

Meeting Date: April 22, 1998

**PLANNING BOARD**  
TOWN OF SOMERS, WESTCHESTER COUNTY, NEW YORK

Resolution No. 98-11

*Granting of Conditional Preliminary Subdivision Plat Approval*  
for

**GRANITE POINTE**

Town Tax Number: Sheet 27.05, Block 3, Lots 2 and 5  
Town file #695A

**WHEREAS**, the Planning Board granted preliminary subdivision approval for a 26-lot cluster subdivision, with a proposed central water system, individual sewage disposal systems and a common recreation area, to Granite Pointe on June 13, 1990, and signed the approving resolution on June 20, 1990; and

**WHEREAS**, on July 20, 1990, the City of New York commenced a proceeding pursuant to Article 78 of the *Civil Practice Law and Rules* against the Planning Board to "*declare null and void*" the preliminary approval and Findings Statement of June 13, 1990, as well as the Final Environmental Impact Statement (FEIS), as filed on April 6, 1990, on the grounds of "*legal claims asserted by the City as to its status as an 'involved agency', and the Planning Board's duties as 'lead agency' with respect to the Project...*", and "*legal claims regarding the information in the final environmental impact statement concerning the impact of proposed septic systems of the Project upon the Amawalk Reservoir...*"; and

**WHEREAS**, on March 18, 1991, the Supreme Court of the State of New York, County of Westchester, ordered that the New York City Department of Environmental Protection (NYCDEP) be an Involved Agency under the State Environmental Quality Review Act (SEQRA), the FEIS be withdrawn, and the approving resolution and Findings Statement also be "*revoked and declared null and void*". And further, the Court ordered that the Planning Board notify the Town Board of the above revocations, and require that the Applicant submit an "*environmental impact statement which includes, inter alia, the specific information requested in the letter dated March 16, 1990 from... DEP*"; and

**WHEREAS**, the Planning Board was further ordered, upon receipt of the "Resubmitted DEIS", to "*follow the procedures set forth in SEQRA regarding review, notice, comment period, and filing of a draft environmental impact statement, and any other requirements of SEQRA including, without limitation, those relating to a final environmental impact statement (FEIS) and Certificate of Finding*", and upon completion of the SEQRA obligations, to promptly notify the City in writing; and

**WHEREAS**, the Planning Board, at their meeting of March 20, 1991, recognized the NYCDEP as an Involved Agency under SEQRA, and resolved that the FEIS be withdrawn and the approving resolution and Findings Statement be "*revoked and declared null and void*", and reconfirmed the above action by resolution #96 -43 on October 23, 1996; and

**WHEREAS**, on March 20, 1991, the Planning Board also directed the Applicant to submit a Draft Environmental Impact Statement (DEIS), including "*specific information requested in the letter of the New York City Department of [Protection]'s letter, dated March 16, 1990*", which pertained to the placement of the septic systems in proximity to the reservoir, soils and percolation test information, the elimination of open space access to the reservoir and details of the proposed westerly detention basin, and also reconfirmed the above action by resolution #96-43 on October 23, 1996; and

**WHEREAS**, a revised application for Preliminary Approval of Subdivision was submitted by Suelain Realty, Inc. on February 17, 1995 (with subdivision fees paid on February 21), and said application also consisted of a Full Environmental Assessment Form (EAF) and the following plan materials as prepared by Bibbo Associates, Consulting Engineers & Planners:

1. "Preliminary Plat" (Dwg. 1 of 2), dated February 16, 1995.
2. "Road Profiles: Preliminary" (Dwg. 2 of 2), dated February 16, 1995; and

**WHEREAS**, the subject property, which consists of approximately 28.82 acres, is located on the east side of Route 118/202 (Tomahawk Street), adjacent to the Amawalk Reservoir, and is shown on the Town Tax Maps as Sheet 27.05, Block 3, Lots 2 and 5; and

