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PLANNING DEPARTMENT

Town of Somers

WESTCHESTER COUNTY, N.Y.

TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589

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



SOMERS PLANNING BOARD
AGENDA
JULY 11, 2012
7:30 P.M.

MINUTES Consideration for approval of Draft Minutes for May 9, 2012

TIME-EXTENSION

- 1. BARBAGALLO/MEICHNER ROADWAY IMPROVEMENTS**
Request for a one (1) year time-extension to the re-grant of Site Plan Approval for Barbagallo/Meichner Roadway Improvements for the Scenic Resource Protection Area known as Smith Lane from September 10, 2012 to and including September 10, 2013.
This is the second time-extension request for Site Plan Approval.

DISCUSSION

- 2. GREENBRIAR RE- SUBDIVISION OF LOTS 1, 2, 3, 4
IN SECTION 7
CUTTING OF 50" OAK TREE.**
Discussion on a Notice of Violation issued by Steven Woelfle, Principal Engineering Technician, dated May 5, 2012. The Planning Board in 2006 granted approval to re-subdivide 4 lots with the condition that the 50" white oak be preserved.

PROJECT REVIEW

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

Application of National Golfworx/Rick Van Benschoten (owner) for a mixed use development consisting of five buildings with a combination of retail and residential uses. The site is proposed to be serviced by public sewer and water. The application was last discussed at the May 9, 2012 Planning Board meeting.

Next Planning Board Meeting, August 8, 2012

Agenda information is also available at www.somersny.com

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SOMERS PLANNING BOARD MINUTES
MAY 9, 2012

ROLL:

PLANNING BOARD

MEMBERS PRESENT:

Chair Currie, Mr. Keane, Ms. Gerbino,
Mr. Goldenberg, Mr. Foley and Ms. Gannon

ALSO PRESENT:

Consulting Engineer Joseph Barbagallo
Town Attorney Joseph Eriole
Planning Board Secretary Marilyn Murphy

ABSENT:

Ms. DeLucia

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

APPROVAL OF MARCH 14, 2012 MINUTES

Chairman Currie 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 March 14, 2012.

Chairman Currie asked if there were any comments or questions from members of the Board on the draft minutes of March 14, 2012 and no one responded.

1 The Chair asked if there was a motion to approve the March 14, 2012 draft
2 minutes.

3
4 On motion by Chair Currie, seconded by Ms. Gannon, and unanimously
5 carried, the minutes of March 14, 2012 were approved.

6

7 **TIME-EXTENSION**

8

9 **SUSAN HAFT/RIDGEVIEW DESIGNER BUILDERS, INC.**

10 **FINAL CONSERVATION SUBDIVISION**

11 **[TM: 16.12-1-41 & 42]**

12

13 Chairman Currie said that this time-extension request relates to the
14 application of Susan Haft/Ridgeview Designer Builders Inc. for a five lot
15 Conservation Subdivision for property located east of Lovell Street,
16 north of where Lovell Street and Benjamin Green Lane meet. He noted that
17 this application received conditional subdivision approval on August 5,
18 2010.

19

20 Chair Currie acknowledged for the record receipt of a letter dated
21 May 4, 2012 from Geraldine Tortorella of the law firm Hocherman,
22 Tortorella & Wekstein, LLP requesting a sixth time-extension from the
23 current deadline of May 21, 2012. He mentioned that the request for a
24 time-extension is based on the economy and in the past the time-
25 extensions have been granted for this reason to other applicants.

26

27 The Chair asked if there were any comments or questions from members of
28 the Board.

29

30 Mr. Goldenberg referenced the May 4, 2012 letter from Attorney Tortorella,
31 *"As was explained to your Board when the prior extensions were sought,*
32 *and granted, there are a few conditions of approval that require the*
33 *payment of funds and/or posting of security which our clients are not*
34 *prepared to undertake at this time given current economic conditions that*
35 *are outside our clients' control. This continues to be the case. We*
36 *respectfully remind the Board that to the extent our clients' inability to*
37 *satisfy the conditions of Final Approval are based upon economic factors,*
38 *there is no legal basis for the Board to deny this extension request on that*
39 *ground. There have been no changes in the law nor any change in*
40 *circumstances surrounding the property that would justify denial of the*

1 *extension. The potential impacts of the proposed subdivision are*
2 *unchanged and, therefore, an extension will not have a detrimental effect*
3 *on public health, safety and general welfare. Indeed, were our clients to*
4 *make a "new" application for final subdivision approval tomorrow, there*
5 *would be no basis to deny such application. Thus, we believe it would be*
6 *arbitrary and capricious for the Board to deny the extension request".*

7
8 Mr. Goldenberg said that he questioned the remark in reference to a "new"
9 application would be arbitrary and capricious and he would like to state that
10 the reason for economic conditions can be used without clarification by an
11 applicant at any time for a time-extension. He commented that fees have to
12 be paid for this subdivision and if these fees are not paid the Town of
13 Somers will have problems. He mentioned that the Town does not have an
14 in-house planner or an in-house engineer. Mr. Goldenberg stated that he
15 was dismayed that the letter came in only five days ago requesting the
16 extension and the applicant is not present to discuss the request.

17
18 Chair Currie clarified that when the project starts all funds have to be paid
19 to the Town and the applicant feels that economic conditions are not
20 favorable to start this project at this time. He said that all fees have been
21 paid to get this application to this point. Chair Currie mentioned that he
22 decided that the applicant did not have to appear before the Board because
23 there have been time-extensions granted for economic conditions.

24
25 Mr. Goldenberg stressed that the applicant should state what the problem is
26 not just say economic reasons.

27
28 Mr. Foley opined that the applicant does not want to move forward on the
29 project because the economy is such that it is not a good time to build.

30
31 *At this time Mr. Keane joined the meeting.*

32
33 Ms. Gerbino said that by the Board granting the time-extension there is no
34 expense to the Town or the taxpayer and if the Board denies the extension
35 they will be creating a hardship for the applicant.

36
37 Chair Currie noted that there was a consensus of the Board to grant the
38 sixth request for a time-extension.

39

1 On motion by Ms. Gannon, seconded by Ms. Gerbino, (Mr. Goldenberg
2 voting nay) and carried, the Board moved to grant a sixth 90-day time-
3 extension to Susan Haft and Ridgeview Designer Builders, Inc. to the
4 period of Conditional Final Subdivision Approval from May 21, 2012 to and
5 including August 20, 2012.

6 7 **DECISION**

8 9 **CVS PHARMACY PARKING AMENDED SITE PLAN [TM: 17.15-1-13]**

10
11 Chairman Currie noted that the Planning Board will be reviewing the draft
12 Resolution of Approval and making a decision on the application of Urstadt
13 Biddle (owner) and CVS Pharmacy (applicant) for Amended Site Plan
14 Approval for property located at the Somers Towne Centre, 325 Route 100,
15 for the alteration to the parking area and walkway in front of the CVS Store.
16 He mentioned that additional accessible parking spaces will be created
17 from three (3) existing.

18
19 Chair Currie asked the applicant's representative if he had any comments
20 on the draft resolution.

21
22 John Montalto, the applicant's architect, said that he submitted revised
23 plans addressing the comments of the Town Planner and Consulting Town
24 Engineer. He reviewed the draft resolution and found the resolution
25 acceptable.

26
27 Architect Montalto indicated that the Consulting Town Engineer requested
28 that General Note No. 3 indicated that no stockpiling of material will be
29 permitted on site and that will be done. He said that haybales or sandbags
30 will be installed surrounding the parking lot drain inlet downgradient of the
31 work area. Architect Montalto said that he made the revision that the
32 depicted depths of parking spaces are shown on the drawings to measure
33 the parking space depth from the existing bollards. He explained that the
34 original submission contained wheel stops but there will be bollards in front
35 of the drop curb for protection to the sidewalk area instead of wheel stops.
36 Architect Montalto said that CVS does not have a contractor yet but he will
37 obtain the construction sequence as soon as the contractor is selected. He
38 requested that the construction sequence be submitted with the request for
39 a building permit.

40

1 Consulting Engineer Barbagallo explained his request for the construction
2 sequence was to see how CVS will maintain access to the facility during
3 construction while protecting the public's safety.

4
5 Architect Montalto said that when the sidewalk is dropped there will be
6 exposure to the existing building which is brick and he does not know how
7 far down the brick goes and hopefully there is an expansion joint between
8 the two and when that is removed the brick can be cleaned. He stated that
9 if there is an exposed foundation wall it will be provided with a concrete
10 finish with the same around the existing columns.

