

MEETING DATE: July 24, 2002

PLANNING BOARD
TOWN OF SOMERS, WESTCHESTER COUNTY, NEW YORK

Resolution No. 2002-26
Granting of Conditional Final Subdivision Plat Approval,
and Wetlands and Steep Slopes Permits
For
GRANITE POINTE SUBDIVISION
Town Tax Number: 27.05, Block 3, Lots 2 and 5
Town file #695A

WHEREAS, the subject property, which consists of approximately 28.82 acres, is located on the east side of Route 118/ 202, 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 Planning Board granted preliminary subdivision approval for a 26-lot cluster subdivision, with a proposed central (community) 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Protection (NYCDEP) be an Involved Agency under the State Environmental Quality Review Act (SEQRA), the FEIS be withdrawn, and the approving resolution and Findings Statement "*revoked and declared null and void*".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 the 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], 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 detail of the proposed westerly detention basins, 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:

1. “Preliminary Plat” (Dwg. 1 of 2), dated February 16, 1995.
2. “Road Profiles: Preliminary” (Dwg. 2 of 2), dated February 16, 1995.

WHEREAS, the application was reviewed at the Planning Board’s Work Sessions of March 8, 1995, October 9 and 23, December 11, 1996, 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, the 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 preliminary approval based upon the following plans, as prepared by Bibbo Associates:

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, during the preliminary application review process, the following revisions were made to the plans:

- the elimination of Lot 5 at the northeast end of the proposed cul-de-sac, such that the proposed preliminary subdivision contained 24 lots,
- the use of common driveways to reduce the number of curb cuts on Route 118/202, and
- the preservation of the historic roadbed and stonewalls by the adjustment of lot lines and dwelling placement, as well as through restrictive covenants; and

WHEREAS, the application, environmental impact statements, 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 Town Board, the Conservation Board, the Fire Prevention Bureau, the Somers Archaeological Resources Advisory Committee (SARAC), the Somers Historical Society, 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 final 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 required that 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 DEIS" 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.

WHEREAS, the final subdivision application was submitted May 9, 2002, by the Applicant, and included the following plans:

1. "Construction and Integrated Plot Plan", prepared by Bibbo Associates, LLP dated February 16, 1995 and last revised October 1, 2001.
2. "Erosion Control Plan and Details", prepared by Bibbo Associates, LLP dated February 16, 1995 and last revised March 1, 2001.
3. "Miscellaneous Details", prepared by Bibbo Associates, LLP dated September 1, 1998 and last revised March 1, 2001.
4. "Stormwater Facilities", prepared by Bibbo Associates, LLP dated May 5, 2000 and last revised March 1, 2001.
5. "Stormwater Pollution Prevention Plan", prepared by Bibbo Associates, LLP dated June 28, 2001.
6. Wetlands Application form (undated) received November 5, 2001.

WHEREAS, the final subdivision application proposes 23 lots with individual wells and septic systems. Twenty-one (21) new lots will be located on a new roadway off Tomahawk Street (Route 118) and two (2) lots will have access from a common driveway on Route 118; 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 contains a degraded wetland and wetlands less than 10,000 sq. ft. in size, as well as a 100-ft. regulated wetlands buffer area, and therefore, an application for Wetlands and Watercourse Protection was required, and said application was submitted as part of the final subdivision application on May 9, 2002; 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 48 of the Town Code, it was determined that the site contains steep slopes, and therefore, the Steep Slope Protection fees will be required to be submitted by the Applicant as a condition of this final approval; and

WHEREAS, the Planning Board has considered, in accordance with Town Law §277(4) and §150-24.A of the Town Code, the relationship between the proposed subdivision and the potential recreational needs resulting therefrom; and

WHEREAS, the Planning Board finds that a proper case exists for requiring that a park or parks be suitably located for playgrounds and other recreational facilities within the Town, upon an evaluation of the present and anticipated future needs for park and recreational facilities in the Town based upon the projected population growth to which this particular subdivision will contribute, and that the proposed subdivision plat presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be suitably located on such subdivision plat, after assessing the size and suitability of lands shown on the subdivision plat which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood and the prospective character of the development, therefore, in lieu thereof, a recreation fee shall be paid in the amount determined by the Town Board; 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 preliminary plat revised to March 17, 1999, 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 requirements for all of the proposed lots in accordance with the "Zoning Schedule" requirements of the Town Code, and has determined that these lots must provide 150 ft. along the front yard setback line; and

WHEREAS, the final application was discussed at the Planning Board's meetings on June 12 and July 24, 2002; and

WHEREAS, the Planning Board referred the issue of maintenance of the stormwater management features, including detention basins and grass swales around the entire perimeter of the property, to the Highway Superintendent for review and comment; and

WHEREAS, the Highway Superintendent recommended that the proposed grass swales be the maintenance responsibility of the individual homeowners, and therefore, it will be a condition of this resolution that the construction plans and plat be revised accordingly; and

WHEREAS, the above-noted plans submitted with the final application are the subject of this approval decision, and will be revised in accordance with this resolution.