**WHEREAS**, the subject property is classified as "Residence R40 District" as defined by Chapter 170, "Zoning", of the *Code of the Town of Somers*; and

**WHEREAS**, the revised application proposed to subdivide the subject lands into 25 lots for single detached dwellings with individual water and sewage disposal systems, served by a main crescent-shaped street with two (2) access points on Route 118/202 and a cul-de-sac accessing the northerly end of the main street; and

**WHEREAS**, the application was discussed at the Planning Board's Work Sessions and meetings of March 8, 1995, October 9 and 23, December 11, 1996, October 8, November 5 and 19, 1997, February 11, April 8 and 22, 1998; and

**WHEREAS**, public hearings on the preliminary plan and/or the DEIS were held on January 22, 1997, and continued to February 26, 1997, and January 28, 1998, at which time all those wishing to be heard were given the opportunity to be heard; and

**WHEREAS**, public hearing on the preliminary plan was closed on January 28, 1998, however, was continued to April 22, 1998, in error. Therefore, the Board, in recognition of this, opened and closed the Public Hearing at its meeting of April 22 so as to continue with its consideration of this approving resolution; and

**WHEREAS**, the plans were revised through April 13, 1998, with the current plans being considered for the preliminary approval decision as follows, as prepared by Bibbo Associates, Consulting Engineers & Planners:

1. "Preliminary Plat" (Dwg. 1 of 4), dated February 16, 1995, as revised to April 13, 1998.
2. "Road Profiles: Preliminary" (Dwg. 2 of 4), dated February 16, 1995, as revised to April 13, 1998.
3. "Erosion Control Plan" (Dwg. 3 of 4), dated February 16, 1995, as revised to April 13, 1998.
4. "Erosion Control Standards" (Dwg. 4 of 4), dated March 5, 1982, as revised to July 27, 1995.

**WHEREAS**, the review process resulted in the following revisions to the plans:

- the elimination of Lot 5 at the northeast end of the proposed cul-de-sac, such that the proposed subdivision currently contains 24 lots,
- the use of common driveways to reduce the number of curb cuts on Route 188/202, and
- the preservation of the historic roadbed and stone walls by the adjustment of lot lines and dwelling placement, as well as through restrictive covenants; and

**WHEREAS**, the consideration of wetlands protection was made by the Planning Board, and in accordance with the Town's "Wetland and Watercourse Protection" regulations, Chapter 167 of the Town Code, it was determined that the site contained a degraded wetland and wetland less than 10,000 ft.<sup>2</sup> in size, as well as a 100-ft. regulated wetland buffer area, and therefore, an application for Wetlands and Watercourse Protection was required, and said application and fees will be required to be submitted by the Applicant with the final plan application; and

**WHEREAS**, the consideration of flood damage protection was made by the Planning Board, and it was determined by reference to the Flood Insurance Rate Maps (FIRM) that a floodway or floodplain was not located on the site, and therefore, further consideration of the "Flood Damage Prevention" regulations, Chapter 102 of the Town Code, was not applicable; and

**WHEREAS**, the consideration of steep slopes protection was made by the Planning Board, and in accordance with the Town's "Steep Slopes Protection" regulations, Chapter 148 of the Town Code, it was determined that the site contained steep slopes, and therefore, an application for Steep Slope Protection was required, and said application and fees will be required to be submitted by the Applicant with the final plan application; and

**WHEREAS**, the Planning Board has considered, in accordance with *Town Law* §277(4), the relationship between the proposed subdivision and the potential recreational needs resulting therefrom, and has determined that there was a need for increased recreational opportunities as a result of this subdivision; and

**WHEREAS**, the Planning Board has further determined that a new town park cannot be suitably located on the subject lands, and therefore, will require that a per-lot fee be paid in lieu of such town park recreation lands; and

