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PLANNING DEPARTMENT

TOWN HOUSE
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Town of Somers

WESTCHESTER COUNTY, N.Y.



John Currie, Chairman
Jan Corning
Fedora DeLucia
Vicky Gannon
Nancy Gerbino
Eugene Goldenberg
Dennis McNamara

**SOMERS PLANNING BOARD
AGENDA
MARCH 23, 2016
7:30 P.M.**

MINUTES Consideration for approval of Draft Minutes for February 10, 2016.

PROJECT REVIEW

- 1. SOMERS REALTY SUBDIVISION PHASE 3 [TM: 4.20-1-15]**
Application for Final Subdivision Approval, Steep Slopes, Wetland, Tree Removal and Stormwater Management and Erosion and Sediment Control Permits to create Lots 3a, 3b, 3c and 3d (45.1 acres), relative to the Site Plan application of AvalonBay Communities, Inc. and Lot 4 (4.9 acres) and Lot 5 (0.9 acres) for future commercial and firehouse uses respectively and Lot 6 (7.1 acres) to be marketed for an Assisted Living Facility, stormwater management improvements, including road right-of-ways (4.3 acres) as part of the Planned Hamlet proposed subdivision. Property is owned by Somers Realty Corp. and is located on the southeast side of Route 6 and Clayton Blvd. and is in the Planned Hamlet (PH) Zoning District.
Consideration of Draft Resolution of Final Subdivision Approval.
- 2. AVALONBAY SOMERS [TM: 4.20-1-13, 14, 15, PO 12]**
Application for Site Plan Approval, Steep Slopes, Tree Removal and Erosion and Sediment Control Permits for AvalonBay Communities Inc. for the construction of 152 residential units within 17 buildings with 23 affordable units on 45.1 acres. Also proposed is a community recreation building, pool and 324 parking spaces. The property is located on the south side of Route 6 and Clayton Blvd., east of Mahopac Avenue and is in the Planned Hamlet (PH) Zoning District.
Consideration of Draft Resolution for Site Plan Approval.

PROJECT REVIEW CONTINUED

- 3. SOMERS POINTE COUNTRY CLUB [TM: 6.17-20-1.21]**
Application of Somers Pointe Country Club for a Site Plan for property located on the southeast side of the Somers Pointe Clubhouse at 100 West Hill Drive for the construction of a swimming pool and cabana building and two tennis courts with associated parking lots to provide additional recreation activities.

- 4. SOMERS COMMONS [TM: 4.20-1-11]**
Application for Amended Site Plan approval to construct two (2) additional freestanding signs at the access drive on Route 6 and the access drive on Miller Road/Route 118.

- 5. ANTHONY BONIELLO SUBDIVISION [TM: 47.16-1-31]**
Application for Preliminary Subdivision Approval for property located at Moseman Avenue to subdivide one (1) acre lot out of an existing 23.5 acre lot.

- 6. DISIENA PRELIMINARY SUBDIVISION [TM: 27.08-2-1, 2.1]**
Application for Preliminary Subdivision Approval, Stormwater Management and Erosion and Sediment Control, Steep Slopes and Tree Removal Permits for property located at Primrose Street (Route 139) for the subdivision of two existing lots into four new lots.

- 7. GRANITE POINTE SUBDIVISION [TM: 27.05-2-5]**
Review of memorandum from Town Attorney Baroni regarding Granite Pointe and interaction with the Watershed Inspector General (WIG).

Next Planning Board Meeting is Wednesday, April 13, 2016
Agenda information is also available at www.somersny.com

PLANNING AND ENGINEERING DEPARTMENTS

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WESTCHESTER COUNTY, N.Y.

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Planning Board Meeting March 23, 2016

PLANNING BOARD
TOWN OF SOMERS, WESTCHESTER COUNTY, NEW YORK

Resolution No. 2016-01

Granting of Conditional Final Subdivision Plat Approval, Modification of Somers Realty Planned Hamlet Master Plan, Wetland and Watercourse Protection Permit, Steep Slope Permit, and Stormwater Management and Erosion and Sediment Control Permit, to
SOMERS REALTY CORP.

for the

**SOMERS REALTY PLANNED HAMLET MASTER PLAN PHASE 3
SUBDIVISION AND MASTER PLAN MODIFICATION**

Town Tax Number: Section 4.20, Block 1, Lot 15

WHEREAS, on February 10, 2009 the Town of Somers Planning Board approved resolution number 2009-02 granting master plan approval pursuant to §170-23.3 of the Code of the Town of Somers to Somers Realty Corp. for Somers Realty Planned Hamlet; and

WHEREAS, the Somers Realty Planned Hamlet Master Plan is specific to the development of the Somers Realty Property, a 79.38 acre site located on the south side of Birdsall Road (Route 6) in the Amawalk Reservoir Watershed, in the Baldwin Place area of the Town of Somers, bounded on the west by Mahopac Avenue and on the east by the Somers Commons shopping center located within the Planned Hamlet (PH) Zoning District; and

WHEREAS, The Somers Realty Planned Hamlet Master Plan, as required by §170-23.3 of the *Code of the Town of Somers*, is a general development plan for

1 the site outlining land use, access and circulation, parking and utilities, and a
2 conceptual site design as required by the *Code of the Town of Somers* and such
3 Master Plan calls for future development of the plan components through a
4 subdivision of the property and project specific site plans in accordance with the
5 Master Plan and §150 and §144-7 of the *Code of the Town of Somers*; and
6

7 **WHEREAS**, as part of the Master Plan Approval, the Town of Somers Planning
8 Board, acting as Lead Agency under the State Environmental Quality Review Act
9 (SEQRA) conducted a complete review under SEQRA, which review resulted in
10 the adoption of a Findings Statement at an extra Meeting held on February 10,
11 2009, by which the Planning Board found the potential adverse environmental
12 impacts identified will be avoided or minimized to the maximum extent
13 practicable by incorporating the specific mitigation measures and conditions of
14 findings identified; and
15

16 **WHEREAS**, the Master Plan approved as part of Resolution No. 2009-02
17 includes the mitigation measures required as a result of the SEQRA process; and
18

19 **WHEREAS**, the Planning Board is required to evaluate each subdivision and site
20 plan submitted in relation to the Master Plan and SEQRA Findings Statement
21 and is to confirm that the plans will conform with the approved Master Plan or, if
22 they do not, what those changes are and that review of their potential
23 environmental impacts has been undertaken and a determination made that they
24 will not be significant or that mitigation has been incorporated as part of the
25 proposed changes such that there will be no additional significant adverse
26 impacts, and not result in any additional significant adverse impacts not
27 previously discussed and mitigated; and
28

