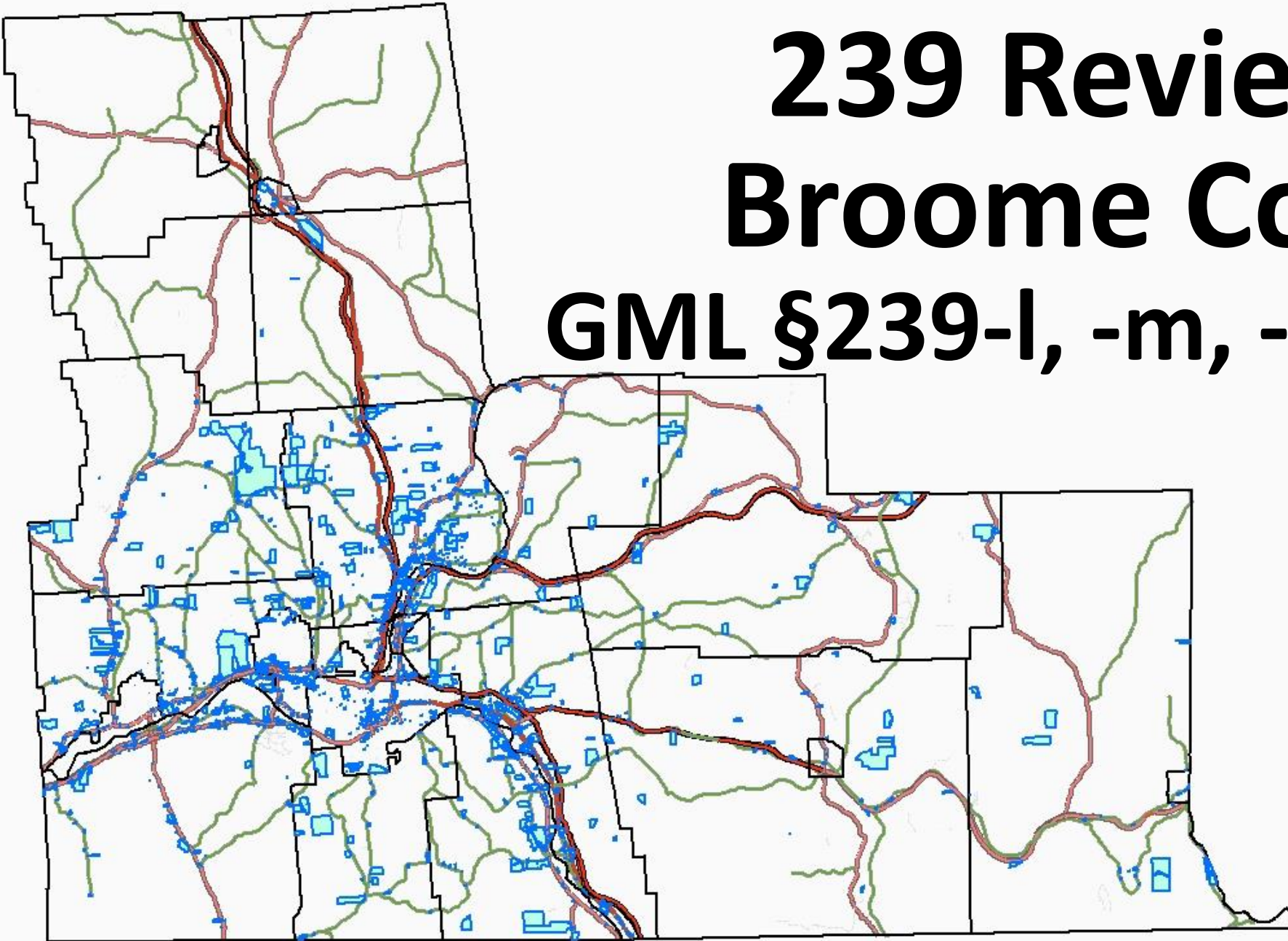


# 239 Review in Broome County GML §239-l, -m, -n, and -nn



Presented by:  
Lora Zier, Senior Planner  
Broome County Department of Planning  
[www.goalloutbroome.com/planning](http://www.goalloutbroome.com/planning)

# Why We Are Here Today

- **Actions**
- **Requirements – Referral, Timing, Voting**
- **Consequences of Noncompliance**

# What is the Intent of GML §239-l, -m, and -n?

## GML §239-l

- Intent: To address county-wide and inter-municipal impacts.

