

Telephone
(914) 277-5366

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PLANNING DEPARTMENT

TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589

Town of Somers

WESTCHESTER COUNTY, N.Y.



John Currie, Chairman
Fedora DeLucia
Christopher Foley
Vicky Gannon
Nancy Gerbino
Eugene Goldenberg
John Keane

**SOMERS PLANNING BOARD
AGENDA
FEBRUARY 8, 2012
7:30 P.M.**

MINUTES Consideration for approval of Draft Minutes for December 14, 2011

DECISION

- 1. McENTEGART STEEP SLOPES, TREE PRESERVATION AND STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL PERMITS [TM: 36.12-2-6]**
Application of Marino Group, LLC (owner) and Patricia McEntegart (applicant) for a Steep Slopes, Tree Preservation and Stormwater Management and Erosion and Sediment Control Permits for property located on the North side of Amawalk Point Road for the construction of a residence, driveway, septic system and well within the very steep slope category of 25-35%.
Consideration of a draft Resolution of Approval
Application submitted on February 18, 2004.
Last discussed at the January 25, 2012 Planning Board meeting.

DISCUSSION

- 2. WRIGHT'S COURT SITE PLAN [TM: 17.11-1-5]**
Request for modification of the Condition of the creation of the conditional access easement over Site B in favor of the property on which the IIForno Restaurant is located.
Resolution No. 2009-17

INFORMAL DISCUSSION

3. STEVENS PRELIMINARY SUBDIVISION

[TM: 15.12-2-1]

Application of Roy Stevens to subdivide a 9.81 acre parcel into three residential lots.

Application for Preliminary Subdivision Approval submitted on November 27, 2007.

Discussion on developing the property as an Open Development Area Application was Last discussed at the March 12, 2008 Planning Board meeting.

Next Planning Board Meeting, March 14, 2012

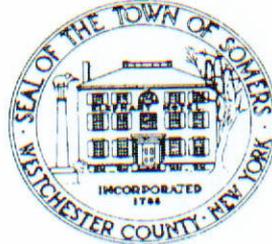
Agenda information is also available at www.somersny.com

John Currie, *Chairman*
Fedora DeLucia
Christopher Foley
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PLANNING BOARD

Town of Somers

WESTCHESTER COUNTY, N.Y.



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335 ROUTE 202
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EMAIL:
PLANNINGBOARD@SOMERSNY.COM

Meeting Date: February 8, 2012

PLANNING BOARD
TOWN OF SOMERS, WESTCHESTER COUNTY, NEW YORK

THIS IS NOT A PERMIT

Resolution 2012-01

*Granting Conditional Approval for Steep Slopes Protection Permit,
Tree Removal Permit and Stormwater Management and
Erosion and Sediment Control Permit*

to

Marino Group, LLC and Patricia McEntegart

TM: 36.12-2-6

WHEREAS, an application for a steep slope alteration permit was submitted under the provisions of Chapter 148 "Steep Slopes Protection Ordinance" was made by the Marino Group, LLC (owner) and Patricia McEntegart (applicant) on February 18, 2004 with the required fee paid on January 5, 2005; and

WHEREAS, the site of the proposed activity is located on the East side of Amawalk Point Road in an R-80 Residential Zoning District and is identified on the Town Tax Maps as Sheet 36.12, Block 2, Lot 6; and

WHEREAS, an application for a Tree Preservation Permit under the provision of Chapter 156 "Tree Preservation Ordinance" was made by the Marino Group, LLC (owner) and Patricia McEntegart (applicant) on February 18, 2004 with the required fee paid on January 5, 2005; and

Marino Group, LLC (owner) and Patricia McEntegart (applicant)
Steep Slopes Permit, Tree Preservation Permit and
Stormwater Management and Erosion and Sediment Control Permit
TM: 36.12-2-6

02/02/2012 Rev. II

1 **WHEREAS**, an application for a Stormwater Management and Erosion and Sediment
2 Control Permit was made by the Marino Group, LLC (owner) and Patricia McEntegart
3 (applicant) on November 30, 2011 with the required fee paid on December 6, 2011
4 because the Engineering Department determined that action to fall within Article 93-5.C
5 because the area of disturbance exceeds the 5,000 SF acre requirement and/or that more
6 then 50 c. y. of material will be involved in the construction of the improvements; and
7

8 **WHEREAS**, the proposed activity consists of the construction of a residence, driveway,
9 septic system, stormwater management improvements, and well within the very steep
10 slopes ranging from 25% to 35% and the removal of 48 trees for the construction of the
11 residence, driveway, septic system, stormwater management improvements and well; and
12

13 **WHEREAS**. Amawalk Point Road with the associated appurtenances, including
14 stormwater conveyance and Detention Basin, are to be maintained as a private road, as
15 defined by the Declaration, titled "Declaration of Easements, Covenants and Restrictions"
16 (Declaration), made on the 17th day of October, 2007, by, between and among, ANITA
17 LARSEN, having an address at 2523 Amawalk Road, Amawalk, New York 10501, ANN
18 and THOMAS CALANDRUCCI, residing at 470 Westlake Drive, Valhalla, New York, 10595
19 and Marino Group LLC, a limited liability company with a principal place of business at
20 4380 Vireo Avenue, Apartment 5G, Bronx, New York, 10470 (collectively, the "Parties";
21 and
22

23 **WHEREAS**, the Declaration acknowledges in consideration of the mutual promises and
24 covenants contained therein, and other good and valuable consideration, the receipt
25 and adequacy of which is hereby acknowledged, the Parties agree that Lot 1, Lot 2, Lot
26 3 and Lot 6 shall be held, sold, conveyed, transferred and occupied subject to all
27 easements and covenants; and
28

29 **WHEREAS**, the application was withheld due to a lawsuit brought by the neighboring
30 property owner; and
31

32 **WHEREAS**, the submitted material consists of a plan titled, "Site Plan", prepared by
33 Timothy S. Allen,, dated October 13, 2005, last revised January 4, 2012, "Erosion
34 Control Plan" prepared by Timothy S. Allen, dated October 13, 2005, last revised
35 January 4, 2012, "Erosion Control Details" dated October 13, 2005, last revised January
36 4, 2012, and a plan titled "Profile & Details" dated October 13, 2005, last revised
37 January 4, 2012, and a "Stormwater Pollution Prevention Plan", prepared by Bibbo
38 Associates, dated November 23, 2011, last revised January 5, 2012 and a short Form
39 EAF dated February 18, 2004, last revised; and
40

41 **WHEREAS**, on November 8, 2004 and June 15, 2010 and November 30, 2011, the
42 application was referred to the Conservation Board; and

Marino Group, LLC (owner) and Patricia McEntegart (applicant)
Steep Slopes Permit, Tree Preservation Permit and
Stormwater Management and Erosion and Sediment Control Permit

TM: 36.12-2-6

02/02/2012 Rev. II

1
2 **WHEREAS**, the Conservation Board by memorandum dated January 28, 2005 found the
3 Site Plan unacceptable in its current configuration and recommends denial of the Site Plan
4 as drawn; and

5
6 **WHEREAS**, the Town Engineer conducted a site walk of the property with the Planning
7 Board on February 19, 2005; and

8
9 **WHEREAS**, the Applicant provided an alternative layout of the proposed residence and
10 driveway, by the drawing sheet titled "Alternative Site Plan" by Bibbo Associates, LLP,
11 dated May 27, 2010 and the Planning Board reviewed the alternate house location, and
12 driveway configuration, and the associated disturbance to the Site and steep slopes; and

13
14 **WHEREAS**, the Conservation Board by memorandum dated July 23, 2010 requested that
15 the neighboring properties be shown on the plans and to move the driveway to a different
16 location; and

17
18 **WHEREAS**, the Planning Board and the Consulting Town Engineer conducted a site walk
19 of the property to review the alternative house and driveway locations with regard to Site
20 and steep slopes disturbance, on September 25, 2010; and

21
22 **WHEREAS**, The limited length of driveway with a grade of 14% was reviewed by the
23 Consulting Town Engineer and Planning Board, in accordance with Chapter 170-36. E.1.a;
24 and

25
26 **WHEREAS**, pursuant to 6NYC RR Part 617 of the implementing regulations pertaining to
27 Article 8 (SEQR) of the Environmental Conservation Law and Chapter 92 of the Town of
28 Somers Code, the Planning Board determined that the a proposed activity is a **Type II**
29 **Action**, and therefore, no further review in accordance with SEQRA was necessary; and

30
31 **WHEREAS**, the Planning Board reviewed the application during the Public Hearing at their
32 January 25, 2012 meeting and all those wishing to be heard were given the opportunity to
33 be heard; and

34
35 **WHEREAS**, the Public Hearing was closed on January 25, 2012.

36
37 **NOW, THEREFORE, BE IT RESOLVED**, in accordance with Chapter 148, the Planning
38 Board agreed that the protection of the steep slopes has been adequately addressed and
39 that the proposed work will not significantly alter, affect, or endanger the steep slopes.

40
41 **BE IT FURTHER RESOLVED**, that the issuance of a Steep Slopes Protection Permit, Tree
42 Removal Permit and Stormwater Management and Erosion and Sediment Control Permit

Marino Group, LLC (owner) and Patricia McEntegart (applicant)
Steep Slopes Permit, Tree Preservation Permit and
Stormwater Management and Erosion and Sediment Control Permit

TM: 36.12-2-6

02/02/2012 Rev. II

1 to the Marino Group, LLC (owner) and Patricia McEntegart (applicant) is hereby approved
2 for the activity proposed and described above, and will be issued after demonstration of
3 compliance of the following conditions:
4

- 5 1. That an engineering inspection fee in the amount of \$500.00, be paid by separate
6 check and made payable to the Town of Somers.
7
- 8 2. In fulfillment of the requirements of Chapter 93 Stormwater Management and
9 Erosion and Sediment Control, Chapter 148 Steep Slopes Protection and Chapter
10 156 Tree Preservation of Town Code and to secure the protection of Amawalk Point
11 Road during construction, the Applicant shall post the following bonds or securities.
12 The amount of the securities shall be calculated as described below to secure work
13 required under all of these chapters.
14
 - 15 a. The Applicant shall post an Erosion Control Bond in an amount based upon
16 a site specific estimate of the cost to install and maintain erosion control
17 measures during the activity period, to be approved by the Principal
18 Engineering Technician and Consulting Town Engineer.
19
 - 20 b. The Applicant shall post a Performance Bond or other form of security
21 (collectively Security). The amount of Security shall be based on a specific
22 estimate to cover the restoration cost of the road and associated
23 infrastructure, in the event either is damaged during construction activities.
24 The estimate shall include top course milling and replacement to 50 feet
25 beyond the driveway, curb replacement on both sides of Amawalk Point
26 Road to 50 feet beyond the driveway, and the common stormwater
27 infrastructure for Amawalk Point Road; plus an additional amount to cover
28 the restoration of disturbed soils on-site. In no instance shall the bond be
29 less than \$17,500.
30
- 31 3. The Applicant shall provide hydraulic design calculations for the proposed level
32 spreader.
33
- 34 4. The Applicant shall provide revised design calculations for the proposed rip-rap
35 swale, reflective of the 100 year design storm event. A minimum of a half foot of
36 freeboard during peak flow must be demonstrated by revised calculations.
37
- 38 5. The Applicant shall provide a revised Stormwater Pollution Prevention Plan
39 (SWPPP) which includes a contractor certification statement, as specified in Part
40 III(A)(6) of the NYSDEC SPDES General Permit for Stormwater Discharges from
41 Construction Activity. The contractor certification statement shall be signed by all
42 contractors and subcontractors prior to filing of the Notice of Intent.