11
12 Consulting Engineer Barbagallo said that he wants to make sure the Board
13 is comfortable with the depicting of the exterior building façade surface
14 treatment. He said that this is a visual item that he wants the Board to be
15 aware of and not surprised at the way it looks.

16
17 Ms. Gerbino indicated that the Architectural Review Board may want to
18 weigh in on the exterior building façade surface.

19
20 Consulting Engineer Barbagallo said that the area is only 20-30 feet and 6
21 inches in height.

22
23 Architect Montalto opined that there probably is a brick shelf with the ramps
24 on either side with the brick line being consistent. He opined that there will
25 be no impact on appearance.

26
27 The Chair asked if there were any comments or questions from members of
28 the Board.

29
30 Mr. Goldenberg asked if there has been a study of accidents at the CVS
31 location. He said that he is concerned that the Board is disturbing
32 something that does not have to be disturbed. Mr. Goldenberg asked why
33 if there are no problems in the parking lot does the Board want to make
34 changes. He noted that when CVS originally went into the building there
35 was a sign asking the workers to use the proper gear because there was
36 asbestos.

37
38 Mr. Keane asked if there is an ADA requirement for parking.

39

1 Architect Montalto said that CVS meets the ADA requirement but residents
2 asked that CVS provide additional handicap spaces. He mentioned that
3 the curb has to be lowered so the handicap spaces can be accessed.
4 Architect Montalto stated that he is not aware that CVS has done safety
5 studies. He mentioned that CVS is upgrading their 7,000 stores to be
6 100% ADA compliant. He noted that in regard to structural integrity the
7 scope of work for this project is very simple and will not have any impact on
8 the structural integrity of the building. Architect Montalto stated that CVS
9 will provide a safety plan and there will not be any danger to customers or
10 the building.

11
12 The Chair said that there was a consensus of the Board to use the
13 concrete finish for the exterior building façade surface treatment.

14
15 Consultant Engineer Barbagallo said that he is comfortable that his
16 comments have been addressed.

17
18 Ms. Gannon said that the building analysis in the parking conformance
19 table does not match. She asked the applicant to revise sheet "T1" to
20 number spaces by type and to correct inconsistencies in the conformance
21 tables.

22
23 Architect Montalto said that he will also revise "ES1" as well as "T1".

24
25 The Chair asked Consultant Engineer Barbagallo and the Board if they had
26 any comments on the draft Resolution.

27
28 Mr. Goldenberg mentioned the Whereas clause on Page 3 of the
29 Resolution where it states that the Planning Board has reviewed the site
30 and its surroundings. He said that sounds like a site walk and that never
31 took place.

32
33 Ms. Gannon said that on Page 3 of the Resolution, the third Whereas
34 clause from the bottom of the page, that the word "surfaces" be added to
35 read *no change in the amount of impervious **surfaces***.

36
37 Ms. Gannon said that on Page 5 of the Resolution, under On-going
38 Conditions Required After Signing of Site Plan, under BE IT FURTHER
39 RESOLVED to read, *that upon determination of compliance with the*
40 *foregoing conditions required prior to signing the site plan, the Planning*

1 *Board Chairman is hereby authorized to endorse Site Plan approval upon*
2 *all maps and drawing constituting the Site Plan.*

3
4 Consultant Engineer Barbagallo said that in reference to Mr. Goldenberg's
5 discussion on the Whereas clause on page 3 to read *The Planning Board*
6 *has reviewed and is familiar with the project and the site and its*
7 *surroundings; and;*

8
9 Consultant Engineer Barbagallo mentioned that he will add the plans
10 submitted on May 4, 2012 to the list of plans that were submitted.
11 He said that he will also add the paragraph about the engineering and
12 erosion control bond fees to the resolution.

13
14 The Chair said that there was a consensus of the Board to Approve
15 Resolution 2012-04, as amended.

16
17 On motion by Chair Currie, seconded by Ms. Gannon and unanimously
18 carried, the Board moved to adopt Resolution 2012-04 as amended,
19 granting of Conditional Amended Site Plan approval to Urstadt Biddle
20 (owner) and CVS Pharmacy (applicant) for the Chairman's signature.

21 22 **PROJECT REVIEW**

23 24 **THE GREEN AT SOMERS AMENDED SITE PLAN, WETLAND,** 25 **STEEP SLOPES AND STORMWATER MANAGEMENT AND** 26 **EROSION AND SEDIMENT CONTROL PERMITS** 27 **[TM: 4.20-1-3.1]**

28
29 Chairman Currie said that the Board will be reviewing the application of
30 Golfworx/Rick Van Benschoten (owner) for amended Site Plan, Wetland,
31 Steep Slopes and Stormwater Management and Erosion and Sediment
32 Control Permits. The Chair mentioned that the application was last
33 discussed at the March 14, 2012 Planning Board meeting, whereby the
34 Board declared its intent to be Lead Agency under SEQRA and the Town
35 Code and circulated a Notice of Intent to all involved and interested
36 agencies together with Part I of the Full Environmental Assessment Form
37 and a copy of the plans. He noted that there was no objection within 30
38 days from the date of the notice and the 30 days have expired to object
39 from any agency. The Chair mentioned that the Somers Planning Board
40 assumes the role and declares itself as Lead Agency.

1 The Chair asked the applicant's representative to give a brief description of
2 the project.

3
4 Linda Whitehead, the applicant's attorney, noted that based on discussions
5 at the March Planning Board meeting and at the site walk, revised plans
6 were submitted. She explained that the revised architectural drawings
7 show that the end of the building that was of concern has been reduced to
8 two stories and the applicant has provided two alternative roof lines.

9 Attorney Whitehead said that a wetland impact evaluation with discussion
10 of mitigation has been provided. She mentioned that the Board's traffic
11 consultant reviewed the applicant's traffic study and the Board may want to
12 hear from Michael Galante, the Board's traffic consultant.

13
14 Michael Galante, representative of Frederick P. Clark Associates, Inc. and
15 the Board's traffic consultant, said that he submitted a memorandum dated
16 May 3, 2012 which addresses traffic issues related to the applicant's traffic
17 consultant, John Collins Engineers, P.C., dated January 26, 2012.

18
19 Mr. Galante said that his first comment is that the manual turning
20 movements counts raw data and summary sheets should be included in the
21 Appendix. He noted that the study mentions that NYS Department of
22 Transportation (NYSDOT) traffic counts were obtained, however, the data
23 should be provided and the machine traffic counts conducted by the
24 applicant should be provided and summarized graphically or in tabular
25 format. He noted that the accident history analysis for the latest three
26 years available for Study Area intersections and links was not completed.
27 He stated that it should be provided and summarized for each individual
28 node and link in tabular form. Mr. Galante also suggested that the
29 applicant contact the NYSDOT to see if the section of U.S. Route 6 in the
30 Study Area is part of its priority investigation locations or safety deficient
31 locations. He explained that the no-build traffic volumes where the
32 applicant indicated that this development will be fully built and occupied by
33 2015. He said that the 2015 no-build traffic forecast includes an annual
34 growth rate of one percent per year. Mr. Galante noted that the applicant
35 should explain what the growth rate is based on and that the traffic
36 associated with other potential developments in the vicinity of the Study
37 Area be included. He said that a car wash was mentioned in the Grand
38 Meadow Estates in Carmel and he would like to know the location of the
39 car wash. Mr. Galante also suggested that the applicant provide the traffic
40 signal timing plans and field verification for all study area signalized

1 intersections. He said that the capacity analysis for Route 6 can only be
2 based on a SYNCHRO model and program. He commented that the
3 NYSDOT and FP Clark require this method of analysis to provide the
4 appropriate evaluation of traffic conditions. He stated that a
5 Storage/Queue analysis should be conducted for all study area
6 intersections and this includes the storage link lengths and 95th percentile
7 queue of all lane groups and intersection overall, which is part of the
8 SYNCHRO analysis. Mr. Galante said that the intersection sight distance
9 analysis should reference the NYSDOT Policy and Standards of the Design
10 of Entrances to State Highways.

11
12 Attorney Whitehead stated that the applicant's traffic engineer has no
13 problem with submitting the additional information that was requested by
14 Mr. Galante.

15
16 Mr. Galante said that when the additional information is provided,
17 especially the SYNCHRO analysis, he will submit a final review memo on
18 how the impacts relate to the proposed mitigation.

19
20 The Chair asked Consultant Engineer Barbagallo to summarize his memo
21 dated May 4, 2012.