# What Are the County Review Areas?

## GML §239-I

- Land use compatibility
- Traffic Generation
- County or State institutions
- Community character
- Drainage
- Community facilities
- Official municipal and county development policies
- Other Matters: Public convenience, governmental efficiency, and community environment

# What Does GML §239-l, -m, -n Require the Municipal Board to Do?

## GML § 239-m

- Requires the **Referring Body** (municipal board) before taking final action to **refer** the proposed action to the **County Planning Agency** for review.
- This referral/review activity is called “**239 Review**”.

# County Planning Agency

## GML §239-I

- In Broome County, the County Planning Agency is the **Broome County Planning Department**.

# Referring Body

## **GML §239-m**

- City, Town, or Village body responsible for taking final action on the proposed action.
- Municipal Town Board, Village Board, City Council, Planning Board, Planning Commission, and Zoning Board of Appeals.

# What Actions are Subject to 239 Review?

## **GML §239-m \***

- Comprehensive Plans
- Zoning Ordinances and Local Laws
- Zoning Map Amendments
- Special Use Permits
- Site Plans
- Use Variances and Area Variances
- Other authorized planning and zoning actions (PUD)

## **GML §239-n**

- Subdivisions (Preliminary, Final, Undeveloped)

**\* NOT ZBA Interpretations**

## **GML §239-m and -n**

### **If Action occurs on real property within 500 Feet**

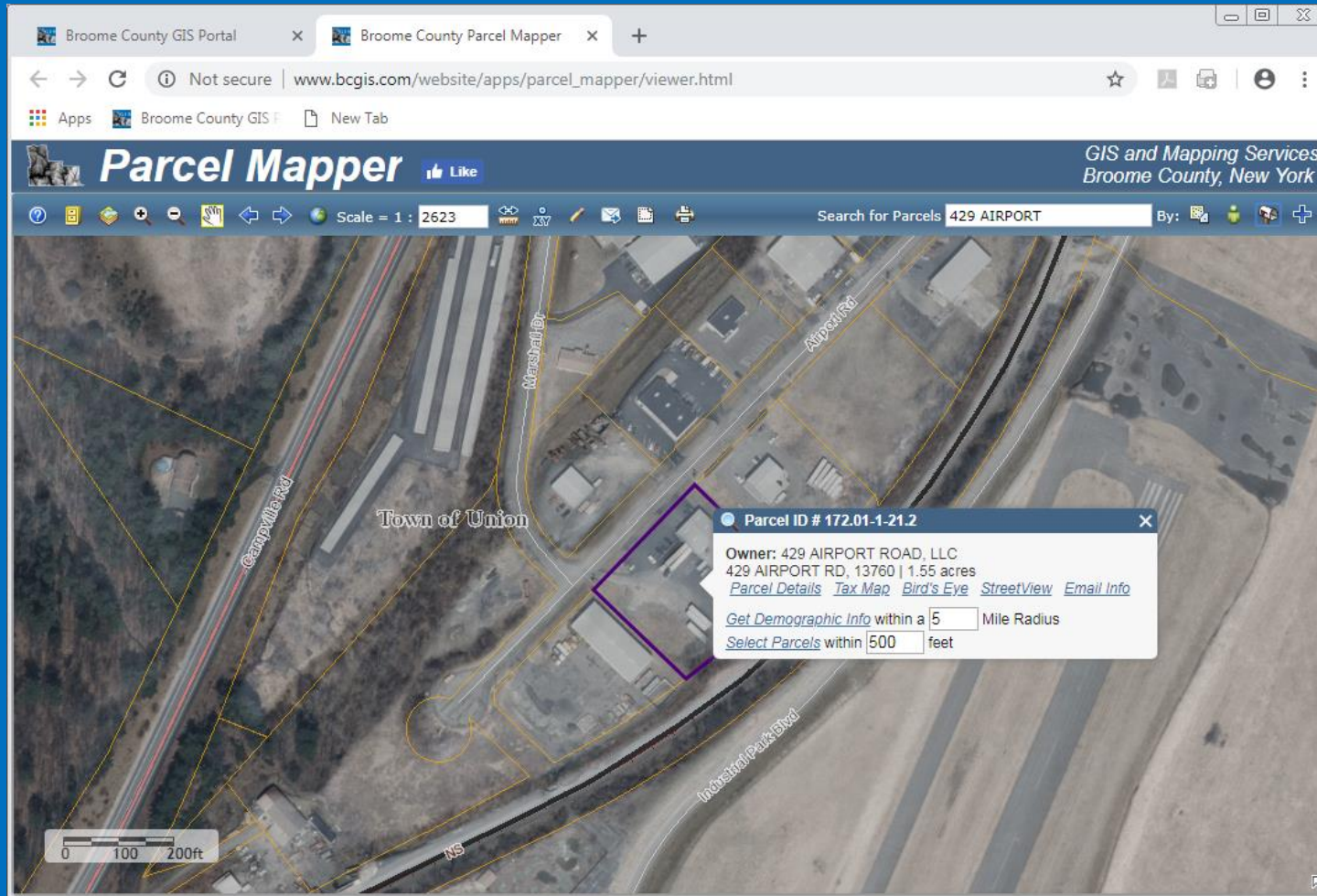
- Municipal boundary
- Boundary of county or state park or other recreation area
- ROW of state or county road
- ROW of county-owned stream or drainage channel, or stream or drainage channel with county-established channel lines
- Boundary of state or county land with a public building
- Boundary of a farm operation located in state agricultural district (except not area variances)