29 **WHEREAS**, on December 9, 2009 the Planning Board granted Preliminary
30 Subdivision Plat Approval to Somers Realty Corp. for the Somers Realty Planned
31 Hamlet Phase 1 Subdivision to create Lot 1 for The Mews at Baldwin Place
32 Phase 1 containing 5.7760 acres as well as dedicating parcels for the sewer
33 pump station, water tank and road widenings, and a portion of Clayton
34 Boulevard, and a remainder Lot of 70.718 acres for future subdivision; and
35

36 **WHEREAS**, on March 19, 2010, an application for Final Subdivision Approval for
37 the Somers Realty Planned Hamlet was received by the Town of Somers
38 Planning and Engineering Department; and
39

40 **WHEREAS**, on April 14, 2010 by Resolution No. 2010-03 the Planning Board
41 granted Conditional Final Subdivision Approval to Somers Realty Corp. for the
42 Phase 1 subdivision of the Somers Realty Parcel to create Lot 1 for The Mews at
43 Baldwin Place Phase 1 containing 5.7760 acres as well as dedicating parcels for

1 the sewer pump station, water tank and road widenings, and a portion of Clayton
2 Boulevard, and a remainder Lot of 70.718 acres for future subdivision; and

3
4 **WHEREAS**, the final subdivision plat was signed by the Planning Board
5 Chairman on June 14, 2010 and filed with the Westchester County Clerk on June
6 22, 2010 as Map # 28375; and

7
8 **WHEREAS**, by Resolution No. 2009-19 of December 9, 2009, the Planning
9 Board granted Conditional Site Plan Approval, Steep Slopes, and Stormwater
10 Management and Erosion and Sediment Control Permits to the Housing Action
11 Council, Inc. and The Kearney Realty & Development Group Inc. for The Mews
12 at Baldwin Place Phase I, Town Tax Number Section 4.20, Block1, part of Lot 15;
13 and

14
15 **WHEREAS**, The Mews at Baldwin Place Phase I and associated requirements of
16 the Somers Realty subdivision approval were completed and such housing is
17 now open and occupied; and

18
19 **WHEREAS**, on September 4, 2012 Somers Realty Corp., represented by
20 McCullough, Goldberger and Staudt, LLP, submitted a Phase 2 Preliminary
21 Subdivision Plat application to further subdivide prior created Lot 2 (Town Tax
22 Map 4.20, Block1, Lot 15) into a 7.7139 acres parcel out of the prior 70.718 acres
23 lot, make a minor lot line change to the previously created Sewer Pump Station
24 Parcel (Town Tax Map 4.20, Block 1, Lot 18) from 0.2453 acres to 0.2432 acres
25 and extend Clayton Boulevard by creating a right of way parcel of 0.6821 acres,
26 and

27
28 **WHEREAS**, the subdivision application included a request by the Applicant for
29 Planning Board Approval for Modification of the Somers Realty Planned Hamlet
30 Master Plan of February, 2009; and

31
32 **WHEREAS**, an associated application for site plan approval for The Mews at
33 Baldwin Place Phase 2 dated August 27, 2012 was submitted on September 4,
34 2012 for construction of 75 units of senior affordable housing on the 7.137 acres
35 lot to be created as part of the Somers Realty application for preliminary
36 subdivision approval, along with an application for steep slope permit dated
37 August 27, 2012, a stormwater management and erosion and sediment control
38 permit dated August 27, 2012, and a tree removal permit application dated
39 August 27, 2012, in pursuance of build-out of the Somers Realty Planned Hamlet
40 as proposed to be modified herein, and

41
42 **WHEREAS**, modifications to the Somers Realty Planned Hamlet Master Plan as
43 part of Phase 2 were considered by the Planning Board; and

44

1
2 **WHEREAS**, the Planning Board determined that changes to the Master Plan did
3 not result in significant environmental impacts or that mitigation has been
4 incorporated as part of the proposed changes such that there will be no
5 additional significant adverse impacts and not result in any additional significant
6 adverse impacts not previously discussed and mitigated and a Negative
7 Declaration with regard to SEQRA be issued for the Phase 2 subdivision and
8 voted unanimously in favor of such Negative Declaration on December 19,
9 2012; and

10
11 **WHEREAS**, on December 19, 2012 by Resolution 2012-08, the Planning Board
12 granted preliminary Subdivision Plat and Lot line Change approval to Somers
13 Realty Corp. for the Somers Realty Planned Hamlet Subdivision #2; and

14
15 **WHEREAS**, on January 23, 2013, by Resolution 2013-01, the Planning Board
16 granted Conditional Final Subdivision Approval for the Phase 2 Subdivision to
17 Somers Realty Corp. for the creation of three lots, one 62.3217 acre lot for
18 further future subdivision, and a 7.128 acre lot to the Housing Action Council and
19 Kearney Realty and Development Group, Inc.; including a lot line change,
20 creation of a road extension parcel and all other associated applications including
21 the Wetlands and Watercourse Protection Permit (§167), Tree Removal Permit
22 (§156) and Stormwater Management and Erosion and Sediment Control Permit
23 (§93), and the approval of the SPPP, in accordance with §93-5(B), and a Master
24 Plan Modification for the Somers Realty Planned Hamlet Subdivision #2; and

25
26 **WHEREAS**, the final subdivision plat was signed by the Chairman on September
27 20, 2013 and filed with the Westchester County Clerk on September 27, 2013 as
28 Map #28719; and

29
30 **WHEREAS**, on June 9, 2014, Somers Realty Corp., represented by
31 McCullough, Goldberger and Staudt, LLP, submitted a Preliminary Subdivision
32 Plat application #3 to further subdivide prior created Lot 3 (Town Tax Map 4.20,
33 Block1, Lot 15) into five lots and additional road rights of way to consist of Lots
34 3a, 3b, 3c with 45.0684 acres to be conveyed to Avalon Bay to develop 152
35 apartment housing units and the Village Green identified in the Master Plan, Lot
36 4 of 4.9051 acres for future commercial development, Lot 5 as the 0.9128 acre
37 parcel for the future firehouse, Lot 6 of 7.1174 acres as a parcel reserved for
38 future development and the balance of 4.3180 acres for roadway right of ways;
39 and

40
41 **WHEREAS**, the initial subdivision application included a request by the Applicant
42 for Planning Board approval of a Wetland and Watercourse Permit as described
43 in Chapter 167 of the Code of the Town of Somers modified as project review
44 has progressed, a request for Planning Board approval of a Stormwater

1 Management and Erosion and Sediment Control Permit as described in Chapter
2 93 of the *Code of the Town of Somers*, and a request for Planning Board
3 approval of a Tree Removal Permit as described in Chapter 156, "Tree
4 Preservation" of the Code of the Town of Somers, and a request for Planning
5 Board approval of a Steep Slope Permit as described in Chapter 148, "Steep
6 Slopes Protection" of the Code of the Town of Somers, and the requisite fees
7 accompanied such applications; and
8