Marino Group, LLC (owner) and Patricia McEntegart (applicant)
Steep Slopes Permit, Tree Preservation Permit and
Stormwater Management and Erosion and Sediment Control Permit
TM: 36.12-2-6

4

02/02/2012 Rev. II

- 1 6. The Applicant shall provide documentation of filing the Notice of Intent to the
2 NYSDEC.
- 3
- 4 7. The Applicant shall provide revised plans that include a direct connection of the
5 overflow of the stormwater treatment area to the catch basin at the north-eastern
6 corner of Amawalk Point Road and Route 35.
- 7
- 8 8. The Applicant shall extend the proposed retaining wall and planter box 20 feet to
9 the north-east, and utilize segmental concrete blocks or stone to replace the
10 proposed railroad ties
- 11 9. All drainage structures shall be inspected and approved by the Principal
12 Engineering Technician or Consulting Town Engineer prior to backfill.
- 13

14 This conditional authorization for issuance of a Steep Slopes Protection Permit shall expire
15 if compliance with the above conditions is not demonstrated prior to October 25, 2012
16 unless an extension of such time period is requested of and granted by the Principal
17 Engineering Technician.

18
19 The following conditions shall be attached to the Steep Slopes Protection Permit:

- 20
- 21 1. The excavated material must be removed immediately and disposed of
22 properly.
- 23
- 24 2. Provide a construction fence around the septic system area.
- 25
- 26 3. Appropriate erosion control measures satisfactory to the Principal
27 Engineering Technician shall be installed prior to starting the construction
28 and maintained during the contract period, in accordance with the New
29 York State Standards and Specifications for Erosion and Sediment
30 Control, dated August 2005, and the New York State Stormwater
31 Management Design Manual, dated August 2010 (including all updates/or
32 revisions).
- 33
- 34 4. The Somers Engineering Department shall be notified (914-277-5366)
35 prior to the beginning of any work on the site and also upon completion of
36 the approved work.
- 37
- 38 5. Work shall be undertaken consistent with Town of Somers regulations to
39 the satisfaction of the Principal Engineering Technician and the Consulting
40 Town Engineer.
- 41

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- 6. That field changes that do not change the intent of the design or are not significant, if required, are approved by the Principal Engineering Technician and the Consulting Town Engineer prior to implementation. Significant field changes or those that deviate from the intent of the Planning Board approval must be approved by the Planning Board

This Resolution shall have an effective date of February 8, 2012.

Planning Board Chairman

Date: _____

TOWN OF SOMERS
WEST CHESTER COUNTY, NEW YORK
APPLICATION FOR ENVIRONMENTAL PERMIT
CHAPTER 148 "STEEP SLOPE PROTECTION"

APPLICATION FEE:

Alteration of Steep Slopes: \$150.00 minimum fee plus \$75.00 per 10,000 S.F. of regulated area or proposed portions thereof to be disturbed.

OWNER: MARINO GROUP, LLP Tel. #: _____

Mailing Address: 4380 VIREO AVE APT 5G BRONX NY 10470

APPLICANT: PATRICIA MCENTEGART Tel. #: 212-578-1979

Mailing Address: SAME AS OWNER

State authority: _____ If other than owner, authorization must be submitted in writing.

Premises: Sheet: 36.12 Block: 2 Lot: 6

Situated on the SE side of AMAWALK POINT RD (Street) 0 feet from the intersection of AMAWALK RD. (NYS RTE 35) (Street)

Description of Work and Purpose: CONSTRUCTION OF SINGLE FAMILY RESIDENCE

Estimated Quantity of Excavation: _____ C.Y. 1377 CUT 644 FILL

Size of Activity Area: 15,000 S.F. +/-

Total Value of Work: \$10,000.00 +/-

Slope Category: 15% < 25% X 25% < 35% X or > 35%: _____

Soil Types: CHARLTON LOAM & CHARLTON CHATFIELD COMPLEX

Proposed Starting Date: 3/2012 Proposed Completion Date: 3/2013

Plans Prepared by: BIBBO ASSOC., LP Dated: 11/23/11

Plans must be submitted with application.

List of Applicable County, State, or Federal Permits:

W.C.H.D. SSDS / WELL PERMIT
NYSDEL LP-0-010-001

List of Property Owners of Record of Lands and Claimants of Water Rights within 100 feet of Subject Property.

NAME	ADDRESS	BLOCK	LOTS

Applicant's Signature: Patricia McEntegart Date: 11/30/11

Owner's Signature: Patricia McEntegart Date: 11/30/11

*APPLICATION MUST BE ACCOMPANIED WITH A COMPLETED ENVIRONMENTAL ASSESSMENT FORM, COMPLETE PLANS FOR LOT IMPROVEMENTS, AND LOCATION AND SIZE OF SLOPE CATEGORIES.

.....Office Use Only.....
Administrative Permit: _____
Planning Board Permit: _____

3/4/03

TREE REMOVAL PERMIT APPLICATION
SECTION 156, TREE PRESERVATION

SUBMIT TO: Town of Somers, Engineering Department
335 Route 202, Somers, New York 10589

[Click Here for Tree Permit Requirements](#)

DATE: 2-18-03

1. APPLICATION FEE:

Tree Removal - \$50.00 for the first five (5) trees to be removed, \$15.00 for each additional tree to be removed.

2. IDENTIFICATION OF APPLICANT:

OWNER: MARINO GROUP, LLP Tel.#: _____

Mailing Address: 4380 VIREO AVE, APT 5-G BRONX NY 10470

APPLICANT: (if other than Owner)

PATRICK McEUGENE Tel. #: 212-573-1979

Mailing Address: 4380 VIREO AVE, APT 5-G BRONX, NY 10470

Professional preparing site plan: BISSO ASSOC., LLP

State authority: _____ If other than owner, authorization must be submitted in writing.

3. IDENTIFICATION OF SUBJECT PROPERTY

Address ANNEBROOK POINT RD.

PREMISES: Sheet: 36.12 Block: 2 Lot: 6 Zoning District: R-80

4. NUMBER OF TREES TO BE REMOVED FROM EACH CATEGORY

47 Clearing (Cutting of more than five (5) trees with DBH of 8" or more)

7 Tree Removal Within Regulated Setback Zone
(R10-5ft., R40-20ft., R80-30ft., R120-40ft.)

11 Removal of a Specimen Tree (18" or greater)

- Removal of tree within designated Scenic Resource Area

$$\begin{array}{r} 42 \times \$15 = 630 \\ + 50 \\ \hline \$680 \end{array}$$

5. PURPOSE FOR TREE REMOVAL

PROPOSED RESIDENCE, DRIVEWAY, SEPTIC + WELL.

11/08

TOWN OF SOMERS
WESTCHESTER COUNTY, NEW YORK
APPLICATION FOR ENVIRONMENTAL PERMIT

CHAPTER 93 "STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL"

Application Processing Affidavit must also be completed. Click here for form.

APPLICATION FEE: \$100 for disturbances of five thousand (5,000) square feet and/or for the placement or removal of 50 cubic yards of soil, plus \$500 for each additional acre of disturbance.

MARINO GROUP, LLP

OWNER: _____ Tel.#: _____

Mailing Address: 4380 VIREO AVE., APT 5G, BRONX NY 10470

APPLICANT: PATRICIA McENTEGART Tel.#: _____

Mailing Address: SAME AS OWNER

State authority: If other than owner, authorization must be submitted in writing _____

PREMISES: Sheet: 36.12 Block: 2 Lot: 6

DESCRIPTION OF WORK AND PURPOSE: CONSTRUCTION OF SINGLE FAMILY RESIDENCE

SIZE OF ACTIVITY AREA: _____ feet by _____ feet 54,500 S.F. +/-
(include all construction activity area)

VOLUME OF EXCAVATED MATERIAL: 3160 C.Y. CUT
(leave blank if not known)

IN CONJUNCTION WITH:
Wetland Permit: _____ Steep Slopes Permit: Tree Preservation Permit:
Site Plan: _____ Subdivision: _____

PROPOSED STARTING DATE: _____ PROPOSED COMPLETION DATE: _____

PLANS PREPARED BY: BIBBO ASSOC. UPDATED: 10/23/05, LAST REVISED -11/23/11

****Plans and copy of Stormwater Pollution Prevention Plan must be submitted with application.****

LIST OF APPLICABLE COUNTY, STATE, OR FEDERAL PERMITS:
W.C.H.D. SDDS/WELL PERMIT, NYSDEC CP-0-010-001

LIST OF PROPERTY OWNERS OF RECORD OF LANDS AND CLAIMANTS OF WATER RIGHTS WITHIN 100 FEET OF SUBJECT PROPERTY

NAME	ADDRESS	BLOCK/LOT

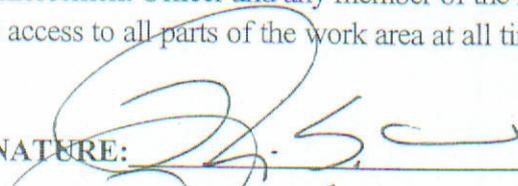
APPLICANT'S SIGNATURE: Patricia McEntegart DATE: 11/30/11
OWNER'S SIGNATURE: Patricia McEntegart DATE: 11/30/11

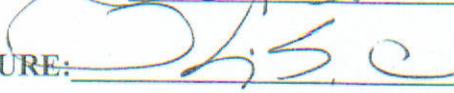
*APPLICATION MUST BE ACCOMPANIED WITH A COMPLETED ENVIRONMENTAL ASSESSMENT FORM, A VICINITY MAP, A DEVELOPMENT PLAN, EROSION AND SEDIMENT CONTROL PLAN, AND THE PROPOSED PHASING OF DEVELOPMENT OF THE SITE.

