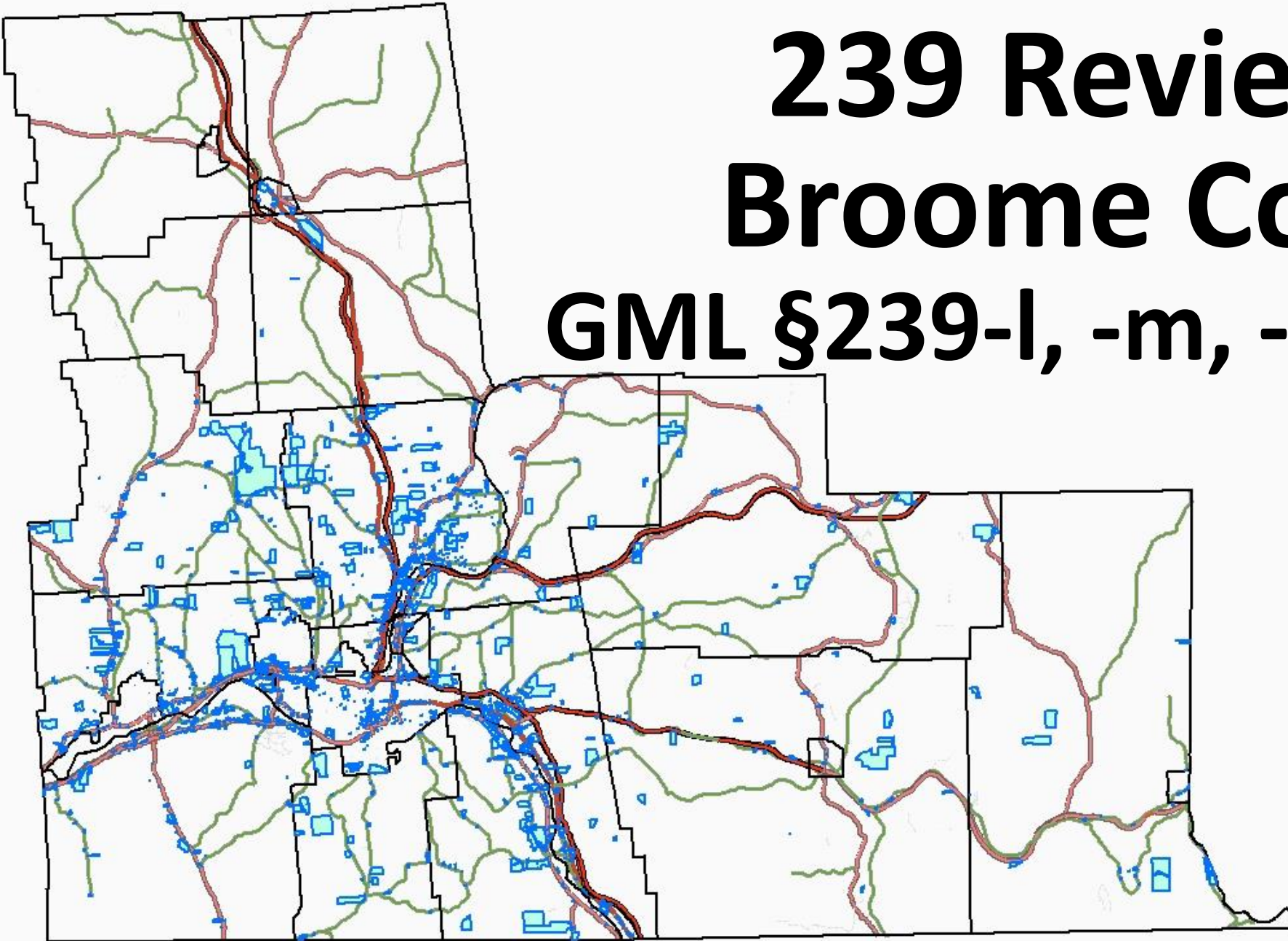


239 Review in Broome County GML §239-l, -m, -n, and -nn



Presented by:
Lora Zier, Senior Planner
Broome County Department of Planning
www.goalloutbroome.com/planning