22
23 Consultant Engineer Barbagallo indicated that the documents submitted by
24 the applicant were intended to address specific issues related to comments
25 identified during the site walk by the Planning Board, as well as proposed
26 site landscaping and wetland mitigation. He said that the majority of his
27 comments were not addressed by the documents provided but he feels that
28 they were not intended to be addressed at this time but he will carry
29 forward his comments for future reference by the Planning Board.

30
31 Consultant Engineer Barbagallo referred to the April 17, 2012 site walk and
32 said that one of the comments was that the applicant confirm the height of
33 the existing perimeter fence poles to be 50 feet. He said that the response
34 by the applicant confirms that perimeter fence poles are 50 feet in height.

35
36 Ms. Gannon said that the final answer on the site walk was that the
37 perimeter fence will be a little higher in the back because of the fill.

38
39 Consultant Engineer Barbagallo asked the applicant to confirm the height
40 of the existing light poles located in the parking lot and the applicant

1 indicated that the parking lot light poles are 25 feet in height. He asked that
2 the applicant consider the proposed 35' height of Building 5 which is
3 located in close proximity to Route 6. He suggested that consideration be
4 given to balance visual screening of other buildings on site with the overall
5 visual presence of the proposed Building 5 from Route 6. He stated that
6 the applicant noted that the proposed height of 35 feet for Building 5 is
7 specified as a maximum height and that the actual height will likely be
8 lower. Consultant Engineer Barbagallo mentioned that the applicant states
9 that the final design of the building will likely be dictated by the ultimate
10 user. Consultant Engineer Barbagallo said that the Planning Board should
11 consider this response and whether or not it is acceptable as it leaves
12 uncertain the actual dimension and architecture of Building 5 to a future
13 date.

14
15 Consultant Engineer Barbagallo said that the applicant has provided a
16 Landscaping Plan for proposed conditions on the parcel which primarily
17 contains plan view perspective on the proposed site features. He
18 suggested that the applicant prepare additional elevation perspective
19 section views to depict additional viewpoints along Route 6, including the
20 view of Building 5. He asked the Board to give guidance on where the best
21 place is to see the perspective views.

22
23 Consultant Engineer Barbagallo noted that the existing tree-lines
24 surrounding the property were observed during the site walk. He said that
25 the tree line located to the west of the parcel is higher than the height of the
26 proposed buildings. Consultant Engineer Barbagallo mentioned that the
27 tree-line located to the north is approximately equal to the proposed height
28 of the building through the central portion of the parcel, and higher on the
29 eastern and western sides along the northern backdrop. He stressed that
30 the applicant did not dispute this characterization.

31
32 Consultant Engineer Barbagallo stated that the applicant confirmed that the
33 parcel is located within the Somers School District. He asked that the
34 applicant consider comments by the Westchester County Planning Board in
35 their April 19, 2012 letter and that a signed and sealed copy of the revised
36 Landscaping Plan be provided.

37
38 Ms. Gannon said that she is concerned about the April 19, 2012 letter from
39 the Westchester County Planning Board as they are referencing a prior
40 applicant's application.

1 Attorney Whitehead said she spoke to Ed Buroughs, Commissioner of the
2 Westchester County Planning Board, and she will request that the letter be
3 revised.

4
5 Ms. Gerbino said that being on the site walk she can visualize the plan and
6 it is overwhelming and she is concerned about the visual impact.

7
8 Mr. Keane said that the Town Board issued a vote of "no confidence" on
9 this project and if the Planning Board keeps discussing the 50-foot
10 buildings they are giving the impression that this will be approved as such.
11 He explained that the Town Board requested more information and that the
12 Planning Board must justify the 50-foot buildings or come up with an
13 alternative. Mr. Keane noted that the applicant has not provided an
14 alternative and the application pursuant to regulations is not granted as of
15 right the construction of 50-foot buildings. He commented that trees will not
16 grow fast enough to get to a height to mask the view of the buildings. Mr.
17 Keane explained that if there is more than 50% affordable housing the
18 Town Board may allow the buildings to be 50- feet and three stories. He
19 stressed that if the SEQRA process is followed alternatives should be
20 provided. Mr. Keane said that the applicant is going for a Negative
21 Declaration and if the Board finds that there may be one significant impact
22 they can determine the need for a Positive Declaration.

23
24 The Chair opined that the 50-foot buildings are a significant issue and the
25 applicant may want the Board to state its preference.

26
27 Attorney Whitehead said that when she appeared at the Town Board
28 meeting in January she was told that the Planning Board was not far
29 enough in their review for the Town Board to make a determination.
30 She noted that in March she told the Planning Board that the applicant was
31 put between a "rock and a hard place" because the Town Board would not
32 act before the Planning Board reviewed the project further. She mentioned
33 that the applicant provided the additional information that was requested at
34 the March meeting which included architectural modifications. She
35 commented that the end of the building was the area of primary concern
36 because that building is closest to Route 6 without screening and the
37 concern over the visual impact. She stressed that the applicant is trying to
38 work with the Board to provide information to determine the impacts.
39 Attorney Whitehead explained that the Town Board adopted the
40 amendment to the Zoning Ordinance with this site in consideration at the

1 former applicants request to show the County that they were making an
2 effort in constructing affordable housing. She noted that if you build
3 affordable housing the Town Board will grant more density. Attorney
4 Whitehead stated that to make affordable housing work you have to have a
5 greater density. She said that alternatives are not provided at this time,
6 they only come into play with a DEIS. She stressed that alternatives must
7 be feasible for the applicant to pursue, including economically feasible.
8

9 Attorney Whitehead said that a Landscape Plan was provided showing
10 large trees that screen the buildings and two roof alternatives with one
11 dropping the roof 5 feet. She stressed that the idea is to mitigate the
12 impact that you see.
13

14 Mr. Goldenberg said that now that the Planning Board is Lead Agency they
15 must work with the applicant and present the findings to the Town Board.
16

17 Town Attorney Eriole advised that the Planning Board as Lead Agency is
18 conducting the environmental review and how that relates to its findings.
19 He commented that the applicant knows the risk after the Town Board sent
20 the review back to the Planning Board for more information.
21

22 Attorney Whitehead reminded the Board that they recommended to the
23 Town Board in December to allow the taller buildings, therefore, the
24 applicant felt he was working in a positive manner.
25

26 Mr. Keane mentioned the issue of the first floor retail and putting residential
27 on the first floor. He asked what the number of units per floor would be as
28 a result of eliminating one floor of the building. Mr. Keane said there has to
29 be some other mixture of residential and retail to get to a point of economic
30 viability and to meet the criteria so the Board does not have to deal with the
31 possibility of a Positive Declaration.
32

33 Attorney Whitehead said that approximately 20 units would be lost.
34 She mentioned that the next issue will be stormwater and wetlands.
35 Attorney Whitehead noted that the soil borings have been completed but
36 the report is not in yet. She indicated that she is talking to NYS
37 Department of Environmental Protection (DEP) and NYS Department of
38 Environmental Conservation (DEC) and is gearing up to focus on
39 stormwater and wetlands issues.
40

1 Attorney Whitehead explained that the revised plan shows a reduction in
2 retail and not to have the appearance that all the buildings are residential.
3 She said that the two buildings closest to Route 6 will maintain retail store
4 fronts on the entire first floor which was a suggestion from an affordable
5 housing developer.

6
7 Mr. Keane said that according to the Regulations they do not all have to be
8 retail stores.

9
10 Attorney Whitehead stressed that the language in the Town Code is
11 apartments over stores and to her stores are retail. She said that the Town
12 Board stated that they would consider a modification to allow other
13 commercial uses.

14
15 Mr. Keane mentioned that the plan will require variances for the reduction
16 in the amount of retail.

17
18 Attorney Whitehead noted that her advice is to have the two buildings
19 appear to have mixed use with the retail store fronts which would be in
20 keeping with the Code and would give a better chance to obtain a variance.

21
22 Mr. Keane said that approval means nothing unless this can be an
23 economically viable project.

24
25 Rick Van Benschoten, applicant, commented that after every meeting he
26 meets with his consultants to see how they can address the Board's
27 concerns. He mentioned that because of the Board's concerns he lowered
28 one building to two stories and dropped the roofs five feet. He indicated
29 that the trees will be higher than the buildings.

30
31 The Chair asked if there were any comments from Board members.