9 **WHEREAS**, an associated application for site plan approval for The AvalonBay
10 Somers dated June 6, 2014 was submitted on June 11, 2014 for construction of
11 152 units of rental apartment units and construction of a Village Green on 53.2
12 acres to consist of lots 3A, 3C and 3D and the Village Green on lot 3B to be
13 created as part of the Somers Realty application for preliminary subdivision
14 approval, along with an application for steep slopes permit dated June 6, 2014,
15 and the original tree removal permit application dated June 6, 2014 to remove
16 129 trees in pursuance of build-out of the Somers Realty Planned Hamlet, and
17

18 **WHEREAS**, it was the Planning Board's opinion that initially and in accordance
19 with subsequent subdivision and associated site plan submissions that the
20 additional modifications to the Somers Realty Planned Hamlet; and
21

22 **WHEREAS**, the Planning Board issued a Notice of Intent to Continue to Act as
23 Lead Agency under SEQRA at its meeting of July 9, 2014 for this Type 1 action
24 and circulated this determination; and
25

26 **WHEREAS**, the September 17, 2014 submittal modified the proposal to include
27 six rather than 5 lots, Lot 6 of 7.1 acres previously identified as a Reserve Parcel
28 that was part of the Lot #3A such that Lot 3A, previously 45.4 acres has 38.3
29 acres and the overall Avalon acreage was reduced from a total of 53.2 acres to
30 46.1 acres; and
31

32 **WHEREAS**, the October 20, 2014 submission plans showed the extension of
33 Road B south through the Algonquin Gas pipeline to the property boundary as a
34 Town right of way to be paved in the future by others; and
35

36 **WHEREAS**, the result of extension of Road B from the southern end of the
37 Avalon developed area to the southern property line resulted in the division of
38 prior proposed Lot 3a into two lots, Lot 3a of 27.3 acres to the west of Town
39 Road B and new Lot 3d of 10.0 acres to the east which includes an increased
40 road right-of-way of 1.0 acre added to the prior proposed Right-of Way parcel of
41 3.3 acres for a new total of 4.3 acre, such that there are now 7 proposed lots in
42 addition to the right-of ways and the prior created potential future water tower lot
43 shown on the preliminary subdivision plat as "to be dedicated to the Town of
44 Somers"; and

1
2 **WHEREAS**, this subdivision application, also consists of the completion of
3 Clayton Boulevard to Route 6 which will require a variance from NYC DEP,
4 completion of interior roads to be dedicated as Town Roads and construction of a
5 stormwater management system; and

6
7 **WHEREAS**, the Planning Board having confirmed that the preliminary
8 subdivision application constituted a modification to the Somers Realty Planned
9 Hamlet Master Plan, based on the parameters set forth in the SEQRA review
10 process and the Findings of February 10, 2009 and that the modification would
11 not result in any significant adverse environmental impacts not previously
12 addressed and mitigated as described in greater detail in a Negative Declaration
13 issued by the Planning Board on May 13, 2015; and

14
15 **WHEREAS**, the Planning Board by Resolution No. 2015-04 granted conditional
16 approval of the preliminary subdivision plat application on May 27, 2015
17 indicating that such preliminary approval shall expire on November 23, 2015, if
18 no application for final subdivision plat approval is submitted, unless an extension
19 of this time period is requested by the Applicant prior to the expiration of the
20 conditional approval, and

21
22 **WHEREAS**, by letter of November 13, 2015, the Applicant not having submitted
23 an application for final subdivision approval, submitted a request for extension of
24 Preliminary Subdivision Approval; and

25
26 **WHEREAS**, at its meeting of December 9, 2015, in accordance with Section 150-
27 12N of the Code of the Town of Somers, the Planning Board approved a six
28 month time extension to the period of preliminary plat approval up to and
29 including May 23, 2016; and

30
31 **WHEREAS**, in addition to the plan alternatives and reports reviewed throughout
32 the review process and as a result of the review of those additional documents
33 by the Planning Board, Town staff and other advisors to the Planning Board
34 throughout the review process, a Final Subdivision Application dated January 25,
35 2016 and requisite fees were submitted to the Town of Somers for consideration
36 by the Planning Board on January 27, 2016 and including the following plans
37 that are the subject of this conditional final subdivision approval:

- 38
39 • Sheet 1 of 2 - Final Subdivision Plat : Somers Realty-PH Zone Phase III
40 Re-Subdivision of Lot 3, as shown on filed Map #28375 – dated November
41 18, 2015; Revised December 28, 2015 prepared by Insite Engineering,
42 Surveying & Landscape Architecture, P.C. showing the creation of eight
43 (8) lots which include the following for a total of 62,3217 acres:

- 1 ○ R.O.W. – Clayton Boulevard Ext., Proposed Town Roads B, C, D &
- 2 E; totaling 4.3180 acres
- 3 ○ Lot 3A – AvalonBay Communities – 27.3161 acres
- 4 ○ Lot 3B - Village Green – 1.3589 acres
- 5 ○ 3c Area - North of Road "D" – 6.3609 acres
- 6 ○ Lot 3D – Area South of Road "D" – 10.0325 acres (Total Avalon
- 7 Lots – 45.0684 acres)
- 8 ○ Lot 4 – Commercial Lot – 4.9051 acres
- 9 ○ Lot 5 – Firehouse Parcel – 0.9128 acres
- 10 ● Sheet 2 of 2 – showing the following insets:
- 11 ○ Inset #1 - Utility Easement in Favor of the Town of Somers
- 12 ○ Inset #2 – Stormwater Easement in Favor of Lot 3A
- 13 ○ Inset #3 – Temporary Construction Easement in Favor of Lot 3A
- 14 ○ Inset #4 Sewer Easement in Favor of Lot 5
- 15 ○ Inset #5 – Stormwater Easement in Favor of Lot 5
- 16 ○ Inset #6 – Access & Utility Easement in Favor of Lot 6
- 17 ○ Inset #7 – Stormwater Easement in Favor of Lot 6
- 18 ● Highway Improvement Plans for Somers Realty Phase III, Sheets 1-12
- 19 prepared by Maser Consulting dated July 9, 2014, last revised January 12,
- 20 2016
- 21 ● ACOE Wetland Creation and Enhancement Plan Section 4.20 Block 1 Lot
- 22 15 prepared by Tim Miller Associates/Wetland Mitigation Inc. including
- 23 Wetland Mitigation Narrative and Specifications, dated July 29, 2015.
- 24 ● Drawings for Somers Realty, Phase II, Sheets 1-23 prepared by Insite
- 25 Engineering, Surveying & Landscape Architecture, P.C. dated June 6,
- 26 2014, last revised January 20, 2016
- 27 ● Memorandum from Town of Somers Bureau of Fire Prevention, dated June
- 28 16, 2015
- 29 ● Resubmitted Plan set by Insite Engineering all dated 1-20-16
- 30 ○ OP-1 Overall Plan
- 31 ○ SP-1.1 – Layout and Landscape Plan
- 32 ○ SP-1.2 – Layout and Landscape Plan
- 33 ○ SP-1.3 - Layout & Landscape Plan
- 34 ○ SP-2.1 - Grading & Utilities Plan
- 35 ○ SP-2.2 – Grading & Utilities Plan
- 36 ○ SP-2.3 – Grading & Utilities Plan
- 37 ○ SP-3.1 – Sediment & Erosion Control Plan
- 38 ○ SP 3.2 – Sediment & Erosion Control Plan
- 39 ○ SP-3.3 – Sediment & Erosion Control Plan
- 40 ○ PR-1 – Road Profiles
- 41 ○ PR -2 Sewer Profiles
- 42 ○ PR-3 – Drainage Profiles
- 43 ○ PR-4 D86 - Details