**WHEREAS**, the Planning Board has considered the arrangement of lots, in accordance with §150-23, "Lots", of the Town Code, and has determined that the lot lines as shown on the April 13, 1998, plans deviated from the requirements of this Section in some instances, however, were acceptable because they preserved and/or followed stone walls in accordance with §150-23.B.(3); and

**WHEREAS**, the Planning Board has considered the frontage requirement for Lot 4, in accordance with the "Zoning Schedule" requirements of the Town Code, and has determined that the lot can meet the 150-ft. frontage requirement as the plans are currently designed, and therefore, has recommended that the frontage be reduced as permitted by the Code to allow the lot to have a minimum frontage as shown on the current plans, with the minimum 150-ft. width requirement being met at the front yard setback line, and with an associated reduction in the length of the cul-de-sac, in order to further reduce environmental impacts; and

**WHEREAS**, the application, DEIS, FEIS, and/or associated plans, as revised throughout the review process, were circulated to the following agencies for their consideration and comments: the Westchester County Department of Health, the Westchester County Planning Board, the New York State Department of Environmental Conservation (NYSDEC), NYCDEP, the New York State Department of Transportation (NYSDOT), the Town Board, the Conservation Board, the Fire Prevention Bureau, the Somers Archaeological Resources

Advisory Committee (SARAC), and the Somers Highway Department, and their comments were considered by the Planning Board; and

**WHEREAS**, the NYCDEP indicated in their letter dated July 10, 1996, that a "*pro-active maintenance plan should be part of any final approvals issued by the Town*" to ensure that the best-management practices incorporated into the plan design continue to function in the long-term; and

**WHEREAS**, the NYSDOT indicated in their letter dated December 24, 1997, that a "*state Highway Work Permit will be required for any curb cuts and/or work within the Route 118/202 right-of-way*", and further, that the Planning Board will require this as a condition of preliminary approval; and

**WHEREAS**, SARAC indicated in their memo dated February 13, 1997, that they concurred with the conclusions of the report entitled, "Stage I Cultural Resource Investigations: Granite Pointe Subdivision", dated January 1996, as prepared by Jay R. Cohen, Inc., that "*no further archaeological work is recommended for this site*"; and

**WHEREAS**, the Applicant submitted a report on November 6, 1996, entitled, "Granite Springs Garage, Rex Oil of Connecticut, Inc., Well Contamination Report", as prepared by Aaron Environmental Specialists for the Planning Board's consideration, and further, that the Planning Board will require the Applicant submit a well monitoring program as part of the final plan application; and

**WHEREAS**, the Planning Board had originally declared its intent to be Lead Agency on February 26, 1988, and found the proposed preliminary subdivision to be an Unlisted Action under the New York State and Town of Somers Environmental Quality Review regulations; and

**WHEREAS**, the Planning Board had originally acted on May 11, 1988, to make a Positive Declaration under SEQRA and to require the preparation of an environmental impact statement (EIS), and further, acted to adopt a scoping document for the required EIS on June 8, 1988; and

**WHEREAS**, the Applicant submitted a "Resubmitted D.E.I.S." on November 6, 1996, which was accepted as complete by the Planning Board on December 11, 1996, as stated in the "Notice of Completion of Draft EIS and Notice of SEQR Hearing and Preliminary Subdivision Hearing" dated December 13, 1996; and

**WHEREAS**, the Applicant submitted a FEIS on June 20, 1997, which was accepted as complete by the Planning Board on November 19, 1997, as stated in the "Notice of Completion of Final EIS" dated November 26, 1997; and

**WHEREAS**, the Planning Board, acting as Lead Agency, adopted a Findings Statement on February 11, 1998, as signed on February 25, 1998, and determined that the Proposed Action would minimize or avoid adverse environmental effects to the maximum extent practicable, and therefore, a Negative Declaration is hereby issued; and

**WHEREAS**, the Planning Board, as ordered by the Supreme Court, followed "*the procedures set forth in SEQRA regarding review, notice, comment period, and filing of a draft environmental impact statement, and any other requirements of SEQRA including, without limitation, those relating to a final environmental impact statement ('FEIS') and Certificate of Finding*", and upon completion of the SEQRA obligations, promptly notified the City by letter dated March 2, 1998; and

**WHEREAS**, the February 25, 1998, Findings Statement is incorporated herein by reference as if fully set forth herein at length; and

**WHEREAS**, the Findings Statement imposed conditions to be followed by the Applicant, and further, the Planning Board determined that the proposal was consistent with the Findings Statement and will be carried out in conformance with the conditions as stated therein.