# How Can You Determine if the Action is Subject to 239 Review?

- The **Broome County GIS Parcel Mapper** makes it easy!
- Go to: [www.bcgis.com](http://www.bcgis.com).

# Culligan Addition 429 Airport Road



## PROPERTY DETAIL SUMMARY

Parcel # 172.01-1-21.2  
429 AIRPORT RD, 13760

VIEW:

[GIS Map](#) | [Tax Map](#) | [Real Property \(IMO\)](#) | [Deed](#) | [Streetview](#) | [Bird's Eye](#)

### Ownership Information

Property Owner(s): "429 AIRPORT ROAD, LLC"  
Mailing Address: P.O. Box 90 | Endicott, NY 13760  
Deed Book & Page: D2384-255

### Site Information

Land Area: 1.55 Acres | 267 ft x 0 ft  
Property Use: Industrial  
Class Code: 710  
Water: Public | Sewer: Public  
Utilities: Gas & Electric  
[Broadband Availability](#)  
Highway Access: Under 5 miles  
Adjacent to Rail? Yes  
[Location Map & Directions](#)

### Building Information

Year Built: 1980 | Historic? No  
Square Feet: 11,860 | Stories: 1  
Condition: NA | Grade: NA  
[Detailed Inventory and Improvement](#)

### Assessment Information

Assessed Value:	Full Value:
Land: \$4,600	Land: \$106,481
Total: \$17,900	Total: \$414,352

Exemptions: None  
School District: Union-Endicott  
Special Districts: FP463 LB461 LB462 PK461  
SL461 SW462 SW463 UV461  
Property is Taxable  
[Municipal Taxes](#) [School Taxes](#)  
Last Sale: Sold on 08/03/2012 for \$450,000

### Planning Information

Municipality: [Town of Union](#)  
Zoning: Industrial  
239 Review? Yes, within 500 feet of Municipal Boundary  
Most Recent Review: 239-2018-017  
Census Tract #: 133.01 [Demographics](#)  
In Historic District? No  
NYS Historic Tax Credit Eligible? Yes  
In Ag District? No | In HUB Zone? No  
Fire Coverage: West Corners Fire  
Election District: Union 20 | [Officials](#)

### Existing FEMA Information

FEMA SFHA: Out, X500  
Panel #: 3600560035C | Date: 09/30/1988  
[Official FEMA Map](#)

### Preliminary FEMA Information

FEMA SFHA: Out, X  
Panel #: 36007C0328F | Date: 02/05/2010  
[Preliminary FEMA Map](#)

### Natural Features

DEC Wetlands? No | [NWI Wetlands?](#) No  
Watershed: Little Nanticoke Creek  
Aquifer: Primary | Steep Slopes? Yes  
Soil(s): ChC

DISCLAIMER: The information provided is prepared from a variety of sources including recorded deeds, plats, tax maps, surveys, and other public records and data. Users of this data are hereby notified that the aforementioned public primary information sources should be consulted for verification of the information. Broome County assumes no legal responsibility for the information contained herein. Document created on March 7, 2018 by Broome County GIS and Mapping Services.

