  
**Sent:** Tuesday, September 11, 2018 11:13 PM  
**To:** chrisk@townofcortlandt.com ; lindap@townofcortlandt.com  
**Subject:** Proposed Abee Rose development

Dear Mr. Kehoe & Supervisor Puglisi,

I would respectfully like to reiterate my opposition to the proposed Abee Rose development by Mongoose Inc. et al.

*Market memo 9/14/17*

For the purposes of this communication, I would like to primarily address Supervisor Puglisi as she was not at the public hearing on Tuesday, August 28th, and I'd like to make her aware of my testimony that evening as it specifically addresses the town's involvement with Mongoose Inc. et al (see below).

But I request, Mr. Kehoe, that you please add this email to the official town records for this proposed development.

Supervisor Puglisi,

You state on the town's website:

"Supervisor Linda Puglisi has been and continues to be a strong advocate for protecting the Town's environment. During her administration, the Town has increased it's open space by 107% (3,200 acres). The largest parcel to be acquired as part of her open space initiatives is the 352 acres at Hill point. **Linda Puglisi, working in conjunction with the Town's Open Space Committee, continues to look for further opportunities to maintain the Town's open space.** Other initiatives by Supervisor Puglisi include strengthening of the Town's environmental laws. Recently she supported saving an important fifty acre lake and watershed (Furnace Dock Lake) from being drained. This was a 100 year old lake and needed to be preserved. It now is owned by the Town of Cortlandt. A new Master Plan, completed in 2015 is currently being implemented. In 2016, the Town purchased 100 acres from Con Edison adjacent to the Hudson River in Verplanck **and recently preserved 104 acres of the Abee Rose area off Maple Avenue.**"

While saving the 104 acres is a positive, I respectfully ask why you did not pursue, recommend, and do everything possible to save all 126 acres? The agreements on file do not appear impartial and I do not understand, nor do my neighbors, why a corporation that was in foreclosure was allowed to proceed with any

development of any kind. To us, it seems that Mongoose Inc. was given a gift, one that none of us would ever expect to get. If we don't pay our taxes or pay our mortgage, we are penalized or get our home taken away. I respectfully ask why this developer, who was fiscally irresponsible and in violation of financial regulations, was given the opportunity to proceed at the potential expense of the remaining land, the wildlife, and our quality of life, when the entire parcel could have been the "price" of their bad behavior, not just a portion.

I would very much appreciate a response. And I would like to strongly urge you to do what my neighbors and I feel should have been pursued in the negotiation with Mongoose Inc. et al in the first place - save the entire parcel to be preserved for the health of the land, wildlife and citizens of Dickerson Mountain.

Sincerely,  
Liz Peterson  
5 Hilltop Drive  
Cortlandt Manor, NY 10567

My testimony the evening of 8/28/18:

Good evening.

I'd like to start by stating for the record that I find the agreements entered into by the Town of Cortlandt and Mongoose Inc., dated November 26, 2013 and December 21, 2017 respectively, and the actions described therein to be questionable, imply preferential treatment of Mongoose Inc. and potential undue influence over this Planning Board.

From the November 26, 2013 agreement, I quote "The TOWN agrees to support said application and to request that it be processed as expeditiously as possible since said application is significantly less intrusive and is far more environmentally sound than previously proposed, a long form environmental assessment should be sufficient."

The document goes on to forgive the back taxes owed to the town (\$300,000) as long as Mongoose filed an application with the Planning Board within 60 days and that the application was "diligently pursued", implying that the Town wanted Mongoose to actively pursue the finalizing of this development. The remaining \$100K in back taxes due was to be paid upon the signing of the subdivision map. The town also removed the property from foreclosure proceedings, all in exchange for the approx. 100 acres.

The subsequent December 21, 2017 agreement waives the \$100k payment and indicates that no accrued tax arrears will be owed. This agreement actually states that the Town "requested and recommended that the Owner amend its application to seek approval of three building lots on the Property which implies that the Town has an interest in helping this development move forward by entering into a new application/proposal that they deem more likely to be approved. It also instructs this Planning Board to immediately review the new proposal and to finalize the public hearing and approval or disapproval within four consecutive meetings of the board following the receipt of the new application.

This agreement also waives the 10 foot setback requirement for the rear property lines of the 3 lots, waives the maximum limit of 3 trees per lot to be removed, and waives the reforestation plan requirement of 2 trees to be replaced for each tree removed on 25%+ slopes. The town also gave .999 acres to Mongoose Inc. free and clear of any debts or taxes to be merged into the property.

