

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 13, 2013
7:30 P.M.**

MINUTES Consideration for approval of Draft Minutes for December 4, 2012

TIME-EXTENSION

**1. SUSAN HAFT/RIDGEVIEW DESIGNER BUILDERS, INC.
FINAL CONSERVATION SUBDIVISION APPROVAL
[TM: 16.12-1-41 & 42]**

Application of Susan Haft and Ridgeview Designer Builders, Inc. for Final Conservation Subdivision Approval, Stormwater Management and Erosion and Sediment Control, Steep Slopes and a Tree Removal Permit. Request for a 90-day time-extension of Final Approval from February 18, 2013 to and including May 20, 2013 in accordance with §150-13-M of the Code of the Town of Somers. This is the ninth request for an extension of Final Subdivision Approval.

**2. MITCHELL CONSERVATION SUBDIVISION
[TM: 16.09-1-9]**

Application of Gary Mitchell for a four (4) lot Conservation Subdivision on a 7.1 acre property. Request for Re-Approval of Conditional Preliminary Subdivision Approval for a 180-day time extension from April 11, 2013 through and including October 14, 2013.

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 four buildings with a combination of retail and residential uses. The site is proposed to be serviced by public sewer and water.

Consideration of a Determination of Significance.

The application was last discussed at the January 23, 2013 Planning Board meeting.

4. NEW CINGULAR WIRELESS PCS, LLC (AT&T) AMENDED SITE PLAN AND AMENDED SPECIAL USE PERMIT [TM: 16.15-1-1.1]

Application of New Cingular Wireless for Amended Site Plan Approval and Special Use Permit for modifications to existing approved Facility located at 115 Route 202-Lincoln Hall Property.

Planning Board's Intent to be Lead Agency
Escrow Discussion

5. NEW CINGULAR WIRELESS PCS, LLC (AT&T) AMENDED SITE PLAN AND AMENDED SPECIAL USE PERMIT [TM: 38.17-1-5]

Application of New Cingular Wireless for Amended Site Plan Approval and Special Use Permit for modifications to existing approved Facility located at 121 Route 100 Amato Property.

Planning Board's Intent to be Lead Agency
Escrow Discussion

6. NEW CINGULAR WIRELESS PCS, LLC (AT&T) AMENDED SITE PLAN AND AMENDED SPECIAL USE PERMIT [TM: 28.10-1-6.1]

Application of New Cingular Wireless for Amended Site Plan Approval and Special Use Permit for modifications to existing approved Facility located at 243 Route 100 Majestech Corporation Property.

Planning Board's Intent to be Lead Agency
Escrow Discussion

ESCROW

**7. BBS SUBDIVISION [FORMERLY STEVENS SUBDIVISION]
Application for Preliminary Subdivision Approval, Steep Slopes,
Wetland, Tree Removal and Stormwater Management and Erosion
Control Permits.**

Application of T. Boniello, M. Barile and N. Stern for a three-lot subdivision on a 9.8 acre parcel located in an R-80 zone. The parcel is accessed through the Green Tree Road right-of-way and crosses the North County Trailway ROW.

Escrow discussion

Next Planning Board Meeting, March 13, 2013

Agenda information is also available at www.somersny.com

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Eugene Goldenberg
John Keane



2

**SOMERS PLANNING BOARD MINUTES
DECEMBER 4, 2012**

ROLL:

**PLANNING BOARD
MEMBERS PRESENT:**

Acting Chair Gerbino, Mrs. DeLucia,
Mr. Keane, Mr. Goldenberg, Mr. Foley
and Ms. Gannon

ABSENT:

Chair Currie

ALSO PRESENT:

Town Planner Syrette Dym
Consultant Engineer Joseph Barbagallo
Planning Board Secretary Murphy

The meeting commenced at 7:30 p.m. Acting Chair Gerbino explained that this is a special meeting of the Somers Planning Board. She noted that the Planning Board used to meet twice per month but with the downturn in the economy the meetings are now once per month. Acting Chair Gerbino mentioned that occasionally the Board holds additional meetings.

Planning Board Secretary Marilyn Murphy called the roll.

Acting Chair Gerbino noted that a required quorum of four members was present in order to conduct the business of the Board.

APPROVAL OF SEPTEMBER 24, 2012 MINUTES

1 Acting Chair Gerbino noted that Planning Board Secretary Marilyn Murphy
2 prepared and submitted for the Board's consideration the approval of the
3 draft minutes of the Planning Board meeting held on September 24, 2012.
4

5 On motion by Ms. Gannon, seconded by Mr. Goldenberg, and unanimously
6 carried, the minutes of September 24, 2012, were approved.
7

8 Acting Chair Gerbino noted that the DVD of the September 24, 2012
9 Planning Board meeting is made a part of the approved minutes and is
10 available for public viewing at the Somers Public Library. The text of the
11 approved minutes is also on the Town's website www.somersny.com and is
12 available for public review at the Planning & Engineering office at the Town
13 House.
14

15 **ESCROW ACCOUNTS FOR SOMERS REALTY SUBDIVISION AND THE** 16 **MEWS PHASE 2 AT BALDWIN PLACE SITE PLAN**

17
18 Acting Chair Gerbino said that the Board will be discussing the escrow
19 accounts for Somers Realty Subdivision and The Mews Phase 2 Site Plan
20 and asked Town Planner Dym to explain the escrow accounts.
21

22 Town Planner Dym said that pursuant to the Somers Town Code the
23 escrow accounts should be discussed with the Planning Board. She noted
24 that based on the work to date the original escrow deposits were based on
25 the first phase of the work. She mentioned that based on the continued
26 work on the Somers Realty Subdivision and The Mews 2 Site Plan by the
27 Town Planner and Consultant Town Engineer additional funds are required.
28 Town Planner Dym noted that the additional funds have to be in place prior
29 to the next Planning Board meeting.
30

31 Attorney Whitehead said that she did not realize that the escrow account
32 was low on funds but the account is not negative as the applicant had not
33 received all the bills for payment.
34

35 Consultant Engineer Barbagallo explained that he just gave an estimate
36 to complete the project.
37

38 Attorney Whitehead stated that the escrow law allows the applicant 30 days
39 to pay the consultant's bills.
40

1 Mr. Goldenberg suggested that the Towns' consultants and the applicant
2 work together to understand the vouchers for the consultant's services and
3 it was agreed to by the applicant and the Town's consultants.
4

5 **SOMERS REALTY PLANNED HAMLET**
6 **PRELIMINARY SUBDIVISION APPROVAL AND LOT LINE CHANGE;**
7 **WETLAND, TREE PRESERVATION AND STORMWATER**
8 **MANAGEMENT AND EROSION AND SEDIMENT CONTROL PERMITS**
9 **[TM: 4.20-1-15, 18]**

10
11 Acting Chairman Gerbino said that this is the project review of the Somers
12 Realty Planned Hamlet for Preliminary Subdivision Approval, Lot Line
13 Change and related permits. She noted that the Board has set aside
14 additional dates for special meetings on the Somers Realty Planned
15 Hamlet for Preliminary Subdivision Approval and for The Mews at Baldwin
16 Place Phase 2.

17
18 Town Planner Dym explained that she prepared a detailed timeline with
19 proposed meeting dates. She noted that Negative Declarations have to be
20 done under SEQRA for the Subdivision and Site Plan along together with
21 Final Subdivision Approval and Site Plan Approval. Town Planner Dym
22 mentioned that the Site Plan cannot be approved until Final Subdivision
23 Approval is granted.
24

25 Town Planner Dym said that the Board tonight will review the Draft
26 Negative Declaration and the Resolution of Preliminary Subdivision
27 Approval. She noted that if these documents are in good order the Board
28 will be prepared to approve those documents at the December 12, 2012
29 meeting. Town Planner Dym mentioned that the Resolution of Approval for
30 Final Subdivision and Site Plan Approval can both happen at the same
31 meeting.
32

33 On motion by Ms. Gannon, seconded by Mr. Foley, and unanimously
34 carried, the Board moved to accept tentative meeting dates for
35 Wednesday, January 2, 2013, Thursday, January 17, 2013, Wednesday,
36 January 23, 2013 and Thursday, January 24, 2013, Tuesday, January 29,
37 2013, Wednesday, January 30, 2013, Thursday, January 31, 2013 to be
38 held at the Somers Town House at 7:30 P.M.
39

1 The Acting Chair asked the applicant's representative to give a brief
2 presentation regarding this application.

3

4 Linda Whitehead, the applicant's attorney, indicated that an application was
5 made for the previously approved Master Plan. She noted that Lot 2 which
6 is North of Clayton Boulevard was originally proposed to have an 80,000
7 SF Assisted Living Facility and 30,000 SF of retail/professional
8 office/restaurant. Attorney Whitehead explained that those uses will be
9 replaced with The Mews 2 which is 75 units of affordable housing. She
10 noted that the applicant is willing to bank those uses for a future location.
11 She said that an application for Subdivision Approval was made to create a
12 lot which is approximately 7 acres together with a portion of the Clayton
13 Boulevard right-of-way to provide access and frontage to the lot. Attorney
14 Whitehead stated that in conjunction with the application a wetland permit
15 will be needed for the construction of the sewer pump station and the
16 access road to the sewer pump station, as well as piping connections and
17 trenching for the pipes. She noted that a Tree Removal Permit and a
18 Stormwater Management and Erosion and Sediment Control Permit are
19 needed.