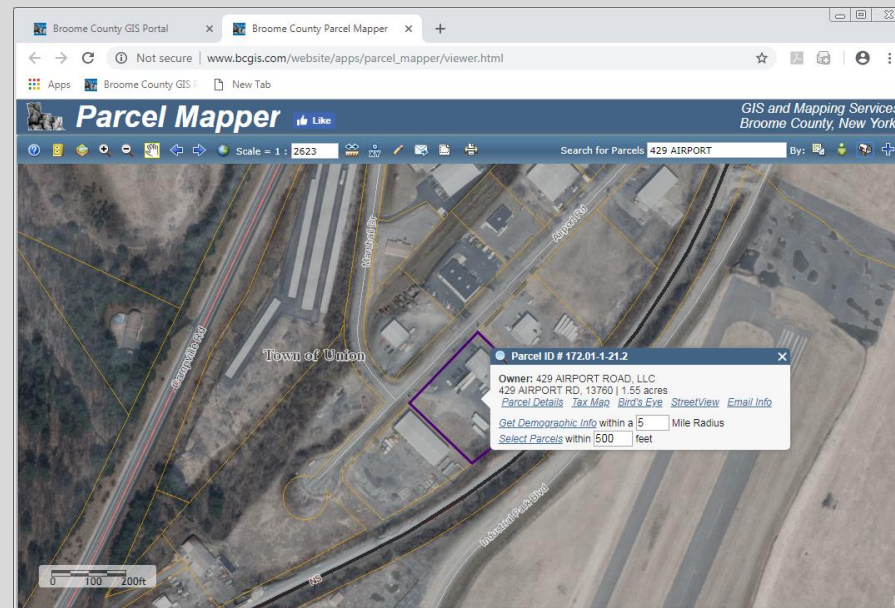
Tools and Guidance

- **Broome County Planning Department 239 Review webpage:**
 - GMU §239-l, -m, -n, -nn
 - Broome County Guide to 239 Review Process in Broome County
 - 239 Review Submission Form – Fillable Form
 - Go to: <https://www.gobroomecounty.com/landuse239reviews>
- **New York State Department of State**
- **Presentation slides:** <https://gobroomecounty.com/municipaltrainingfallseries>

Tools and Guidance

Broome County GIS Parcel Mapper

- The **Broome County GIS Parcel Mapper** lets you know if the project site meets the location requirement for 239 Review and More!
- Go to: www.bcgis.com.



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: D2384-235

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 3 miles
Adjacent to Rail? Yes
[Location Map & Directions](#)

Building Information
Year Built: 1989 | 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 Nantuxus Creek
Aquifer: Primary | Steep Slopes? Yes
Soils: 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 is the Intent of GML §239-l, -m, and -n?

GML §239-l

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

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.

GML §239-l

- In Broome County, the County Planning Agency is the **Broome County Planning Department**.
- In **Broome County**, the applicant submits the application to the municipal board or staff. If that person determines that the action is subject to 239 Review, that person sends the **full statement to the Broome County Planning Department**.

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.

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 **See BCGIS Parcel Mapper.**

- 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)

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

- 239 Review Submission Form
- Full Statement of the Proposed Action (complete application)
- Electronic format and legible site plan

- Go to:

Scroll down to and click on:

239 Review Fillable Submission Form

- Fill out form online, download, and save.
- Example: 23 E. Clinton Street

339 REVIEW SUBMISSION FORM	
BROOME COUNTY PLANNING AND ECONOMIC DEVELOPMENT, PO Box 1766, Binghamton, NY 13902 <i>This referral is made pursuant to the requirements of Section 239.1, m and n of General Municipal Law (GML). Broome County will provide comments within 30 days of the date of receiving a complete application. For info on Broome County's 239 procedures, see our Guide at www.gobroomecounty.com/planning/forms.</i>	
<div style="float: right; border: 1px solid black; padding: 2px; text-align: center;"> <small>OFFICE USE</small> DATE REC: </div>	
Referring Agency: Town / Village / City of: <u>Binghamton</u>	
<input type="checkbox"/> Legislative Board <input checked="" type="checkbox"/> Planning Board <input type="checkbox"/> Zoning Board of Appeals (check all that apply)	
Meeting Date(s): LB: _____ PB: <u>09/12/23</u> ZBA: _____ Public Hearing? <input checked="" type="checkbox"/> Y <input type="checkbox"/> N Date: <u>10/3/23</u> <small>You may note additional meeting details in the project description box if necessary.</small>	
TYPE OF ACTION (check all applicable): <input checked="" type="checkbox"/> Site Plan Review <input type="checkbox"/> Planned Development <input type="checkbox"/> Area Variance <input type="checkbox"/> Subdivision Review <input type="checkbox"/> Use Variance <input type="checkbox"/> Special Use Permit <input type="checkbox"/> Rezoning <input type="checkbox"/> Zoning Amendment <input type="checkbox"/> Local Law or Zoning Adoption <input type="checkbox"/> Comprehensive Plan Adoption/Amendment <input type="checkbox"/> Other: _____	PROJECT IS LOCATED WITHIN 500 FEET OF THE FOLLOWING: <input type="checkbox"/> Municipal Boundary* <input type="checkbox"/> State/County Park or Recreation Area <input type="checkbox"/> State/County Road <input type="checkbox"/> State/County Drainage/Watercourse <input type="checkbox"/> Farm Located in an Agricultural District <input checked="" type="checkbox"/> State/County-owned land with a public building/institution
HAS THIS PROJECT OR A PRIOR PHASE BEEN SUBMITTED PREVIOUSLY: <input type="checkbox"/> Y <input checked="" type="checkbox"/> N 239 # (if known): _____	
PROJECT INFORMATION: Project Name: <u>ACKERMAN APARTMENTS</u> Project Sponsor/Applicant: <u>Charles Ackerman</u> Mailing Address: <u>192 FRONT STREET, BINGHAMTON, NY 13905</u> Project Address: <u>23 East Clinton St. Binghamton, NY. 13901</u> Tax Map Number(s): <u>160.33-19</u> Zoning District: <u>C-1 Service Commercial District</u> Brief Project Description: <u>Converting first floor of an existing building to [2] ADA compliant Apartments with 2 bedrooms each. Commercial space facing East Clinton St to remain unchanged.</u>	
Supporting Documentation Included with this Referral: <input checked="" type="checkbox"/> Municipal Application(s) <input checked="" type="checkbox"/> Location Map <input type="checkbox"/> Project Narrative <input checked="" type="checkbox"/> Complete Site Plan (See Guide for details) <input type="checkbox"/> Subdivision/PUD Plat <input type="checkbox"/> Environmental Assessment Form/EIS <input type="checkbox"/> Stormwater Plan (SWPPP, URRP, Site Plan) <input type="checkbox"/> Special Studies (Traffic/Visual/Env/Other) <input type="checkbox"/> Relevant Local Law or Zoning Text <input type="checkbox"/> Other: _____	State Environmental Review (SEQR) Status: <input type="checkbox"/> Type I <input checked="" type="checkbox"/> Type II <input type="checkbox"/> Unlisted Determination of Significance: <input type="checkbox"/> Positive Dec <input type="checkbox"/> Negative Dec <input type="checkbox"/> Not Yet Issued *Adjacent Municipality: <i>Has notice been given pursuant to GML 239-nn, if project is located within 500 feet of an adjacent municipality?</i> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA Adjacent Muni Name: _____
<small>Include all relevant documents for a complete submittal. Leave blank if N/A.</small>	
<div style="display: flex; justify-content: space-between; align-items: center;"> <div> Application Submitted By: <u>Sharon Patch</u> <small>Signature</small> </div> <div style="text-align: right;"> 8/9/23 <small>Date</small> </div> </div>	

Full Statement for Proposed Action

GML Section 239-m:

- Complete Application for Municipal Board, including:
 - Complete application
 - All other materials required by and submitted to the referring body
 - Municipal sponsored action materials
 - Agricultural Data Statement, if applicable
 - Completed SEQRA Environmental Assessment Form (EAF) Part 1 and supporting documents to make determination of significance, if applicable
 - All other materials to make Determination of Significance
 - All approvals required for the project

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
 - Area Variances and Use Variances: Demonstrate how variance meets tests
- **For All Actions:**
 - Complete Project Description
 - SEQRA Environmental Assessment (EAF) Part 1 and reports, if applicable
 - Agricultural Data Statement, if applicable