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WHEREAS, a report titled "Stormwater Pollution Prevention Plan (SWPPP) or Somers Realty Planned Hamlet Subdivision PH Zone Phase III prepared by INSITE Engineering dated December 16, 2015 was reviewed by the Town Consulting Engineer and the Applicant's Engineer during a meeting of January 29, 2016; and

WHEREAS, the latest plans for the proposed subdivision include the following:

- Completion of Clayton Boulevard to Route 6; construction of Halstead Street (Road "B") to a 50 foot proposed Town right of way to southerly property line; construction of Hoyt Street (Road "E") from Clayton Boulevard to proposed Columbus Street (Road "C"); construction of Columbus Street (Road "C") extending to a hammerhead end Reynolds Drive(Road "D"), which is to be treated with item 4 and the hammerhead end to a 50 foot Town right of way, extending to the southeastern property line and a temporary hammerhead, utilities (water, sanitary sewer, electric and gas), landscaping, and drainage improvements to mitigate the impacts associated with the construction of new impervious surfaces; and
- Involve a total area of disturbance of 25.9 acres and the creation of 14.3 acres of impervious surfaces, a decrease in overall site disturbance from 51.2 acres from the original Master Plan to 50.7 acres; and
- The disturbance of more than 5,000 square feet, coverage under the New York State Department of Environmental Conservation (NYSDEC) SPDES General Permit No. GP-0-15-002 is required; and
- Remaining 25,000 cubic yards of soil of the total prior excess of 70,000 cubic yards of soil (45,000 cubic yards of soil previously hauled) will be utilized on site for the associated AvalonBay project. The temporary soil stockpile and the anticipated traffic impacts associated with its partial removal were analyzed as part of the Negative Declaration of May 13, 2015 and were deemed to not result in a significant adverse environmental impact beyond that previously discussed and mitigated. The portion of the stockpile that was to be exported has since been removed by the Somers Realty Corp. with knowledge and approval of the Planning Board and only that soil to be reused on site remains.
- Construction of a stormwater management system and Soil Erosion and Sediment Control Plan to accommodate road drainage and other up gradient drainage areas of the subdivision. The stormwater management system includes stormwater piping, catch basins, manholes, swales, an infiltration basin, rip rap apron and level spreader for basin discharges as detailed in the subdivision plans and analyzed in the stormwater pollution prevention plan (SWPPP) prepared in accordance with Chapter 93 of the Code of the Town of Somers. The Soil Erosion and Sediment Control

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measures during and after construction detailed in the above plans include silt fencing, erosion matting; temporary sediment basins, anti-tracking pad and temporary diversion swales, and soil stabilization measures.

- The SWPPP which details the design of the Stormwater Management System and the Soil Erosion and Sediment Control Plan and includes measures to ensure the monitoring and maintenance of the entire Stormwater Management and Soil Erosion and Sediment Control system and practices.
- Plan indication that rock removal will occur and that such rock removal shall be conducted in accordance with Steep Slopes, Chapter 148-7B(4)(k) of the Code of the Town of Somers; and
- Creation of a looped water system along Route 6 is the overall goal of the Town of Somers. To further this goal, Somers Realty shall make a financial contribution to the Town that the Town will use to design, permit and construct a water main extension from Mahopac Avenue to the eastern end of Windsor Road. While provision of adequate water on the site is not dependent on completion of the water loop, the loop or the prior considered pneumatic tank is required as per the Planned Hamlet Master Plan Findings of February 10, 2009 and subsequent resolution of the Town Board in relation to the extension of the Water District to insure adequate emergency backup. The agreement between the Town and Somers Realty regarding Somers Realty financial obligations shall be finalized **prior to signing of the subdivision plat.**
- Creation of a SWPPP due to greater than two acres of site disturbance.
- Approval of a variance from NYC DEP for the construction of new impervious surfaces created by the extension of Clayton Boulevard to its intersection with U.S. Route and crossing of Town Wetland A and a NYC DEP identified watercourse.
- An updated phosphorus pollutant loading analysis was prepared based upon the current proposed development layout and was compared to the post development phosphorus loading conditions that were reviewed at the time of Planned Hamlet Master Plan approval. Based upon the updated analysis, it was determined that the post-development phosphorus loading mitigation is consistent with the mitigation measures provided as part of the approved Planned Hamlet Master Plan.
- Porous pavement is no longer required on a previously identified portion of Town Road D (Reynolds Drive) due to determination of no watercourse crossing the Town Road, as validated by NYC DEP in map dated January 8, 2016.