6. SKETCH OR SITE PLAN *

* A site plan shall be provided if the tree removal activity involves clearing and must be certified by an arborist, landscape architect or professional forester.

The Town Engineer or other duly authorized representative shall inspect the property to assure satisfactory completion of the requirements of the approved tree removal permit, and, upon such completion, the approving authority shall require documentation from such official stating that all required conditions of the tree removal permit have been satisfactorily completed. If, upon inspection, it is found that any of the required conditions have not been addressed in accordance with the approved permit and/or plans, the applicant shall be responsible for addressing all conditions of approval pursuant to the original conditions of approval. Failure of the Town Engineer or other duly authorized representative to carry out inspections of required improvements during the tree removal shall not in any way relieve the applicant or the bonding company of their responsibilities. The Town Engineer, his designee, the Town Environmental Enforcement Officer and any member of the Planning Board, Zoning Board of Appeals or Town Board shall have access to all parts of the work area at all times during tree removal.

APPLICANT'S SIGNATURE:  DATE: 2-18-03

OWNER'S SIGNATURE:  DATE: 2-18-03

FOR OWNER + APPLICANT

HOCHERMAN TORTORELLA & WEKSTEIN, LLP
ATTORNEYS AT LAW

ONE NORTH BROADWAY, SUITE 701
WHITE PLAINS, NEW YORK 10601-2319

GERALDINE N. TORTORELLA
ADAM L. WEKSTEIN

NOELLE CRISALLI WOLFSON

TEL: (914) 421-1800
FAX: (914) 421-1856
WEB: WWW.HTWLEGAL.COM

HENRY M. HOCHERMAN
OF COUNSEL

January 25, 2012

Via Federal Express

Hon. John Currie, Chairman
and Members of the Planning Board
Town of Somers
Town House
35 Route 202
Somers, New York 10589

Re: Wright's Court – Request for Modification of Condition

Dear Chairman Currie and Members of the Planning Board:

As you are aware, we represent the recipient of the approvals for Wright's Court, Hallic Place Development LLC. It is my understanding that our client has fulfilled all conditions of the resolution approving Wright's Court (Resolution No. 2009-17), other than that relating to the required legal instruments. As to that requirement, only the creation of the conditional access easement over so-called Site B in favor of the property on which the Il Forno Restaurant is located (the "Il Forno Easement") remains. For the reasons set forth herein, we request that you eliminate the requirement for the Il Forno Easement.

We have prepared all of the necessary legal instruments, including various declarations and easements running in favor of the Town, as well as the Il Forno Easement. The instruments have been reviewed by the Town's professional staff and approved as to form by the Town Attorney. Our client has executed all such legal instruments and the associated tax forms and will submit them to the Town Attorney for execution on behalf of the Town. However, after we forwarded the Il Forno Easement to Rick DiNardo, the representative of Silvio Management Corp. ("Silvio"), which in turn is the owner of the Il Forno Property, he advised us that Silvio Management will not sign the Il Forno Easement. As a result, our client cannot meet the requirement for the creation of the Il Forno Easement because the establishment thereof remains solely within the power of a third party over whom our client has no control.

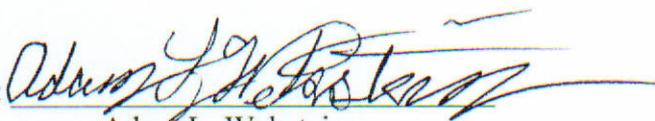
HOCHERMAN TORTORELLA & WEKSTEIN, LLP

Hon. John Currie, Chairman
and Members of the Planning Board
January 25, 2012
Page 2

Accordingly, we respectfully request that you grant our client's request to eliminate the requirement for the Il Forno Easement at your Board's meeting of February 8, 2012.

Respectfully submitted,

Hocherman Tortorella & Wekstein, LLP

By: 
Adam L. Wekstein

ALW:cv

cc: *(via electronic mail)*
Ms. Sabrina D. Charney Hull
Roland Baroni, Esq.
Mr. Thor Magnus
Mr. Eamonn Ryan
John Kellard, P.E.

Guy L. Gagné, P.E.
Town Engineer
townengineer@somersny.com

Sabrina D. Charney Hull, AICP
Town Planner
townplanner@somersny.com

PLANNING AND ENGINEERING DEPARTMENTS

Town of Somers

WESTCHESTER COUNTY, NY.

Town House
335 Route 202
Somers, N.Y. 10589
Tele #: 914-277-5366
FAX #: 914-277-4093



Planning Board Meeting November 18, 2009

PLANNING BOARD

TOWN OF SOMERS, WESTCHESTER COUNTY, NEW YORK

Resolution No. 2009-17

Granting of Conditional Site Plan Approval, Special Exception Use Permit for Location Within the Groundwater Protection Overlay District and Stormwater Management and Erosion and Sediment Control Permit
to

Hallic Place Development, LLC for Wright's Court
Town Tax Number: Sheet 17.11, Block 1, Lots 5 and 18

WHEREAS, Hallic Place Development, LLC, the Applicant, is the owner of two lots separated by Scott Drive on the northerly side of U.S. Route 202 (Somerstown Turnpike); and

WHEREAS, Site A, comprised of 1.73 acres is currently partially developed with a 2,827-square foot building and Site B, comprised of 0.73 acres, is currently vacant; and

WHEREAS, the subject site is located in the "Business Historic Preservation B-HP District" and within the "Groundwater Protection Overlay District", as indicated in Chapter 170, "Zoning" of the *Code of the Town of Somers*; and

WHEREAS, in May 2003 Hallic Place Development, LLC, submitted a Site Plan for development of its property pursuant to the requirements under §170-14 and §170-15.1 of the B-HP Zoning District together with a Full Environmental Assessment Form to the Town of Somers Planning Board; and

WHEREAS, the site plan application includes a request by the Applicant for Planning Board approval of a special exception use permit for regulated activities within the Groundwater Protection Overlay District as described in Article IXA of Chapter 170 "Zoning" of the *Code of the Town of Somers*; and

WHEREAS, the site plan application includes a request by the Applicant for Planning Board approval of a Stormwater Management and Erosion and Sediment Control Permit as described in Chapter 93 of the *Code of the Town of Somers*; and

WHEREAS, on October 19, 2005 the Town of Somers Planning Board declared its intent to become the Lead Agency with respect to the Proposed Action, determined that this is a Type I Action pursuant to the New York State Environmental Quality Review Act (SEQRA) and circulated a Notice of Intent to be Lead Agency ("Notice of Intent") to other Involved and Interested Agencies; and

WHEREAS, having received no objection to the proposed Lead Agency designation within 30 days after circulation of the Notice of Intent, the Planning Board was automatically designated the Lead Agency for the environmental review of the Proposed Action; and

WHEREAS, a coordinated review under SEQRA commenced; and

WHEREAS, the site plan application, as revised throughout the review process, was circulated to the Somers Fire Prevention Bureau, the Somers Open Space Committee, the Somers Conservation Board, the Somers Architectural Review Board, the Westchester County Department of Planning and the New York City Department of Environmental Protection, and their comments were considered by the Planning Board; and

WHEREAS, the Planning Board discussed the Applicant's proposed site plan at meetings held on June 11, 2003, March 24, 2004, September 22, 2004, October 19, 2005, May 24, 2006, March 28, 2007, September 26, 2007, February 13, 2008, October 29, 2008, November 12, 2008, September 9, 2009, October 7, 2009 and November 4, 2009; and

WHEREAS, during the course of the Planning Board's review of the Applicant's proposed site plan application the Planning Board received and considered correspondence from the public as well as Town staff, Town advisory boards and other Involved Agencies; and

WHEREAS, a duly advertised public hearing on the application for site plan approval was held on October 24, 2007, November 28, 2007 and December 12, 2007 at which time all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, on December 12, 2007, the Public Hearing was closed; and

WHEREAS, the Applicant reduced the size of the buildings and provided alternative layouts for the Planning Board's consideration; and

WHEREAS, the Applicant requested that a second public hearing be held on the application for site plan approval; and

WHEREAS, a duly advertised public hearing on the application for site plan approval was held on December 10, 2008 and January 14, 2009 at which time all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, on January 14, 2009, the Public Hearing was closed; and

WHEREAS, in addition to the many plan alternatives and reports reviewed throughout the environmental review process and as a result of the review of those additional documents by the Planning Board, Town staff and other advisors to the Planning Board throughout the review process, the following plans and reports- as required to be revised by the conditions of this resolution- were submitted for the Planning Board's consideration and are the subject of this conditional approval:

- Plan labeled "Sheet 1," entitled "Landscape Plan – Wright's Court," dated January 31, 2006, last revised November 9, 2009 prepared by Rosedale Nurseries, Inc.
- Plan labeled "Sheet 2," entitled "Landscape Plan – Wright's Court," dated July 9, 2005, last revised on November 9, 2009, prepared by Rosedale Nurseries, Inc.
- Plan labeled "Sheet 3/9," entitled "Site Layout Plan – Wright's Court," dated January 18, 2002, last revised on October 21, 2009, prepared by Kellard Sessions Consulting, P.C.
- Plan labeled "Drawing No. SL-1," "Site Lighting Plan" last revised on October 8, 2009, prepared by Robert Newell Lighting Design.
- A Hydrogeologic Analysis from Leggette, Brashears & Graham, Inc., dated June 2009, last revised August 2009.
- Plan entitled "Property Data" and "Sheet Index," dated revised August 14, 2009, prepared by Kellard Sessions Consulting, P.C.
- Plan labeled "Sheet 1/9," entitled "Existing Conditions Plan – Wright's Court," dated January 18, 2002, last revised on August 14, 2009, prepared by Kellard Sessions Consulting, P.C.
- Plan labeled "Sheet 2/9," entitled "Aerial Neighborhood Plan – Wright's Court," dated July 8, 2004, last revised on August 14, 2009, prepared by Kellard Sessions Consulting, P.C.
- Plan labeled "Sheet 4/9," entitled "Site Grading and Utilities Plan – Wright's Court," dated January 18, 2002, last revised on August 14, 2009, prepared by Kellard Sessions Consulting, P.C.
- Plan labeled "Sheet 5/9," entitled "Sediment and Erosion Control Plan – Wright's Court," dated January 18, 2002, last revised on August 14, 2009, prepared by Kellard Sessions Consulting, P.C.

