

BME IN-SITES

CLIENT NEWS FROM BME ASSOCIATES, P.C.

A Letter from the President

BME Associates, P.C.

- Site Engineering
- Land Planning
- Landscape Architecture
- Surveying Services
- Construction Services
- Wetland Services
- Economic Development
- Community Development Services
- Approvals and Permitting
- Infrastructure Engineering
- Feasibility Studies
- SEQRA Compliance

For over thirteen years, Boncke Mueller Eldred Associates, P.C., has built more than a reputation, and more than just another consulting engineering organization. We have grown into an organization of 27 highly skilled professionals with a wide array of specialties and interests. Founded on a belief that the highest quality customer service *must be* coupled with innovative and precise engineering and design, we have had the opportunity to be team members in some of the most exciting development projects that the Rochester region has to offer.

Looking into our own future, we have undertaken several initiatives to best position ourselves to be a vital and value-added member of your team. These efforts have included “right-sizing” our staffing levels, instituting a rigorous internal Quality Assurance/Quality Control program, and paying particular attention to our communication with you as our customer.

Our investment and participation in the latest training and technology, as well as evolving “best practices” and new wrinkles in the legal and administrative


landscape continues to provide the best of guidance and direction for our clients and associates. Even our image is in the process of a facelift – hence the transition to ***BME Associates, P.C.***, as a formal name. It’s streamlined, efficient and all business – ours and yours.

In this rapidly evolving economy, we want you to be confident that we are ready to undertake the challenges, new and old, of land development in our community. As real estate returns to being a traditional haven for investors, and as regulatory environments become even more complex, we look forward to standing beside you as you grow your future.

We would love an opportunity to chat with you about the exciting changes that we are undertaking. Please feel free to give Doug Eldred, Peter Vars, Bob Cantwell, Aaron Gagné or me a call at 716-377-7360 to do just that.

BME Associates, P.C.

Bruce G. Boncke, P.E.
President



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Federal Wetlands Update

*By Douglas B. Eldred, PE
BME Associates, P.C.*

Federal wetland issues continue to be about as clear as mud. There have been several developments over the last few years. Unfortunately the developments have tended to make things less clear. But, in some cases the rulings are more consistent with the underlying laws. Ok - what has happened?

New nationwide permits became effective on June 5, 2000. They are now “activity specific” permits. The biggest change was to lower the mitigation threshold from 1/3 ac. to 1/10 ac. Wetland mitigation is now required for fills over 1/10 ac. Previously, mitigation was required for fills over 1/3 ac. Also, the threshold for stream fills was reduced from 500’ to 200’, and, there are now regional permit requirements imposed by NYSDEC.

On January 23, 1997, the D.C. District Court overturned the so-called “Tulloch Rule” in *American Mining Congress v. US Army Corps of Engineers*. That ruling clarified that the legislative intent was to regulate fills into waters of the US, not excavation. In other words, the excavation of wetlands and streams is not regulated under certain conditions.

Most recently on January 9, 2001, the US Court of Appeals for the Seventh Circuit ruled in *Solid Waste Agency of Northern Cook County v. US Army Corps of Engineers* that isolated wetlands are not under regulatory jurisdiction. The ruling found that wetlands and streams that are not hydraulically linked to downstream navigable waterways are not regulated. And, that there must be a “significant nexus” between the filling proposed and the downstream navigable waters.

Confused? These rulings are not new. Understandably, it has taken time for the Corps to interpret these rulings and offer guidance. There are many exceptions to the rules starting from first determining

jurisdiction. For example, it is not clear which drainage channels are and are not under their jurisdiction. The Corps recommends having pre-application meetings. With regard to determining if a wetland is isolated or not, they recommend that you present your case in writing and get an official response. Unfortunately, the interpretations and rulings take quite a bit of time.

Is there a “significant nexus”? Is there Corps jurisdiction? Can I combine wetland mitigation with storm water management? Our strategy is to know the answers before asking the questions. We have been working hard to know the answers – why not let BME Associates, P.C. manage them for you.



Grow by Choice – Pre-Permitting Development Sites

Aaron B. Gagné, M.C.R.P.
BME Associates, P.C.