- 1 • Sizing of dry swales and water quality swales have been provided to
2 requirements of Town Consulting Engineer.
- 3 • A Draft Stormwater Maintenance agreement based on the proposed
4 development stormwater infrastructure has been received.
- 5 • The SWPPP includes sizing calculations and design details for the three
6 pipe culverts proposed below Town Road D (Reynolds Drive).
- 7 • Micropool Extended Detention Pond practice 3.2P has been designed with
8 excess capacity to allow for the future development of Lot Numbers 5 and
9 6, and such sizing has been verified by the Final SWPPP.
- 10 • The HydroCAD model was updated to consider the flow splitters proposed
11 for stormwater collected from Drainage Areas 3.1S and 2.1S.
- 12 • The SWPPP includes manufacturer specific inspection and maintenance
13 requirements, construction detail and design data for proposed JellyFish
14 Storm Filter.
- 15 • The Engineering Report prepared by Milone & MacBroom, Inc. includes
16 post-construction maintenance and inspection requirements for green
17 infrastructure practices proposed on the associated AvalonBay Somers
18 site plan to include rainwater cisterns, water quality swales and
19 Bioretention filter areas.
- 20 • SWPPP indicates that inspection will occur twice weekly by a Qualified
21 Inspector when disturbance exceeds 5 acres.
- 22 • Both Somers Realty and AvalonBay are improving upstream stormwater
23 infrastructure to ensure there are no significant impacts to the NYS DOT
24 existing culvert in Route 6. Additionally, Somers Realty shall be required
25 to increase the size of the culvert as a condition of its Work Permit from
26 NYS DOT. NYSDOT recognizes that the downstream condition will still be
27 limited even after these improvements are made and that further
28 improvements are the responsibility of downstream owners. These
29 improvements have been found acceptable by the Town Consulting
30 Engineer.
- 31 • New roadways to be constructed including extension of Clayton Boulevard
32 and Town Roads B (Halstead Street), C (Columbus Street), D (Reynolds
33 Drive) and E (Hoyt Street) must meet Town Code requirements and all
34 roads now meet such requirements.
- 35 ○ Sight Easements as per Town Code Section 150-24€ have been
36 provided
- 37 ○ All improvements to the shoulder of US Route 6 as required by
38 NYSDOT and the Town Engineer have been provided

- 1 ○ Erosion and Sediment Control plan elements include updated
2 information regarding sediment control traps, and their sizing
3 details and construction details and temporary and final traps were
4 provided.
- 5 ● Plans indicate locations of fire hydrants and truck pull-off locations to the
6 satisfaction of the Somers Fire Department and Somers Fire Protection
7 Bureau.
- 8 ● A land disturbance phasing plan (prepared by Milone & MacBroom, Inc.)
9 that is coordinated to proposed construction sequence and Erosion and
10 Sediment Control Plan has been approved by the Consulting Town
11 Engineer and consists of 11 phases where no greater than 4.8 acres of
12 land are disturbed at any one time.
- 13 ● Increased disturbance to Wetland A due to construction of proposed
14 Pocket Wetland 2.3P and swales on the shoulder of US Route 6 resulting
15 in wetland disturbance of 0.53 acres with mitigation area of 0.85 acres to
16 be created which exceeds the 1.5:1 restoration ratio required by the Town
17 Code. The Master Plan FEIS measures that have been addressed as part
18 of the wetland mitigation plan include
- 19 ○ Identification of wetland buffer restoration plantings.
- 20 ○ Construction of Cape Cod style curbing installed in portion of Town
21 Road D (Reynolds Drive) and proposed Lot 6 access driveway.
- 22 ○ Dimensional details for proposed culvert crossing beneath Town
23 Road D (Reynolds Drive) shown.
- 24 ○ Development of updated Wetlands Construction Inspection and
25 Monitoring Plan consistent with FEIS required elements have been
26 completed.
- 27 ● Provision of design layout for proposed watermain extension within
28 Clayton Boulevard including profile view drawing, Engineering Report, and
29 pipe size for stub to AvalonBay development noted as 8" water main.
- 30 ● Grading and utility plan include existing electrical and gas service layout
31 with proposed Town Road.
- 32 ● Stormwater runoff flow from future roadway construction within Town
33 Road B (Halstead Street) right of way has been considered and necessary
34 easement areas location of stormwater management practices have been
35 worked out with Avalon Bay.
- 36 ● Surety bond for protection of complete portions of Clayton Boulevard
37 during construction must be in place prior to signing of the plat.

1 **WHEREAS**, the proposed Subdivision Plat Application involves the disturbance
2 of controlled environmental areas requiring environmental permit approval by the
3 Planning Board; and

4 **WHEREAS**, the proposed actions are not required to obtain coverage under
5 individual environmental permits due to their association with the Subdivision
6 Plat Application, but are required to meet the standards defined by the Town
7 Code for issuance of those individual environmental permits; and

8
9 **WHEREAS**, the Subdivision Plat Application was found to be complete and
10 contained all required elements for environmental permit applications, as
11 specified by the following sections of the Town Code:

- 12 • § 93-6 relative to Stormwater Management and Erosion and Sediment
13 Control Permit Application to the Planning Board.
- 14 • §156-5 relative to Tree Removal Permit Application to the Planning Board.
- 15 • §167-6 relative to Wetland Activity Permit Application to the Planning
16 Board; and

17 **WHEREAS**, the final subdivision plat application and associated environmental
18 permits were reviewed by the Planning Board and its consultants relative to their
19 conformance with the following environmental permit standards:

- 20 • Performance and design criteria for a Stormwater Management and
21 Erosion and Sediment Control Permit, as established by §93-7 of the
22 Town Code and their conformance with best engineering practices and
23 specific Technical Standards, including:
 - 24 ○ The New York State Stormwater Management Design Manual,
25 prepared by the New York State Department of Environmental
26 Conservation, dated January 2015; and
 - 27 ○ The New York Standards & Specifications for Erosion and
28 Sediment Control, prepared by the New York State Department of
29 Environmental Conservation, dated August 2005; and
- 30 • Tree Removal Permit Standards, as established by §156-4 of the Town
31 Code; and
- 32 • Standards for Application for Wetland Permit Decisions, as established by
33 §167-8 of the Town Code; and

34 **WHEREAS**, the Planning Board found that the permit requirement for referral to
35 the Town of Somers Open Space Committee and Town Board for review and

1 comment was met by referral of the subdivision application to the board along
2 with others and no comments were received; and

3 **WHEREAS**, the Wetlands Activity Permit requires a public hearing and such
4 requirement was met by the Public Hearing opened on November 12, 2014 and
5 continued on December 10, 2014, January 28, 2015 and March 11, 2015 for the
6 proposed Subdivision Plat during which comments were taken, and on March 11,
7 2015 the Public Hearing was closed; and

8 **WHEREAS**, the Consulting Town Engineer recommended to the Planning Board
9 that the Subdivision Application and associated documents meet all requirements
10 for issuance of environmental permits by the Planning Board subject to the
11 conditions of this Conditional Final Subdivision Plat Approval Resolution; and

12
13 **WHEREAS**, the subject application is located within the Amawalk Reservoir
14 Watershed which is located in the New York City East-of-Hudson Croton
15 Watershed, which in accordance to Section 18-39 of the *Rules and Regulations*
16 *for the Protection from Contamination, Degradation, and Pollution of the New*
17 *York City Water Supply and Its Sources*, requires a Stormwater Pollution
18 Prevention Plan (SPPP) Approval by the New York City Department of
19 Environmental Protection (NYCDEP); and