Broome County Guide To The Section 339 Review Process				
Required Submittals	Site Plan Review, Special Use Permit, Use or Area Variance	Zoning Text Adoption or Amendment	Rezoning	Comprehensive Plan Adoption or Amendment
239 Review Submission Form	✓	✓	✓	✓
Project Application with Description	✓	✓	✓	✓
SEQRA Documentation	✓	✓	✓	✓
Site Plan showing the following:	✓			
Existing Conditions	✓			
Grading and Clearing	✓			
Lighting	✓			
Landscaping	✓			
Utilities	✓			
Vehicle, Pedestrian and Bicycle Circulation	✓			
Signage	✓			
Wetlands and Floodplain	✓			
Drainage Plan, Erosion and Sediment Control, or Stormwater Pollution Prevention Plan (SWPPP)	✓			
Building Elevations and Renderings	✓			
Traffic Generation	✓			
Traffic Impact Study	✓			
Existing Zoning	✓		✓	
Proposed Zoning			✓	
Proposed Zoning Text		✓		

For large scale projects, we understandably need more information. This includes building elevations, lighting plan, grading and clearing plan, drainage plan, erosion and sediment control plan, circulation plan, utilities, landscaping, and signage, and a traffic impact study. If they are available, local staff reports, minutes of meetings, correspondence, and photographs are also helpful to our review.

1/18/18 4

Agricultural Data Statement

AGM §305-A

- Actions
 - Site Plan
 - Special Use Permit
 - Use Variance
 - Subdivision
- If action occurs on property within AG District or on property within 500 feet of AG District
- <https://agriculture.ny.gov/land-and-water/section-305-review-restrictive-laws>
- Jeffrey Kehoe, Agricultural Protection Planner
- (518)457-4626
- Jeffrey.Kehoe@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.

Complete Project Description

- Reason for the action
- Required and requested setbacks for area variances
- 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

Site Plan

- Drawn to scale, north arrow and scale and tax map boundary
- Special Flood Hazard Area, DEC and NWI Wetlands, and Waters
- Required and proposed lot size, dimensions, and setbacks
- Area of Disturbance, Tree Removal, Grading, Drainage, Stormwater Management
- 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
- Planned demolition
- Landscaping
- exterior lighting
- fencing and screening
- architectural features
- Easements
- Retaining Walls
- Known future phases

Broome County Guide To The Section 139 Review Process				
Required Submittals	Site Plan Review, Special Use Permit, Use or Area Variance	Zoning Text Adoption or Amendment	Rezoning	Comprehensive Plan Adoption or Amendment
239 Review Submission Form	✓	✓	✓	✓
Project Application with Description	✓	✓	✓	✓
SEQR Documentation	✓	✓	✓	✓
Site Plan showing the following:	✓			
Existing Conditions	✓			
Grading and Clearing	✓			
Lighting	✓			
Landscaping	✓			
Utilities	✓			
Vehicle, Pedestrian and Bicycle Circulation	✓			
Signage	✓			
Wetlands and Floodplain	✓			
Drainage Plan, Erosion and Sediment Control, or Stormwater Pollution Prevention Plan (SWPPP)	✓			
Building Elevations and Renderings	✓			
Traffic Generation	✓			
Traffic Impact Study	✓			
Existing Zoning	✓		✓	
Proposed Zoning			✓	✓
Proposed Zoning Text		✓		

For large scale projects, we understandably need more information. This includes building elevations, lighting plan, grading and clearing plan, drainage plan, erosion and sediment control plan, circulation plan, utilities, landscaping, and signage, and a traffic impact study. If they are available, local staff reports, minutes of meetings, correspondence, and photographs are also helpful to our review.

5/16/24 4

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**, address the submittal to:
Lora Zier, Senior Planner
Edwin L. Crawford County Planning Office Building, 5th Floor
P.O. Box 1766
Binghamton, New York 13902
- When **emailing**, email to: lora.zier@broomecountyny.gov

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

Reviewing Agencies in Broome County

- Broome County Planning Department
- Binghamton Metropolitan Transportation Study – BMTS
- New York State Department of Transportation – NYSDOT
- Broome County Department of Public Works – Engineering Division
- Broome County Health Department
- Broome County Transit
- Broome County Office of Emergency Services
- Broome County Aviation

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

New York State Department of Transportation (NYSDOT)



- **NYSDOT Region 9 Site Plan Committee**
- **NYSDOT Highway Work Permit requirements and review process**
- **Projects located off State highway system with traffic or other impacts**