32
33 Ms. Gannon noted that in Attorney Whitehead's memo it stated that
34 Building 4 is the greatest concern; however, Building 5 (building closest to
35 Route 6) is a greater concern to her. She mentioned another concern is the
36 mass of the buildings. Ms. Gannon said that listening to Town Board
37 meetings she heard their concern about the nature of the Neighborhood
38 Shopping (NS) District. She mentioned that the Planning Board did make a
39 recommendation in December to the Town Board but that was before the
40 site walk which was a learning experience for her. Ms. Gannon stated that

1 the Board is in an information gathering process now and in the end the
2 Board will have a record to make a recommendation. She noted that the
3 Board needs a visual assessment to look at the project and access the
4 data.

5
6 Attorney Whitehead said that there will not be one solid strip of buildings
7 with the NS District allowing a maximum building size of 10,000 SF and the
8 proposed buildings are 8,000 SF. She said that the height can be dropped
9 on the restaurant building if that is an issue.

10
11 Ms. Gannon mentioned the tree chart should have a standard and project
12 where the growth will be in 5 to 10 years and how trimming will be done.

13
14 Nathaniel J. Holt, the applicant's engineer, showed the Board a photo
15 simulation of the proposed development. He said that he will expand the
16 tree chart and provide the height of the trees in 5 to 10 years.

17
18 Consulting Engineer Barbagallo said that the Board has to have confidence
19 on what the visual of the development will be.

20
21 Mr. Goldenberg noted that this project will be built with an affordable
22 housing element. He said that private funding will be needed for the
23 restaurant.

24
25 Mr. Foley said that he does not like recommendations in general and now
26 he is having a change of mind on the recommendation the Planning Board
27 made to the Town Board. He noted that if the Town Board wants to allow
28 three story buildings as a trade off for affordable housing that is a Town
29 Board issue not the Planning Board. Mr. Foley stressed that the Planning
30 Board should evaluate the environmental impacts and the Town Board will
31 decide if the exchange of environmental impacts for the gain of affordable
32 housing is appropriate.

33
34 Attorney Whitehead stated that the Town Board adopted the Zoning
35 change for this site a few years ago for a different applicant.

36
37 Town Attorney Eriole said that the Planning Board reviews the project and
38 at the end of the process makes a SEQRA determination.

39
40 Mr. Keane reiterated that the Board has not seen any alternatives.

1 Ms. Gerbino said that when the Town Board reviewed this application at
2 their meeting they were concerned because this is a commercial site (NS)
3 with their perception being that the applicant wants to get rid of the
4 commercial part and make it all residential.

5
6 Attorney Whitehead opined that there was a fair amount of misinformation
7 at that meeting and she has a problem with something being on an agenda
8 and discussed without informing the applicant.

9
10 Chair Currie stated that the applicant can proceed with this plan or can
11 come back with options.

12
13 Mr. Van Benschoten said that he spent time and money looking at options
14 but the present plan is the only economically viable option. He stressed
15 that there has to be a third floor with affordable housing or the project does
16 not work. He asked that the Board give him direction.

17
18 Chair Currie indicated that the applicant has to do a better job with the site
19 lines and the impact of the three story buildings. He said that the Board
20 needs to see the commercial building.

21
22 Consultant Engineer Barbagallo said that because the restaurant building
23 will not be built at the same time as the other buildings there will be a
24 sequencing issue. He noted that the Board should see a visual without the
25 restaurant building.

26
27 Mr. Foley asked if the project is viable without Building 5.

28
29 Attorney Whitehead said that Building 5 is the commercial aspect of the
30 project.

31
32 Attorney Whitehead commented that affordable housing is the component
33 that gets this property into the Peekskill Sewer District. She opined that the
34 NS Zone does not work in this location but the Town Board has said that
35 they do not want to change zoning but sometimes you have to be flexible
36 as times change.

37
38 Mr. Keane noted that another concern is the fact that stormwater
39 management practices will be in the wetland buffers.

40

1 Attorney Whitehead said that the DEC wetland buffer in the back of the site
2 is maintained lawn and the wetland line is the fence line. She noted that
3 the buffer will be improved by making it serve as a stormwater
4 management function.

5
6 Mr. Keane stated that stormwater management does not function as a
7 wetland buffer because it is water in a basin. He said that the applicant's
8 wetland consultant should be talking to the Planning Board.

9
10 Consultant Engineer Barbagallo suggested off site mitigation for the
11 wetland buffer mitigation.

12
13 Mr. Keane said that it is unfair for the applicant to feel that there are just a
14 couple of issues that may lead to significance. He noted that there are 13
15 issues of significance that relate to environmental impacts.

16
17 Attorney Whitehead stressed that the discussion this evening is very
18 different than the discussion two months ago to the point that the applicant
19 is asking what information the Board wants.

20
21 Mr. Van Benschoten asked the Board if they want renderings from different
22 perspectives and additional information on landscaping.

23
24 Ms. Gannon said for the planting chart she would like to know the projected
25 growth and that the road is high above the gas station and that the
26 renderings are done so the Board has assurance that there is similitude to
27 reality.

28
29 Attorney Whitehead said that the results of the soil capacity analysis on the
30 three story buildings is important and something the Town Board
31 requested. She indicated that she will provide a perspective of the
32 restaurant in and out of the equation.

33
34 Consultant Engineer Barbagallo said that the relevance of the soil borings
35 is to see if three stories are viable and the construction of site infrastructure
36 upon fill. He said that the Geotechnical analysis can change the economic
37 conditions.

38
39 Mr. Foley noted that the applicant should go back to the Town Board before
40 the Board makes a full fledged analysis. He opined that he does not want

1 the Planning Board completing a full SEQRA analysis if the Town Board
2 will not approve of the project.

3
4 Attorney Whitehead said that the Town Board wants to know where the
5 Planning Board is in their analysis. She asked how the applicant goes to
6 the Town Board without a recommendation from the Planning Board.

7
8 Attorney Whitehead asked the Board if she can discuss the proposal for
9 professional services on this project from Frederick P. Clark Associates.
10 She opined that this is an odd proposal and no longer relevant because it
11 was to review this last submission. She questioned the use of a
12 submission by submission proposal. Attorney Whitehead mentioned the
13 responsibility to review background information on the Planning Board
14 review to date and she objects to this proposal because the applicant has
15 already paid for the Town Planner's time to review the project. She
16 mentioned that the referral is pursuant to the Supervisor's request but
17 under the law it should be at the request of the referring Board. Attorney
18 Whitehead mentioned that the proposal asked FP Clark to review wetlands
19 and wetland delineation and she requested that Woodard & Curran do the
20 wetland review. She stressed that she is concerned with overlap and
21 duplication of services.

22
23 Chairman Currie noted that this is an unusual circumstance where the
24 Planner leaves in the middle of the process.

25
26 Town Attorney Eriole said that he understands Attorney Whitehead's
27 concern. He stated that the Planning Board should review the scope of
28 services offered by FP Clark to see if the Board has concerns.

29
30 Attorney Whitehead explained that Woodard & Curran proposed their
31 escrow estimate for the whole project not just for one review and one
32 meeting which FP Clark submitted. She said that she was surprised that
33 the proposal from FP Clark was so limited and not for the entire project.
34 Attorney Whitehead noted that the Board has to decide how to handle the
35 review of the prior plans because FP Clark is asking for a fee to review
36 background information on the Planning Board review to date. Attorney
37 Whitehead said that the applicant should not have to pay for that review as
38 they already paid the Town Planner for her review.

1 Mr. Keane commented that the Board should determine what issues
2 Woodard & Curran should handle, stormwater and wetlands, and the
3 remaining planning issues FP Clark should handle. He opined that FP
4 Clark should revise their proposal to address the issues they will be doing.
5
6 The Chair said it was the consensus of the Board that the Chair meet with
7 Consultant Engineer Joseph Barbagallo and Consultant Planner Joanne
8 Meder of FP Clark to make certain there is no overlap of services.
9
10 There being no further business, on motion by Ms. Gannon, seconded by
11 Mr. Goldenberg, and unanimously carried, the meeting adjourned at 10:30
12 P.M. and the Chair noted that the next Planning Board meeting will be held
13 on Wednesday, June 13, 2012 at 7:30 P. M. at the Somers Town House.
14
15
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22
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24
25

Respectfully submitted,

Marilyn Murphy
Planning Board Secretary

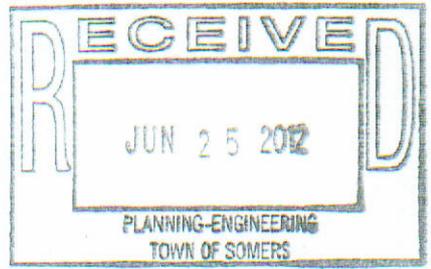
TP
CTE
PET

BIBBO ASSOCIATES, L.L.P.
Consulting Engineers

Joseph J. Buschynski, P.E.
Timothy S. Allen, P.E.
Sabri Barisser, P.E.