- Plan labeled "Sheet 6/9," entitled "Driveway Profiles and Sediment, Erosion Control Details – Wright's Court," dated April 13, 2005, last revised on August 14, 2009, prepared by Kellard Sessions Consulting, P.C.
- Plan labeled "Sheet 7/9," entitled "Construction Details, Drainage and Sight Line Profiles – Wright's Court," dated March 10, 2006, last revised August 14, 2009, prepared by Kellard Sessions Consulting, P.C.
- Plan labeled "Sheet 8/9," entitled "Construction Details – Wright's Court," dated January 18, 2002, last revised on August 14, 2009, prepared by Kellard Sessions Consulting, P.C.
- Plan labeled "Sheet 9/9," entitled "Sediment and Erosion and Construction Sequencing Notes – Wright's Court," dated August 14, 2009, prepared by Kellard Sessions Consulting, P.C.
- Floor plan labeled "No. A-001," entitled "Building A-1 & A-2," dated June 6, 2005, last revised August 24, 2008, prepared by Studio III Architects, P.C.
- Floor plan labeled "No. A-002," entitled "Building B," dated June 6, 2005, last revised August 24, 2008, Studio III Architects, P.C.
- Floor plan labeled "No. A-101," entitled "Building A-1," dated June 6, 2005, last revised on August 24, 2008, prepared by Studio III Architects, P.C.
- Floor plan labeled "No. A-102," entitled "Building A-2," dated June 6, 2005, last revised on August 24, 2008, prepared by Studio III Architects, P.C.
- Floor plan labeled "No. A-103," entitled "Building B," dated June 6, 2005, last revised on February 28, 2009, prepared by Studio III Architects, P.C.
- Building elevation labeled "A-201," entitled "Building A-1," dated June 6, 2005, last revised on August 24, 2008, prepared by Studio III Architects, P.C.
- Building elevation labeled "A-202," entitled "Building A-2," dated June 6, 2005, last revised on August 24, 2008, prepared by Studio III Architects, P.C.
- Building elevation labeled "A-203," entitled "Building B," dated June 6, 2005, last revised on February 28, 2009, prepared by Studio III Architects, P.C.
- Building elevation labeled "A-204," entitled "Building B," dated June 6, 2005, last revised on February 28, 2009, prepared by Studio III Architects, P.C.
- Plan labeled "A-901," entitled "Signage," dated June 6, 2005, last revised on August 24, 2008, prepared by Studio III Architects, P.C.

WHEREAS, on September 9, 2009 on motion by Ms. Gerbino, seconded by Mr. Keane, the Planning Board referred the applicant to the Zoning Board of Appeals with a positive recommendation from the Planning Board that the requested variances regarding maximum floor area, minimum distance required between buildings and brick sidewalks be granted; and

WHEREAS, in the B-HP District the Planning Board may grant waivers from §170.17.1L of the Code of the Town of Somers regarding increasing the front yard setback requirement in order to retain and ensure the long-term preservation of existing natural features and §170.17.1M of the Code of the Town of Somers regarding the reduction the required side yard when abutting a non-residential district;

WHEREAS, the consensus of the Planning Board, at their September 9, 2009 meeting, was to grant the requested waivers for Site A to reduce the required side yard to allow 15-foot side yard setback where a 25-foot setback is required and for Site B to allow for a 45-foot front yard setback where a 40-foot setback is required and to allow a 15-foot side yard setback where a 25-foot setback is required; and

WHEREAS, the latest plans for the proposed site involve an increase of impervious surface of 0.8 acres for the site. The plans also include the installation of stormwater management practices which are set forth in a Stormwater Pollution Prevention Plan & Drainage Analysis submitted by the Applicant, thereby requiring approval of a Stormwater Management and Erosion and Sediment Control Permit as described in Chapter 93 of the *Code of the Town of Somers*; for which an application fee has already been paid; and

WHEREAS, the latest plans for the proposed site involve the establishment of regulated uses in the Groundwater Protection Overlay District and therefore will require the approval of a special exception use permit by the Planning Board in accordance with the provisions of Article IXA of Chapter 170 "Zoning" of the *Code of the Town of Somers*, for which the application fee has already been paid; and

WHEREAS, the Planning Board has reviewed and is familiar with the project and has inspected the site and its surroundings; and

WHEREAS, the Planning Board has carefully considered all of the comments raised by the public and other interested agencies, organizations and officials, including those presented at meetings of the Board as well as those submitted separately in writing; and

WHEREAS, the Planning Board acting as Lead Agency, has reviewed the Full EAF and determined that, pursuant to SEQR and Chapter 92 "Environmental Quality Review", of the Code of the Town of Somers, the proposed action minimizes or avoids significant environmental impacts, and therefore, the accompanying Negative Declaration dated November 4, 2009 is hereby adopted as part of the conditional approval of this site plan; and

NOW, THEREFORE, BE IT RESOLVED that the foregoing WHEREAS clauses are incorporated herein by reference and are fully adopted as part of this approval, including the SEQR Negative Declaration referenced therein; and

BE IT FURTHER RESOLVED, that the application for conditional site plan approval, special exception use permit for location within the Groundwater Protection Overlay Zone, and stormwater management and erosion and sediment control permit to Hallic Place Development, LLC for Wright's Court as shown and described by the materials enumerated herein, IS HEREBY

CONDITIONALLY GRANTED in accordance with Section 274-a of the New York State Town Law SUBJECT TO the following modifications and conditions being fulfilled:

Conditions Required Prior to Signing of Site Plan

1. That all legal documents relating to the site maintenance responsibilities and the cross access easement be provided for review and approval by staff and the Town Attorney prior to filling the documents.
2. That the outstanding items enumerated in the Town Engineer's October 28, 2009 memorandum be completed by the Applicant and approved by the Town Engineer.
3. That all improvements shown on the plans be installed in accordance with the approved plan and construction standards and specifications of the Town.
4. That the Zoning Board of Appeals issues the necessary variances required pursuant to Chapter 170 "Zoning" of the *Code of the Town of Somers*.
5. That the applicant provide a copy of the Westchester County Health Department Approval for the on-site well and septic system.
6. That the applicant provides a copy of the New York City Department of environmental protection approval for the SPPP and the septic system.
7. That the applicant provides a copy of the NYS DOT work permit.
8. The Applicant shall reimburse the Town for any outstanding review fees, as applicable, consistent with §133-2 of the *Code of the Town of Somers* as well as State and Local Environmental Quality Review laws.
9. That a performance bond/security 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 form, sufficiency and manner of execution satisfactory to the Town Attorney and approved by the Town Board.
10. That an engineering inspection fee for the Site Plan shall be paid by check made payable 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.

11. That a revised site plan (Sheet 3/9) be submitted noting the number of Affordable Housing units to be provided, as discussed at the November 4, 2009 Planning Board meeting.

On-going Conditions Required After Signing of Site Plan

1. Sedimentation and erosion control measures employing best management practices as outlined in NYS DEC's booklets entitled, "*Reducing the Impacts of Stormwater Runoff from New Development*" dated April 1992 (or more recent revisions), the "*New York State Standards and Specifications for Erosion and Sediment Control*", also known as the Blue Book, and "*New York State Stormwater Design Manual*" dated April 2008 (including all updates and/or revisions), are required to be followed to ensure that all disturbed areas are stabilized and revegetated.
2. That construction activity shall be limited from 8:00 a.m. to 6:00 p.m., and that no construction activity shall occur on Sundays or legal New York State holidays.
3. That all work associated with this Site Plan application shall be subject to the approval of the Town Engineer in accordance with Chapter 93 "Stormwater Management and Erosion and Sediment Control," and Chapter 144 "Site Plan Review" of the *Code of the Town of Somers*.
4. That the use of toxic chemical pesticides, herbicides and fertilizers will not be used on site, as noted on the Landscape Plan, prepared by Rosedale Nurseries, Inc., last revised November 9, 2009.

BE IT FURTHER RESOLVED, that upon determination of compliance with the foregoing conditions, the Planning Board Chairman is hereby authorized to endorse Site Plan approval upon all maps and drawings constituting the Site Plan. The Applicant shall provide six (6) prints of each map and drawing to the Planning Board Secretary. No construction or site work is authorized until the Site Plan has been signed by the Chairman and the required copies delivered.

In accordance with §170-114.H, "Time for Signature of Site Plan", and §170-114.K, "Extension", of the Town Code, failure to comply with the above shall result in the expiration of Site Plan approval on November 18, 2010, unless an extension of this time period is requested prior to the expiration date and approved by the Planning Board.

Site Plan approval and its continued validity are subject to all requirements of Section 170-114, "Site Plan Approval", and Chapter 144, "Site Plan Review", of the Town Code. Approval shall be deemed null and void one (1) year from the date of signing of the Site Plan unless a Building Permit in compliance with the above shall have been obtained and construction progressed as required by

§170-114.I, "Time to Obtain Permit and Complete Construction", of the Town Code.

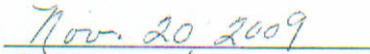
In accordance with Section 170-114.M(2) of the *Code of the Town of Somers*, before the completion of the improvements shall be approved and the Certificate of Occupancy issued, the Applicant shall submit an as-built plan to be approved by the Town Engineer.

The validity of any Certificate of Occupancy shall be subject to continued conformance with the approved Site Plan.

This resolution shall have an effective date of November 18, 2009.

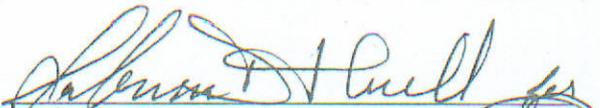
**BY ORDER OF THE PLANNING BOARD
OF THE TOWN OF SOMERS**


Fedora C. DeLucia, Chairman


Date

CERTIFICATION

I hereby certify that this is a true and correct copy of Resolution #2009-17 adopted by the Town of Somers Planning Board granting of Conditional Site Plan Approval, Special Exception Use Permit for Location Within the Groundwater Protection Overlay Zone and Stormwater Management and Erosion and Sediment Control Permits subject to the modifications stated herein, to Hallic Place Development, LLC for Wright's Court at a regular meeting held on November 18, 2009.

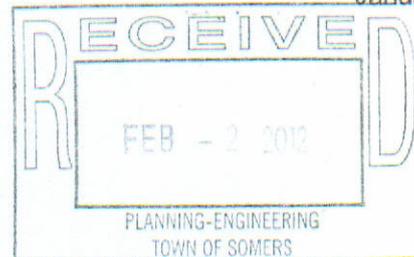

Sarah L. Brown, Senior Associate
F.P. Clark Associates, Inc.
Consultant Town Planner


Date



January 27, 2012

Ms. Sabrina Charney Hull
24 Dodgingtown Road
Newtown, Connecticut 06470



RE: Stevens Subdivision
Green Tree Road
Tax Map 15.12-2-1

Dear Ms. Charney Hull:

Enclosed please find one (1) copy of the following in support of the Preliminary Subdivision Application:

- Drawing SP-1, "Conventional Subdivision Constraints Map", dated January 27, 2012.
- Drawing ODA-1, "Open Development Area Map", dated January 27, 2012.
- Drawing SS-1, "Soils Map", dated January 27, 2012.