All of this speaks to the biggest question I see in this situation. Why has the Town of Cortlandt chosen to pursue agreements that benefit Mongoose Inc.? Given that the Town has a long history of working with land trusts such as the Westchester Land Trust. It therefore stands to reason, that creating an agreement between the Town, the Westchester Land Trust and Mongoose would be in everyone's interest and would resolve the issue of all 126 acres once and for all. I would like to know why this option was never pursued. Given that this property was in foreclosure, and that legally nothing should have been presented to this Planning Board until there were no back taxes owed, why was an agreement entered into which only gave the Town approx. 100 acres when the Town could have stipulated that they would only forgive the back taxes if all of the land was given into an open space agreement or a land trust. Why was the town actively encouraging this development? I want to strongly suggest that an open space or land trust still be pursued for the remaining 26 acres since no one here can honestly state there will be NO impact on the health of this mountain and the wetland ecosystem therein.

This questionable agreement also glares a shining light on whether or not Mongoose Inc. is financially sound. As stated before by many citizens of this neighborhood. What guarantee will we have that Mongoose Inc. will not be able to bring this development to its final conclusion and won't leave the mountain irreparably damaged with an abandoned partial development?

The issue of pursuing further open space for the remaining 26 acres also speaks to what I have come to think of as a nasty word – mitigation. Mitigation is simply someone's determination of what effects on wildlife, water and wetlands make the negative effects "acceptable". Is it acceptable to the wildlife that live on these lands or migrate to this area and depend on these lands as they travel? Given that there have been no long-term studies of the potential effects of the proposed developmental pressure that will be put upon the land, there is truly no way to determine the permanent effects. There has been no regular monitoring. And, per Stephen Coleman's response to the applicant's biodiversity dated January 23, 2015, "the majority of vernal pool species are in severe states of decline and protection of their habitat is critical to help sustain their populations." Therefore, with no long-term studies having been done, there

is no way to assess the long-term effect of these vernal pool species in this area. Mitigations simply diminish imminent negative effects, they do not prohibit them.

In the one subsequent vernal pool study reported on May 18, 2015 by Stephen Coleman, he stated that although the overall site disturbance from existing and proposed is slightly less than the recommended 25%, he was still concerned about the proposed impacts that may occur from the construction of Lot 3. Site 4 far exceeds the 25% (approx. 41%) and has the potential to create further permanent disturbances to already jeopardized Critical Upland Habitat that currently exists from the original development of this mountain.

I'd like to point out that with only 2 biological surveys done for the Town, the statement that vernal pools 1 & 2 are not wholly functional as vernal pools in most years cannot be taken as the final word on these pools. It is possible that these pools have been damaged from disturbances created during the original development. Further damage & disturbance to the now two active pools would be a travesty.

The mitigation recommendation of some kind of permanent barrier such as a wood fence or stone wall serves more to hinder further human encroachment from potential home buyers than it does to support wetland species. No mention has been made referencing the need for wildlife openings within any perimeter border at least every 50 feet that are at least 12 inches high and 2 – 3 feet in length to allow species to find their way through any such barrier. Even this mitigation, with no long term studies done, does not guarantee the future health of these wildlife populations.

In the Stephen Coleman biodiversity study dated September 14, 2014, other issues were acknowledged such as the need for a study on environmentally sensitive forest interior bird species. No bird surveys of any kind have been done. He also states that these bird species require larger more contiguous mature forested lands, and that several of them have been put on watch lists or listed on high conservation priority lists. He states that development of this area will result in further fragmentation of the area and contribute to the spread of invasive plant species due to the disturbance of the proposed sites.

At the last public hearing I expressed my deep concern over the removal of crucial forested land with what will most likely be grass lawns. The potential for toxic pesticide poisoning to the wetlands below is real. One of the mitigation measures stated in the July 18, 2017 recommendations is to maintain a pesticide free environment in the vernal pool envelope. I would like to know how this would possibly be enforced or controlled as I'm sure there has already been impacts of pesticide poisoning in the 26 year history of this development.

I'd like to repeat my concern that there has been no study as to water sheet flow changes as a result of this proposed development. There is no known quantification of potential impacts due to erosion or increased/decreased water flow patterns.

I do not feel the Town of Cortlandt has acted in the best interest of this land. I stand in my opposition to any development on this land and hope that this Planning Board sees fit to suggest the pursuit of preservation, not further destruction.

Thank you.