**NOW, THEREFORE, BE IT RESOLVED that the application for Preliminary Subdivision Plat Approval by Granite Pointe as shown and described by the materials enumerated herein, IS HEREBY CONDITIONALLY GRANTED in accordance with Town Law §276 and §150-12.M, "Planning Board Action", of the Code of the Town of Somers, SUBJECT TO the following modifications and conditions as set forth below:**

1. That the Applicant obtain all necessary permits from the following agencies:
  - a) NYCDEP, including a permit for a Stormwater Pollution Prevention Plan (SPPP). And further, that the Applicant contact the NYCDEP for a determination as to whether or not the wetland buffer area on Lot 14, which is proposed to be disturbed for the construction of a stormwater detention pond and biofilter, will be subject to their approval.
  - b) NYSDEC, including a State Pollutant Discharge Elimination System (SPDES) General Stormwater Discharge Permit.
  - c) United States Army Corps of Engineers, as applicable.

- d) NYSDOT, as applicable. As indicated on page 24 of the Findings Statement, the Applicant will be required to make all necessary improvements as directed by NYSDOT.

In the event that the above agencies' review requires a change to the plans after the Planning Board has granted conditional Preliminary Plan approval but not yet signed the final plans, said revised plans will need to be reviewed and approved by the Board prior to the signing of the final plans. The revised plans shall clearly indicate the areas as revised for the convenience of the Board's and Staff's review.

- 2. That the Applicant obtain approval from the NYCDEP and Westchester County Department of Health for the location of the septic systems, as indicated on page 8 of the Findings Statement.
- 3. That the preliminary subdivision plat as submitted be revised as follows:
  - a) The lots be renumbered now that Lot 5 has been eliminated.
  - b) The frontage for Lot 4 should be indicated on the plans.
  - c) The frontages for Lots 2 and 11 will need to be revised to ensure that they meet the 150-ft. requirement.
  - d) The dimensions of the side lot lines for Lot 4, and the dimension of the southerly lot line for Lot 12 need to be indicated.
  - e) The southerly side yard setbacks for Lots 4 and 11 will need to be revised to ensure that they meet the 30-ft. requirement.
  - f) The lot area and buildable area figures in the "Zoning Conformance Chart" (on Drawings 1 and 3 of 4) be corrected to reflect the acreage of Lot 3 as 40,440 ft.<sup>2</sup> as shown on the plans.
  - g) Provide a 90-ft. diameter cul-de-sac with a 110-ft. right-of-way.
  - h) The vertical curves shall be designed using a K-value of 28 and 35 for the crest and sag curves respectively.
  - i) Provide a landscaping plan for the stormwater detention basins.
  - j) Provide a landscaping plan for the common driveway on Lot 25, including the westerly area of Lot 19 (currently occupied by the restaurant).

- k) Note #6 be amended to read as follows: "Existing structures shall be removed prior to the issuance of any Building Permit for a lot shown on the final plat, the areas scarified,...".
  - l) A note be added to the plans indicating that a deed restriction will be placed on all lots to the effect that pesticides and fertilizers be selected and applied by homeowners in conformance with the latest version of the manual entitled, "1997 Pest Management Recommendations for Commercial Turfgrass", as published by Cornell University.
  - m) A note be added to the plans indicating that the existing septic systems will be removed and/or abandoned prior to the sale of, or construction on, the applicable lots which contain old septic systems.
4. The Applicant shall reimburse the Town for any outstanding review fees, consistent with §133, "Professional Fees", of the Town Code as well as State and Local Environmental Quality Review laws.