20

21 Attorney Whitehead explained that a stormwater analysis has been
22 reviewed with the NYC Department of Environmental Protection (DEP) in
23 terms of the overall watershed analysis for the future. She indicated that
24 the applicant will return to the DEP to answer some questions that there
25 may be an issue with the main access road from Route 6 as it crosses a
26 DEP watercourse. She stated that the access road has always been
27 shown on the plan and the DEP never commented until now. Attorney
28 Whitehead noted that the Planning Board sent a letter to the DEP stating
29 that the access road is necessary for access to the site.

30

31 Attorney Whitehead said that the applicant was asked to submit information
32 on comparative impacts to the modification to the Master Plan in terms of
33 traffic and fiscal impacts and community character. She noted that under
34 SEQRA you review the modifications and determine if those modifications
35 will result in potential significant adverse impacts not previously addressed
36 and mitigated. Attorney Whitehead opined that after the review of the
37 modifications it was determined that there are no new potential significant
38 adverse environmental impacts.

39

1 Attorney Whitehead said that Steve Marino, the applicant's wetland
2 consultant, sent a letter to the DEP with a response and a summary on the
3 impacts to the wetland functions.

4
5 Attorney Whitehead also said that some issues are the banking of the uses
6 and the stockpile. She noted that additional information on alternatives for
7 the stockpile have been provided. She explained that the banking of uses
8 gives the applicant the right to relocate those uses at another location on
9 the site. She noted that the changes in the stormwater regulations require
10 more room for stormwater management.

11
12 Town Planner Dym mentioned that the Planning Board has to determine
13 what course of action to take. She noted that the assisted living facility and
14 the 30,000 SF of uses from the conceptual Master Plan can be eliminated.
15 She indicated that the Board can eliminate only one use, presumably the
16 Assisted Living Facility, and retain the 30,000 SF of mixed uses to be
17 included on parcels south of Clayton Boulevard. She explained that the
18 Board can retain both uses for future consideration and acknowledge there
19 will be a change of mix and magnitude of uses south of Clayton Boulevard
20 under any scenario and that such mix will be determined upon future
21 subdivision application.

22
23 Town Planner Dym said that by considering the 75 units of housing the
24 Master Plan is being modified.

25
26 Town Planner Dym said that the implications for SEQRA of any of the
27 changes to the Master Plan cannot result in any impacts that would be
28 greater than those analyzed and mitigated as part of the Master Plan
29 SEQRA process.

30
31 Town Planner Dym mentioned that a finding can be made to support any
32 scenarios the Board chooses. However, retention of both uses provides
33 the Board and the applicant the widest flexibility for consideration of uses
34 south of the Boulevard as market conditions continue to improve over the
35 next several years. She noted that since the amount and mix of uses will
36 change in any event due to stormwater regulations, as long as future site
37 plan applications propose a mix of uses that meet the purpose of the PH
38 District and do not relate impacts greater than those analyzed for the
39 original conceptual plan, site specific negative declarations can be issued
40 based on information prepared as part of the review record.

1 Town Planner Dym indicated that the applicant will have to submit a new
2 plan and a revised conceptual plan.

3
4 Attorney Whitehead said that she does not understand the difference
5 between the applicant's plan and a revised conceptual plan. She explained
6 that the next site plan that is submitted will be part of the new conceptual
7 Master Plan.

8
9 Town Planner Dym said that if the applicant's plan does contain the 40,000
10 SF that is currently identified on the south side of Clayton Boulevard and if
11 the application also includes the 30,000 SF that had been located, it would
12 meet the requirement of the plan the Board wants to see. She explained
13 that if the applicant's plan only includes the 40,000 SF and some other
14 combination of uses, the applicant must provide a plan showing the
15 equivalent of 70,000 SF.

16
17 Attorney Whitehead said that the 40,000 SF will remain. She asked if the
18 Board wants to see a new plan showing the current location of the 40,000
19 and 30,000 SF and the multi-family. She stressed that the 40,000 SF is
20 remaining and she hopes that will not require the submission of a new
21 Master Plan.

22
23 Attorney Whitehead said that the PH Zone requires a 0.04 floor area ratio
24 (FAR) minimum for the multi-family residential.

25
26 Mr. Keane stated that the linchpin for the Master Plan was the village
27 green. He said to accommodate the stormwater regulations and the multi-
28 family residence, the 30,000 SF may have to be eliminated. Mr. Keane
29 said that the plan eliminates the assisted living and replaces it with the
30 affordable housing units. He asked if there is a problem if the Master Plan
31 stays in place.

32
33 Town Planner Dym stated that by preserving the 30,000 SF doesn't mean it
34 will be there but just that it could be there.

35
36 Polly Kune, resident of Heritage Hills, said that it is her understanding that
37 this matter is before the Board for a modification of the lot line to further the
38 application of The Mews Phase 2 and the Board has been discussing the
39 future of the property. She stressed that the Site Plan for The Mews Phase
40 2 is time sensitive and the Board should be discussing that application.

1 Acting Chair Gerbino said that the subdivision application has to be
2 completed before Site Plan approval.

3

4 Consultant Engineer Barbagallo said that his thought process is that when
5 the Master Plan was created there was a balance between uses on the
6 site. He noted that everything has been impacted by the new stormwater
7 regulations. He indicated that the assisted living and the retail/office
8 were non-residential uses that were put there to balance the residential
9 uses on the remaining portion of the Planned Hamlet. Consultant Engineer
10 Barbagallo noted that as non-residential uses are replaced with residential
11 it would make sense that the Board would want to reconsider the balance
12 of what is left on the project and if that balance can be achieved from what
13 was sought when the Master Plan was being prepared. Consultant
14 Engineer Barbagallo said that it makes sense to not walk away from the
15 non-residential uses but to create an opportunity for the balance to be
16 reconsidered in the future.

17

18 Consultant Engineer Barbagallo opined that instead of waiting for the next
19 application the Board can proactively seek the creation of that balance on
20 the remaining portion of the Planned Hamlet to guide the applicant on the
21 types of uses that they should be seeking in order to maximize their
22 approval ability in the future.

23

24 Attorney Whitehead said that the applicant is not willing to do that because
25 of the significant cost, as the plan will always be changing.

26

27 Mr. Keane noted that there was not much consideration about balance but
28 was more on a plan based on the uses and fitting it into the Planned
29 Hamlet Zoning constraints. He indicated that if the green stays where it is
30 nothing will change and that nothing changes without the approval of the
31 Board.

32

33 Consultant Engineer Barbagallo suggested a guide so the applicant knows
34 what direction they are going in.

35

36 Ms. Gannon said that there is a concern because of the constraints of the
37 stormwater regulations and how that will remove buildable area from the
38 lot.

39

1 Attorney Whitehead said that stormwater constraints have to be considered
2 when laying out any residential plan.

3
4 Town Planner Dym said that the Board seems to be going in the direction
5 of reserving the uses and making sure that they are available for
6 consideration on the southern side of Clayton Boulevard. She indicated
7 that if the Board wants to make sure that these uses are part of the mix
8 they have to decide how they want the uses considered. Town Planner
9 Dym suggested that the Board make a decision after an application for use
10 is submitted.

11
12 On motion by Mrs. DeLucia, seconded by Ms. Gannon, and unanimously
13 carried, the Board moved to retain both uses for future consideration and
14 acknowledge there will be a change of mix and magnitude of uses south of
15 Clayton Boulevard under any scenario and that such mix will be determined
16 upon future subdivision application.

17
18 Consultant Engineer Barbagallo said an item that remains outstanding is
19 the Stormwater Pollution Prevention Plan (SPPP). He noted that he needs
20 information on the sewer and the pump station and how they will be built.
21 He mentioned that he has a meeting Friday with the Water Superintendent
22 and by the next meeting will have information in that regard. Consultant
23 Engineer Barbagallo indicated that he is waiting for a response on the
24 Chairman's letter dated November 16, 2012 to the Department of
25 Environmental Protection (DEP) on the access road. He commented that
26 he needs details on the way the gas and electric utilities will be brought into
27 the site as part of the road construction.

28
29 Consultant Engineer Barbagallo said that the stockpile plan shows a rough
30 cut of 35,000 cubic yards of fill. He noted that originally the stockpile was
31 shown in one location and that area will result in a very large stockpile that
32 may have impacts of a visual nature. He mentioned that the applicant has
33 now split the stockpile into two locations. Consultant Engineer Barbagallo
34 said the Board should look at the visual impact of the stockpile in the two
35 new locations. He indicated that once a decision is made on the location of
36 the stockpile the stormwater plan must address the disturbance and the
37 protection of the wetlands and the environment.

38
39 Ms. Gannon said that it may be a few years before the whole site is built
40 out, and she asked how temporary is the stockpile. Ms. Gannon asked for

1 an explanation on short term and long term stockpiles and how they will be
2 successfully managed.