# What Does the Municipal Board Need to Send to Broome County Planning?

- 239 Review Submission Form
- Full Statement of the Proposed Action (complete application)

# 239 Review Submission Form

- Go to:  
<http://www.gobroomecounty.com/planning/forms>
- Fill out form online, download, and save.
- Example: 429 Airport Road

**239 REVIEW SUBMISSION FORM**

Submitted to: Broome County Department of Planning and Economic Development  
Edwin L. Crawford Building  
Government Plaza - P.O. Box 1766  
Binghamton, NY 13902

Project Name: Culligan Water Addition Date Submitted: February 7, 2018

Pursuant to Section 239-1, m, and n of General Municipal Law enclosed for your review and recommendation is the application for (check all applicable):

☒ Site Plan Review ☐ Rezoning (Zoning Map Adoption or Amendment)  
☐ Area Variance ☐ Zoning Text Change (Zoning Ordinance or Local Law Adoption or Amendment)  
☐ Use Variance ☐ Comprehensive Plan Adoption or Amendment  
☐ Special Use Permit ☐ Subdivision Review  
☐ Planned Development ☐ Other: \_\_\_\_\_

This application qualifies for review because the project tax map number is located within 500 feet of the following (check all applicable):

☒ Municipal Boundary\* ☐ State/County Park or Other Recreation Area  
☐ State/County Road ☐ State/County Drainage/Watercourse  
☐ Farm Located in Agricultural District ☐ State/County owned land on which a public building or institution is located

Project Sponsor/Applicant: Northeastern Water Services  
Project Sponsor/Applicant Mailing Address: 429 Airport Road, Endicott, NY 13760  
Project Location: 429 Airport Road, Endicott, NY 13760  
Tax Map Number(s): 172.01-1-21.2  
Municipality: Town of Union Zoning District: Industrial

Brief Project Description: Add 7,690 s.f. addition for office and storage to existing 12,160 s.f. office and warehouse.

The following public hearings and/or meetings are scheduled by the following board(s) (check all applicable):

	Public Hearing Date/Time	Meeting Date/Time
<input type="checkbox"/> City/Town/Village Board		
<input type="checkbox"/> Zoning Board Of Appeals		
<input checked="" type="checkbox"/> Planning Board		March 13, 2018
<input type="checkbox"/> Other		

\* Pursuant to General Municipal Law 239-nn, the legislative body or reviewing board of a municipality shall give notice of a public hearing for a proposed *Special Use Permit, Use Variance, Site Plan Review, or Subdivision Review* to the Clerk of an adjacent municipality *at least 10 days prior* to the public hearing when the subject property is located within 500 feet of the adjacent municipality.

☒ Notice has been given to the Clerk of the Village of Endicott on February 7, 2018

Application Submitted by: Moussa B. Lane Date: \_\_\_\_\_  
Signature

**For office use only:**  
Date received: \_\_\_\_\_  
Broome County Department of Planning and Economic Development will have 30 days from the date received to provide comments.  
REVISED: 8/2012

# Full Statement for Proposed Action

## GML Section 239-m:

- Complete Application for Municipal Board, including:
  - Completed **SEQRA Environmental Assessment Form (EAF) Part 1**
  - All other materials to make **Determination of Significance**
- For Zoning Ordinance or Local Law include:
  - complete text and existing affected provisions

# Full Statement for Each Action

- **Comprehensive Plan Adoption or Amendment**
  - Existing and proposed text
- **Zoning Local Law or Ordinance Adoption or Amendment**
  - Existing and proposed text
- **Zoning Map Amendments**
  - Existing and Propose Zoning District
  - Existing and Proposed Zoning District Regulations
- **Site Plans, Area Variances, Use Variances, Special Use Permits, Subdivisions**
  - All Application materials for the Action
  - Site Plan, Preliminary Plat, Final Plat, Undeveloped Plat
  - Area Variances and Use Variances: Demonstrate how variance meets tests
- **For All Actions:**
  - Complete Project Description
  - SEQRA Environmental Assessment (EAF) Part 1
  - Agricultural Data Statement: Depends on Action and Location

# Complete Project Description

- Reason for the action
- Existing and proposed uses
- Building square footage
- Required and proposed dimensions
- Hours of operation
- Numbers of employees during construction and operation
- Traffic generation (number and type) during construction and operation
- Parking requirements
- Outdoor storage
- Numbers of dwelling units and bedrooms
- Future phases of development
- Construction phases



# SEQRA

- SEQRA Environmental Assessment Forms (EAF):
  - SEQRA Short EAF Part 1
  - SEQRA Full EAF Part 1
- SEQRA Forms: [www.dec.ny.gov/permits/70293.html](http://www.dec.ny.gov/permits/70293.html)
- Any other materials municipal board requires for **SEQRA Determination of Significance**:
  - SWPPP, Wetland Delineation, Traffic, Visual Impact, Noise, Phase I, SHPO Archaeology