319

June 21, 2012



Somers Planning Board
335 Route 202
Somers, NY 10589

ATTN: Mr. John Currie, Chairman

RE: Barbagallo/Meichner Roadway Improvements
Site Plan Approval

Dear Members of the Board:

On behalf of our client, we request an extension of the Site Plan Approval for the Barbagallo/Meichner Roadway Improvements for the Scenic Resource Protection Area known as Smith Lane per Resolution No. 2008-08 and 2010-08.

Given the current economic conditions, the Meichner's are re-evaluating how they will proceed.

We respectfully request this matter be placed on your next available agenda, and we request a 1-year extension of the Site Plan.

Very truly yours,

Timothy S. Allen, P.E.

TSA/mme
Enclosures

cc: B. Meichner

PLANNING AND ENGINEERING DEPARTMENTS

Telephone
(914) 277-5366
Fax
(914) 277-4093

Town of Somers

WESTCHESTER COUNTY, N.Y.

SOMERS TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589
www.somersny.com

Steven Woelfle
Principal Engineering Technician
swoelfle@somersny.com



Syrette Dym, AICP
Town Planner
sdym@somersny.com

DATE: July 5, 2012

TO: John Currie, Chairman
Members Town of Somers Planning Board

FROM: Syrette Dym
Town Planner

RE: Greenbriar Re-Subdivision of Lots 1, 2, 3 and 4 in Section 7 – Cutting of
50" Oak Tree

A Notice of Violation was issued by Steve Woelfle, Principal Engineering Technician, on May 5, 2012 for the cutting down of a 50" white oak tree on lots 1 and 2, Section 7, of the Greenbriar subdivision. The oak tree was noted for preservation on lot 1 of the original subdivision, approved as a cluster subdivision on July 27, 1983. The developer, Milton Shapiro, submitted an application for an adjustment of lot lines for lots 1, 2, 3 and 4 of Section VII on June 30, 2004, constituting an application for a re-subdivision of those lots. The purpose of the Abbreviated Subdivision application was to permit construction on two of the four lots and maintain the required preservation of the oak tree.

Re-Subdivision Application Approval and Conditions

The following are the actions relevant to the above application that were part of the Granting of Conditional Preliminary Re-Subdivision Approval and Steep Slopes Permit (Resolution No. 2005-16), for the lots in question, approved on September 21, 2005.

1. It was determined that the application involved the removal of Town-regulated trees as a regulated activity, and that an application for "Tree Removal" under Chapter 156 of the Town Code was required.

The following are the actions relevant to the above application that were part of the Granting of Conditional Final Re-subdivision Approval and Steep Slopes Permit (Resolution No. 2005-26) approved by the Planning Board on December 13, 2006

1. April 3, 2005 – A ‘Tree Evaluation for Green Briar Lots 1-4, by Ted Kozlowski, requested by the Planning Board to be provided by the applicant, identified 10 recommendations for preserving and protecting the tree. Among these recommendations was that there would be no building construction or site work on lots 1 and 2 except as determined by his specified conditions until the preserved oak tree exhibits “such an extent of dead limbs that the tree is no longer considered worthy of preservation in the opinion of a professional arborist”. The evaluation indicated that the tree should be monitored twice a year, with reports submitted to the Planning Board. A note was to be added to the final subdivision plat stating that its filing did not authorize issuance of building permits for lots 1 and 2 after the White Oak is removed. Instead, an environmental determination was to be conducted to determine if any environmental permits may be necessary, some of which might be subject to issuance by the Planning Board.
2. These recommendations were incorporated as part of the conditions of the Re-subdivision approval.

Ongoing Actions

Tree Care

1. Letter of May 1, 2008 from Guy Gagne, Town Engineer to Milton Shapiro, acknowledging B&D Contractor as identified provider of annual tree care. Asked to verify that tree will not receive more than 2-inches of mulch as recommended in Tree Evaluation report of April 3, 2005.
2. E-mail to Marilyn Murphy, Planning Board Secretary, November 28, 2010 from Al Linde (6 Golf View Drive, Somers), indicating concern about the health of the oak tree and requesting inspection of the tree to provide any remedies.
3. Letter to Milton Shapiro from Steve Woelfle of November 30, 2010, stating obligations of subdivision approval and requesting submission of the Tree Summary Report.
4. Letter of April 4, 2011 from Alfred Linde to Mary Beth Murphy stating his concern regarding the health of the tree and process for monitoring its “well being”.
5. Letter of April 5, 2011 from Sabrina Charney Hull, Town Planner, to Alfred Linde, stating conditions of approval of the Re-Subdivision regarding the oak tree and stating that, to date, the Planning Board had not received monitoring/inspection reports. Letter indicated the matter was being forwarded to the Assistant Building Inspector for enforcement of conditions, and, if necessary, violation of subdivision approval.
6. Letter of April 27, 2011 from Efrem Citarella, Building Inspector, to Greenbriar-Somers Corp., indicating that the building permit would expire on May 24, 2011 and indicated complaints had been received regarding maintenance of the oak tree and that contact should be made with the Building Department.
7. Letter of May 18, 2011 from Almstead Tree & Shrub Care Co. to Greenbriar Somers Corp. This letter indicates that Almstead was retained by Greenbriar Somers Corp. to evaluate and provide recommendations regarding preservation of

the White Oak tree. The letter indicated the tree was stressed and declining due to:

- a. Soil grade changes likely due to road construction
- b. Application of mulch and herbicides to reduce weeds
- c. Improper pruning permitting decay in trunk and some branches

Recommendations included the following:

- a. Prune out deadwood
 - b. Relieve soil compaction
 - c. Take soil samples
 - d. Deep root fertilization and two compost tea applications annually
8. Letter of May 20, 2011 from Milton Shapiro to Efrem Citarella enclosing executed Authorization to Proceed forwarded to Almstead Tree & Shrub Co. and asking for forwarding of renewed building permits.
 9. Letter of July 8, 2011 from John Crary, Secretary of Green Briar H.O.A. Inc, indicating that no action had been taken on Almstead's recommendations.
 10. Letter of July 13, 2011 from Sabrina Charney Hull to John Crary including the Authorization to Proceed from Milton Shapiro to Almstead Tree Co.
 11. May 5, 2012 e-mail from Al Linde to Sabrina Charney Hull indicating that the oak tree had been cut down.
 12. Site inspection of May 8, 2012 between Steve Woelfle, Jonathan Olsz (Certified Arborist – Almstead Tree and Shrub Company) and Green briar HOA President. Mr. Olsz indicated the tree did not have to be removed and had about 50-75 years of life remaining.
 13. Letter of May 10, 2012 from D&D Tree and Landscaping to Steve Woelfle indicating inspection of the tree in fall 2011. Letter indicated the following findings:
 - a. Poor tree health
 - b. Dead tips in crown and some dead branches
 - c. Core drill indicated a column of rotted wood and that tree was hollow
 - d. Spring inspection indicated tree was not budding and leafing out normally like the other oaks surrounding it and appeared to have more "die back in the crown".
 - e. Based on above, Mr. Shapiro decided to remove it for safety reasons
 14. Letter of May 12, 2012 from Steve Woelfle to Milton Shapiro, indicating a Notice of Violation for cutting the tree without submission of a Professional Arborist report/recommendation as stated in the Approved Subdivision Plat dated June 1, 2007. It was indicated that no further work permits would be issued.
 15. E-mail of May 22, 2012 from Jonathan Olsz of Almstead Tree and Shrub Care Co. to Steve Woelfle, opining on the tree inspection performed by the ISA Certified Arborist, Steven DeLuca for D&D Tree and Landscaping. He indicated that the tree inspection does not provide enough statistical data and this tree deserved a more detailed analysis in keeping with the ISA code of ethics.
 16. Letter of May 30, 2012 from Steve Woelfle to the Planning Board, Town Board, Town Attorney, Building and Town Consulting Engineer reviewing history of approvals of the four lots in question and the issue of preservation of the oak tree. Steve indicated the building permits for lots 3 and 4 were to expire June 12, 2012.