3
4 Consultant Engineer Barbagallo said that the term temporary stockpile is
5 used because eventually the development will be completed. He noted
6 that you have to look at the stockpiles as features that will be in place for a
7 very long time. Consultant Engineer Barbagallo said that stabilization of
8 the stockpiles will be done by being vegetated and the creation of a non-
9 erodible surface. He said that it may include infrastructure associated with
10 the collection of water from that area and treatment through temporary
11 sedimentation basins or tying into the overall drainage system for the entire
12 project to make sure that we are properly attenuating and treating
13 stormwater with the applicable Codes and Regulations. Consultant
14 Engineer Barbagallo explained that in the interim the stockpiles will be
15 contained in silt fences and a monitoring maintenance plan associated with
16 the stockpiles that will be incorporated into the SPPP. He mentioned that
17 inspections will take place on a routine schedule.

18

19 Mrs. DeLucia asked who will do the monitoring and inspections.

20

21 Consultant Engineer Barbagallo stated that there will be a Maintenance
22 Agreement in place to maintain the stockpiles until they are no longer
23 needed.

24

25 Mr. Goldenberg asked why the concern is arising now.

26

27 Consultant Engineer Barbagallo said that the Master Plan asks for a
28 balance of fill on site and did not want traffic impacts associated with the fill
29 coming off and on to the property. He said that the applicant has
30 suggested that the project across the street, The Green, can use fill. He
31 said that the Board has to consider if the stockpile is too large and in the
32 wrong location.

33

34 Attorney Whitehead said that the applicant was asked to address all the cut
35 materials from the subdivision and site plan and provide information on
36 stockpile sizes and locations. She noted that originally the stockpile
37 location was in close proximity to where the work is being done but the
38 concern is will the stockpile be too large. Attorney Whitehead explained
39 that Peter Gregory, the applicant's engineer, provided soil stockpile
40 elevation data. She said that there is another option to split the pile and

1 move it to another location where the fill is eventually intended to go, but
2 that will require additional disturbance to clear the area for the stockpile.
3 Attorney Whitehead said that another option is to split the pile and keep
4 some of the stockpile but reduce the size by trucking some of it off site.
5 The other option is to truck all the fill off site.

6
7 Engineer Gregory said that the plan will implement vegetating, landscaping,
8 and silt fences.

9
10 Consultant Engineer Barbagallo noted that there has to be a balance
11 between the length of the slope, the vegetation and erosion matting that
12 may be required along the slope to prevent erosion.

13
14 Engineer Gregory referred to his stockpile elevation data that shows
15 stockpile 1 with the bottom of the stockpile elevations, the 19 -20' height of
16 the stockpile and top of the stockpile elevation. He described the stockpile
17 elevation on stockpile 2 with the height of the stockpile at approximately 16-
18 20 feet. He explained that if some of the fill was trucked off site, the height
19 of the stockpile could be reduced by 5 feet.

20
21 Mr. Keane asked what type of soils will be in the stockpile as that will
22 determine how that will be dealt with from a stormwater perspective.

23
24 Engineer Gregory said that he can work with the materials in the stockpile
25 to stabilize the slopes.

26
27 Consultant Engineer Barbagallo noted that the Board has to decide on one
28 bigger stockpile or two small stockpiles.

29
30 Attorney Whitehead said that the applicant would like one stockpile so the
31 area does not have to be disturbed.

32
33 Acting Chair Gerbino said that it was the consensus of the Board to have
34 one stockpile in the original location, option #2.

35
36 Town Planner Dym reviewed the Negative Declaration with the Board.

37
38 Consultant Engineer Barbagallo changed the wording under "Impact on
39 Geology and Soils" based on discussion tonight to read, *A location of*
40 *102,883 square feet for the temporary stockpiling of excess soil...*

1 He also eliminated the wording from currently identified to the bottom of the
2 paragraph.

3
4 Mr. Foley asked that the word *minimal* be eliminated in the sentence, *these*
5 *minimal disturbances...*

6
7 Mr. Keane commented that the Negative Declaration has to satisfy the
8 Town Wetland Regulations for the permit to be issued. He opined that
9 every single element of a SEQRA impact does not have to be addressed if
10 they do not rise to a level of significance. He indicated that you can explain
11 how the impact was reduced and is not significant.

12
13 Town Planner Dym stated that compliance to the Town Wetland
14 Regulations will be reserved for the Resolution.

15
16 Attorney Whitehead opined that it is a good idea in the Negative
17 Declaration to go through all the impact areas and state that there is no
18 significant impact.

19
20 Town Planner Dym indicated that she based the Negative Declaration
21 on how it was done in the past. She suggested taking out the paragraph
22 on "Impact on Community Character".

23
24 Town Planner Dym reviewed with the Board the Resolution Granting of
25 Conditional Subdivision Plat Approval, Lot Line Change, Modification of
26 Somers Realty Planned Hamlet and associated permits. She said that
27 given the limited time for this application she would like comments from the
28 Board on the Resolution and Negative Declaration, as soon as possible.

29
30 Acting Chair Gerbino asked the representative from The Mews at Baldwin
31 Place Phase 2 to give a brief summary of the application.

32
33 Richard Williams, the applicant's engineer, said there were minor
34 outstanding technical comments that were answered. He indicated that
35 revised plans and revised SPPP were submitted.

36
37 Consulting Engineer Barbagallo asked that the Site Plan be updated to
38 show how electric, gas and telecommunications will be located at Phase 2
39 of The Mews.

40

1 There being no further business, on motion by Mr. Foley, seconded by Mrs.
2 DeLucia, and unanimously carried, the meeting adjourned at 10:30 P.M.
3 and the Acting Chair noted that the next Planning Board meeting will be on
4 Wednesday, December 12, 2012 at 7:30 P. M. at the Somers Town House.
5
6
7

8 Respectfully submitted,
9

10
11 Marilyn Murphy
12 Planning Board Secretary
13
14
15

DRAFT

HOCHERMAN TORTORELLA & WEKSTEIN, LLP
ATTORNEYS AT LAW

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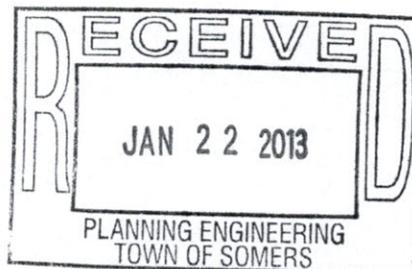
HENRY M. HOCHERMAN
OF COUNSEL

January 18, 2013

432

Via Electronic Mail

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



*Re: Final Subdivision Plat Approval Issued to
Susan F. Haft and Ridgeview Designer Builders, Inc.
Lovell Street, Town of Somers
Tax Identification Nos.: Section 16.12, Block 1, Lots 41 and 42
Ninth Request for Extension of Time to May 20, 2013*

Dear Chairman Currie and Members of the Planning Board:

At its meeting on November 14, 2012, the Planning Board granted its eighth extension of Conditional Final Subdivision Approval (the "Final Approval") for the above-referenced subdivision to and including February 18, 2013. We are writing to request an additional 90-day extension of Final Approval to and including May 20, 2013 (the first business day after the ninetieth day, which is Sunday, May 19, 2013). This is our ninth request for an extension of Final Approval which your Board has the authority to grant under Town Law Section 276(7)(c).

Since the last extension, our clients have continued to construct the access and drainage infrastructure for the subdivision. Our clients have encountered more rock than anticipated, the removal of which has been time consuming, and do not anticipate completing the infrastructure work prior to the February 18, 2013 expiration date. Our clients' plan is to continue with the infrastructure work until it is substantially complete, after which they plan to file the Plat.

Based upon this plan, our clients seek a further extension of Final Approval to and including May 20, 2013.

HOCHERMAN TORTORELLA & WEKSTEIN, LLP

Hon. John Currie, Chairman
and Members of the Planning Board
January 18, 2013
Page 2

Kindly schedule this request for consideration and action at your next available meeting, and let us know if an appearance is required.

Thank you for your courtesy in this matter.

Respectfully yours,

Hocherman Tortorella & Wekstein, LLP

By: 
Geraldine N. Tortorella

GNT:mc

cc: *(via electronic mail)*
Syrette Dym, AICP
Roland Baroni, Esq.
Joseph P. Eriole, Esq.
Timothy Allen, P.E.
Mr. Matt Girona
Ms. Susan F. Haft
Mr. Eric Moss

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Town of Somers

WESTCHESTER COUNTY, N.Y.

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Steven Woelfle
Principal Engineering Technician
swoelfle@somersny.com



Syrette Dym, AICP
Town Planner
sdym@somersny.com

DATE: January 30, 2013

TO: Planning Board

FROM: Syrette Dym, AICP
Town Planner

RE: **Susan Haft/Ridgeview Designer Builders, Inc. Subdivision Ninth
Time-Extension**

On January 18, 2013, a request for a ninth 90-day time extension of Conditional Final Subdivision Approval was received in relation to the above referenced project. On February 18, 2013, the previously granted time extension for the final subdivision approval will expire. The requested time extension, if granted would extend a 90 day approval up to an including May 20, 2013 (the first business day after the ninetieth day which is May 19, 2013).

Prior to making a decision on the time extension, the Planning Board may want to discuss on site rock removal operations and their duration with the applicant.