We respectfully request the above referenced application be placed on the February 8, 2012 Planning Board Agenda for an informal appearance and discussion with the Board. This application was last presented the Board on March 12, 2008, and represented by Beyer Associates. We are in receipt of the subsequent March 13, 2008 *Action Items Letter*.

As the Board may recall this application proposed a three-lot subdivision of a 9.8 ac +/- parcel located in the R-80 zone. The parcel is accessed through the North County Trailway (Trailway) right-of-way. A Town of Somers Right of Way exists between the current cul-de-sac of Green Tree Road and the Trailway. Ideally the client would like to develop the parcel as an Open Development Area serviced by a three-user common driveway. Two different layout options have been presented in this submission. The first illustrates a conventional subdivision layout, and in accordance with Somers procedure, has been provided to establish a lot count. The second alternative proposes an Open Development Area with a common driveway. All proposed lots would be serviced by individual drilled wells and individual subsurface sewage treatment systems.

Since last appearing before the Board the wetland delineation has been updated. In addition, the new layouts have been prepared based upon the latest stormwater regulations of both the New York State Department of Environmental Conservation, and New York City Department of Environmental Protection.

At the February 8, 2012 meeting we would like to take the opportunity to reacquaint the Board with the project, as well as discuss the following items:

1. Review the updated layouts and wetland delineations.
2. Review discussions with the NYSDOT regarding the Trailway crossing.
3. Establish a process for proceeding with an Open Development Area.
4. Review the future development of the project's Stormwater Pollution Prevention Plan relative to the two layouts provided.

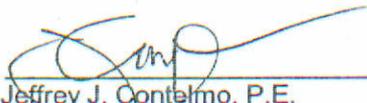
We trust you will find the enclosed information in order, and respectfully request this item be placed on the February 8, 2012 agenda for discussion with the Board.

If you have any questions or comments regarding this information, please do not hesitate to contact our office.

Very truly yours,

INSITE ENGINEERING, SURVEYING & LANDSCAPE ARCHITECTURE, P.C.

By:



Jeffrey J. Contelmo, P.E.
President / Principal Engineer

JJC/rdw/amh

cc: Somers Planning Board (with enclosures)
M. Barile (with enclosures)

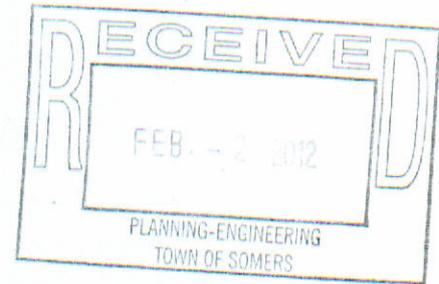
Insite File No. 09119.100



January 27, 2012

Mr. Stuart Sprague, Permit Engineer
New York State Department of Transportation
85 Route 100
Katonah, New York 10536

RE: Stevens Subdivision
Green Tree Road
Somers, New York



Dear Mr. Sprague:

Enclosed please find one (1) copy of the following items:

- Drawing SP-1, "Conventional Subdivision Constraints Map", dated January 27, 2012.
- Drawing ODA-1, "Open Development Area Map", dated January 27, 2012.

As you may recall this project had previously received a Highway Work Permit (Permit # 09-0296) to cross the North County Trailway (Trailway) in order to access the property, and perform soil testing.

Concurrent with this letter a submission is being made to the Town of Somers Planning Board to discuss a three-lot subdivision on the subject property. The owner of the property is seeking to develop the parcel as an Open Development Area serviced by a common driveway. However, in order to establish a theoretical maximum lot count, the Town of Somers requires the development of a Conventional Subdivision Plan, showing access to the site via a Town Road. The Conventional Subdivision Plan is solely intended for the purposes of evaluating the maximum development potential of the site.

For the Conventional Subdivision Alternative the Green Tree Road Right-of-Way (Town of Somers) is shown extending to the Trailway and then from the Trailway into the subject property. Since both Green Tree Road and the Trailway are located within public Rights-of-Way, it is our understanding an easement in favor of the Town Road Extension would not be necessary, similar to any other NYSDOT / Town road intersections. However, it is acknowledged a Highway Work Permit would be required prior to proceeding with any work in the Trailway Right-of-Way.

In the Open Development Area Alternative a 16' Common Driveway would be proposed. There is an existing 16.5' wide easement over Trailway Right-of-Way providing access to the property. It is in this 16.5' wide easement that the 16' wide paved common driveway will be constructed. Previously a Highway Work Permit was issued for the construction of a driveway over the easement. The Highway Work Permit has since expired. It is our understanding that prior to constructing any improvements within the Trailway Right-of-Way, a Highway Work Permit will need to be obtained from your office. As part of the construction of the 16' paved common driveway, road shoulders will need to be established for snow removal and maintenance of the common driveway. Details for the grading of the shoulders will be submitted as part of the Highway Work Permit.

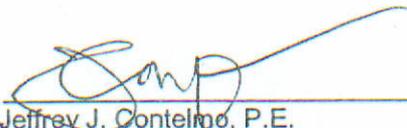
Please review this information and confirm our understanding in terms of required permitting from your office.

Should you have any questions or comments regarding this information, please feel free to contact our office.

Very truly yours,

INSITE ENGINEERING, SURVEYING & LANDSCAPE ARCHITECTURE, P.C.

By:



Jeffrey J. Contelmo, P.E.
President / Principal Engineer

JJC/rdw

Enclosures

cc: Somers Planning Board (without enclosures).

M. Barile (without enclosures).

Insite File No. 09119.100

Telephone
(914) 277-5366

FAX
(914) 277-4093

PLANNING DEPARTMENT

Town of Somers

WESTCHESTER COUNTY, N.Y.

TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589

Fedora DeLucia, Chairman
John Currie
Christopher Foley
Vicky Gannon
Nancy Gerbino
Eugene Goldenberg
John Keane



2

SOMERS PLANNING BOARD MINUTES
DECEMBER 14, 2011

ROLL:

PLANNING BOARD

MEMBERS PRESENT:

Chairman DeLucia, Mr. Keane, Ms. Gerbino,
Mr. Foley, Mr. Goldenberg, Ms. Gannon and
Mr. Currie

ALSO PRESENT:

Town Planner Sabrina Charney Hull
Consulting Engineer Joseph Barbagallo
Town Attorney Joseph Eriole
Planning Board Secretary Marilyn Murphy

The meeting commenced at 7:30 p.m. Planning Board Secretary Marilyn Murphy called the roll. Chairman DeLucia noted that a required quorum of four members was present in order to conduct the business of the Board.

**APPROVAL OF OCTOBER 26, 2011 AND NOVEMBER 9, 2011
MINUTES**

Chairman DeLucia noted that Planning Board Secretary Marilyn Murphy prepared and submitted for the Board's consideration the approval of the draft minutes of the Planning Board meeting held on October 26, 2011 consisting of twenty-one (21) pages and draft minutes from the November 9, 2011 meeting consisting of eleven (11) pages.

1 Chairman DeLucia asked if there were any comments or questions from
2 members of the Board on the draft minutes of October 26, 2011 and no one
3 replied.

4
5 The Chair asked if there was a motion to approve the October 26, 2011
6 draft minutes.

7
8 On motion by Ms. Gannon, seconded by Mr. Currie, and unanimously
9 carried, the minutes of October 26, 2011 were approved.

10
11 Chairman DeLucia asked if there were any comments or questions from
12 members of the Board on the draft minutes of November 9, 2011 consisting
13 of eleven (11) pages and no one responded.

14
15 The Chair asked if there was a motion to approve the November 9, 2011
16 draft minutes.

17
18 On motion by Ms. Gerbino, seconded by Ms. Gannon, and unanimously
19 carried, the minutes of November 9, 2011 were approved.

20
21 Chairman DeLucia noted that the DVD of the October 26, 2011 and
22 November 9, 2011 Planning Board meetings are made a part of the
23 approved minutes and are available for public viewing at the Somers Public
24 Library. The text of the approved minutes is also on the Town's website
25 www.somersny.com and is available for public review at the Planning &
26 Engineering office at the Town House.

27
28 Chairman DeLucia said that before proceeding with the agenda, she would
29 again like the public to know that this is the Board's last meeting for the
30 year 2011 as well as her serving as Chairman to the Somers Planning
31 Board which began seven years ago. The Chair explained that she will
32 remain as a member of the Board. She personally thanked Mr. John
33 Keane, who served as Acting Chairman during those years for his support
34 and guidance. She said Mr. Keane has been her mentor and strength and
35 that his knowledge and dedication in both serving as Acting Chairman and
36 as a member of this Board was invaluable.

37
38 **PUBLIC HEARING**

39
40 **HOMELAND TOWERS, LLC\NEW CINGULAR WIRELESS PCS,**

1 **LLC (AT&T) SITE PLAN APPROVAL AND TREE REMOVAL, STEEP**
2 **SLOPES, WETLAND, AND STORMWATER MANAGEMENT AND**
3 **EROSION AND SEDIMENT CONTROL PERMITS**
4 **[SANTARONI PROPERTY] 2580 ROUTE 35 [TM: 37.13-2-3]**
5

6 Chairman DeLucia noted that this is the Public Hearing on the application
7 of Homeland Towers, LLC\New Cingular Wireless PCS, LLC for Site Plan
8 Approval and Tree Preservation, Stormwater Management and Erosion
9 and Sediment Control, Steep Slopes and Wetlands. She said that the
10 applicants propose to install a wireless telecommunications facility
11 consisting of a 135-foot tall monopole disguised as a stealth tree together
12 with an equipment compound at the base thereof on a portion of a 7.96
13 acre residential property located at 2580 Route 35 in the R-120 Residential
14 Zoning District (3 acre) owned by Umberto and Carol Santaroni. She said
15 that the leased area consists of approximately 3,500 square feet. The Chair
16 indicated that the Somers Fire Department equipment has been added to
17 the proposal. She noted that this application is currently before the Zoning
18 Board of Appeals (ZBA) as Lead Agency under SEQRA, in a coordinated
19 review with the Planning Board as an Involved Agency, for a Special Use
20 Permit and area variances. Chair DeLucia explained that Manuel Vincente
21 is the managing member of Homeland Towers, LLC a New York limited
22 liability company with a main office located in White Plains, New York and
23 is represented by Robert D. Gaudio, Esq. of Snyder & Snyder, LLP and
24 AT&T is represented by Neil J. Alexander, Esq. of Cuddy & Feder, LLP.
25 The Chair noted that this application was last discussed at the November 9,
26 2011 Planning Board meeting whereby Town Planner Hull advised the
27 Planning Board that at the Zoning Board of Appeals October 18, 2011
28 meeting the ZBA accepted and issued the Negative Declaration
29 determining that there is no environmental significance with the project and
30 granting the Special Exception Use Permit for the wireless tower and
31 directed the applicant to work with the Planning Board regarding the
32 alternate access driveway designed to be addressed through Site Plan
33 Approval. The Chair indicated that the Planning Board scheduled the
34 Public Hearing for this evening and directed Town Planner Hull to prepare
35 a draft Conditional Resolution of Approval for the Board's review and
36 consideration for adoption. She explained that the Board also asked the
37 applicant to respond to the outstanding issues mentioned in Consulting
38 Engineer Barbagallo's November 4, 2011 memo and comments from Town
39 Planner Hull and revise the plans accordingly.