Steve referred the matter to the Planning Board prior to any renewal of building permits on Lots 3 and 4 or issuance of new building permits on Lots 1 and 2. He suggested the potential need for a third party arborist evaluation. The attachments of Steve's memorandum are also attached here. The recommendations of the original arborist to review the tree, whose recommendations were incorporated into the re-subdivision approval, are also attached.

Next Steps

The Planning Board will discuss removal of the tree in violation of conditions of approval of the original and re-subdivision application at its meeting of July 11, 2012.

Attach.

Cc: Mary Beth Murphy, Supervisor
Steve Woelfle
Roland Baroni
Joseph Eriole
Milton Shapiro

Z:\PE\Subdivision files\Greenbriar 7\Oak Tree Removal 5-5-12\Oak Tree Removal 7-5-12.doc

MEMORANDUM



TO: Syrette Dym, AICP
CC: Marilyn Murphy, Planning Board Secretary
FROM: Joseph C. Barbagallo, P.E., BCEE
DATE: July 6, 2012
RE: The Green at Somers
Site Plan Application, Wetlands Activity Permit, Stormwater Erosion & Sediment Control Permit and Steep Slopes Permit
57 Route 6, TM: 4.20-1-3.1, NS (Neighborhood Shopping)
Owned by National Golfworx

GENERAL

The proposed application is a mixed-use development consisting of both retail and residential spaces. An Application had formerly been reviewed by the Planning Board for this property under the name "The North End at Somers". The development proposes the creation of five buildings which will feature 82 housing units as well as retail space and exterior parking. The site will be serviced by public sewer and water and will be connected to existing mains within Route 6. There is a DEC regulated wetland located on the northern portion of the property and Town local regulated wetlands located at the southwest and eastern property limits.

DOCUMENTS REVIEWED

- Letter to Town of Somers Planning Board, by McCullough, Goldberger & Staudt, LLP, dated June 4, 2012.
- Letter to Edward Buroughs, Westchester County Department of Planning, by McCullough, Goldberger & Staudt, LLP, dated June 4, 2012.
- Letter, by Nathaniel J. Holt, P.E., dated June 4, 2012.
- "Report on Subsurface Soil & Foundation Investigation", by Carlin, Simpson & Associates, dated May 31, 2012.
- "Alternate Site Plan", Drawing Sheet: "2 of 2", by Nathaniel J. Holt, P.E., dated July 22, 2011, revised June 29, 2012.
- "Landscape Plan", Drawing Sheets: "LP-1" & "LP-2", by Robert Sherwood Landscape Architect LLC, dated April 2, 2012, revised June 1, 2012.
- "The Green at Somers", Drawing Sheets "A.201" by Carol J.W. Kurth, AIA Architect, P.C., dated April 5, 2012.
- Cover Letter to Town of Somers Planning Board, by Nathaniel J. Holt, P.E., dated June 28, 2012.
- Letter to Town of Somers Bureau of Fire Prevention, by Nathaniel J. Holt, P.E., dated June 28, 2012.
- "Preliminary Drainage Analysis", by Nathaniel J. Holt, P.E., dated June 29, 2012.



PERMITS AND APPROVALS REQUIRED

- Westchester County Department of Environmental Facilities: Sewer Extension Approval.
- Westchester County Department of Health: Approval of the Sewer Extension
- Westchester County Board of Legislators and Town of Somers: Sanitary Sewer Connection Approval
- Westchester County Peekskill Sanitary Sewer District: Sanitary Sewer Service Extension Approval
- New York City Department of Environmental Protection: Stormwater Pollution Prevention Plan Approval.
- New York City Department of Environmental Protection: Sewer Connection Approval
- Shenorock/Amawalk Water District: Water Connection Approval.
- New York State Department of Environmental Conservation - Freshwater Wetlands Permit
- New York State Department of Environmental Conservation General Permit No. GP-0-10-001.
- New York State Department of Transportation: Permit and Approval for work within the Route 6 right of way (ROW).
- Water Superintendent and the Bureau of Fire Prevention: Review and Approval of Hydrant Locations.
- Town of Somers: Site Plan Approval
- Town of Somers: Stormwater Management and Erosion & Sediment Control Permit
- Town of Somers: Steep Slopes Protection Permit
- Town of Somers: Wetlands Activity Permit

DISCUSSION

The documents submitted by the Applicant during this review period reflect revised elements of the site plan, including reduced maximum height of buildings and a revised layout of the stormwater mitigation system, which removes disturbance from the NYSDEC wetland buffer. The Applicant is seeking preliminary feedback from the Planning Board before further design details will be finalized. The documents submitted were not intended to address the majority of our outstanding comments; which are carried forward in this memorandum for future reference by the Planning Board.

New Comments have been added based upon our review of the geotechnical engineering report, alternative site plan drawing and preliminary drainage analysis provided by the Applicant.

The status of all previously issued engineering comments, as identified in our memorandum dated May 4, 2012, as well as new comments, is provided below in **Bold Type**. It should be noted that additional comments may be issued upon receipt and review of additional application materials.



Comments from June 29, 2012 Geotechnical Evaluation Memorandum

1. The report states that strong petroleum odors were encountered during the exploration of Boring "B-1", which may be indicative of contamination. Carlin, Simpson & Associates recommends further evaluation of site soils by an Environmental Engineer to address the suitability of soil for use on the project with respect to environmental concerns. Further understanding of site soils is necessary to determine appropriate measures for soil excavation and handling as well as excavation dewatering. The Applicant shall submit an environmental investigation plan. The plan shall identify proposed testing locations and intended sampling analysis for site soils.
2. Groundwater was reported to be encountered in 6 of the 7 soil borings at depths ranging from 4 feet and 7 feet below surrounding grade. Shallow groundwater will require dewatering measures to be installed and maintained during excavation of the proposed building foundations. The Applicant shall prepare and submit a groundwater management plan to describe proposed dewatering activities. The groundwater management plan shall include dewatering system design calculations based upon site specific hydraulic conductivity and shall identify measures for the discharge of pumped water.
3. The report identifies that an existing layer of fill material was encountered at depths ranging between 1 foot and 6 feet below surrounding grade. It is stated that this existing fill stratum is not an acceptable bearing material for the new building foundations and floor slabs. The report recommends that the existing fill layer be completely removed and replaced by acceptable structural fill at all proposed building areas. Greater understanding of the limits and characteristics of the existing fill stratum must be provided. The Applicant shall prepare a supplemental investigation plan which describes additional evaluation of the existing fill. The supplemental investigation plan should consider the following comments:
 - a. Additional test pits are necessary to further evaluate the extent of the existing fill material stratum around the planned building areas. The report recommends that additional tests pits be performed at the time of construction. Greater understanding of the limits of existing fill should be obtained sooner to assess the impact on the site construction activities, therefore, the Applicant shall perform test pits as part of the approval process.
 - b. Existing fill may not suffice as an acceptable bearing material for proposed utilities on the site. The Applicant shall address whether existing fill may remain in place or must be replaced by an acceptable structural fill to control settlement under site utilities. The supplemental investigation plan should consider any testing which may be necessary to determine the suitability of the existing fill soils as utility foundation.
 - c. The Geotechnical Engineer should also evaluate the impact of lowering groundwater during construction on site settlements in the dewatered areas, and the associated impacts on proposed site construction.



4. Proposed site grading indicates that approximately 10 feet of fill may be placed in certain areas on the property. Two existing stormwater conveyance pipes are located within the site limits. The Applicant shall consider how the placement of additional fill will impact the existing stormwater pipes.