If you have any questions, please do not hesitate to contact me.

cc: Geraldine Tortorella, Esq.
Susan Haft

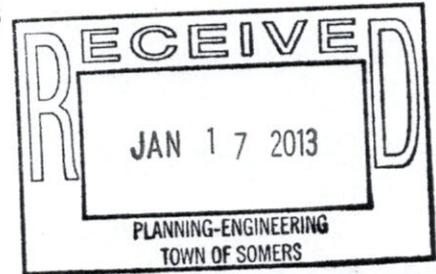
BIBBO ASSOCIATES, L.L.P.

Consulting Engineers

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

C
P
T
CTE

January 16, 2013



Somers Planning Board
335 Route 202
Somers, NY 10589-3206

ATTN: Mr. John Currie, Chairman

RE: Mitchell Conservation Subdivision
Tomahawk Street
Sec. 16.09, Block 1, Lot 9

435

Dear Chairman and Members of the Board:

On behalf of our client we are writing to formally request a 180-day extension of the conditional preliminary subdivision re-approval, granted for the above noted property on September 12, 2012. (Resolution # 2012-06).

This office is currently in the process of obtaining all necessary approvals from outside agencies, and assembling the required documents necessary to satisfy the conditions of approval listed in the above noted resolution.

As always feel free to contact us with any questions you may have regarding this matter. We respectfully request this matter be placed on your next available agenda for consideration.

Very truly yours,

Timothy S. Allen, P.E.

MG/mg
Enclosures

cc: G. Mitchell

Site Design ♦ Environmental

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

FILE

Steven Woelfle
Principal Engineering Technician
swoelfle@somersny.com



Syrette Dym, AICP
Town Planner
sdym@somersny.com

DATE: January 30, 2013
TO: Planning Board
FROM: Syrette Dym, AICP
Town Planner
RE: Mitchell Conservation Subdivision Conditional Preliminary Subdivision
Re-Approval Time-Extension

On January 17, 2012, a request for a 180-day time extension of Conditional Preliminary Subdivision Re-Approval granted on September 12, 2012, (Resolution #2012-06) was received by the Planning Board. On April 11, 2013, the previously granted conditional preliminary subdivision re-approval will expire. As such, this office has no objection to the Planning Board issuing the requested time extension from April 11, 2013 through October 14, 2013 (the first business day after the 180-ieth day which is October 13,, 2013).

If you have any questions, please do not hesitate to contact me.

cc: Timothy S. Allen, P.E.
Gary Mitchell
Ann Mitchell
Roland Baroni

Z:\PE\Subdivision files\Mitchell\Extensions\1st prelim.subdivision extension.doc

0-
PB.
T.P.
CTE
FPC

McCULLOUGH, GOLDBERGER & STAUDT, LLP

ATTORNEYS AT LAW

1311 MAMARONECK AVENUE, SUITE 340

WHITE PLAINS, NEW YORK

10605

(914) 949-6400

FAX (914) 949-2510

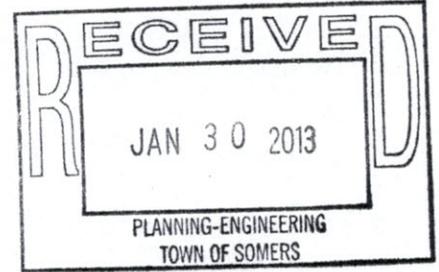
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PATRICIA W. GURAHIAN
ALICE D. KORNFELD
RUTH F.-L. POST**

January 30, 2013



4 43

Chairman John Currie and
Members of the Planning Board
Town of Somers
335 Route 202
Somers, New York 10589

RE: The Green at Somers, Route 6, TM: 4.20-1-3.1

Dear Chairman Currie and Members of the Planning Board:

Following up on the discussion at your January 23 meeting, we are providing to you herewith a revised draft EAF Part 3 addressing the two impacts identified by you as "potential large" in the EAF Part 2. We are also providing as requested a revised Sediment and Erosion Control Plan showing the location of the proposed rip rap along the easterly property line at the base of the steep slope as described in the Part 3.

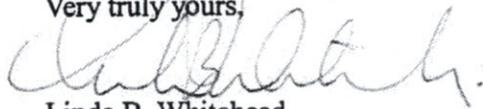
We are also providing as requested brochures for the type of lighting fixtures that will be used on the site. These are the fixtures provided by Woodard and Curran and which the Town is currently using. The actual final fixture will be chosen to match the architecture, but will be similar to these in concept. The fixtures will be LED, downward facing to reduce light spread, and between 12 and 16 feet in height. Sixteen feet appears to be the lowest pole provided by this particular manufacturer. While we discussed 12 feet as maximum height, we are concerned that this height could interfere with some of the landscaping and also require more poles to provide the same coverage. We will provide more information and detail on lighting for your review as part of the site plan review process.

As we discussed, at your February 13, 2013 meeting you will be focusing on the draft Negative Declaration. We are working to submit responses to all other comments and additional site plan and permitting detail for continued discussion at your March meeting.

Chairman and Members of the Board
January 30, 2013
Page 2

Thank you for your continued cooperation in this matter and we look forward to discussing this matter with you at your February 13, 2013 meeting.

Very truly yours,



Linda B. Whitehead

enclosures

cc: Rick VanBenschoten
Bryan McClure
Nathaniel J. Holt, PE
Joanne Meder, F. P. Clark Associates
Joseph Barbagallo, P.E.

EAF PART 3 – EVALUATION OF THE IMPORTANCE OF IMPACTS

The following provides additional discussion of those impacts identified by the Lead Agency as potentially large in the EAF Part 2. .

Construction on slopes greater than 15%

Work is proposed on a limited amount of areas of slopes greater than 15% towards the Route 6 side of the property. Slopes in the category of 15 to 25% are located in two areas of the property—at the base of the “tee boxes” and along the easterly property line. The two areas comprise 6,525 square feet and 5,925 square feet respectively. The slopes in excess of 15% in the area of the tee boxes were man-made as part of the construction of the golf driving range. A second slope category of greater than 25% is also located along the easterly property line and is approximately 2,180 square feet in area. The areas of steep slopes are clearly indicated on the constraints map submitted. No construction activities are proposed on the slope category in excess of 25%.

Activity within the slopes associated with the tee boxes will be limited to the addition of fill in this area. Therefore, no excavation will occur on these slopes. Due to the location of the slopes on the property, it is not possible to further reduce the impact by a project change, nor would there be a benefit to such change. Considering that this area of steep slope is not a naturally occurring steep slope, but was man made, and that no excavation is proposed, which minimizes erosion concerns, the addition of fill in the area of the man made steep slope will not have any significant environmental impact, the Lead Agency determines that the impact is not important.

Within the sloped area along the easterly property line, some grading will take place as part of proposed grading operations associated with the construction of the loop road that circles the proposed residential buildings. This impact has been minimized through the design and layout, however, requirements for maximum grades and road geometry do not allow for the sloped area to be avoided completely. Mitigation of any potential impact from the grading activities within the sloped area is provided by soil and erosion controls, including protection of the slope from erosion through the installation of stone rip rapping at the base of the slope along the property line as shown on the revised Sediment and Erosion Control Plan submitted herewith. Based upon the above, the Lead Agency determines that the impact is not important.

In relation to this impact of construction on slopes greater than 15%, it should be noted that the only reason this was indicated by the Lead Agency as a Potential Large Impact is that the threshold of 15% slope is exceeded. In reviewing the actual plan and proposed activity, the construction on slopes in excess of 15% does not in actuality result in a potential large impact.

Importing of fill and related truck traffic (Other impacts on Land)

It is estimated that approximately 25,000 cubic yards of fill material will be imported into the site to create the proposed finished grades. In its current condition, the project site slopes down from Route 6 towards the rear of the property. It is apparent that at one point the site was excavated (soils removed) which created the existing topographic relief. As shown on the grading plan, it is proposed to create an area in the front portion of the property such that the

elevations will be near that of Route 6 to create building pads and parking areas. The fill will all be placed within this area. The placement of the proposed buildings and retaining walls has been strategically planned to create a containment of the fill pad; that is the garage floor elevations along the rear of the northern most buildings is at or very near to existing grade, while the first floor elevations of the buildings are very nearly that of the grades on Route 6. This was done to minimize the area of fill and keep the fill away from the State wetland in the rear of the property. It is not possible to further minimize the extent of fill without significantly impacting the design of the project, and potentially impacting the State wetland.

According to the FEMA Flood Mapping of the area, the site is not within either a 100 year flood zone or Floodway, therefore none of the filling operations will have an effect on neighboring or downstream properties due to a displacement of flood storage area(s). In addition, due to the topography of the site, the proposed filling operations are well outside (in excess of one hundred feet) of the State wetland found at the lower elevations of the property. Therefore, the importing of fill will not result in any potential significant impact on flood conditions or the State regulated wetland.

When importing fill in large volumes, the other area of concern relates to the fill activities and erosion control.

An erosion control plan will be developed as part of the Stormwater Pollution Prevention Plan and in accordance with the New York State Department of Environmental Conservation's Design Manual for Stormwater Control. In addition to the usual installation of silt fence and hay bales along the toe of the fill limits, the plan will make use of diversion swales, cut-off trenches and temporary sediment basins which will be incorporated into the work before any importing of fill commences, to mitigate the potential for erosion and sediment impacts.

Upon completing installation of the erosion control measures, the contractor will be required to strip the topsoil layer within the limits of work and stockpile it either on site or at a remote location for later use. The stockpiles of topsoil shall be stabilized with grass and mulch and ringed with haybales and/or silt fence.