40 The Chair acknowledged for the record receipt of the following: a letter

1 dated November 28, 2011 received on November 29, 2011 from Attorney
2 Robert D. Gaudio of Snyder & Snyder, LLP enclosing copies of a letter
3 dated November 13, 2011 from Tectonic Engineering & Surveying, P.C.
4 addressing the issues raised in Consulting Town Engineer's November 4,
5 2011 memo and the NYC DEP's comments by e-mail dated October 31,
6 2011 from Cynthia Garcia; a memo dated December 9, 2011 from
7 Consulting Town Engineer Joseph C. Barbagallo, P.E., BCEE to the
8 Planning Board with comments for discussion; and a memo from Town
9 Planner Hull to the Planning Board attaching copies of the ZBA's approved
10 Negative Declaration and signed Resolution for the Planning Board's usage
11 together with draft Resolution 2011-11 for the Board's review and
12 comment.

13
14 Mr. Keane, taking over for Chair DeLucia, asked the applicant's
15 representative to give a brief presentation regarding this application.

16
17 Cara Bonomolo, the applicant's attorney, said that the applicant responded
18 to the comments from Consulting Engineer Barbagallo and she is here to
19 answer comments from the public during the Public Hearing on this
20 application.

21
22 The Chair asked Consulting Engineer Barbagallo to summarize his memo
23 to the Board for the benefit of the public.

24
25 Consulting Engineer Barbagallo said that his memo dated December 9,
26 2011 summarizes the outstanding items. He noted that at the last Planning
27 Board meeting there was concern that the visual analyses does not reflect
28 the tree removal proposed as part of this Site Plan. He asked the applicant
29 to add a note to the drawing indicating that up to an additional 8 Coniferous
30 trees of the size and species already included in the Landscaping Plan be
31 added to promote further screening of the constructed facility. Consulting
32 Engineer Barbagallo indicated that the need and location of these
33 additional trees be determined in the field by the Town Planner and
34 Consulting Town Engineer. He asked that prior to the issuance of a
35 Certificate of Occupancy, the applicant obtain concurrence from the Town
36 Planner on the installed visual mitigation.

37
38 Consulting Engineer Barbagallo said that as a condition prior to the signing
39 of the Site Plan that the applicant submit a revised Department of
40 Transportation (DOT) Permit and Site Plan using porous pavement or

1 documentation from the DOT indicating that they would not accept such an
2 approach. He stated that the applicant shall submit documentation of
3 NYSDOT Permit approval prior to the signing of the Site Plan. He
4 mentioned that another condition prior to the signing of the Site Plan is that
5 the applicant demonstrates to the satisfaction of the Consulting Town
6 Engineer that the access drive represents the minimum width required for
7 the Site/Tower construction, operation and maintenance. Consulting
8 Engineer Barbagallo also asked that the applicant submit signed and
9 sealed documents relative to the fall zone; submit retaining wall design
10 details and documentation of the NYC DEP approval prior to the signing of
11 the Site Plan.

12
13 The Chair asked if Town Planner Hull would like to comment on the
14 Negative Declaration and Resolution submitted by the ZBA for the Board's
15 information.

16
17 Town Planner Hull said that she has no comment on the content of the
18 ZBA's Negative Declaration and Resolution as it was signed by the Chair
19 and given to the Board for reference.

20
21 Attorney Bonomolo asked for clarification on the condition that prior to the
22 issuance of a Certificate of Occupancy, the applicant obtain concurrence
23 from the Town Planner on the installed visual mitigation. She opined that
24 this condition is vague and open ended and asked that this be clarified as it
25 is not specific to the eight (8) trees and she is concerned that there is
26 confusion as to what this condition pertains to and what concurrence
27 means.

28
29 Consulting Engineer Barbagallo clarified that determinations can be made
30 on paper but when you get out in the fields you realize where the trees
31 should be planted. He explained that the eight (8) additional trees will fill in
32 any gaps in the field.

33
34 Attorney Bonomolo said her concern is that prior to the issuance of the CO
35 the applicant shall obtain concurrence from the Planning and Engineering
36 Department on the installed visual mitigation. She noted that the draft
37 Resolution does not directly relate back to Condition 13. She asked that
38 Condition No. 1 on Page 16 be clarified.

39

1 Attorney Bonomolo clarified that the applicant will submit two plans to the
2 Department of Transportation (DOT) to obtain their permit. She explained
3 that the applicant will send the plan that includes the narrower driveway
4 with the apron and porous pavement and a code compliant plan. Attorney
5 Bonomolo said that the Planning Board agreed to send a recommendation
6 to the DOT that the narrower driveway and porous pavement be
7 considered.

8
9 Manny Vincente, managing member of Homeland Towers, said that he
10 prefers the smaller access drive. He understood that the plan was to
11 submit both plans with a preference from the applicant and the Board for
12 the narrower driveway.

13
14 Consulting Engineer Barbagallo said that he would like to have input on the
15 drawing before it is submitted to the DOT and he will make a
16 recommendation for the narrower driveway.

17
18 Mr. Keane said that in all the documentation there is the free usage of the
19 word *facility* and that word has not been defined. He noted the VHB
20 defined *facility* as including the pole while others don't include the pole and
21 only include the compound. Mr. Keane indicated that when the trees that
22 will be used for screening are mentioned for the facility the applicant is
23 talking about the compound and not the pole. He stressed that there is no
24 screening for the pole. Mr. Keane commented that when you use the word
25 *facility* it must include the pole and not just the compound or further define
26 it as only the compound and not the pole. He stated that the color for the
27 fencing has not been decided yet.

28
29 *At this time Town Attorney Eriole joined the meeting.*

30
31 Consulting Engineer Barbagallo said that he will clarify the language in
32 comment 13 of the Resolution from "constructed facility" to "constructed
33 compound area."

34
35 The Chair asked Planning Board Secretary Murphy if prior to this Public
36 Hearing had the legal notice been published, adjoining property owners
37 notified and the property posted.

38
39 Planning Board Secretary Murphy stated that the legal notice was
40 published in the Journal News on December 4, 2011, the adjoining property

1 owners notified via mail on December 4, 2011 and the sign stating the date,
2 time and place of the Public Hearing was posted on the property on
3 December 2, 2011.

4

5 The Chair asked for the record if the Secretary received any
6 communication in objection to this application.

7

8 Planning Board Secretary Murphy replied that there was no communication
9 in reference to this application.

10

11 The Chair asked if anyone present wished to be heard regarding this
12 application.

13

14 Mr. Oscar Ma of 2572 Route 35, asked where the monopole will be located
15 in relation to his property. He said that he lives west of the Santaroni
16 property.

17

18 Mr. Goldenberg asked if Mr. Ma received notice of the Public Hearings
19 which were held at the Zoning Board and tonight at the Planning Board
20 Public Hearing.

21

22 Mr. Ma said that the only notice he received was for the Planning Board
23 Public Hearing. He noted that he might have received a notice from the
24 ZBA a long time ago.

25

26 Attorney Bonomolo stated that the first Public Hearing on this application
27 was held at the ZBA in November 2009.

28

29 Greg Lahey, the applicant's engineer, showed Mr. Ma the location of the
30 proposed pole, the size of the compound and the proposed access
31 driveway. Engineer Lahey explained that the facility will be maintained
32 approximately once a month.

33

34 The Chair asked Mr. Ma if he was satisfied with the responses he received
35 and Mr. Ma replied that he is satisfied.

36

37 Ms. Gannon mentioned that Mr. Ma can go to the Planning Office and
38 review the material on this project.

39

1 The Chair asked if there were any comments or questions from members
2 of the Board or staff.

3
4 Mr. Keane opined that the applicant and his consultants have been
5 disingenuous especially after all the time that was spent telling the
6 applicant what the Board wanted. He mentioned that the visual impact
7 analysis consultants came to conclusions before they had any facts. Mr.
8 Keane said that any conclusions that were made in the visual impact
9 analysis were not based on the reality of what is proposed. He noted that
10 the Board was faced with a Hopsons choice. He said that the applicant
11 went to the Department of Environmental Protection (DEP) and discussed
12 the process before consulting with the Planning Board. Mr. Keane
13 commented that the justification in the Negative Declaration in regard to the
14 visual impacts is insufficient and a hard look was not taken by the ZBA into
15 the alternatives, in particular the camouflage alternatives. Mr. Keane noted
16 that the Resolution states that the pole will be painted Thunder Gray.

17
18 Ms. Gannon said that Sabre Technology submitted a letter on October 7,
19 2011 giving their rationale on choosing Thunder Gray. She asked the
20 applicant to provide a sample of the color for the record.

21
22 Mr. Keane opined that there were conclusions that were made that are not
23 fact based on what is in the file. He said that the documentation does not
24 support the conclusions there were made in the visual impact analysis and
25 the Negative Declaration. Mr. Keane mentioned Viewpoint 4 along Route
26 35 where the pole can be seen the greatest number of times. The visual
27 analysis states that it will not be seen for any length of time; therefore, it will
28 not be an impact and is not a major viewpoint. He said that Viewpoint 4 is
29 the only viewpoint where you can see the entire tower for any length of
30 time. He asked how this is not a major viewpoint.

31
32 Ms. Gannon disagreed that only viewpoint 4 is a problem because she is
33 troubled with viewpoint 29 where the pole can be seen.