20
21 **WHEREAS**, the Applicant has indicated that it intends to comply with all
22 applicable requirements for a SWPPP approval by the NYCDEP and has further
23 acknowledged that in the event that the conditions of SWPPP approval by the
24 NYCDEP cause any modification in the design of the proposed stormwater
25 management plan or the subdivision plat, the Planning Board shall have the
26 authority to require the submission of an application for amended subdivision
27 approval and to reexamine the proposed lot layout as deemed necessary in the
28 judgment of the Planning Board to ensure that potential impacts associated with
29 stormwater drainage and/or impacts on surface or groundwater resources are
30 adequately mitigated to the maximum extent practicable; and

31
32 **WHEREAS**, the Planning Board has reviewed and is familiar with the project and
33 has inspected the site and its surroundings; and

34
35 **WHEREAS**, the Planning Board confirms that this final subdivision application
36 constitutes a modification to the Somers Realty Planned Hamlet Master Plan as
37 identified above and that, based on the parameters set forth in the SEQRA
38 review process and the Findings of February 10, 2009 and additional analysis
39 submitted by the applicant and reviewed by the Planning Board and its technical
40 advisors, this modification will not result in any significant adverse environmental
41 impacts not previously addressed and mitigated as described in greater detail in
42 a Negative Declaration adopted by the Planning Board on May 13, 2015; and

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WHEREAS, on May 27, 2015 the Planning Board granted Conditional Preliminary Subdivision Plat Approval by Resolution No. 2015-04; and

WHEREAS, the Final Subdivision Application was discussed at the Planning Board's meetings held on February 10, 2016 and March 9, 2016; and

WHEREAS, in accordance with the provisions of Section 150-13F.(2), the Planning Board at their February 10, 2016 meeting, deemed the proposed final subdivision to be in substantial conformance with the previously approved conditional preliminary subdivision plans, and, therefore, waived the requirements to hold a public hearing on the final subdivision application; and

WHEREAS, at its February 10, 2016 meeting the Planning Board approved the Tree Removal Permit #T2016-07 required in connection with the proposed final subdivision plat subject to certain conditions as set forth therein, and

WHEREAS, the NYSDOT issued a letter dated January 26, 2016 providing its conceptual approval of the plans for all work under its jurisdiction for the curb cut, utilities and drainage at the intersection of Clayton Boulevard and Route 6, and indicated the final submission addressed all issues contained in prior comments from the NYSDOT; and

WHEREAS, the NYSDEC issued its Water Quality Certification dated March 2, 2016 in connection with the filling of 0.53 of federally regulated wetlands for road construction as part of Somers Realty Phase 3; and

WHEREAS, the Army Corps of Engineers has issued Department of the Army Permit #NAN-2015-0157 for activities in Federally Regulated Wetlands.

WHEREAS, the Final Subdivision Plat and all associated subdivision drawings include the following modifications and meet the following conditions of Conditional Preliminary Subdivision Plat Approval granted on May 27, 2015:

1. The standard subdivision plat notes, including references to the Planned Hamlet Master Plan Maintenance Agreements, Health Department approval block, name of water and sewer districts serving the lots, etc. are included on the plat drawing.
2. The Applicant has documented NYC DEP acceptance of the identified wetland and watercourse delineations which indicates that a watercourse crossing is no longer located at the crossing of proposed Reynolds Drive (Road D) through "Wetland E" and therefore requirement for construction of

- 1 porous pavement at this crossing is no longer applicable consistent with the
2 Master Planned Hamlet Findings Statement.
- 3 3. NYSDOT concerns regarding inadequate drainage facilities along U.S. Route
4 6 have been addressed through construction of an additional stormwater
5 culvert crossing and inlet structure improvements at the crossing.
- 6 4. No significant changes to sight distance at proposed roadway intersections
7 have been determined based upon the updated development grading in
8 comparison to those that were considered during the Planned Hamlet Master
9 Plan process.
- 10 5. Sight easements have been set forth in a note on the plat. A separate written
11 agreement document required by Town Code Section 150-24-(E) shall be
12 provided prior to signing of the plat.
- 13 6. Additional design documents that describe the proposed Route 6
14 improvements have been provided to the Town Consulting Engineer.
- 15 7. A memorandum from the Somers Bureau of Fire Prevention of June 16, 2015
16 to the Planning and Engineering Department indicating its review and no
17 objection to proposed installation of six proposed fire hydrants being installed
18 by the associated AvalonBay development in addition to those at the Mews
19 has been provided.
- 20 8. The "ACOE Wetland Creation and Enhancement Plan" dated July 29, 2015
21 prepared by Tim Miller Associates/Wetland Mitigation Inc. includes all
22 structural design measures and mitigation practices as detailed in the Master
23 Plan FEIS and Findings and has been determined to meet those
24 requirements and required standards by the Consulting Town Engineer.
- 25 9. A Wetlands Construction, Inspection and Monitoring Plan was included as
26 part of the "ACOE Wetland Creation and Enhancement Plan" dated July 29,
27 2015 prepared by Tim Miller Associates/Wetland Mitigation Inc. and has been
28 determined to provide the measures as detailed in the Master Plan FEIS and
29 Findings Statement to the satisfaction of the Consulting Town Engineer.
- 30 10. Final design details and the engineers report for the proposed water main
31 extension within Clayton Boulevard have been provided and have been
32 determined to be acceptable by the Consulting Town Engineer in consultation
33 with the Town of Somers Water & Sewer Superintendent.
- 34 11. Proposed electrical and gas service utilities are shown to be constructed
35 within the proposed Town roads, and are shown on project Drawing Sheets
36 SP-2.2 and SP-2.3, and on drawings prepared by Milone and MacBroom, Inc.
37 as part of the associated AvalonBay site plan drawings.

- 1 12. The Applicant has produced a revised SWPPP document that addresses the
2 following related conditions considered at the time of Preliminary Subdivision
3 Plat Approval as requested and verified by the Consulting Town Engineer:
- 4 a. Stormwater practice design documents and HydroCAD report that
5 accommodate conceptual stormwater quality treatment and peak
6 flow attenuation resulting from future development of proposed
7 assisted living facility on Lot 6.
 - 8 b. Stormwater practice design documents and HydroCAD report that
9 accommodate conceptual stormwater water quality treatment and
10 peak flow attenuation resulting from future construction of "Town
11 Road B" to the southern property line.
 - 12 c. Landscaping Plans for all applicable stormwater management
13 practices in accordance with the NYSDEC Stormwater
14 Management Design Manual, latest edition.
- 15 13. The updated SWPPP includes a detailed Land Disturbance Phasing Plan
16 coordinated with the project Erosion & Sediment Control Plan and ensures
17 that no more than five acres of land will be disturbed at any one point in time.
- 18 14. Due to limited anticipated rock removal, no overall plan has been prepared.
19 However, rock removal will be performed by either hammering, or if
20 necessary, blasting in accordance with applicable regulations. General Note
21 #10 as shown on Drawing Sheet "OP-1" limits hours of rock removal as
22 required by the Planning Board.
- 23 15. Stockpile export is complete as anticipated and set forth in the Negative
24 Declaration.
- 25 16. The Applicant has obtained and addressed review comments by the Water
26 Superintendent and the Bureau of Fire Prevention for the hydrant placement
27 with respect to the street curb and the sidewalk.
- 28 17. The Applicant has provided an updated final Master Plan Conformance
29 drawing and SWPPP Figure 3 Post-Development Drainage Map illustrating
30 the current development layout and considering potential future development
31 on proposed Lot 5 and Lot 6.