These potential impacts will occur only during the early construction phases. Once the fill is in place and the site stabilized, there will be no more potential impacts of the fill in relation to erosion and sediment control.

The fill to be utilized will be structural grade fill to reduce potential impacts from construction of the buildings on fill. All material will be required to be "clean", free of construction debris, contaminants and organics. The source shall be required to provide sufficient proof that the material meets these requirements by testing or certification. In addition, all material will be inspected at the site upon delivery. The site will be secured during off hours to prevent unauthorized dumping of other fill material on the property

Based upon the above, the Lead Agency determines that the impact is not important.



Allegra

These luminaires, with their unique design and highly decorative appearance, make them the perfect choice for every urban architectural application. The highly superior performance of the cut-off optical system represents the appropriate solution for almost every roadway, recreational and ambient lighting project. The wide variety in sizes offers optimal solutions for all kinds of needs.



Now available with LED
Light-Emitting Diode technology



www.adllighting.com

Allegra

Allegra by SDL represents the ideal solution for any environment where glare and cut-off control is important. Its refined geometric lines allow Allegra to integrate high precision optical systems with excellent glare control and superior efficiency. The luminaire housing is the result of an assembly of both moulded and spun aluminium components from a high quality alloy. The tempered glass lens is sealed to the moulded aluminium hinged frame, providing a weather resistant environment to the high performance optical assembly designed for urban application.

Optics

The optical system featured in these luminaires is comprised of a segmented specular aluminium reflector for multi-image duplication. This system allows for IES distribution pattern type II, III, IV or V (symmetrical).

Ballast

The high power factor ballast is mounted on a removable tray and is provided with a quick disconnect wiring system. The ballast is either integrated to the luminaire or in the base of the pole.

Hardware

All exposed hardware will be stainless steel.

Finish

All surfaces are chemically prepared by immersion in a multistage process. The polyester powder finish is applied in a thermostatic process. The finish offered by SDL offers an excellent protection against ultraviolet rays and salt spray. A wide range of colours is available in both textured and smooth finish.

All illustrated brackets are not included with the luminaires. Consult the "Poles and Accessories" brochure for a greater selection of brackets.

* For luminaire and ballast only.



www.sdllighting.com

Wall mounted



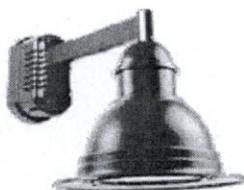
7100

Shown with CMO arm
Height: 12 in (305 mm)
Width: Ø16 1/2 in (Ø420 mm)
* Weight: 14 lb (6,4 kg)
Max. wattage: 150 watts



7120

Shown with CMO arm
Height: 13 1/8 in (334 mm)
Width: Ø18 1/16 in (Ø458 mm)
* Weight: 13 lb (6 kg)
Max. wattage: 150 watts



7102

Shown with DM0 arm
Height: 13 1/8 in (334 mm)
Width: Ø17 7/8 in (Ø455 mm)
* Weight: 14 lb (6,4 kg)
Max. wattage: 150 watts



7122

Shown with DM0 arm
Height: 13 1/8 in (334 mm)
Width: Ø17 7/8 in (Ø455 mm)
* Weight: 13 lb (6 kg)
Max. wattage: 150 watts



7104

Shown with DM0 arm
Height: 13 1/8 in (334 mm)
Width: Ø14 9/16 in (Ø369 mm)
* Weight: 14 lb (6,4 kg)
Max. wattage: 150 watts



7124

Shown with CMO arm
Height: 12 in (305 mm)
Width: Ø14 1/2 in (Ø369 mm)
* Weight: 13 lb (6 kg)
Max. wattage: 150 watts



7 2 0 0

Shown with CS7 arm
Height: 20 1/4 in (515 mm)
Width: Ø26 1/4 in (Ø667 mm)
EPA: 1,13 sq ft
Weight: 35 lb (16 kg)
Max. wattage: 250 watts

with cage

Shown with CS9 arm
Height: 30 1/2 in (775 mm)
Width: Ø26 1/4 in (Ø667 mm)
EPA: 1,59 sq ft
Weight: 36,5 lb (17 kg)
Max. wattage: 250 watts



7 2 2 0

Shown with CS7 arm
Height: 20 1/4 in (515 mm)
Width: Ø27 1/4 in (Ø693 mm)
EPA: 1,14 sq ft
Weight: 35 lb (16 kg)
Max. wattage: 250 watts

with cage

Shown with CS9 arm
Height: 30 1/2 in (775 mm)
Width: Ø27 1/4 in (Ø692 mm)
EPA: 1,59 sq ft
Weight: 36,5 lb (17 kg)
Max. wattage: 250 watts



7 2 0 2

Shown with CS4 arm
Height: 20 1/4 in (515 mm)
Width: Ø26 1/4 in (Ø667 mm)
EPA: 1,12 sq ft
Weight: 35 lb (16 kg)
Max. wattage: 250 watts

with cage

Shown with CS9 arm
Height: 30 1/2 in (775 mm)
Width: Ø26 1/4 in (Ø667 mm)
EPA: 1,57 sq ft
Weight: 36,5 lb (17 kg)
Max. wattage: 250 watts



7 2 2 2

Shown with CS4 arm
Height: 20 1/4 in (515 mm)
Width: Ø26 1/4 in (Ø667 mm)
EPA: 1,1 sq ft
Weight: 34,5 lb (15,7 kg)
Max. wattage: 250 watts

with cage

Shown with CS9 arm
Height: 30 1/2 in (775 mm)
Width: Ø26 1/4 in (Ø667 mm)
EPA: 1,55 sq ft
Weight: 36 lb (16 kg)
Max. wattage: 250 watts



7 2 0 4

Shown with CS7 arm
Height: 20 1/4 in (515 mm)
Width: Ø20 3/4 in (Ø528 mm)
EPA: 1,11 sq ft
Weight: 33 lb (15 kg)
Max. wattage: 250 watts

with cage

Shown with CS9 arm
Height: 30 1/2 in (775 mm)
Width: Ø20 3/4 in (Ø528 mm)
EPA: 1,56 sq ft
Weight: 34,5 lb (16 kg)
Max. wattage: 250 watts



7 2 2 4

Shown with CS7 arm
Height: 20 1/4 in (515 mm)
Width: Ø20 3/4 in (Ø528 mm)
EPA: 1,09 sq ft
Weight: 33 lb (15 kg)
Max. wattage: 250 watts

with cage

Shown with CS9 arm
Height: 30 1/2 in (775 mm)
Width: Ø20 3/4 in (Ø528 mm)
EPA: 1,54 sq ft
Weight: 34,5 lb (16 kg)
Max. wattage: 250 watts



7 2 4 0

Shown with CS9 arm
Height: 17 9/16 in (447 mm)
Width: Ø26 1/4 in (Ø667 mm)
EPA: 0,95 sq ft
Weight: 34 lb (15 kg)
Max. wattage: 250 watts



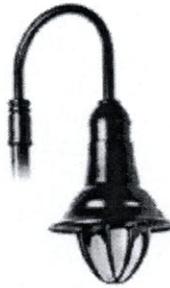
with cage

Shown with CS9 arm
Height: 28 3/16 in (716 mm)
Width: Ø26 1/4 in (Ø667 mm)
EPA: 1,41 sq ft
Weight: 35,5 lb (16 kg)
Max. wattage: 250 watts



7 2 5 0

Shown with CS9 arm
Height: 25 9/16 in (650 mm)
Width: Ø26 1/4 in (Ø669 mm)
EPA: 1,31 sq ft
Weight: 36 lb (16 kg)
Max. wattage: 250 watts



with cage

Shown with CS9 arm
Height: 36 3/16 in (919 mm)
Width: Ø26 1/4 in (Ø669 mm)
EPA: 1,76 sq ft
Weight: 37,5 lb (17 kg)
Max. wattage: 250 watts



7 2 4 5

Shown with CS9 arm
Height: 17 13/16 in (453 mm)
Width: Ø21 in (Ø532 mm)
EPA: 0,95 sq ft
Weight: 33 lb (15 kg)
Max. wattage: 250 watts



with cage

Shown with CS9 arm
Height: 28 3/16 in (716 mm)
Width: Ø21 in (Ø532 mm)
EPA: 1,41 sq ft
Weight: 34,5 lb (16 kg)
Max. wattage: 250 watts