34
35 Mr. Keane said that the applicant had to demonstrate that they met the
36 maximum extent practicable threshold under SEQRA and that they met the
37 maximum extent reasonably possible threshold under Somers Regulations
38 and they did not do either.

39

1 Mr. Foley stated that because of the determination of the Neg Dec, SEQRA
2 was avoided. He said that the determination was made that the proposal
3 will not have a significant effect on the environment. He noted that a cell
4 tower erected right near Route 35 ended with the determination that it will
5 not have a significant effect on the environment. Mr. Foley stressed that
6 this defies every ounce of logic he has.

7
8 Mr. Keane mentioned camouflage techniques and said that those
9 techniques were not addressed. He opined that there was a failure to take
10 the Department of State document that identifies how to deal with a cell
11 tower and the issue of camouflage and screening. He said that he told
12 Attorney Gaudioso about three possible camouflage methods relating to
13 visual impact and they were never used.

14
15 Mr. Goldenberg said that he is in shock that Mr. Ma came tonight to
16 express his concerns and did not know about past hearings. He
17 questioned if the process was legal.

18
19 Town Planner Hull stated that the ZBA follows the proper noticing and there
20 probably are receipts stating who was notified. She opined that Mr. Ma
21 was probably notified of the ZBA Public Hearing.

22
23 Mr. Goldenberg asked Town Planner Hull to check and make sure that Mr.
24 Ma was notified of the meetings.

25
26 Town Attorney Eriole advised that because of the nature of the ZBA's
27 hearings and other than the initial notice the residents have to follow the
28 agendas.

29
30 Attorney Bonomolo said that the applicant followed the proper noticing that
31 the Town requires. She opined that this application did go through the
32 appropriate SEQRA process. Attorney Bonomolo explained that the ZBA
33 determined that there were no significant adverse environmental impacts
34 which concluded the SEQRA review. She explained that the Planning
35 Board participated in a coordinated SEQRA review with the ZBA as Lead
36 Agency.

37
38 Mr. Foley asked if the question whether the environmental impacts have
39 been mitigated to the maximum extent possible has been answered.

40

1 Town Planner Hull said that the problem is that there was no determination
2 in this application that there was any significant environmental impacts.

3
4 Mr. Keane said that from a Site Plan perspective the Board has the ability
5 to deal with visual impacts and is the reason he wanted to know what was
6 in the ZBA's Negative Declaration. He opined that the Neg Dec did not
7 meet the thresholds to mitigate the impacts.

8
9 The Chair asked if there was a consensus of the Board and staff to close
10 the Public Hearing.

11
12 Mr. Goldenberg noted that he is against closing the Public Hearing
13 because Mr. Ma has not reviewed the material. He asked if children are
14 living in the home.

15
16 The Chair asked Mr. Ma if he needs time to review the material and receive
17 more information on this project.

18
19 Mr. Ma indicated that there is a lot to digest as he had no idea where the
20 pole will be placed in relation to his home.

21
22 Attorney Bonomolo said that she is concerned that the Board is
23 encouraging Mr. Ma to say that he has questions in order to keep this
24 application open and delay resolution on this project. She stressed that
25 the Public Hearing process was followed by the ZBA and Mr. Ma
26 acknowledged that he received notice and was aware of the application.
27 Attorney Bonomolo stressed that the Public Hearing is for Site Plan
28 Approval and the environmental impacts have been decided by the ZBA.
29 She reminded the Board that the shot clock on this application expires on
30 January 13, 2012.

31
32 Ms. Gannon suggested that the Public Hearing be closed but keep open
33 the opportunity for a 10-day written comment.

34
35 On motion by Chair DeLucia and seconded by Ms. Gannon and
36 unanimously carried, the Board moved to close the Public Hearing on
37 Homeland Towers, LLC/New Cingular Wireless PCS, LLC with a 10-day
38 written comment period to December 28, 2011.

39

1 The Chair said that Town Planner Hull has prepared for the Board's
 2 consideration for approval draft Conditional Resolution No. 2011-09.

3
 4 Ms. Gannon suggested asking for a paint sample of the color Thunder Gray
 5 for the file.

6
 7 Ms. Gannon corrected page 16, line 35 of the Resolution under On-going
 8 Conditions Required After Signing of Site Plan to read *New York State*
 9 *Standard and Specifications for Erosion and Sediment Control, also known*
 10 *as the Blue Book and any relevant Town Codes.*

11
 12 Mr. Keane asked Town Consulting Engineer Barbagallo that under Section
 13 167-8 (d) the application has to replace the buffer similar functioning
 14 capability or if they can't they have to demonstrate the proper mitigation
 15 that allows it to happen or provide off-site measures to meet that criteria.

16
 17 Town Consulting Engineer Barbagallo said that relative to wetland
 18 mitigation and given the constraints that you have to work with
 19 he asked the applicant to put at the toe of the slope a shallow trench
 20 to facilitate infiltration of the stormwater coming off the slope. He noted that
 21 in combination with the erosion and sediment control plan it is the best that
 22 can be done on this site. Town Consulting Engineer Barbagallo stated that
 23 he is comfortable as it relates to stormwater that the plan uses mitigation in
 24 accordance with the requirements. He said that he will coordinate with
 25 Town Planner Hull on the language to be used in the resolution.

26
 27 Attorney Bonomolo stated that while 32 trees are being removed the
 28 applicant is planting 67 trees about 240 shrubs and removing the invasive
 29 species. She noted that the Department of Environmental Protection
 30 (DEP) has said that this will improve the wetland buffer.

31
 32 The Chair read from Paul Marx, Chairman of the ZBA, letter dated
 33 December 2, 2011, *Succinctly put, the ZBA has deferred the issue of the*
 34 *width of the access drive and size of the curb cut (street apron) to the*
 35 *Planning Board in order to determine if certain trees can be spread and/or*
 36 *doing so allows additional landscaping to help reduce the visual impact of*
 37 *Viewpoint 4.*

38

1 Town Attorney Eriole indicated that the Planning Board can decide if
2 additional landscaping is needed to reduce the visual impact of Viewpoint
3 4.

4
5 The Chair asked if there were any other comments from the applicants'
6 representative or the Board regarding the draft resolution.

7
8 Attorney Bonomolo corrected page 3, line 41 of the resolution to read
9 *creation of a 24-foot maximum wide gravel access road.*

10
11 Chairman DeLucia directed that the application be on the January 11, 2012
12 Planning Board meeting.

13 14 **DISCUSSION**

15 16 **THE GREEN AT SOMERS AMENDED SITE PLAN, WETLAND, 17 STEEP SLOPES AND STORMWATER MANAGEMENT AND EROSION 18 AND SEDIMENT CONTROL PERMITS [TM: 4.20-1-3.1]**

19
20 Chairman DeLucia noted that this is a Board discussion on the application
21 of The Green at Somers Amended Site Plan and related permits for the
22 construction of a Mixed Use (Residential and Retail) development. The
23 Chair indicated that the proposed project is located at 57 Route 6 owned by
24 National Golfworx New York Realty, LLC. The Chair said that the applicant
25 is Richard Van Benschoten. She mentioned that a discussion of the
26 proposed project was requested by the applicant and held at the Planning
27 Board meeting on October 26, 2011 to determine whether the Planning
28 Board is in support of items that have been incorporated into the plan in
29 order to make a recommendation to the Town Board required for their
30 approval under Code §170-20.4.B (Affordable dwelling units) in the
31 Neighborhood Shopping NS Zoning District. The Chair said that at that
32 discussion meeting on October 26, 2011 Town Planner Hull supported a
33 computer generated simulation to be presented at the December 14, 2011
34 Board meeting. She mentioned that Attorney Whitehead said that a
35 computer generated modeling presentation can be made showing the
36 buildings and elevation on the site. Attorney Whitehead noted that the
37 Board could recommend that the Code be amended to allow the first floor
38 retail with apartments in the courtyard buildings or that 50% of the buildings
39 have apartments over the stores. Board member John Keane suggested

1 that 25% of the first floor be retail with the remainder as residential. The
2 Chair noted that Town Attorney Eriole commented that apartments on the
3 first floor with retail is either a ZBA interpretation of the Town Code or
4 clarified by petitioning the Town Board.

5
6 The Chair noted that the applicant is represented by Attorney Linda B.
7 Whitehead of the law firm McCullough, Goldberger & Staudt, LLP and by
8 Daniel J. Holt, P.E. of Pawling, N.Y., the applicant's engineer.

9
10 The Chair indicated that on November 18, 2011 the Board received a
11 memo dated November 17, 2011 from the Bureau of Fire Prevention
12 inquiring if any of the five buildings will allow for underground parking.

13
14 Linda Whitehead, the applicant's attorney, using a 3D computer modeling,
15 demonstrated the visual impact of the proposed buildings being considered
16 for this project. She noted that the proposed buildings are approximately
17 50-feet in height. Attorney Whitehead explained that buildings 1, 2, 3 and 4
18 are proposed to have a combination of retail and residential uses with
19 building 5 proposed to have a restaurant use.

20
21 Attorney Whitehead explained that the northern portion of the property
22 consists of a wetland with an existing watercourse. She noted that there is
23 also a wetland area on the adjacent southwesterly property and the
24 wetland buffer associated with the wetlands extends onto the property.

25
26 Mr. Keane said that the view that has the most concern is looking west
27 from Route 6.

28
29 Daniel Holt, the applicant's engineer, explained that landscaping will break
30 the line between the street, the buildings and the parking lots.

31
32 Mr. Keane said that there should be enough landscaping that it blends in a
33 tiered way upward toward the higher point of the building. He indicated that
34 the buildings should look like they have landscaping around them.

35
36 Attorney Whitehead noted that the applicant proposes to make at least 50
37 percent of the proposed 72-74 units affordable and seeks to avail itself of
38 all three (3) of the discretionary incentives per §170-20.4, an increase in
39 the minimum floor ratio, permission to increase building heights to three
40 stories or 50 feet and a reduction in the required number of parking spaces.

1 Attorney Whitehead mentioned that the applicant would like to locate
2 residential uses on the first floor of the proposed three story buildings. She
3 noted that the Neighborhood Shopping District (NS) allows for "living above
4 the store" and limits first floor uses to retail. She asked that the Planning
5 Board recommend to the Town Board to allow a mixture of residential and
6 retail uses on the first floor, on a case by case basis.

7
8 Attorney Whitehead suggested that the Planning Board make a
9 recommendation to the Town Board to support these requests. She
10 mentioned that there is a concern about empty retail as a good reason to
11 reduce the extent of retail. She explained that the Town Board will have to
12 amend the Town Code. Attorney Whitehead explained that the Town
13 Board amended the Code if you provide 50% affordable units to increase
14 the Floor Area Ratio (FAR) for a three story building.