# Agricultural Data Statement

## AGM §305-A

- Actions
  - Site Plan
  - Special Use Permit
  - Use Variance
  - Subdivision
- If action occurs on property within AG District containing a farm operation OR on property within 500 feet of a farm operation in AG District
- <https://www.agriculture.ny.gov/ap/agservices/ag-restrictive-laws.html>
- Bob Somers: (518)457-8887 or [bob.somers@agriculture.ny.gov](mailto:bob.somers@agriculture.ny.gov)



### Section 305-a Review Department of Agriculture and Markets

The information requested in this form is for purposes of reviewing a local law/regulation and its impact upon your farm under Agriculture and Markets Law (AML) §305-a. The review will be commenced upon your completion and return of this form and the receipt of any other information or documentation that the Department may determine necessary to conduct a 305-a review. Please complete and return this form and provide any additional information you believe relevant, to the New York State Department of Agriculture and Markets, Division of Agricultural Protection and Development Services, 10B Airline Drive, Albany, New York 12235.

1. Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone No. and Fax No. \_\_\_\_\_

E-mail address \_\_\_\_\_

County \_\_\_\_\_ Town \_\_\_\_\_

2. Name of Farm \_\_\_\_\_

Number of Acres Owned \_\_\_\_\_ Number of Acres Rented \_\_\_\_\_

If the farm is located in an Agricultural District, please indicate the Number \_\_\_\_\_  
(AML§305-a only applies to farm operations in a State certified agricultural district)

Does the land/farm receive an agricultural assessment? \_\_\_\_\_ If no, why not?  
(e.g., start-up, insufficient sales)

\*Please complete the AML §305-a Questionnaire if the farm does not qualify for agricultural assessment, or if the Department informs you that it is otherwise needed for its review.

3. Description of the farm – include the following information and provide as much detail as possible (attach additional sheets as necessary): size of farm; type of enterprise; products; acreage; buildings; years in operation; annual gross income.

Please be aware that any and all records, including e-mails, submitted to the Department are subject to the NYS Freedom of Information Law and may be released.

# Site Plan

- Drawn to scale, north arrow and scale
- Entire tax map boundary
- Special Flood Hazard Area
- DEC and NWI Wetlands
- Required and proposed lot size, dimensions, and setbacks
- Existing and proposed contours
- Drainage
- existing and proposed uses and buildings (footprints, dimensions, elevations)
- adjacent land uses
- driveways (NYSDOT Standards, location, dimensions, intersections, curb cuts, egress and ingress)
- traffic circulation patterns for vehicles, pedestrians and bicycles
- parking (employee spaces, customer spaces, accessible parking spaces, vehicle display spaces, delivery loading area)
- walkways, bikeways and bike facilities

# Site Plan (continued)

- Planned demolition
- Trees and open space
- Landscaping
- exterior lighting
- drainage
- fencing and screening
- architectural features
- retaining walls
- Easements
- future phases

# Inter-municipal Referral Requirement

## GML §239-nn

- **Intent:** To let the adjacent municipality know your plans and to let their concerns be heard.
- Send **notice of public hearing** to adjacent municipality:
  - **Site Plan**
  - **Special Use Permit**
  - **Use Variance**
  - **Subdivision**
- Send **notice** to clerk **at least 10 days prior** to public hearing.
- Allow adjacent municipality to speak at public hearing.

# How Does a Municipal Board Refer a 239 Review to Broome County Planning?

- Send **239 Review Submission Form** and the **Full Statement** in **electronic format** to speed our review.
- When **mailing** the submittal, address the submittal to:  
Ms. Lora Zier, Senior Planner  
Edwin L. Crawford County Planning Office Building, 5<sup>th</sup> Floor  
P.O. Box 1766  
Binghamton, New York 13902
- When **emailing** the submittal, email to: [lzier@co.broome.ny.us](mailto:lzier@co.broome.ny.us).

# Land Use Compatibility of the Project with other Land Uses

- Neighborhood
- Residences
- Parks
- Recreation Trails
- Schools
- Noise
- Odor, Air Pollutants, Dust
- Heavy Truck Traffic, Truck Routes, Safety Hazards
- Other Hazards
- Noise, Air Quality, Traffic Studies





# Traffic Generation and Effect on Other Land Uses and on Adequacy of Road in Accommodating Project Traffic

- BMTS, NYSDOT, DPW Comments
- Traffic Impact
- Site Access
- Internal Circulation of Site
- Pedestrian and Bicycle Access
- Driveway Access and Design
- NYSDOT Driveway Design Standards
- Traffic Study
- Traffic Control Plan
- Traffic Safety Concerns
- Adequacy of the road facilities
- Drainage
- Highway Driveway and Work Permits