NYSDOT Region 9 Site Plan Committee



- NYSDOT Region 9 has organized an **advisory committee to conduct preliminary reviews of 239 referrals** and provide **information on anticipated NYSDOT requirements for these proposals**.
- The committee consists of **representatives from all functional groups within the Regional Office**, and is currently **chaired by the Regional Traffic Engineer**, who will issue **agency responses back to the County Planning Agency**.
- These **responses will notify the municipalities of requirements** that will apply for each proposal, such as **NYSDOT approval of Highway Work Permits, Traffic Impact Studies, and Drainage Studies**, and any additional provisions that may apply.
- Site Plan Committee review as part of the 239 process is **conducted prior to permit applications or other more detailed reviews**.
- **Regional contact for the Site Plan Committee:**

Sean Murphy, Regional Site Plan Review Coordinator

New York State Department of Transportation, Region 9

(607) 772-7335 | Sean.Murphy@dot.ny.gov | www.dot.ny.gov

NYSDOT Highway Work Permit Requirements and Review Process



- **Most projects located along the State highway system** will require the applicant to obtain a **Highway Work Permit for driveway and pedestrian facility construction**, and for any other work within the State right-of-way.
- These permits must be **issued prior to the commencement of any work** by the applicants within the State right-of-way.
- Highway Work Permit review is **also required if a development proposal will result in an increased intensity of use at a site**, even if the applicant is not proposing any access modifications.
- Review of Highway Work Permit applications generally follows Site Plan Committee review and municipal site plan approval, and **issuance of these permits is contingent on the applicant's fulfillment of the requirements identified by the Committee in the 239 review.**
- Visit: www.dot.ny.gov/permits for more information on this process or Call: **607-721-8082.**

NYSDOT

Projects Located off State Highway System with Traffic or Other Impacts



- Some projects submitted to NYSDOT may not require a Highway Work Permit, but will be reviewed due to their **proximity to the State right-of-way or anticipated impacts to the State transportation system.**
- In these cases, **NYSDOT requirements may apply**, as identified by the Site Plan Committee.
- These requirements may include **drainage analyses and traffic impact studies.**
- As sites that are located near to but not abutting the State right-of-way generally do not require applicants to obtain permits from NYSDOT, it is **imperative that the municipalities ensure that all NYSDOT requirements from the 239 review are satisfied prior to local approval to avoid adverse impacts to the transportation system or its facilities.**

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

- Evaluate the **potential impact of the proposed action on County-owned infrastructure**
- Materials needed for review:
 - Application
 - Full site plan (existing and proposed conditions)
 - SWPPP, traffic report, and any other relevant information, if applicable
- What DPW-Engineering looks for:
 - Impacts to County owned roadways and facilities
 - Potential traffic impacts and/or design deficiencies
- County Driveway and Work Permits
 - Required when working within County Right-of-Way and Acquired through Broome County Highways Department
- Contact:
 - **Roger V. Brown, P.E., Deputy Commissioner of Public Works, Broome County Department of Public Works – Engineering Division:** Telephone: 607-778-1108 Roger.Brown@broomecountyny.gov
 - **Eduard V. Lavrinovich, Engineer 1, Broome County Department of Public Works – Engineering Division:** Telephone: 607-778-2465 Eduard.Lavrinovich@broomecountyny.gov



Broome County Health Department (BCHD)



- Issues permits for hotels/motels, campgrounds, children's camps, restaurants, mobile home parks, and public swimming pools.
- Approves plans for new septic systems and subdivisions.
- Keeps records for existing septic systems.
- Maintains database of spills and underground tanks.
- Contact:

Matthew Laine, Public Health Sanitarian
Broome County Health Department
Phone: 607-778-2814
Email: matthew.laine@broomecountyny.gov
Web: www.gobroomecounty.com/eh