Introduction

With the changing economy in New York and nationwide, communities are being further pressured to do everything within their power to be more inviting to new employers and new private investment. One of the issues that has historically been identified as an impediment to development in New York is the level of regulation and the time that is required to complete permit processes.

In an effort to address this specific issue, independent communities, counties and New York State have all made strides toward reducing the amount of “red tape” and compressing the permitting time frames. They have made progress through such programs as Empire State Development’s Build Now – NY program and local, smaller scale efforts all aimed at creating turn-key building sites. The fact of the matter is, however, that every community should independently pursue a program of pre-permitting sites for new development.

Pre-permitting can take on many forms, depending on the nature of the planned development and the sensitivities of the host community. The ultimate goal is to make a site or sites more attractive to private investment by compressing the timeframe

required to secure permits, and removing as many unknowns from the site selection process as possible.

Formulating a Plan

What’s your plan? What’s your vision? Who are you trying to attract to your community? Is it a back-office call center or a traditional manufacturer? What



Omnitech Business Park

are the core assets of your community to support a particular industry type? The process of finding and pre-permitting a site must start with an assessment of your community characteristics, assets and labor force. Users at vastly different ends of the employer spectrum may not be able to be pre-permitted for the same locations. Understanding the characteristics of different potential users allows you to seek out appropriate sites to research, permit, engineer and market.

Part of developing a plan of action for pre-permitting is taking stock of your existing business and industry base and understanding what trends, patterns and clusters of industry types might already exist. A growing body of research exists surrounding the idea of “industry clusters”, or groups of allied industries geographically grouped together. In certain instances the clusters are horizontal, or more competitive in nature. In others, the clusters are more vertical, as in a supplier-consumer type of relationship. In yet another scenario, clusters of industries exist that have no apparent relationship to each other, save for geographic location.

Perhaps they have grown in place as local start-ups, or because of a reliable labor pool. Whatever the reason, and whatever the type of cluster, it may point you in a tailor-made direction as to the kinds of businesses you are trying to market to and pre-permit for.

Defining Developable Sites

The first place to look when trying to define sites or areas to pre-permit for new investment is your own zoning map and code. Hopefully, the code is a reasonably current document

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that reflects the wants and needs of the community as defined in a community Master Plan. These documents should be your strongest tools in establishing the appropriateness of both your sites and the intended uses.

Once general locations and appropriate zones have been identified to accommodate the pre-permitted sites, existing codes need to be carefully examined for compatibility with your intended uses and for consistency with area and bulk standards established by the underlying zoning districts. Is there a restriction that might limit the height of buildings, precluding certain types of users? Is the site configured to be able to satisfy open space, setback and buffering requirements? If the answer to any of these types of questions is restrictive, then either the site location needs to be re-evaluated or the zoning ordinance amended. Corporate real estate decision-makers tend to shy away from relying on variances, and you should too.

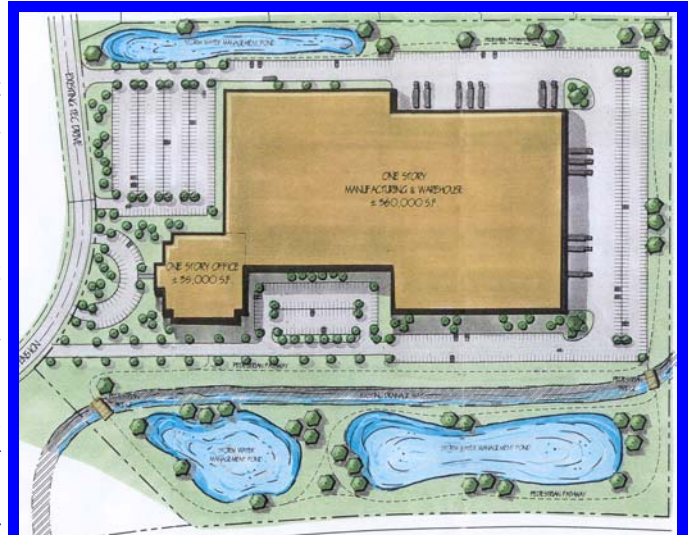
Once you have established that your intended uses are compatible with your site, take a careful look at the surrounding infrastructure quality and capacity. It certainly is not uncommon for the marketing of sites for development to be preceded by significant

investment in infrastructure. What you may not want, or be able to afford, is to be able to start from scratch. Are the traditional components of infrastructure, water, sewer, gas, electricity and roads, in place? How about the new “must have” infrastructure requirement – high capacity telecommunications? Are there any specific system deficiencies that have been identified? How much investment will it take to bring the systems up to par? How long will it take? All good questions, and all questions that have to be answered before your sites go to market.