# Binghamton Metropolitan Transportation Study (BMTS)



- Traffic Impact
- Site Access
- Internal Circulation of Site
- Pedestrian and Bicycle Access

Contact: **Jennifer Yonkoski, PTP**

*Executive Director*

Binghamton Metropolitan Transportation Study

(607) 778-2443 | [BMTSONline.com](http://BMTSONline.com)



# New York State Department of Transportation (NYSDOT)



- **NYSDOT Highway Work Permit requirements and review process**
- **Region 9's Initial Proposal Review Process (including SEQR and 239 reviews)**
- **Projects located off the State highway system with traffic or other impacts**
- **Regional contact information for permits and reviews**

**Contact: Sean Murphy**

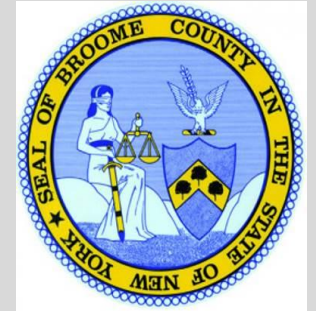
*Regional Site Plan Review Coordinator*

New York State Department of Transportation, Region 9

(607) 772-7335 | [Sean.Murphy@dot.ny.gov](mailto:Sean.Murphy@dot.ny.gov) | [www.dot.ny.gov](http://www.dot.ny.gov)

# Broome County Department of Public Works – Engineering Division (DPW)

- Goals of DPW-Engineering in 239 Review and evaluation
- Materials needed for review
- What DPW-Engineering looks for
- County Driveway and Work Permits



Contact: **Leslie Boulton, P.E.**

*Commissioner of Public Works*

Broome County Department of Public Works –  
Engineering Division

(607) 778-7335 | [lboulton@co.broome.ny.us](mailto:lboulton@co.broome.ny.us) | [www.dot.ny.g](http://www.dot.ny.g)

# County or State Property

- DPW facilities
- Airport facilities
- Drinking Water
- Groundwater Quality
- Potential Hazards of Outdoor Storage
- FAA Form, Chemical Data, Phase 1, Hazard Compliance



# Protection of Community Character

- Site Layout and Building Design, Aesthetics, and Landscaping
- Elevations, Renderings, Landscape Plan, Visual Impact Study





# Drainage

- Special Flood Hazard Area
- DEC Wetlands
- NWI Wetlands
- Watersheds
- Drainage
- SWPPP
- Structural Safety Report



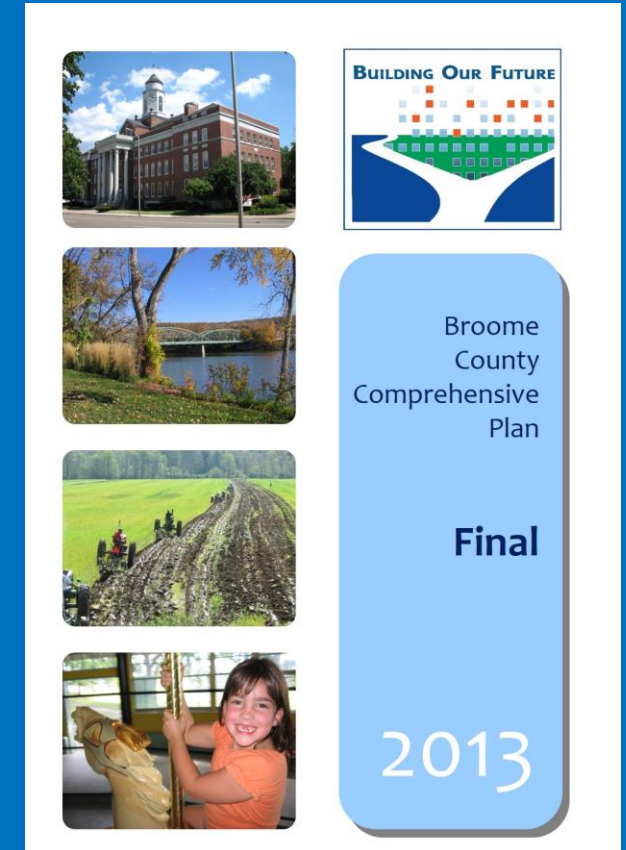
# Community Facilities

- Noise
- Traffic Safety and Security
- Noise Study
- Traffic Study



# Official Municipal, County, and State Development Policies

- SEQRA
- Broome County Comprehensive Plan
- Municipal Comprehensive Plans
- Zoning Ordinances and Local Laws
- Municipal Design Guidelines
- Municipal Parking Studies
- State Laws and Policies
- County-wide and Region-wide Plans