**Chris Kehoe**

**From:** Martino, Jennifer <jmartino@thewindwardschool.org>  
**Sent:** Wednesday, September 12, 2018 10:34 AM  
**To:** Linda Puglisi  
**Cc:** Chris Kehoe  
**Subject:** Abbey Rose

Hello,  
I am writing in response to the proposed Abbee Rose development. My husband and I purchased a home on Dickerson Rd in 2013 with high hopes of raising our son, born in 2014, in a quiet and peaceful neighborhood. We have taught our son to appreciate the land, respect nature and enjoy the beauty that surrounds us in this beautiful location. It pains us to think that the land behind our home would be developed for the sake of three luxury homes. Our neighborhood has many young children who enjoy the freedom of talking walks and playing freely without the worry of additional vehicles, utility and construction trucks. We whole-heartedly support the remaining 26 acres becoming public trust/town land for perpetuity. We hope for the sake of our children and the environment, the board will consider what's best.

Regards,  
Micah Martino  
26 Dickerson Rd

Sent from my iPhone



7  
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          . . . . . A.R.C.  
          . . . . . Applicant  
          . . . . . Fred Wells, RLA  
          . . . . . Margaret McManus, P.E.  
Sent 9/12/18



## Chris Kehoe

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**From:** D <dvdurang@optonline.net>  
**Sent:** Wednesday, September 12, 2018 9:55 AM  
**To:** Chris Kehoe  
**Subject:** For the record we are not in favor of the three Abee Rose Project going forward. For all of the reason already brought forth by my neighbor s. Marie Kingsley 6 Dickerson Road

*Sent from my Verizon Wireless 4G LTE Droid*



## Chris Kehoe

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**From:** Joanna <jkmman@verizon.net>  
**Sent:** Tuesday, September 11, 2018 10:50 PM  
**To:** Chris Kehoe; Linda Puglisi  
**Subject:** Abee Rose

Dear Ms. Puglisi and Mr. Kehoe,

As residents of the Powder Horn II development since 1987, we feel compelled to urge you to resist allowing the Abee Rose development to proceed. I will get right to the point. We love living here, but this location is a challenge. I have the town water and highway departments on speed dial. The runoff of water from the mountain turns the Hilltop road into a skating rink in the winter. Water pressure is so bad (despite having at pump) that at times we have not been able to shower. During major storms we have seen waterfalls coming out of our neighbors lower windows. I could go on and on. These homes probably should never have been built. I am neither a scientist nor an environmentalist, but anyone who spends any time here can see that any changes will result in more havoc to this delicate ecosystem. All of my original neighbors have given up and happily relocated to other homes that are less challenging.

I ask you to please put your loyalty with the people who have lived here for over thirty years and the new younger people have chosen to undertake this challenge. Three houses are not worth the deterioration to an already difficult environment. Do not support an organization that has failed to pay their taxes over those that have. The Abee Rose property would seem to be a natural choice for the Town of Cortlandt to invest in for the open space program. I am challenged to understand why there is such a desire to support this particular developer. The fact that the size of the build has been reduced to three homes does not help us.

Given what we know, it does not appear to be logical to support this plan. We ask that you support the community that lives here and appears to be unanimously against this proposal.

Sincerely,  
Joanna and Steve Mancusi



## Chris Kehoe

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**From:** ljbaskin@aol.com  
**Sent:** Tuesday, September 11, 2018 10:17 PM  
**To:** Chris Kehoe; Lindap@townofcortland.com  
**Subject:** Abee Rose--From Dickerson Mountain Homeowners

Dear Mr. Kehoe and Ms. Puglisi,

We would like to respectfully voice our objections to any development of homes at the top of Dickerson Mountain. We wholeheartedly support that all remaining 26 acres of land become public trust/town land for perpetuity. We fear that any and all development will have an adverse effect on the health of Dickerson Mountain and the wetland ecosystem.

Respectfully yours,

Laurie and Joshua Baskin  
2 Deer Track Lane  
Cortlandt Manor, NY 10567  
(914) 736-1227



## Chris Kehoe

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**From:** Paul Platko <pplatko@optonline.net>  
**Sent:** Wednesday, September 12, 2018 5:26 PM  
**To:** Linda Puglisi; Chris Kehoe  
**Subject:** Abbee Rose Development

To whom it may concern,

I would like to voice my opposition to the Abbee Rose residential development. My reasons for opposing the plan are numerous and, as you know, have been presented many times by many people. Some I agree with, some not so much. My major concerns regard the concessions made by the town as well as the departure from codes and norms which others are expected to abide by.

Abbee Rose is a business deal made by business people who voluntarily assumed risk. Apparently the deal did not go so well. Whether this under performance was due to their lack of due diligence or unforeseen circumstances, they should own the losses just as they would own the profits. I feel as though we, the tax payers of Cortlandt, are being forced to shoulder their losses while allowing them to make profit and walk away.