NOW, THEREFORE, BE IT RESOLVED that the application for Final Subdivision Approval, Wetlands and Steep Slopes Permits for GRANITE POINTE

SUBDIVISION as shown and described by the materials enumerated herein, IS
HEREBY GRANTED in accordance with §276 and §278 of Town Law and §150-
13.J, "Planning Board Action", of the Town Code, subject to the following
conditions as set forth below, and that the Chairman of the Planning Board is
hereby authorized to endorse such approval upon the plat after said conditions have
been complied with by the Applicant:

MTG
5/16/03
need copy

Conditions Required Prior to Signing of Plat

1. The Applicant must submit a copy of the plat that has been endorsed by the Westchester County Health Department for review and approval.

✓ 2. A copy of the NYSDOT State Highway Work Permit for curb cuts and/or work within the Route 118/ 202 right-of-way shall be submitted.

? 3. That the application plans be revised as follows:

a) The Town of Somers pavement detail shall be provided.

b) Wing walls shall be provided on the headwalls.

c) The catch basin detail shall be provided with a note requiring that the final frame elevation shall be achieved with a poured in place concrete spacer between the underside of the frame and the top of the precast unit.

d) The boulder retaining wall is not acceptable for use in the future town ROW or easement areas and shall be removed from the detail sheet.

e) A blow up detail drawing shall be provided showing the installation of catch basins #3 & #4 and the connections through the oil separators. Show the property lines.

f) A copy of the deed restrictive covenant shall be provided for the historic roadbed.

g) A copy of the drawing #3, the road profiles and details shall be provided for review.

h) The construction sequence notes must be revised to allow the tree cutting but no grubbing until after the sediment basins have been established.

i) A minimum cover of two feet on the pipe shall be provided between catch basin #1 & #2 or relocate the basins.

j) Page one, third paragraph of the SPPP states that the Town Engineer makes daily inspections of the site. The document shall be corrected to

state the following: "...periodic inspection by the Town Engineer or his representative".

- k) As part of Note 6 on Sheet 1 of 3 of the plans, the following language shall be added to identify the restriction and enforcement for the drainage easements along the rear property lines,

"No clearing or establishment of vegetation or trees, establishment of lawns, or regrading is permitted within the drainage easements. Prior to any activity in these areas, the homeowner must consult with the Town of Somers Planning & Engineering Department to determine if the proposed activity will be permitted."

- l) The construction plan/ IPP shall be revised to state the full name of the proposed roadway.
- m) The proposed lot numbers as part of the preliminary subdivision approval, were sequential from Lot 1 to Lot 24. The final subdivision plat shows that these lots have been renumbered since preliminary approval to Lot 7 to Lot 29. The lots shall be renumbered Lot 1 through Lot 23 on the construction plan and IPP as approved by the Town Assessor.
- n) The frontages for Lots 10, 15, and 16 must be revised to meet the 150-ft. requirement.

- TO DO
4. The construction plans/ IPP and plat, and the Stormwater Pollution Prevention Plan (SPPP) are to be revised to state that the maintenance of the grass swales to the north and south of the property will be the responsibility of the individual homeowner.
- ✓ 5. The Town Assessor must approve the lot numbers, with a copy of the approving letter submitted to the Planning Board.
- ✓ 6. The Applicant shall submit evidence that the applicant, after consultation with the Town Historian, has written to the Town Board and requested approval of the name of the street (proposed as Granite Pointe Drive).
7. The Applicant is to submit the proposed wording and design of the three cast metal commemorative plaques for the historic roadbed, for approval by the Planning Board and Town Historian.
- ? not done 8. The Steep Slope Protection application fee shall be submitted.
9. A note shall be added to the construction details that no more than 5 acres of area are to be disturbed and left exposed at one time.

need
revised
please

? not done

check
plan

10. A note shall be added to the plans and IPP that existing stonewalls and trees are to be preserved to the maximum extent practicable.

*white pine
clear*
11. A landscaping plan is required for the common driveway on Lot 25 and Lot 23 in accordance with the preliminary approving resolution, and must be submitted for review and approval by Planning Board and Staff.

*check
plan
changes
get letter*
12. Pursuant to the Resolution of Preliminary Subdivision Approval, a letter from the Army Corps of Engineers (USACE) shall be submitted with a determination whether any permits/ approvals are required from that agency, including a determination of any future requirements during basin maintenance activities for Stormwater Detention Basin "B".

need
13. The SPPP shall be revised to state that the Applicant is to monitor the wetland planting replacement program to include replacing any dead or diseased plantings for the stormwater detention and polishing basins for a period of 5 years after construction, commencing after the Town's acceptance of all road and stormwater management system improvements.

*Submitted
to TA.*
14. All proposed easement documents shall be reviewed and approved by the Town Board and Town Attorney prior to the signing of the plat.