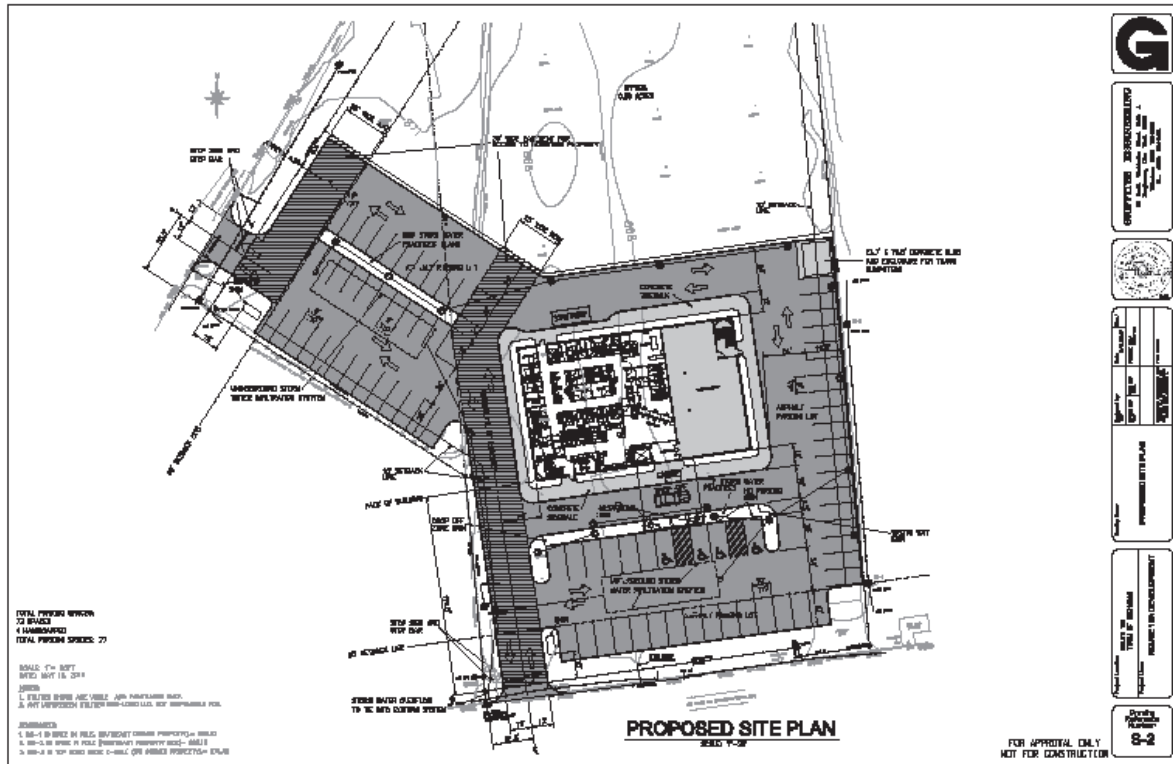




# Lourdes Medical Building and Future Pharmacy

## 17 Chenango Bridge Road

### Site Plan, Use Variance, and Area Variances

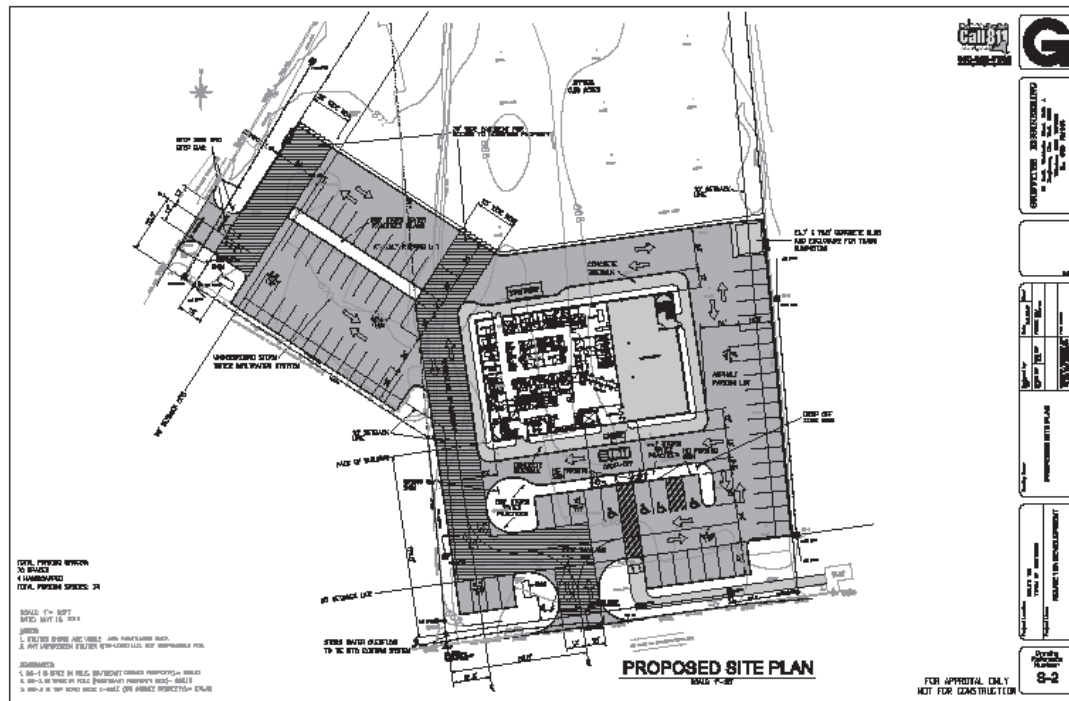




# Lourdes Medical Building and Future Pharmacy

## 17 Chenango Bridge Road

### Revised Site Plan



# Lourdes Medical Building and Future Pharmacy

## 17 Chenango Bridge Road

### Revised Site Plan





# Lourdes Medical Building and Future Pharmacy

## 17 Chenango Bridge Road

### Revised Site Plan



# How Long Does the County Review Take?

## GML Section 239-m:

- Broome County Planning has **30 days** after **Receipt of the Full Statement** or such longer period agreed upon by County Planning and Referring Body.
- We make every effort to complete our recommendations before the meeting date.

# What is Date of Receipt of the Full Statement?

## **GML 239-m:**

- if mailed, the postmark date is the date of receipt.
- If hand delivered, the date hand delivered is the date of receipt.
- If emailed, the email date is the date of receipt.

# What Do Broome County Planning Comments Mean to Municipal Board?

## GML §239-m

- Recommendations are advisory opinions.
  - No significant county-wide or inter-municipal impacts with no comments
  - No significant county-wide or inter-municipal impacts with advisory comments or recommendations
  - Significant county-wide or inter-municipal impacts and recommendation of **Denial** and reasons for recommendation of **Denial**

# Denial or Modification Requires Supermajority Vote or “Extraordinary Vote”

## GML §239-m

- Advisory opinions only; however,
- If County Planning recommends **denial or modification**, municipal board may only act contrary to recommendation by a **majority plus one vote of all the board members**.
- Called **Super-majority vote** or “**Extraordinary Vote**”.