15
16 Attorney Whitehead passed out to the Board additional language to be
17 added to §170-20.4 for their consideration to allow the placement of
18 residences on the first floor of the proposed project.

19
20 Town Planner Hull stated that the applicant is looking for the Board to make
21 a recommendation to the Town Board to allow the increase in the FAR
22 because of the 50% affordable units and to allow the reduction in the
23 parking requirements and allow the increase in the maximum height to 3
24 stories.

25
26 Town Planner Hull said that she would like to do calculations to determine
27 what 25% residential will look like on the first floor. She commented that
28 she is hesitant to make a recommendation for a Code change without
29 further analysis. She noted that this is a very broad interpretation of the
30 Neighborhood Shopping Zone.

31
32 Attorney Whitehead noted that the architect prepared sketches of what
33 approximately 25% residential will look like showing the floor plan and
34 elevations.

35
36 Mr. Keane suggested 25% of the total first floor area in each building be
37 residential.

38
39 The Chair explained that Consulting Town Engineer Barbagallo submitted a
40 memo to the Board dated December 9, 2011 but he will not summarize it

1 this evening but instead will give his comments to be included in the
 2 Planning Board's recommendations to the Town.

3
 4 The Board agreed to make a positive recommendation to the Town Board
 5 to authorize the increase in the FAR and allow the increase in the
 6 maximum height of the buildings to 3 stories.

7
 8 The Chair said that there was a consensus of the Board to send a memo to
 9 the Town Board that the Planning Board at its December 14, 2011 meeting,
 10 and after a computer generated modeling presentation by applicant's
 11 representatives and discussion, by unanimous consent and with no
 12 objection by Town Planner Hull and Consulting Town Engineer Barbagallo,
 13 recommends and supports a positive recommendation to the Town Board
 14 to authorize the increase in the FAR and allow the increase in the
 15 maximum height of the buildings to 3 stories and to authorize the Planning
 16 Board to reduce the required number of parking spaces and recommends
 17 approval by the Town Board as required under Town Code §170-20.4.B.
 18 (Affordable dwelling units) in the Neighborhood Shopping NS Zoning
 19 District.

20
 21 Town Planner Hull suggested that the Board propose that the Town Board
 22 authorize the Planning Board to allow a mix of residential and retail on the
 23 first floor. She suggested that she prepare a draft memo sent by
 24 e-mail for the Board's consideration and the Board agreed.

25
 26 Attorney Whitehead thanked Chair DeLucia for all her years of hard work
 27 and service to the Town.

28
 29 **PROJECT REVIEW**

30
 31 **McENTERGART STEEP SLOPES, TREE PRESERVATION**
 32 **AND STORMWATER MANAGEMENT AND EROSION AND SEDIMENT**
 33 **CONTROL PERMITS [TM: 36.12-2-6]**

34
 35 Chairman DeLucia noted that this is the project review of the application
 36 of Patricia McEntergart, as applicant, and the Marino Group, LLP, as
 37 owner, for Steep Slopes, Tree Preservation and Stormwater Management
 38 and Erosion and Sediment Control Permits for property located on the
 39 north side of Amawalk Point Road for the construction of a residence,
 40 driveway, septic system and well within the very steep slopes category of

1 25-35%. She mentioned that Amawalk Point Road is to be maintained as a
2 private road. The Chair said that this application was submitted on
3 February 18, 2004 and last discussed at the August 25, 2010 Planning
4 Board meeting. The Chair explained that this application was withheld due
5 to a lawsuit brought by the neighboring property owner and subsequent
6 improvements to Amawalk Point Road which are now completed thereby
7 allowing the applicant to move forward with this project. The Chair
8 indicated that the applicant is represented by Timothy S. Allen, P.E. of
9 Bibbo Associates, LLP who is before the Board to approve the steep slopes
10 application. The Chair mentioned that a site walk was conducted on
11 September 25, 2010.

12
13 The Chair acknowledged for the record receipt of the following: a letter
14 dated November 23, 2011 received on November 29, 2011 from Timothy S.
15 Allen, P.E. of Bibbo Associates, LLP enclosing Site Plan Drawings last
16 revised November 23, 2011 and Stormwater Pollution Prevention Plan
17 (SWPPP) dated November 23, 2011 with responses to comments of the
18 Consulting Town Engineer's memoranda dated August 20 and November
19 17, 2010.

20
21 The Chair asked Tim Allen, the applicant's representative, to give a brief
22 presentation of the application from the last project review on August 25,
23 2010 to the present.

24
25 Timothy S. Allen, the applicant's engineer, said that two house sites were
26 discussed one on the ridge and the other tucked into the hill side. He noted
27 that it would take ripping out the hill side to place the house in that area.
28 Engineer Allen agreed to provide screening alongside the driveway. He
29 mentioned that the applicant was waiting for the road to be constructed
30 before moving forward.

31
32 Engineer Allen explained that he would like to work with Consulting
33 Engineer Barbagallo on his concerns before the next meeting.

34
35 The Chair asked Consulting Engineer Barbagallo to summarize his memo
36 for the benefit of the public.

37
38 Consulting Engineer Barbagallo mentioned that there is a natural grass
39 swale to be located to the east of the driveway parking area. He asked the
40 applicant to revise the location or provide alternative practices at the

1 discharge point to prevent stormwater from entering the neighboring
2 property. He asked that Engineer Allen review the swale design.
3 Consulting Engineer Barbagallo requested that the applicant confirm that
4 depicted drainage areas are consistent with hydrologic modeling.
5 He also asked that an additional row of silt fence be placed at the toe of the
6 steep slope and that the utilities be depicted on the plan. Consulting
7 Engineer Barbagallo asked that the sight distance in both directions at the
8 driveway entrance be revised.

9
10 Consulting Engineer Barbagallo indicated that during the site walk on
11 November 17, 2010 the Board requested that a note be added to the
12 drawing that no further subdivision of the property be permitted. He asked
13 that the Board consider the applicant's response, "Although the applicant
14 has no immediate intentions of further subdividing the subject property,
15 they wish to reserve the right to explore the option of a future subdivision".
16 He noted that a note has not been added to the plan.

17
18 The Chair asked if there were any comments or questions from members
19 of the Board.

20
21 Mr. Keane asked how stormwater will be dealt with as he does not like the
22 idea of stormwater running down the driveway and dumping into the
23 detention basin.

24
25 Engineer Allen explained that there will be a basin on the eastern side with
26 another basin within 10 feet of the road.

27
28 The Chair explained that under Town Code Section 148-8.H Waiver of
29 Public Hearing, the Board may, in its discretion, dispense with the Public
30 Hearing. She asked if there was a consensus of the Board to waive the
31 Public Hearing.

32
33 Consulting Engineer Barbagallo indicated that he does not have an
34 objection to waiving the Public Hearing.

35
36 Mr. Foley asked about the adjoining property owner that is close to the
37 driveway. He suggested that that property owner has a right to weigh in on
38 the issue and if the Board has mitigated the driveway as much as possible.

39

1 Engineer Allen stated that the driveway is in the best location and will be
2 landscaped.

3
4 Mr. Keane stated that the steep slopes on this property in the absence of
5 mitigation qualify as a problem. He opined that the adjoining property
6 owners should be given the right to be heard.

7
8 Ms. Gerbino said that the driveway is a major change and a Public Hearing
9 on this application is important.

10
11 On motion by Ms. Gannon, seconded by Mr. Keane, and unanimously
12 carried, the Board moved to schedule the Public Hearing on the
13 McEntergart Steep Slopes application for Wednesday, January 25, 2012 at
14 7:30 p.m. at the Somers Town House and requested Consultant Engineer
15 Barbagallo to prepare a Conditional draft Resolution granting the Steep
16 Slopes Permit under Chapter 148 of the Somers Town Code for the
17 Chairman's signature.

18 19 DISCUSSION

20 21 PLANNING BOARD CALENDAR FOR 2012

22
23 Chairman DeLucia said that the Board will consider adoption of the
24 Planning Board's meeting dates for calendar year 2012. She noted that not
25 on the agenda is a brief discussion on the changes to be made regarding
26 the Planning Board for next year.

27
28 Mr. Keane suggested meeting once a month on the fourth Wednesday of
29 the month.

30
31 Ms. Gannon asked if there is one meeting a month why is it on the fourth
32 Wednesday and not the second Wednesday of the month. She indicated
33 that there are times when the meeting has to be on the second
34 Wednesday.

35
36 Town Attorney Eriole commented that if you meet on the last Wednesday
37 of the month there will be problems with Thanksgiving and Christmas.

38
39 The Chair indicated that it was the consensus of the Board to meet once a
40 month on the second Wednesday of the month except for this January

1 where the Board will meet on the second and fourth Wednesday of the
2 month to accommodate the Public Hearing on the McEntergart Steep
3 Slopes application.

4
5 On motion by Ms. Gerbino, seconded by Mr. Currie, and unanimously
6 carried, the Board moved to adopt the 2012 Planning Board calendar.

7
8 The Chair said that the Planning Board has to discuss the new procedures
9 for the staff of the Planning Board.

10
11 Planning Board Secretary Murphy explained that the position of Planning
12 Board Secretary full time has been eliminated and now is a part time
13 position consisting of two days per week. She said that it was decided that
14 the best use of her time is to cover the office, the financial aspects and the
15 minutes of the Planning Board meetings.

16
17 Town Planner Hull indicated that Supervisor Murphy feels that if the Board
18 cannot pick up their material during business hours she can arrange for
19 lockers and keys to the building.

20
21 The Chair opined that this is not a good idea as it is difficult for Board
22 members who are all volunteers.

23
24 Town Planner Hull said that the minutes will not be in the form that they are
25 currently prepared. She noted that the Board can review the meeting with
26 the DVD of the meeting.

27
28 The Chair explained that because the minutes were done in their present
29 form she was able to know exactly what transpired on the McEntergart
30 application. She said that if the Board agrees to continue the minutes as
31 they are currently presented the Town Board may change their mind.

32
33 Town Planner Hull explained that she will be working four days a week for
34 the Town and one day for the region.

35
36 There being no further business, on motion by Ms. Gannon, seconded by
37 Mr. Keane, and unanimously carried, the meeting adjourned at 12:00 P.M.
38 and the Chair noted that the next Planning Board meeting will be held on
39 Wednesday, January 11, 2012 at 7:30 P. M. at the Somers Town House.

40

1
2
3
4
5
6
7
8
9
10

Respectfully submitted,

Marilyn Murphy
Planning Board Secretary

DRAFT