*OK
Rev.*
15. Detailed quantity cost estimates for all public improvements proposed in the subdivision are to be submitted, with the quantities certified to by the applicant's engineer.

*GLG
Do letter*
16. A performance bond/ security shall be posted to cover the cost of public improvements for the site. Said amount shall be in an amount recommended by the Town Engineer and shall be in a form, sufficiency and manner of execution satisfactory to the Town Attorney and approved by the Town Board.

*GLG
Do letter*
17. An erosion and sedimentation control bond/security shall be posted to cover the cost of soil erosion and sedimentation control measures on the site during the course of construction. Said security shall be in an amount recommended by the Town Engineer and shall be in a form, sufficiency and manner of execution satisfactory to the Town Attorney and approved by the Town Board.

*GLG
Do letter*
18. An engineering inspection fee for the subdivision shall be paid by certified check to the Town of Somers in accordance with the Fee Schedule adopted by the Town Board; the amount of such fee shall be set after submission by the Applicant of estimated costs for required improvements, as identified by the Town Engineer, and upon recommendation of the Town Engineer.

*not
yet*
19. The Applicant shall pay recreation fees for all 23 lots in accordance with the fee schedule established by the Town Board current as of the effective date of this

resolution. Any payment made after June 24, 2002 shall be calculated based on the then applicable fee schedule, as determined by the Town Board.

- Public - paid
v. 6/4*
- T.A.*
20. The Applicant shall reimburse the Town for any outstanding review fees, as applicable, consistent with §133-1 of the Town Code as well as State and Local Environmental Quality Review laws.
 21. The Applicant shall submit all necessary documents pertaining to the dedication, to the Town, of land for the purpose of Right-of-Way to construct Granite Pointe Drive with the Planning Board, as well as drainage and sight easement documents.

On-going Conditions Required After Signing of Plat

1. All work shall be performed in accordance with the approved "Stormwater Pollution Prevention Plan (SPPP)", prepared by Bibbo Associates, approved June 28, 2001 by NYCDEP, and last revised March 1, 2001.
2. Sedimentation and erosion control measures employing best management practices as outlined in NYSDEC's booklets entitled, "Stormwater Management Design Manual (Draft)" dated September 2001, are required to be followed to ensure that all disturbed areas are stabilized and revegetated, and as described in the NYCDEP SPPP permit issued for this project.
3. If rock is encountered during construction, removal will first be accomplished by ripping, hammering, or drilling, in accordance with §148-7.B(4)(k) of the Code.
4. Significant trees and stone walls on site will be preserved to the maximum extent practicable, in accordance with the notes indicated on the subdivision plans.
5. No more than 5 acres of area are to be disturbed and left exposed at one time
6. Construction activity will be limited from 7:00 a.m. to 6:00 p.m., and no construction activity will occur on Sundays or legal New York State holidays.

BE IT FURTHER RESOLVED that the Planning Board Chairman is authorized to sign the final subdivision plat in accordance with the procedures and requirements specified in §150-14.D of the "Subdivision of Land" regulations of the Town Code, and §276 of Town Law.

In accordance with §150-13.M of the Town Code, this conditional approval of the final subdivision plat shall expire on **January 24, 2002**, 180 days from the date of the resolution granting conditional approval unless the above requirements have been certified as completed by the Planning Board's professional staff, or unless such time limit is extended by the Planning Board for no more than two (2) additional periods of 90

days each. The request for time extension shall be made by the Applicant **prior to** the expiration of the specific time period.

Once the requirements have been certified as completed by the endorsement of the plat by the Chairman of the Planning Board, the plat shall be filed with the Westchester County Clerk, Division of Land Records, within 62 days after the date of signing by the Planning Board, or approval shall expire. The Applicant shall submit seven (7) copies of the subdivision plat showing all signatures and acknowledgements of filing to the Planning Board Secretary within 30 days after the date of filing with the County. In addition, a copy of the filed plat drawing shall be provided on diskette to the Planning and Engineering Department.

No building permits will be issued on any lot shown on the subdivision plat until the required copies of the plat have been delivered to the Planning Board in accordance with §150-14.H of the Town Code. Upon completion of all improvements, the Applicant shall submit an as-built plan to the satisfaction of the Town Engineer.

Any change in the subdivision plat which is filed in the office of the Westchester County Clerk constitutes a "resubdivision" which is subject to the same procedure, rules and regulations applying to an original subdivision, as stated in §150-4, "Resubdivision", of the Town Code.

This resolution shall have an effective date of July 24, 2002.

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

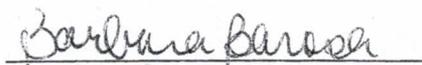


Dennis Shaw, Chairman

Dated: 7-29-02

CERTIFICATION

I hereby certify that this is a true and correct copy of resolution #2002-26 adopted by the Town of Somers Planning Board granting **Final Subdivision Approval**--subject to the modifications stated herein--to the Granite Pointe Subdivision at a regular meeting held on July 24, 2002.



Barbara Barosa,
Town Planner

Dated: 7/29/02