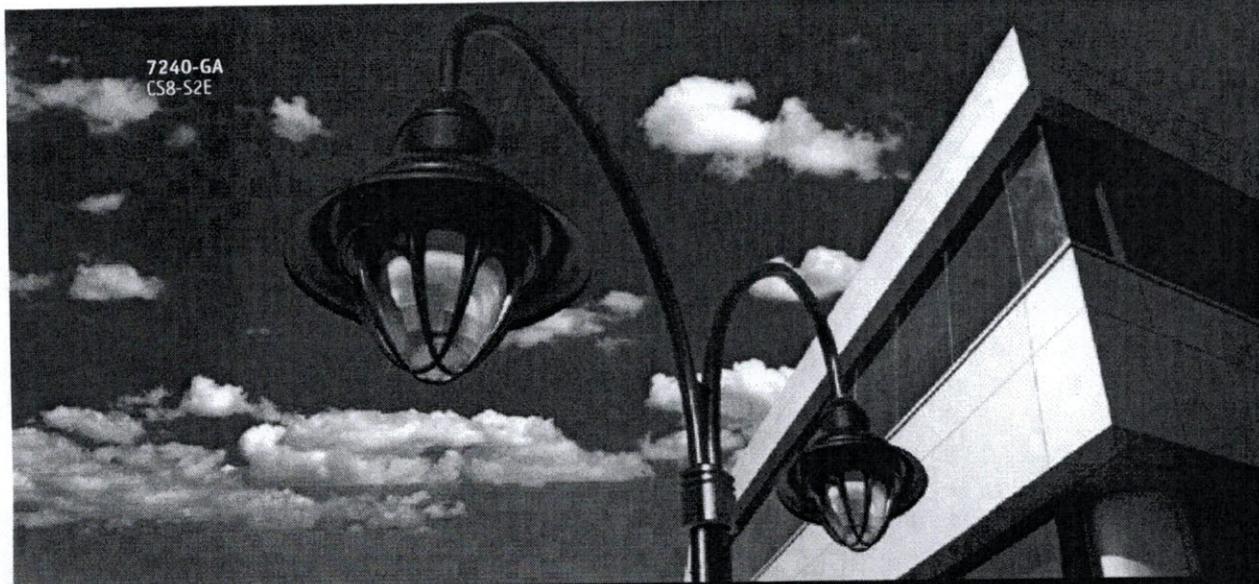
7 2 5 5

Shown with CS9 arm
Height: 25 13/16 in (656 mm)
Width: Ø20 3/4 in (Ø530 mm)
EPA: 1,30 sq ft
Weight: 35 lb (16 kg)
Max. wattage: 250 watts

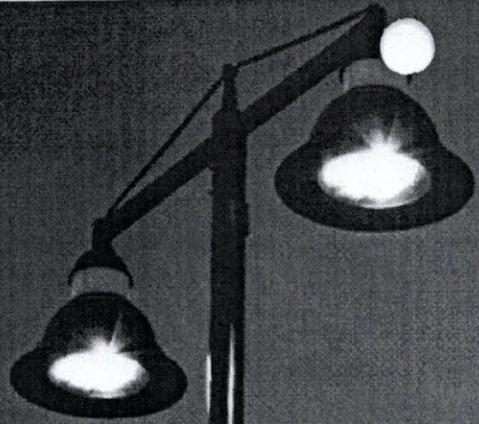


with cage

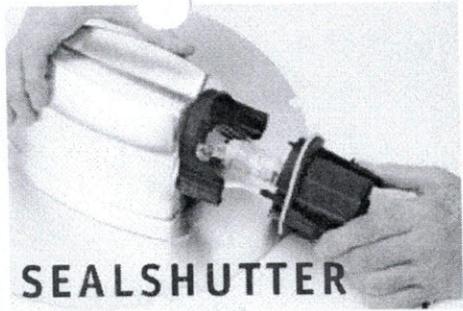
Shown with CS9 arm
Height: 36 3/16 in (919 mm)
Width: Ø20 3/4 in (Ø530 mm)
EPA: 1,76 sq ft
Weight: 36,5 lb (17 kg)
Max. wattage: 250 watts



7240-GA
CS8-S2E



7200-0L
CS11-S2E

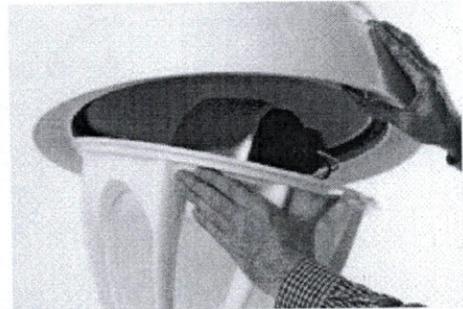


SEALSHUTTER

Access to internal components

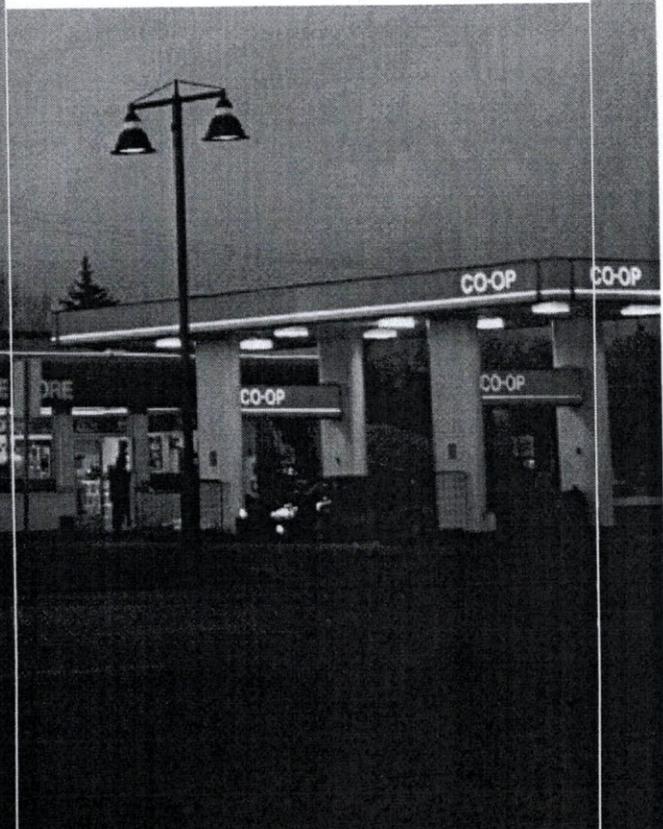
With the SEALSHUTTER* system (IP66 certified), a little pressure on the shutter tabs provides easy access to the lamp. A tool-free system also allows for easy ballast maintenance, and quick-disconnect terminals ensure safe and easy replacement of components.

*See "Specification Guide" for available wattages.

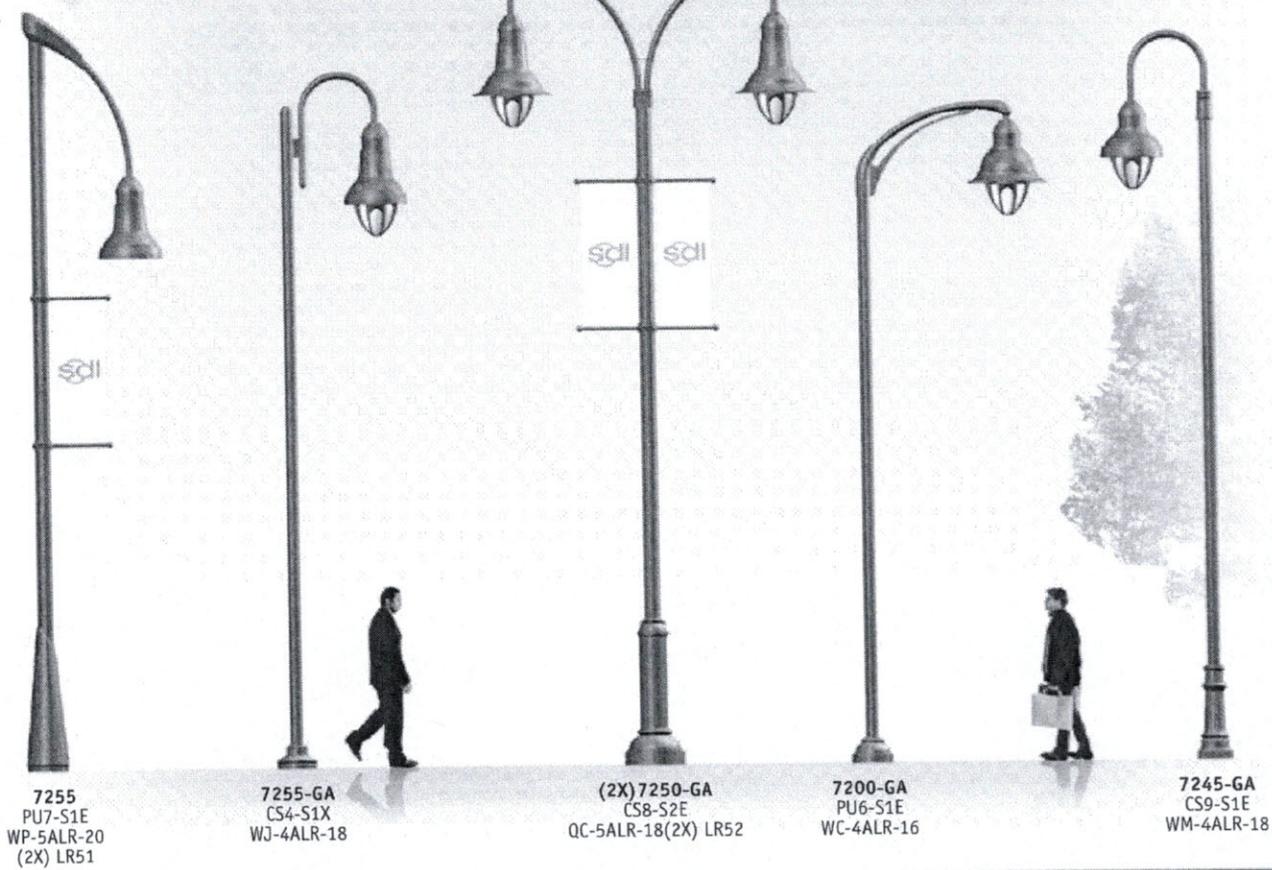


Access to the luminaire

The hinged lens frame has a safety latch for quick tool-free access to internal components.