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



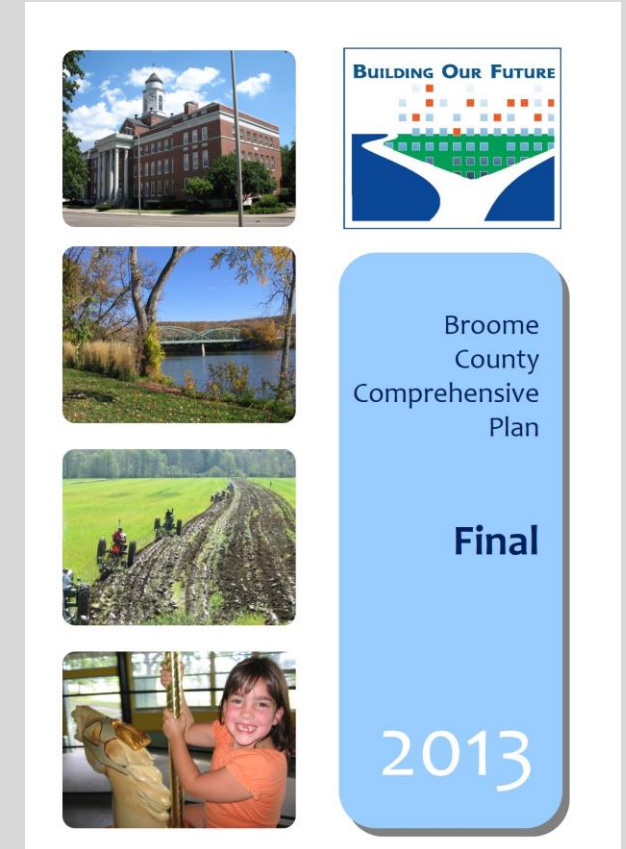
Community Facilities

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



Official Municipal, County, and State Development Policies

- SEQRA
- Broome County Comprehensive Plan
 - Action Items:
 - Inviting Place to Live, Work and Play
 - Taking Pride in Our Urban and Village Centers and Scenic Beauty
 - Maintaining High Standards in Infrastructure and Building Design
 - Becoming More Resilient – floodplain, stormwater management
 - Making Comments through 239 process
- Municipal Comprehensive Plans
- Zoning Ordinances and Local Laws
- Municipal Design Guidelines
- Municipal Parking Studies
- State Laws and Policies
- County-wide and Region-wide Plans



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**
 - No significant county-wide or inter-municipal impacts with conditions

Broome County Planning Comments Examples

No significant county-wide or inter-municipal impacts with advisory comments or recommendations

- **Site Plan Review and Special Use Permit:** Restaurant porch expansion for dining, parking lot revisions, gazebo and fencing to protect BBQ pit located along DPW roadway
- **Broome County Planning** did not identify any significant countywide or inter-community impacts.
- **DPW** commented that nothing may be placed within the County Right-of-Way and line of sight at the corner for vehicles turning right should be maintained.

Broome County Planning Comments Examples

No significant county-wide or inter-municipal impacts with advisory comments or recommendations

Area Variance: Pole barn exceeding allowed size from 1500 SF to 6960 SF and exceeding allowed height from 16 FT to 30 FT

- The **variances seem substantial**, and the Town ZBA should **consider the precedent** granting this variance would set. **Clear documentation of the particularly unique site and project circumstances** justifying such a variance is recommended to avoid unintended consequences elsewhere, particularly in the **Residential District where the general character** is smaller in scale, allowed maximum density per acre is greater and required minimum lot size and setbacks are less.
- The Town ZBA should also consider the **recent Town Board efforts and adoption** of Local Law to amend and set the allowable square footage for detached garage at 1,500 SF (not to exceed 1,500 SF).
- The **site plan** should show compliance with BCHD comments, zoning notes, drainage, and appropriate emergency vehicle access.
- The **site plan and SEQR SEAF** should include/address the **area of disturbance and NWI wetlands** that occupy the project tax map (see BCGIS).
- The Town ZBA should consider the need for **before and after renderings of the project site** to demonstrate that the existing trees would block the-majority-of the structure from town road as indicated in the project submittal and to assess potential impacts to the visual character of the area and the need for additional tree screening and/or tree maintenance to the extent necessary.

The Town ZBA requested the applicant downsize the pole barn and the Town resubmitted the project for 239 review for 5000 SF pole barn.