32
33 **WHEREAS**, the Planning Board has carefully considered all of the comments
34 raised by the public and other interested agencies, organizations and officials,
35 including those presented at meetings of the Board as well as those submitted
36 separately in writing; and

37
38 **NOW, THEREFORE, BE IT**
39

1 **RESOLVED** that the foregoing WHEREAS clauses are incorporated herein by
2 reference and are fully adopted as part of this approval; and
3

4 **BE IT FURTHER RESOLVED**, that the application for **Conditional Final**
5 **Subdivision Plat Approval, including Wetland and Watercourse Protection**
6 **Permit (§167), Steep Slope Permit, and Stormwater Management and**
7 **Erosion and Sediment Control Permit (§93) and approval of the SWPPP**
8 **Phase III** as shown and described by the materials enumerated herein including
9 **Modification of the Somers Realty Planned Hamlet Master Plan, ARE**
10 **HEREBY CONDITIONALLY GRANTED** in accordance with the New York State
11 Town Law §276 and §278 and in accordance with §150-13J "Planning Board
12 Action" of the Code of the Town of Somers, **SUBJECT TO** the following
13 modifications and conditions as stated below unless otherwise stated below:
14

15 ***Conditions Required Prior to Signing of Plat***

- 16
17 1. The Applicant shall provide documentation of having obtained a variance
18 from NYC DEP to allow for connection of Clayton Boulevard to U.S. Route
19 6 as shown crossing a portion of Town Wetland A and the NYC DEP
20 Intermittent Watercourse in accordance with Section 18-39(8)(a)(6)(ii) of
21 the Watershed Rules and Regulations.
22
- 23 2. The Applicant shall demonstrate approval from the NYCDEP of the
24 Stormwater Pollution Prevention Plan (SWPPP) and the proposed sanitary
25 sewer main extension.
26
- 27 3. The Applicant shall provide documentation of having received approval of
28 a Wetland Permit from the United States Army Corp or Engineers,
29
- 30 4. The Applicant shall provide documentation of having obtained approvals
31 from the Westchester County Department of Health for the Realty
32 Subdivision and proposed sewer and water main extensions.
33
- 34 5. The Applicant shall enter into an agreement with the Town regarding the
35 details of provision of the looped water system and the obligations and
36 options for funding of construction of such loop by the Applicant, and that
37 such agreement be reviewed and approved by the Town Consulting
38 Engineer and the Town Attorney and that the donation of
39 stipulated in that agreement shall be paid to the Town no later that
40 10 days after the closing of sale of Lots 3a, 3b, 3c, and 3d to Avalon Bay
41 Communities, Inc. or its related entity.
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6. The Applicant has produced a revised SWPPP document that includes but is not limited to the following as required and verified by the Consulting Town Engineer:
 - a. Updated SWPPP and HydroCAD report addressing all outstanding technical design and modeling comments.
 - b. Submission of an updated draft of the project Stormwater Maintenance Agreement for the inspection and maintenance of permanent stormwater management practices that is prepared to the satisfaction of the Consulting Town Engineer and Town Attorney
 7. The Applicant shall submit easement agreements for temporary access from the existing Town right-of-way traveling through "Reynolds Drive" (Road D) and Lot 3C for access to the Water Tower parcel to the Town Attorney prior to final subdivision approval. This temporary easement is necessary because this portion of Reynolds Drive is proposed to be constructed to Item 4 sub-base as part of this Subdivision Application and will not be paved until future development on the adjacent parcel to the south as part of a separate application in the future. Such temporary easement shall terminate following completion of asphalt paving and Town acceptance of dedication of Reynolds Drive, at which point access to the Water Tower Parcel will be provided by permanent easement through proposed Lot 3C.
 8. The Applicant shall submit an easement agreement for permanent access from the terminus of Reynolds Drive (formerly Town Road D) to the newly created lot for the future potential water tower for review and approval by the Town Attorney prior to the Town assuming dedication of Reynold's Drive.
 9. The Applicant shall submit an easement agreement for all proposed stormwater management practice easements as illustrated on the subdivision plat drawing intended for the construction of stormwater practices serving future development proposed on proposed Lots 5 and 6 and potential further expansion of Halstead Street and Reynolds Drive.
 10. The Applicant shall provide a performance bond to cover the restoration of the completed Town Road portions of Clayton Boulevard in the event it becomes damaged during construction. The Applicant shall prepare a construction cost estimate for determination of the surety amount based

1 upon the cost of milling and repaving of asphalt top course on Clayton
2 Boulevard, including replacement of curbs and drainage structure frames
3 and grates. The final surety amount will be subject to the review and
4 acceptance of the Consulting Town Engineer and Town Principal
5 Engineering Technician.
6

7 11. The Applicant shall be required to post a construction surety for proposed
8 Town Roads and drainage infrastructure intended to be dedicated to the
9 Town of Somers. The surety amount shall be determined based upon cost
10 estimate by the Applicant's Engineer and must be reviewed and accepted
11 by the Consulting Town Engineer and principal Engineering technician.
12 Acceptance of the surety estimates must be confirmed prior to signing of
13 the Final Plat.
14

15 12. Somers Realty Corp. shall submit an easement agreement providing
16 Avalon with an easement for construction and maintenance of the
17 sidewalks within the roads and that Avalon shall be responsible for the
18 construction and maintenance of the sidewalks. Upon dedication of the
19 roads to the Town, Avalon shall remain responsible for the maintenance of
20 the sidewalk pursuant to Town Code Chapter 142.
21