Last but certainly not least to consider in your site decisions is control of the subject property. Is the land privately held? If so, you might have a great opportunity for a public-private partnership. Options, outright acquisition and cooperative partnerships for the development and marketing of the site may all be able to be pursued with a willing private landowner or other public entity.

SEQR and Permits – Laying the Groundwork

Perhaps the single longest phase of a permit process in New York is the completion of statutory State Environmental Quality Review, or “SEQR”, requirements. The detailed review of a project, even if limited to a Long Environmental Assessment Form, will take a detailed snapshot of your site and the intended uses of the property. Soils, land use, utility, traffic and historic information represent just a few of the categories that should be addressed as part of the detailed and comprehensive review of a proposed project. Generating and researching the data all takes time, and it is exactly that timetable that you can compress.



Concept Design for Pre-permitting

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Having already identified a site and the types of intended users, the collection of SEQR data can, at a minimum, commence to build a file with which to complete the detailed SEQR process later. A community need not wait for an application for site plan approval to collect data pertaining to plants and animals on the site. Areas known to have particular sensitivity for archaeological resources can be addressed by completing investigations early on, alleviating yet another unknown for a potential user.

If the characteristics of potential users, such as traffic generation or wastewater discharge, can be accurately defined, communities may even want to take the next step of completing a more formal SEQR process, including a draft Environmental Impact Statement. Even without a specific user, thresholds can be established and a detailed review can be completed based on the potentially significant impacts of those thresholds. After the completion of the review, a user that applies and designs their project in such a manner

as to fall at or below those thresholds should not have to re-visit the already complete review process.

This same process can be undertaken with local site plan processes. By defining building pads and “envelopes”, and reviewing theoretical projects at established thresholds to further compress the development timetable.

Market cycles, decision-makers with short tenures and fluctuating capital markets all compel companies to make a location choice and have a new facility fully operational in little more time than that required to physically construct a building. Adding months to that process is often simply not an option.

By identifying those components of the development timetable that are within their control, such as zoning, environmental reviews and local permits, New York communities can level the playing field with other states. Doing so allows decisions to be made on the assets of a community, such as labor force and infrastructure, not on red tape. Grow by choice – not by chance. Make a plan and do your homework. Market your community to business and industry. Most of all, you won't have to build regulatory processes that private investment cannot afford into your timetable.



Imagine the reaction of a prospect when told that if their building can fit within a defined envelope and not break certain thresholds, they are already approved!

Conclusion

Location decisions are complex by nature, and invariably sensitive to the time it takes from point of decision to “plant output”.

BME Employee News

BME announces the addition of Bryne Riley and David LaChimia to its growing staff.

Bryne Riley has joined BME as an Assistant Landscape Architect. Bryne has a Bachelors Degree in Landscape Architecture from the State University of New York College of Environmental Science and



Bryne Riley

Forestry in Syracuse, New York. Bryne is skilled in AutoCAD 2000, Adobe Photoshop, 3D Modeling, and FreeHand 8. These skills will be a strong asset to BME's Landscape Architecture Department.

David LaChimia has joined BME's Wetland Department as an Environmental Scientist. David has an Associates Degree in Fish and Wildlife Technology from SUNY Cobleskill and a Bachelors Degree in Environmental Science from SUNY Empire State College. David brings 20 years of valuable environmental science experience to BME, specifically working with wetlands for the past 11 years.



David LaChimia



www.bmeperc.com
Have you visited the BME Associates, P.C. web site lately? Next time you're logged in, stop by to see the variety of resources and tools that we have available, especially past articles that may be of interest.

WE'RE ON THE WEB
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