Allegra



7255 PU7-S1E WP-5ALR-20 (2X) LR51
 7255-GA CS4-S1X WJ-4ALR-18
 (2X) 7250-GA CS8-S2E QC-5ALR-18(2X) LR52
 7200-GA PU6-S1E WC-4ALR-16
 7245-GA CS9-S1E WM-4ALR-18

Specification guide:

Model	IES distribution				Wattage	Voltage	Colour	Other components		
Ex.: 7220	LE3				84L	120	A11	PB		
7200 7202 7204 7220 7222 7224 7240 7245 7250 7255	LED module	Micro reflector c/w SEALSHUTTER			Multifaceted reflector			LED 120 240 277 347*	A11 Textured black	Optional: DM Dimmable LED Group 7200 only: C11 Textured white E10 Silver See Colour Selection Guide for others CC ★ Custom colour DG Clear convex glass lens PB Button type photoelectric cell Group 7100 only: SM Side mounted TM Top mounted
								28L 56L 84L LED	B11 Textured bronze	
								60C 90C 140C MH To Cosmo White (c/w lamp)	C11 Textured white	
	✓	✓	✓					175H 250H MH	E10 Silver	
		✓	✓	✓	✓		✓	50P 70P 100P 125P 150P MH pulse start	See Colour Selection Guide for others	
					✓	✓	✓	200P 250P	CC ★ Custom colour	
		✓	✓	✓			✓	355 505 705 1005 1505 HPS	DG Clear convex glass lens	
					✓	✓		250S	PB Button type photoelectric cell	
		✓						28L 56L LED	Group 7100 only: SM Side mounted TM Top mounted	
	7100 7120 7102 7122 7104 7124 (Ballast in wall bracket)							60C 90C 140C MH To Cosmo White (c/w lamp)		
							50P 70P 100P 125P 150P MH pulse start			
				✓			355 505 705 1005 1505 HPS			

- 200 watts and higher, mogul base socket.
- ★ Consult manufacturer.
- ◆ Not available with SEALSHUTTER.



Eclairage SDI inc. reserves the right to modify the characteristics of its products without prior notification. Eclairages SDI inc. is not responsible for the choice of the lamps.

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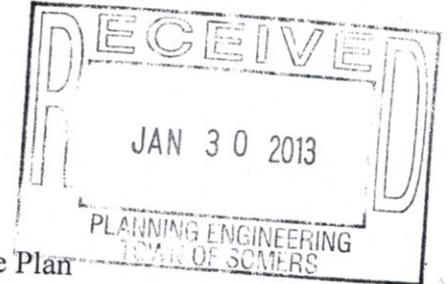
January 29, 2013

FILE COPY

FILE

By Federal Express

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



Re: New Cingular Wireless PCS LLC ("AT&T")
Application for Amended Special Permit and Amended Site Plan
Modification of Existing Approved AT&T Wireless Facility
Premises: 121 Route 100 (Amato Property)
Tax Id: Section 38.17, Block 1, Lot 5

Dear Chairman Currie and Members of the Planning Board:

This letter is respectfully submitted on behalf of New Cingular Wireless PCS LLC (AT&T) in furtherance of the above-referenced application for an Amended Special Permit and an Amended Site Plan per Town of Somers Zoning Law Sections 170-129 and 170-114 as well as Town of Somers Chapter 144 entitled "Site Plan Review".

In particular, AT&T seeks to implement modifications including 4G LTE Upgrades to its existing wireless facility on the grounds of the real property located at 121 Route 100 more commonly known as the Amato Property bearing a tax identification of Section 38.17, Block 1, Lot 5 in the Town of Somers. All work will occur within the existing fenced equipment compound.

While the Planning Board is familiar with the federal Telecommunications Act of 1996 and the November 18, 2009 Federal Communications Commission (FCC) Declaratory Ruling interpreting "a reasonable period of time" to act on an application as 90 days for co-locations and 150 days for all other towers (i.e., the so-called Shot-Clock Ruling), it may be less familiar with the more recent enactment of the Middle Class Tax Relief and Job Creation Act of 2012. Section 6409 of that Act provides relative to wireless facilities that a State or local government may not deny and shall approve any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station. Any eligible facilities request means any request for modification of an existing wireless tower or base station that involves: (A) co-location of new transmission equipment; (B) removal of transmission equipment; or (C) replacement of transmission equipment.

In view of Section 6409, AT&T seeks an abbreviated review process based on limited submission materials in order to secure a building permit and Planning Board amendment expeditiously of the previously approved site plan and special permit. It is also worthy of note that Town of Somers Zoning Law does not require a public hearing on either a special permit or a site plan application. Indeed, Sections 170-129.6F and 170-114C(8)(e) provide the Planning Board with express authority to waive the public hearings for those reviews. Moreover, it is respectfully submitted that this application is a Type II Action Exempt from the State Environmental Quality Review Act per Section 617.5c as the Planning Board has previously determined relative to wireless facility co-locations and would similarly be appropriate for the lesser action of modification to an existing wireless facility. In addition, this application is an Action requiring only notification to the Westchester County Planning Board pursuant to Westchester County Administrative Code Sections 277.61 and 277.71.

AT&T hereby submits 10 sets of the following materials in support of its application for an Amended Special Permit and Amended Site Plan Approval as well as its request for Waivers of application procedures and site plan elements in accordance with Town of Somers Sections 170-114F and 144-7:

- A. Completed Town of Somers Planning Board Application Forms.
- B. A Structural Analysis, prepared by Structural Components LLC, dated September 18, 2012, certifying that the proposed modifications to the existing wireless facility comply with the requirements of TIA/EIA-222-G standards.
- C. A Radio Frequency Exposure Analysis, dated October 11, 2012, prepared by Senior RF Engineer Bernard Morgan of Bechtel Communications, concluding that the site complies with all applicable emissions standards promulgated by Federal and State law. Per the methodology established in FCC Bulletin OET 65, the percentage of cumulative MPE is less than 0.22%, which is far below the FCC limits.
- D. Photographs of the Existing Conditions at this wireless facility substantiating that AT&T's proposed modifications will have no discernible visual effect because the equipment modifications are within the fenced compound and consistent with the monopine design of the existing monopole.
- E. Copies of prior land use and building department approvals issued by the Zoning Board of Appeals, Planning Board and Building Department relative to this wireless facility.
- F. A Short Environmental Assessment Form (EAF) prepared in accordance with the New York State Environmental Quality Review Act evidencing that this Action is Type II exempt.
- G. A copy of the FCC's January 25, 2013 Statement relative to Interpreting Section 6409.

Please also find enclosed 10 sets of the Site Plans prepared by Bechtel Associates, PC, dated November 15, 2012. In addition, we have enclosed Bechtel Communications Check Nos. 1119 and 1120, made payable to the Town of Somers, in the amounts of \$550.00 and \$300.00 representing payment of the site plan and special permit application fees, respectively.

AT&T looks forward to appearing before the Planning Board in February 2013. Should the Planning Board or Town Staff have any questions or comments in the interim, please feel free to contact me. Thank you for your cooperation and consideration in this matter.

Very truly yours,


Neil J. Alexander

NJA/jc
Enclosures

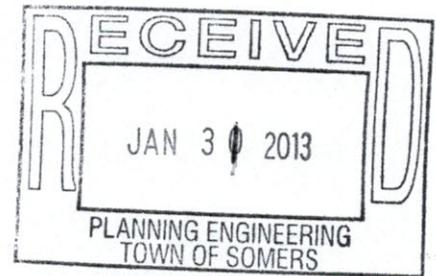
cc: Marilyn Murphy, Town Planning Board Secretary
Syrette Dym, Town Planning Consultant
Roland Baroni, Esq., Town Attorney
Joe Sweet, AT&T
Michael Gerard, Wireless Strategies
Chaim Wolf, Bechtel Communications
Bernard Morgan, Bechtel Communications RF
Richard Coad, Bechtel Communications A&E
Ryan Bailey, Backhaul Acquisition

January 30, 2013

By Federal Express

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

FILE COPY



Re: New Cingular Wireless PCS LLC ("AT&T")
Application for Amended Special Permit and Amended Site Plan
Modification of Existing Approved AT&T Wireless Facility
Co-located with Verizon Wireless, Nextel Communications/Sprint PCS and T-Mobile
Premises: 115 Route 202 (a/k/a 87 Route 202 – Lincoln Hall property)
Tax Id: Section 16.15, Block 1, Lot 1.1

Dear Chairman Currie and Members of the Planning Board:

This letter is respectfully submitted on behalf of New Cingular Wireless PCS LLC (AT&T) in furtherance of the above-referenced application for an Amended Special Permit and an Amended Site Plan per Town of Somers Zoning Law Sections 170-129 and 170-114 as well as Town of Somers Chapter 144 entitled "Site Plan Review".