**Conditions Required for Submission of Final Plan Application**

1. That the application for Final Subdivision Plat approval include evidence of the review, and acceptance as necessary, of the plans by the NYCDEP, NYSDEC, United States Army Corps of Engineers, NYSDOT, and the Westchester County Department of Health as indicated in conditions #1 and #2 of the above section.
2. That the final subdivision plat be submitted containing all required elements of §150-13 and Article IV and V of the Town Code, and also including the following:
  - a) Street names in accordance with §150-21.G of the Town Code (require approval by the Town Board).
  - b) Monuments in accordance with §150-22.D.(1).

And further, that the final plat be submitted to the Planning and Engineering Office for review prior to submission to the Westchester County Department of Health for signature.

3. That the submitted final plat bear the endorsement of the Westchester County Department of Health.
4. That the final construction plans be prepared in accordance with the requirements of §150-31 of the Town Code and incorporate the following revisions, modifications and additions to the preliminary plans:

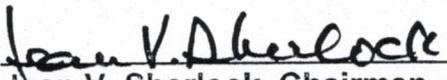
- a) The end sections shall be replaced with headwalls.
  - b) The drain pipes with a cover of less than two (2) ft. shall be provided with frost protection anchoring and detailed.
  - c) Provide the detail sheet in compliance with the Town regulations.
  - d) Provide the updated drainage report and local pipe design calculations.
  - e) Curbs shall be required in accordance with §150-22.A.
  - f) Street trees shall be provided in accordance with §150-22.D.(3), in areas where existing trees within the right-of-way cannot be preserved.
5. All proposed deed restrictions (i.e., lots which abut historic roadbed; access restriction to Route 118/202; tree clearing along Route 118/202; use of pesticides, fertilizers restriction), easement language (i.e., drainage, sight easements; common driveway), and proposed dedication papers will need to be submitted for review by the Town Attorney, as required by §150-13.B.(7) and (8). D.P.
  6. That the plans be designed in compliance with the manual entitled, "Westchester County Best Management Practices for Construction Related Activities", as indicated on page 6 of the Findings Statement.
  7. That the Applicant submit a well monitoring program to the satisfaction of the Town Engineer and Planning Board as part of the final subdivision application, as stated on page 10 of the Findings Statement.
  8. That the Applicant submit a wetlands planting plan, as stated on page 12 of the Findings Statement.
  9. That the Applicant submit the proposed wording and design of the commemorative plaques for the historic roadbed, for approval by the Planning Board and Town Historian.
  10. That the Applicant submit wetlands and steep slopes permit applications, and associated fees, along with the final subdivision application.

**BE IT FURTHER RESOLVED** that this conditional approval of the preliminary subdivision application shall expire on **October 22, 1998**, if no application for final subdivision approval is submitted, unless an extension of this time period is requested by the Applicant prior to October 22, 1998, and approved by the

Planning Board in accordance with §150-12.N of the *Code of the Town of Somers*.

This resolution shall have an effective date of April 22, 1998.

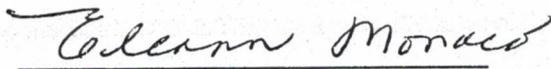
**BY ORDER OF THE PLANNING BOARD  
OF THE TOWN OF SOMERS**

  
Jean V. Sherlock, Chairman

Dated: 4/27/98

**CERTIFICATION**

I hereby certify that this is a true and correct copy of the resolution adopted by the Town of Somers Planning Board granting **Preliminary Subdivision Plat Approval** --subject to the modifications stated herein--to Granite Pointe at a regular meeting held on April 22, 1998.

  
Eleanor Monaco  
Executive Director & Secretary  
Planning Board

Dated: April 27, 1998

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