Comments from April 17, 2012 Site Walk Memorandum

1. The Applicant shall confirm the height of the existing perimeter fence poles to be 50 feet. **Addressed, Provided comment response by the Applicant confirms that perimeter fence poles are 50 feet in height.**
2. The Applicant shall confirm the height of the existing light poles located in the Parking Lot. **Addressed, Provided comment response by the Applicant indicates that parking lot light poles are 25 feet in height.**
3. The applicant shall consider the proposed 35 height of Building 5 (one story building) located in close proximity to Route 6. Suggested considerations are to balance visual screening of other buildings on site with the overall visual presence of the proposed Building 5 from Route 6. *Partially Addressed, Comment response by Applicant indicates that the proposed height of 35 feet for Building 5 is specified as a maximum height and that the actual height will likely be lower. It is stated that the final design of the building will likely be dictated by the ultimate user. The Planning Board shall consider this response, and whether or not it is acceptable as it leaves uncertain the actual dimension and architecture of Building 5 to a future date.* **Partially Addressed, Revised plans indicate that the proposed height of Building 5 has been reduced to 28 feet, however no specific plans are provided for Building 5. The Planning Board should continue to review whether or not this approach is acceptable.**
4. The Applicant shall prepare a Final Landscaping Plan to describe the proposed landscaping at the property. The Landscaping Plan submittal shall include elevation perspective section views to depict visual perspectives upon completion of final grading and plantings. *Partially Addressed, The Applicant has provided a Landscaping Plan for proposed condition on the parcel. The Landscaping plan primarily contains plan view perspective on proposed site features. The Applicant shall prepare additional elevation perspective section views to depict additional viewpoints along Route 6, including the view of Building 5.* **Frederick P. Clark Associates will handle the review of Landscaping Plan components moving forward with this application.**
5. Existing Tree-lines surrounding the property were observed during the site walk. The tree-line located to the west of the parcel is higher than the height of the proposed buildings. The tree-line located to the north is approximately equal to the proposed height of the building through the central portion of the parcel, and higher on the eastern and western sides along this northern backdrop. **No Action Required, The Applicant did not dispute this characterization.**
6. The Applicant shall confirm the school district that this parcel is located in. **Addressed, The Applicant has confirmed the parcel is located within the Somers School District.**

General Review Comments



From an engineering perspective, the provided preliminary drainage analysis describes conceptually acceptable stormwater mitigation measures. The revised plan removes stormwater mitigation practices from the 100 foot NYSDEC Wetland Buffer and appears to provide sufficient measures for water quality and water quantity attenuation. We look forward to working with the Applicant's Engineer as the stormwater system design progresses with the development of a complete Stormwater Pollution Prevention Plan (SWPPP).

1. The Application proposes the disturbance of land surfaces bearing steep slopes in excess of 15% gradient, as shown on the Environmental Constraints Map drawing. The response to question 5 on the State Environmental Quality Review Full Environmental Assessment Form (SEQR EAF) indicates no disturbance of slopes greater than 10%. The Applicant shall revise the EAF to reflect the proper slope disturbances. **Addressed.**
2. The provided Notice of Intent (NOI) indicates that the project will create 2.4 acres of impervious surfaces. Information provided in the SEQR EAF however states that the project will result in 2.68 acres of impervious surfaces. The Applicant shall revise documents to be consistent with the current proposed Site plan. *Not Addressed, To be reviewed with future submittal. Not Addressed.* **Partially Addressed, Revised EAF document has been received. The Applicant shall provide revised Notice of Intent with future submittal.**
3. The Applicant shall depict limits of disturbance on revised site plan drawings and shall include a note specifying total disturbance in acres. **Addressed.**
4. Provided site plan drawings do not depict how stormwater runoff from roof leaders on proposed building 5 will be conveyed to stormwater management practices. **Addressed.**
5. Several erosion and sediment control measures, as shown on drawing sheet "Sediment & Erosion Control" are depicted faded. Revised site plans shall depict all proposed sediment and erosion control features as non-faded on this drawing sheet. **Addressed.**
6. The Applicant shall provide construction details for all proposed erosion and sediment control features, including silt fence, soil stockpiles, rip-rap outlet protection and sediment traps on revised Site plan drawings. All construction details shall be consistent with the NYSDEC New York Standards & Specifications for Erosion and Sediment Control (NYSSESC), latest edition. *Partially Addressed, The Applicant shall submit an acceptable Construction Detail for proposed Sediment Traps.* **Partially Addressed, The Applicant shall provide design calculations for the proposed sediment trap consistent with the NYSDEC NYSSESC Manual. The Construction Detail for the proposed Sediment Trap shall reflect the design dimensions of the practice proposed for the Site.**
7. The Applicant shall provide construction details for all proposed stormwater management practices, including Pocket Wetlands, Bioretention Area, and Vegetated Swale. All construction details shall be consistent with the design requirements of the NYSDEC Stormwater Management Design Manual (NYSSMDM), latest edition. *Not Addressed, To be reviewed with future submittal. Partially Addressed, The Applicant has not provided Construction Details for the proposed Vegetated Swales and Pocket Wetlands.* **Proposed stormwater mitigation practices have been revised with the submittal of the conceptual Alternative Site Plan. Requirements for stormwater practice**



construction details shall remain applicable for measures designed with the revised plan.

8. Project narrative included within the SWPPP states that construction inspections shall be performed at proper intervals by the construction manager. The NYSDEC General SPDES Permit requires that inspections must be performed by a qualified inspector, as defined in NYSDEC literature. The Applicant shall clarify description of erosion & sediment control inspections to be consistent with the requirements of Part IV (c) of the NYSDEC General SPDES Permit for Construction Activity. **Not Addressed, To be reviewed upon receipt of revised SWPPP.**
9. Site plans specify minimum vertical and horizontal separations between proposed water service, stormwater and wastewater piping, but does not note separation from existing stormwater piping on the property. Site plan drawings shall be modified to specify minimum separation of water service to existing stormwater piping. *Not Addressed.* **Partially Addressed, The Applicant has demonstrated adequate separation on plan-view drawings. As the project progresses, we will look for demonstration of acceptable separation in profile-view as well.**
10. Step 4 of the Construction Sequence included within the SWPPP states to remove trees where necessary. The Applicant shall depict any trees to be removed on revised Site plans. The Applicant may be subject to obtaining a Town of Somers Tree Removal Permit, if tree removal is proposed. *Not Addressed.* **Not Addressed, Provided drawings do not depict that any trees are proposed to be removed. The Applicant shall eliminate all plan references related to the removal of trees if no trees are proposed for removal.**
11. The Applicant shall add a step to the proposed construction sequence for the construction of stabilized entrance. *Not Addressed.* **Not Addressed, The Construction Sequence shall be revised to indicate that the establishment of perimeter erosion and sediment controls will be completed prior to any land clearing or disturbance activity.**
12. The Applicant is proposing to use silt sacks in conjunction with stone and block drop inlet protection to be used to protect new inlet drains during construction. Siltsacks are not an approved protection application for newly created drain inlets by NYSSESC. The Applicant shall revise Site plan drawings and SWPPP to remove silt sacks from the proposed design. **Addressed.**
13. The Applicant shall perform infiltration tests in the exact location of proposed infiltration systems as required by the NYSSMDM Manual, August 2010. The Applicant shall show on the drawings the exact location of the percolation tests performed on site. **Not Addressed, To be reviewed with future submittal.**
14. The Applicant is proposing to install temporary sediment traps to be utilized during construction activity. Temporary sediment traps are depicted to be installed at the same locations of proposed stormwater wetlands forebay and Bioretention Area on provided Site plan drawings. Chapter 6: Infiltration, Section 6.3.6 "Maintenance" of NYSSMDM states the following: "Infiltration practices shall never serve as a sediment control device during the site construction phase". The locations of the temporary sediment basins shall be revised, or the proposed SMP's shall be reconsidered and a different stormwater management practice be implemented. *Not Addressed, To be reviewed with future submittal.* **Not Addressed.**



15. The proposed soil stockpile on the south-western portion of the Site is shown as being located within the 100 ft buffer of nearby wetlands. The Applicant shall revise the location of soil stockpiles to be outside the wetlands buffer setback. **Addressed.**
16. The provided SWPPP report does not contain background project information, as required by the NYSDEC General SPDES Permit and Somers Town Code. This information generally includes, but is not limited to, a description of the project, existing and proposed conditions as well as a description of the proposed stormwater management practices. The Applicant shall revise the SWPPP to include all required components. **Not Addressed, To be reviewed upon receipt of revised SWPPP.**
17. The Applicant is required to provide post-construction stormwater controls consistent with the requirements of the NYSDEC. Design requirements for post construction stormwater controls are provided in Chapters 3 and 4 of the NYSSMDM and specify attenuation for Water Quality and Water Quantity Volume. Consistent with the August 2010 updates to the NYSSMDM, the Applicant is required to follow a "five step process" in stormwater design as detailed in chapter 3. The Applicant shall revise the SWPPP to include required hydrological calculations and description to demonstrate compliance with NYSSMDM requirements. The Applicant shall confirm that all proposed management practices are acceptable with NYSSMDM criteria and shall provide sizing calculations. **Not Addressed, To be reviewed upon receipt of revised SWPPP.**
18. Watershed Boundaries as depicted on drawing sheet, "Watershed Map Developed Condition" are unable to be distinguished. The Applicant shall revise both Pre and Post Development watershed maps to more clearly depict watersheds and shall identify design points and flowpath considered in hydrological calculations. *Not Addressed, The post development watershed map shall be represented in the same manner as the pre-development condition, as shown on Sheet 12 of 13.* **Not Addressed.**
19. The Applicant shall provide hydrological calculations to demonstrate that existing stormwater conveyance structures are capable of handling additional proposed flow resulting from site development. **Not Addressed, To be reviewed upon receipt of revised SWPPP.**
20. Post development Hydro-CAD calculations indicate that a Bio-Swale will convey stormwater flows to proposed pocket wetlands. The Applicant shall depict the location of proposed Bio-Swale on revised Site plan drawings. *Not Addressed, Revised Site plans note grass swales to be located north of the parking area. The Applicant shall clearly depict the limits of proposed swale, including directional arrows along the length of swale to show the proposed direction of flow.* **Not Addressed.**
21. The Contractor Certification Statement included within Section H of the SWPPP shall be revised to reflect the statement provided in Part III (A) (6) of the NYSDEC General SPDES Permit. **Not Addressed, To be reviewed upon receipt of revised SWPPP.**
22. The Applicant shall provide a landscaping plan drawing to indicate all landscaping improvements proposed with the project. *To be reviewed with future submittal.* **Not Addressed.**
23. The Applicant shall label each proposed parking space with a number on Site plan drawings. The Applicant shall explain which parking spaces they intend to land-lock for future expansion. *Not Addressed, To be reviewed with future submittal. Provided comment*