In particular, AT&T seeks to implement modifications including 4G LTE Upgrades to its existing wireless facility co-located with Verizon Wireless, Nextel of New York, Sprint PCS and T-Mobile on the grounds of the real property located at 115 Route 202 (a/k/a 87 Route 202) more commonly known as the Lincoln Hall property bearing a tax identification of Section 16.15, Block 1, Lot 1.1 in the Town of Somers. All work will occur within the existing fenced equipment compound.

While the Planning Board is familiar with the federal Telecommunications Act of 1996 and the November 18, 2009 Federal Communications Commission (FCC) Declaratory Ruling interpreting "a reasonable period of time" to act on an application as 90 days for co-locations and 150 days for all other towers (i.e., the so-called Shot-Clock Ruling), it may be less familiar with the more recent enactment of the Middle Class Tax Relief and Job Creation Act of 2012. Section 6409 of that Act provides relative to wireless facilities that a State or local government may not deny and shall approve any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station. Any eligible facilities request means any request for modification of an existing wireless tower or base station that involves: (A) co-location of new transmission equipment; (B) removal of transmission equipment; or (C) replacement of transmission equipment.

In view of Section 6409, AT&T seeks an abbreviated review process based on limited submission materials in order to secure a building permit and Planning Board amendment expeditiously of the previously approved site plan and special permit. It is also worthy of note that the Town of Somers Zoning Law does not require a public hearing on either a special permit or a site plan application. Indeed, Sections 170-129.6F and 170-114C(8)(e) provide the Planning Board with express authority to waive the public hearings for those reviews. Moreover, it is respectfully submitted that this application is a Type II Action Exempt from the State Environmental Quality Review Act per Section 617.5c as the Planning Board has previously determined relative to wireless facility co-locations and would similarly be appropriate for a modification to an existing co-located wireless facility. In addition, this application is an Action requiring only notification to the Westchester County Planning Board pursuant to Westchester County Administrative Code Sections 277.61 and 277.71.

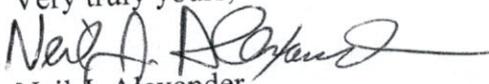
AT&T hereby submits 10 sets of the following materials in support of its application for an Amended Special Permit and Amended Site Plan Approval as well as its request for Waivers of application procedures and site plan elements in accordance with Town of Somers Sections 170-114F and 144-7:

- A. Completed Town of Somers Planning Board Application Forms.
- B. A Structural Analysis, prepared by Paul J. Ford & Company Structural Engineers, dated August 21, 2012, certifying that the proposed modifications to the existing wireless facility comply with the requirements of TIA/EIA-222-F standards.
- C. A Radio Frequency Exposure Analysis, dated January 18, 2013, prepared by Senior RF Engineer Bernard Morgan of Bechtel Communications, concluding that the site complies with all applicable emissions standards promulgated by Federal and State law. Per the methodology established in FCC Bulletin OET 65, the percentage of cumulative MPE is less than 1.25%, which is far below the FCC limits.
- D. Photographs of the Existing Conditions at this co-located wireless facility substantiating that AT&T's proposed modifications will have no discernible visual effect because the equipment modifications are within the fenced compound and obscured by the existing antennas, hangars, cables and mounts.
- E. Copies of prior land use and building department approvals issued by the Planning Board and Building Department relative to this wireless facility.
- F. A Short Environmental Assessment Form (EAF) prepared in accordance with the New York State Environmental Quality Review Act evidencing that this Action is Type II exempt.
- G. FCC's January 25, 2013 Statement Relative to Interpreting Section 6409.

Please also find enclosed 10 sets of the Site Plans prepared by Bechtel Associates, PC, dated December 6, 2012. In addition, we have enclosed Bechtel Corporations Check Nos. 1135 and 1136, both made payable to the Town of Somers, in the amounts of \$550.00 and \$300.00 representing payment of the site plan and special permit application fees, respectively.

AT&T looks forward to appearing before the Planning Board in February 2013. Should the Planning Board or Town Staff have any questions or comments in the interim, please feel free to contact me. Thank you for your cooperation and consideration in this matter.

Very truly yours,


Neil J. Alexander

NJA/jc

Enclosures

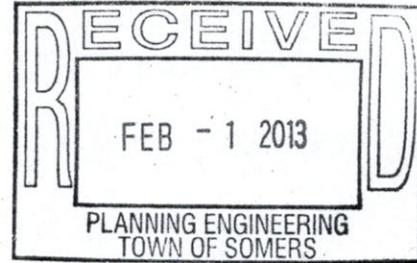
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Joe Sweet, AT&T
Michael Gerard, Wireless Strategies
Chaim Wolf, Bechtel Communications
Bernard Morgan, Bechtel Communications RF
Richard Coad, Bechtel Communications A&E
Ryan Bailey, Backhaul Acquisition

January 31, 2013

FILE COPY

By Federal Express

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



Re: New Cingular Wireless PCS LLC ("AT&T")
Application for Amended Special Permit and Amended Site Plan
Modification of Existing Approved AT&T Wireless Facility
Premises: 243 Route 100 (Majestech Corporation property)
Tax Id: Section 28.01, Block 1, Lot 6.1

Dear Chairman Currie and Members of the Planning Board:

This letter is respectfully submitted on behalf of New Cingular Wireless PCS LLC (AT&T) in furtherance of the above-referenced application for an Amended Special Permit and an Amended Site Plan per Town of Somers Zoning Law Sections 170-129 and 170-114 as well as Town of Somers Chapter 144 entitled "Site Plan Review".

In particular, AT&T seeks to implement modifications including 4G LTE Upgrades to its existing wireless facility on the grounds of the real property located at 243 Route 100 more commonly known as the Majestech Corporation property bearing a tax identification of Section 28.01, Block 1, Lot 6.1 in the Town of Somers. All work will occur within the existing fenced equipment compound.

While the Planning Board is familiar with the federal Telecommunications Act of 1996 and the November 18, 2009 Federal Communications Commission (FCC) Declaratory Ruling interpreting "a reasonable period of time" to act on an application as 90 days for co-locations and 150 days for all other towers (i.e., the so-called Shot-Clock Ruling), it may be less familiar with the more recent enactment of the Middle Class Tax Relief and Job Creation Act of 2012. Section 6409 of that Act provides relative to wireless facilities that a State or local government may not deny and shall approve any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station. Any eligible facilities request means any request for modification of an existing wireless tower or base station that involves: (A) co-location of new transmission equipment; (B) removal of transmission equipment; or (C) replacement of transmission equipment.

In view of Section 6409, AT&T seeks an abbreviated review process based on limited submission materials in order to secure a building permit and Planning Board amendment expeditiously of the previously approved site plan and special permit. It is also worthy of note that the Town of Somers Zoning Law does not require a public hearing on either a special permit or a site plan application. Indeed, Sections 170-129.6F and 170-114C(8)(e) provide the Planning Board with express authority to waive the public hearings for those reviews. Moreover, it is respectfully submitted that this application is a Type II Action Exempt from the State Environmental Quality Review Act per Section 617.5c as the Planning Board has previously determined relative to wireless facility co-locations and would similarly be appropriate for the lesser action of modification to an existing wireless facility. In addition, this application is an Action requiring only notification to the Westchester County Planning Board pursuant to Westchester County Administrative Code Sections 277.61 and 277.71.

AT&T hereby submits 10 sets of the following materials in support of its application for an Amended Special Permit and Amended Site Plan Approval as well as its request for Waivers of application procedures and site plan elements in accordance with Town of Somers Sections 170-114F and 144-7:

- A. Completed Town of Somers Planning Board Application Forms.
- B. A Structural Analysis, prepared by GPD Group, dated December 28, 2012, certifying that the proposed modifications to the existing wireless facility comply with the requirements of TIA/EIA-222-F standards.
- C. A Radio Frequency Exposure Analysis, dated October 18, 2012, prepared by Senior RF Engineer Bernard Morgan of Bechtel Communications, concluding that the site complies with all applicable emissions standards promulgated by Federal and State law. Per the methodology established in FCC Bulletin OET 65, the percentage of cumulative MPE is less than 0.35%, which is far below the FCC limits.
- D. Photographs of the Existing Conditions at this wireless facility substantiating that AT&T's proposed modifications will have no discernible visual effect because the equipment modifications are within the fenced compound and internal to the flagless flagpole design of the existing monopole.
- E. Copies of prior land use and building department approvals issued by the Planning Board and Building Department relative to this wireless facility.
- F. A Short Environmental Assessment Form (EAF) prepared in accordance with the New York State Environmental Quality Review Act evidencing that this Action is Type II exempt.
- G. FCC's January 25, 2013 Statement Relative to Interpreting Section 6409.

Please also find enclosed 10 sets of the Site Plans prepared by Bechtel Associates, PC, dated January 28, 2013. In addition, we have enclosed Bechtel Corporations Check Nos. 1209 & 1208, made payable to the Town of Somers, in the amounts of \$550.00 and \$300.00 representing payment of the site plan and special permit application fees, respectively.

AT&T looks forward to appearing before the Planning Board in February 2013. Should the Planning Board or Town Staff have any questions or comments in the interim, please feel free to contact me. Thank you for your cooperation and consideration in this matter.

Very truly yours,



Neil J. Alexander

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