Broome County Planning Comments Examples

Significant county-wide or inter-municipal impacts and recommendation of Denial and reasons for recommendation of Denial

(land use compatibility, traffic, impacts on county or state uses, drainage, community facilities, and official county development policies)

Site Plan Review: Drive-Thru Only Coffee Shop along Greenway and Town road and service road to NYSDOT highway

- Uncertainties about significant impacts to traffic and pedestrian access and inconsistencies with significant improvements and investments to enhance multi-modal transportation needs in the project area.
- BMTS pointed to land use inconsistencies, impacts to vehicular, pedestrian, and bicycle traffic and to the regional trail system and inconsistencies with regional development policies and projects to make the transportation system more walkable and bikeable, and more safe and more efficient for all users.
- This completely automobile-oriented development as proposed would not allow for personal interactions, would not be walkable or bikeable; and would not be the most safe and efficient for the users of the new Greenway or for the surrounding residents.
- It would not accommodate pedestrian and bicycle traffic from the Greenway or from the surrounding residential and commercial uses and from the conservation area.
- It would not support the objectives, efforts, and investments Greenway (NYSDOT) project or with the intent of the more recent infrastructure investments, including the Greenway and sidewalks further west, to facilitate different modes of transportation.
- BMTS recommends a TIS to ascertain the traffic impacts of this first drive-thru likely only coffee shop in the area and notes that many existing drive-through coffee shops in our area have known operational traffic impacts and that traffic may increase, delays could increase, and there may be potential safety impacts to trail users.
- The NYSDOT comments also point to traffic/safety uncertainties and inconsistencies with the regional plans and requests a trip generation summary for NYSDOT and BMTS to evaluate and **requests revisions to the site plan** to account for the **new Greenway facilities** upon completion and the **drainage swale along the service road, a sidewalk along the local street** because the project will likely increase foot traffic, and inclusion of **Complete Streets principle** in the site design.
- The SEQR traffic response should include the BMTS and NYSDOT comments.

The applicant revised the site plan and the Town sent the revised site plan, trip generation, stormwater report, photometric plan, and applicant response letter – see revised site plan, will apply for Highway Work Permit before construction, revised driveway along service road in accordance with NYSDOT, Town road has been revised to Town standards, drainage study completed, and trip generation submitted, sidewalk added along Service Road and along Town road, existing drainage swale will be piped for proper grading along Service Road, Complete Street principles added to site design, and no signage planned to be placed within State Right-of-Way. **Town Engineer wrote Town PB will make acceptance contingent on HWY Work Permit and drainage study.**

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**”.

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.

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.

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.
- 2-Day Rule and Super-Majority Vote applies.

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

Tools and Guidance

- **Broome County Planning Department 239 Reviews webpage:**

- GMU §239-l, -m, -n, -nn
- Broome County Guide to 239 Review Process in Broome County
- 239 Review Submission Form – Fillable Form
- Go to: <https://www.gobroomecounty.com/landuse239reviews>

- **Broome County GIS Parcel Mapper**

- **New York State Department of State**

- **Presentation slides: <https://gobroomecounty.com/municipaltrainingfallseries>**

Broome County Guide To The Section 239 Review Process				
Required Submittals	Site Plan Review, Special Use Permit, Use or Area Variance	Zoning Text Adoption or Amendment	Rezoning	Comprehensive Plan Adoption or Amendment
239 Review Submission Form	✓	✓	✓	✓
Project Application with Description	✓	✓	✓	✓
SCQR Documentation	✓	✓	✓	✓
Site Plan showing the following:	✓			
Existing Conditions	✓			
Grading and Clearing	✓			
Lighting	✓			
Landscaping	✓			
Utilities	✓			
Vehicle, Pedestrian and Bicycle Circulation	✓			
Signage	✓			
Wetlands and Floodplain	✓			
Drainage Plan, Erosion and Sediment Control, or Stormwater Pollution Prevention Plan (SWPPP)	✓			
Building Elevations and Renderings	✓			
Traffic Generation	✓			
Traffic Impact Study	✓			
Existing Zoning	✓		✓	
Proposed Zoning		✓	✓	
Proposed Zoning Text		✓		

For large scale projects, we understandably need more information. This includes building elevations, lighting plan, grading and clearing plan, drainage plan, erosion and sediment control plan, circulation plan, utilities, landscaping, and signage, and a traffic impact study. If they are available, local staff reports, minutes of meetings, correspondence, and photographs are also helpful to our review.

10/18/18 4

Questions?

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



Beth Lucas, Director 607-778-2375 Beth.Lucas@BroomeCountyny.gov

Lora Zier, Senior Planner 607-778-2370 Lora.Zier@BroomeCountyny.gov