# When and How May the Municipal Board Take Action?

## GML 239-m

- **30 days after Receipt of the Full Statement or such longer agreed upon date and super-majority vote applies.**
- If Broome County Planning fails to report within 30 days, Municipal Board may take final action by a simple majority vote.
- If County Planning report received after 30 days or such longer agreed upon date but **2 or more days prior to final action**, County recommendations must still be considered and **super-majority vote applies**. Called Two-Day Rule.



# What Happens After Final Action?

## Report of Final Local Action

### GML 239-m

- Send decision or final action to County Planning within **30 days**.
- If act contrary to recommendation of modification or denial, note reasons for the contrary action in the report.

# What Happens if Municipal Board Fails to Follow GML §239-l, -m, -n, & -nn? *Article 78*

- May invalidate the final municipal action.
- Open the municipality to an **Article 78** legal challenges and overturned decisions by a judge.

# How do Municipalities Benefit from the 239 Review Process?

- Receive professional assistance
- Learn of inter-municipal and county-wide impacts
- Avoid inter-municipal and county-wide impacts
- Avoid Article 78 legal challenges

# Links

## **GML §239-l, -m, -n, -nn**

- Go to New York State General Municipal Law statutes:  
<http://public.leginfo.state.ny.us>
- Click: Laws
- Click on “GMU” and then on “Article 12-B” and then on sections 239-l, -m, and -n.

## **Broome County Guide to the 239 Review Process**

- Go to: <http://www.gobroomecounty.com/planning/forms>

# Questions?

**Broome County Department of  
Planning and Economic Development  
239 Review Contacts**



**Frank Evangelisti**, Director 607-778-2414 [fevangelisti@co.broome.ny.us](mailto:fevangelisti@co.broome.ny.us)

**Lora Zier**, Senior Planner 607-778-2370 [lzier@co.broome.ny.us](mailto:lzier@co.broome.ny.us)