response states the Applicant intends to discuss further parking modifications during Planning Board meeting. *Partially Addressed, The Applicant has assigned numbers to all proposed parking spaces, as shown on Drawing Sheet No. 1 of 16. Review of the parking plan will continue as the Application progresses. **The proposed layout of parking spaces has been revised with the submittal of the conceptual Alternative Site Plan. Review of the parking plan will continue with the development of revised complete site plan drawings.***

24. As the subject property is located within the East of Hudson NYC water shed, the Stormwater Pollution Prevention Plan must incorporate and demonstrate it meets the objectives of the "Enhanced Phosphorous Removal Standards – Chapter 10" of the New York State Stormwater Management Design Manual, latest version. *Not Addressed, To be reviewed upon receipt of revised SWPPP. **Not Addressed.***
25. The reduction of impervious surfaces is critical given the sites location in the Croton Watershed and its proximity to nearby regulated DEC wetlands. The applicant should, to the maximum extent possible, implement "Better Site Design, April 2008" practices provided by the NYSDEC Division of Water. The incorporation of pervious paving surfaces wherever possible should be considered. *Not Addressed, The Applicant has indicated a willingness to incorporate additional reduction of impervious surfaces. Further discussion shall proceed upon re-submittal of a SWPPP. **Partially Addressed, Revised drawings depict a reduction in impervious surfaces from previously submitted plans. Review of impervious surface reduction will continue as the Application progresses.***
26. The Applicant should consider if a maintenance/access agreement for the existing stormwater piping that transverses the property is required. *Partially Addressed, Revised Site plans depict a 10 foot easement to be created along existing stormwater conveyance piping. Maintenance agreements shall be provided with future submittal for review. **Partially Addressed.***
27. A hydraulic analysis shall be provided for the existing pipe conveyance system detailing the volume of stormwater run-off entering the wetlands from off-site. Additional comments may be provided upon review. *Not Addressed, Provided comment response states that the Applicant does not wish to assume obligation for stormwater originating from off-site. Hydraulic analysis of existing stormwater conveyance is necessary as the Applicant is proposing to discharge to these systems; which will require an analysis of the system to determine whether there is sufficient capacity to convey existing and proposed flows. In addition it is necessary to perform analysis in order to properly understand the ecology of wetlands located at the discharge of piping. **Not Addressed.***
28. **The description of watershed areas contained on Page 5 of the Preliminary Drainage Analysis contains incorrect references to Watershed Areas 7 and 9, as shown on the figure "Watershed Map Developed Condition". The Applicant shall revise the watershed map and preliminary drainage analysis to be consistent.**

Wetland Mitigation

Moving forward with this application, Frederick P. Clark Associates is responsible for the review of plan components related to wetlands mitigation, landscaping and traffic. The following comments related to these issues remain outstanding for consideration by Frederick P. Clark Associates.



1. The Applicant shall prepare a Wetlands Mitigation Plan, in accordance with the requirements of NYSDEC and Somers Town Code, to address disturbances and additional inflow to the nearby wetlands. In the event that on-site wetland mitigation proves to be not possible, provide detailed description of the off-site mitigation you are proposing. *Not Addressed, To be reviewed with future submittal.* **Partially Addressed, The Applicant has submitted a Wetlands Evaluation report for the proposed site development and wetland mitigation measures. The Wetlands Evaluation report will be reviewed by Frederick P. Clark Associates.**
2. As the Applicant is proposing to introduce new flow into the existing drain pipes, the Applicant should consider removing a portion of the existing drainage pipes at the westerly end to allow flow to occur through an open swale design in order to provide treatment prior to reaching the existing wetlands. *Not Addressed, Provided comment response indicates the Applicant intends to utilize swales in place of proposed drainage pipe. Submitted Site plans do not depict any modification from previously proposed layout. The Applicant shall clarify where proposed swale has been implemented and shall consider utilizing an open channel swale in place of piping along the westerly property line.* **Partially Addressed, Provided drawings depict that the proposed stormwater pipe discharge near Wetland Flag "WF C4" has been modified to avoid disturbance to the nearby Wetland Area and to allow stormwater to receive treatment through a vegetated swale. This same comment shall be considered for existing pipe discharges at Wetland Flags "WF A2" and "WF A15".**
3. Wetlands as shown on Topographical Survey are indicated to be most recently delineated by Evans Associates on April 13, 2005. Provided Site development drawings by Nathaniel Holt note that depicted Wetland flags have been delineated by "Paul J. Jaehnig, Soil Scientist". Chapter 167(A)(8)(a) of Town Code specifies that a Wetlands Permit Application must features wetlands delineation within the prior 12 months. The Applicant shall clarify the date of the most recent wetlands delineation. *Not Addressed, To be reviewed upon receipt of updated wetlands delineation.* **Partially Addressed, The date of the recent wetlands survey by Paul J. Jaehnig shall be added to drawings.**

Sewer and Water Main

1. The Applicant is proposing to connect the sanitary into the existing 8" force main located on Route 6. The Applicant must also connect into the existing 6" force main. **Addressed.**
2. A waste water analysis and calculations shall be provided demonstrating that the existing sanitary system has the adequate capacity to handle the anticipated flows from the proposed development. Additional comments will be provided upon review of this analysis. **Not Addressed, To be reviewed with future submittal.**
3. Details shall be provided for the pump station including sizing, invert elevations, etc. Also the applicant shall coordinate with the Somers Realty project to explore a combined pump station. **Partially Addressed, The Applicant has submitted a preliminary construction detail for the proposed pump station. Additional details shall be provided with future submittal for review.**

Miscellaneous



1. Details shall be provided and included on the plan on how the Applicant proposes to provide gas and electrical connections to the proposed development. **Not Addressed, To be reviewed with future submittal. Documentation of adequate capacity of the proposed utilities must be provided for the proposed service connections.**
2. The Applicant shall complete a geotechnical analysis of site soils with recommendations for building foundations. **Partially Addressed, In addition, fill materials imported to the Site have the potential to create settlement under proposed Site utilities. Geotechnical analysis shall take into consideration the construction of site infrastructure upon fill. Geotechnical analysis shall be reviewed with future submittal.**
3. The Applicant shall provide traffic analysis for the proposing development. This analysis shall include verification that a design vehicle representing the largest vehicle required to access the development, can navigate all proposed parking areas and driveway. *Not Addressed, To be reviewed with future submittal.* **The Applicant has provided a Traffic Impact Study, prepared by John Collins Engineers, P.C. The Traffic Impact Study will be subject to review and comment by Frederick P Clark Associates, Inc.**
4. The Applicant shall consider comments by the Westchester County Planning Board, as provided in their April 19, 2012 letter. **Partially Addressed, The Applicant has provided a comment response letter to the Westchester County Planning Board.**
5. The Applicant shall provide a signed and sealed copy of the revised Landscaping Plan with future submittal. **Addressed.**

Please feel free to call me at anytime at 914-448-2266 with any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Joseph C. Barbagallo'.

Joseph C. Barbagallo, P.E., BCEE
Consulting Town Engineer