This seems inherently unfair and forces me the question if the town administration is acting as a responsible fiduciary.

Best regards,  
Paul & Elizabeth Piatko  
11 Dickerson Road  
Cortlandt Manor, NY 10567

914-788-0481 h  
914-329-4624 c



## Chris Kehoe

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**From:** Steven Cohen <stevenhcohen23@gmail.com>  
**Sent:** Wednesday, September 12, 2018 8:40 PM  
**To:** Chris Kehoe  
**Cc:** Linda Puglisi  
**Subject:** Abee Rose Development

My wife and I have been residents at 2407 Maple Avenue here in Cortlandt Manor since 1992, and raised our two daughters here. For almost the entire 26 years we've lived here, there has been a parade of proposals to develop Dickerson Mountain. While we have been very pleased that no development has been approved by the Planning Board over all these years, it is my understanding that there is now increased pressure to consider the latest proposal to develop 26 acres.

I strongly request that the Planning Board deny the latest permit, for the following reasons:

- it has been clear for over 25 years that this property is unfit for further development due to steep slopes and the surrounding wetlands
- it appears that the only way to permit even the 3 house development requires the waiving of many Town ordinances designed to protect the environment from the very damage that will be done to the trees, animals and waterways in this area
- the owner of the land should not be given a windfall after not paying taxes for so many years. If I didn't pay my taxes, I'm sure my entire property would be repossessed and I would not be permitted to build a development on a portion of it. I don't know why the Town couldn't have just repossessed the entire 126 acres for protection, rather than just a portion. It is particularly disappointing that this occurred after the neighborhood came together to form a group years back (the Maple Avenue Homeowners Association) to fight the development. The intention was to protect the entire property, not just a portion that benefits only a few.
- it is not fair to residents on the western end of this development to bear the brunt of development while those on the eastern end receive the benefit of 100 acres of protection for their properties
- there is already considerable development going on in the area, such as the Valeria site and now the further building down the road from Valeria
- I remind the Planning Board that there is already an abandoned development almost across the street from my house on Maple Avenue where a developer was allowed to clear lots and build a road in the forest for a development that was never pursued, yet the scar to the environment and eye-sore to the people living on Maple Avenue remains.

There has already been more than enough building on Dickerson Mountain. Please put an end to this quarter century odyssey once and for all.

Respectfully,  
Steven and Susan Cohen



**Chris Kehoe**



**From:** Steven Goldman <Steven.Goldman@nasdaq.com>  
**Sent:** Wednesday, September 12, 2018 10:38 PM  
**To:** Chris Kehoe; Linda Puglisi  
**Subject:** Abee Rose

Hi Chris and Linda,

I just want to reiterate my staunch opposition to the Abee Rose proposal. Not only will this proposal disrupt this beautiful and quiet neighborhood, but more importantly it will cause permanent damage. Ripping out thousands of trees, which will most definitely cause flooding and runoff, will also disrupt the habitat and ecosystem, changes that can NEVER be fixed.

Also, and I have mentioned this a few times in the past, the deal that the town made with Mongoose sounds extremely shady, and it makes me wonder whether the town has our best interest at heart. If someone doesn't pay their taxes, their property will be taken away. Why this didn't happen with Mongoose is still very puzzling. Furthermore, doesn't it seem like a warning sign since Mongoose has already failed to make tax payments in the past? What makes you think they are capable of completing this project? Can you imagine halfway through the project they run out of money and we are left with thousands of trees destroyed and nothing but mounds of dirt left behind?

Lastly, just because Jay Russ at Mongoose owns land doesn't mean he has the right to build. In fact he doesn't even have the right to make a profit! Ever heard of a bad investment? That's what Jay made, a bad investment.

I implore the town to acquire the remaining land and preserve all of the land. NO BUILDING!!

Regards

Steve Goldman  
1 Hilltop Drive  
Cortlandt Manor

Sent from my iPhone

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## Chris Kehoe

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**From:** ljbaskin@aol.com  
**Sent:** Tuesday, September 11, 2018 10:17 PM  
**To:** Chris Kehoe; Lindap@townofcortland.com  
**Subject:** Abee Rose--From Dickerson Mountain Homeowners

Dear Mr. Kehoe and Ms. Puglisi,

We would like to respectfully voice our objections to any development of homes at the top of Dickerson Mountain. We wholeheartedly support that all remaining 26 acres of land become public trust/town land for perpetuity. We fear that any and all development will have an adverse effect on the health of Dickerson Mountain and the wetland ecosystem.

Respectfully yours,

Laurie and Joshua Baskin  
2 Deer Track Lane  
Cortlandt Manor, NY 10567  
(914) 736-1227