22 ***Ongoing Conditions Required After Signing of Plat***

- 23
- 24 1. The Applicant shall obtain coverage under the NYSDEC General Permit
25 No. GP-0-15-002 with a copy of the NOI, SWPPP acceptance form
26 executed by the Consulting Town Engineer in accordance with the Town's
27 MS4 manual, and final SPPP provided to the Town Clerk prior to issuance
28 of a Building Permit. The Applicant shall implement construction activities
29 in accordance with the approved SWPPP and the requirements of GP-0-
30 15-002.
31
 - 32 2. Since the portion of Clayton Boulevard to be constructed as part of this
33 subdivision application will not be dedicated as a Town Road until some
34 point in the future, the Applicant as owner will be obligated to maintain the
35 road until dedication to the Town. Upon dedication of the road, the
36 maintenance of the sidewalk will be the obligation of the adjacent property
37 owner pursuant to Somers Code Chapter §142.
38
 - 39 3. Prior to issuance of a Certificate of Occupancy for any lot within this
40 subdivision, the required improvements to the intersection of Clayton
41 Boulevard and Route 6 shall be completed and accepted by NYS DOT.
42
 - 43 4. The Applicant shall provide documentation necessary for dedication of the
44 new roadway and common stormwater infrastructure to the Town of

1 Somers in accordance with Town Code §150. In no case shall dedication
2 be completed prior to submittal of an as-built survey of all completed
3 infrastructure and certification by the Applicant's Engineer that the
4 completed infrastructure was constructed in accordance with the approved
5 design specifications.
6

7 5. Prior to issuance of Town environmental permits, an engineering
8 inspection fee for the Subdivision shall be paid by check made payable to
9 the Town of Somers in accordance with the Fee Schedule adopted by the
10 Town Board. The amount of such fee shall be set after submission by the
11 Applicant of estimated costs for required improvements, as identified by
12 the Town Consulting Engineer and Principal Engineering Technician.
13

14 6. Appropriate erosion control measures satisfactory to the Department
15 Engineering Technician shall be installed prior to starting the construction
16 and maintained during the contract period, in accordance with the New
17 York State Standards and Specifications for Erosion and Sediment
18 Control, dated August 2005, and the New York State Stormwater
19 Management Design Manual, dated January 2015 (including all
20 updates/or revisions).
21

22 7. The Somers Engineering Department shall be notified (914-277-5366)
23 prior to the beginning of any work on the site and also upon completion of
24 the approved work.
25

26 8. No more than 5 acres of area are to be disturbed and left exposed at one
27 time.
28

29 9. That field changes that do not change the intent of the design or are not
30 significant, if required, may be approved by the Department Engineering
31 Technician and the Consulting Town Engineer prior to implementation.
32 Significant field changes or those that deviate from the intent of the design
33 as approved by that Planning Board must be approved by the Planning
34 Board.
35

36 10. In the event that unforeseen volumes of rock are encountered during site
37 excavation that warrant the use of blasting, then such blasting operations
38 shall be undertaken in accordance with the terms of Master Plan Findings
39 Statement Condition No. 18 that includes but is not limited to preparation
40 of a blasting schedule, implementation of protective measures and
41 notification of municipal officials and neighboring residents within required
42 distance.
43

44 11. In the event that future development to the south warrants the future
expansion of Halstead Street (Road B) as a Town Road over the right of

1 way to be provided now by the Applicant, such future road, to be
2 constructed by a future applicant, shall be required to incorporate the
3 construction of porous pavement at the crossing of the mapped
4 intermittent Stream as required by Condition No. 20 of the Master Plan
5 Findings Statement, unless it is demonstrated at that time that the mapped
6 stream is not regulated by NYC DEP or such future applicant obtains a
7 variance from NYC DEP regulations.
8

9 12. The Applicant shall create a right of way for the Road B extension that will
10 be accepted by the Town and be dedicated as a Town right of way.
11

12 13. The Road D extension shall be created as a right of way and improved to
13 the level of Item 4 by the Applicant who shall construct a gate at the
14 beginning of the roadway at its intersection with Road C. such gate shall
15 not be removed until such time of future development on the adjacent
16 parcel and paving of Road D. The Town will not accept and the roadway
17 will not be dedicated as a Town road until it is constructed.
18

19 14. The Applicant shall undertake required wetland inspection, measurement
20 and maintenance provisions as defined by the approved "ACOE Wetland
21 Creation and Enhancement Plan" for the minimum period of 5 years in
22 accordance with the terms of Master Plan Findings Statement Conditions
23 No. 25 & 26 and in accordance with the conditions of the Army Corp of
24 Engineers Wetland Permit. Or worded as follows:
25

26 15. Somers Realty Corp. shall provide Avalon with an easement for
27 construction and maintenance of the sidewalks within the roads and
28 Avalon shall be responsible for the construction and maintenance of the
29 sidewalks. Upon dedication of the roads to the Town, Avalon shall remain
30 responsible for the maintenance of the sidewalk pursuant to Town Code
31 Chapter 142.
32

33 16. All construction activities, with the exception of rock removal, shall be
34 limited to occur Monday through Saturday, 7AM to 6PM. Rock removal
35 shall be limited to Monday through Saturday 8AM to 5PM. No
36 construction activities shall occur on Sundays or legal holidays.
37

38 17. If the loop water system cannot be constructed due to inability to obtain
39 required permits or agreement with the Town of Yorktown after diligently
40 attempting to obtain same, the Town shall refund monies to Somers
41 Realty pursuant to the Agreement identified in Condition #5 under
42 "Conditions Required Prior to Signing of the Plat" and the Applicant agrees
43 to build the pneumatic tank system and the Town shall refund the amount
44 paid less actual costs of design and permitting.

1
2 **BE IT FURTHER RESOLVED** that the Planning Board Chairman is authorized to
3 sign the final subdivision plat in accordance with the procedures and
4 requirements specified in §150-14.D of the "Subdivision of Land" regulations of
5 the Code of the Town of Somers, and §276 of Town Law.

6
7 In accordance with §150-13.M of the Code of the Town of Somers, this
8 conditional approval of the final subdivision plat shall expire on September 19,
9 2016, 180 days from the date of the resolution granting conditional approval,
10 unless the above requirements have been certified as complete by the Planning
11 Board's professional staff, or unless such time limit is extended by the Planning
12 Board in accordance with §150-12.N of the Code of the Town of Somers for no
13 more than two (2) additional periods of 90 days each. The request for time
14 extension shall be made by the Applicant prior to expiration of the specific time
15 period.

16
17 Once the requirements have been certified as completed by the endorsement of
18 the plat by the Chairman of the Planning Board, the plat shall be filed with the
19 Westchester County Clerk, Division of Land Records, within 62 days after the
20 date of signing by the Planning Board, or approval shall expire. The Applicant
21 shall submit seven (7) copies of the subdivision plat showing all signatures and
22 acknowledgments of filing to the Planning Board Secretary within 30 days after
23 the date of filing with the County. In addition, a copy of the filed plat drawing
24 shall be provided on diskette to the Planning and Engineering Department.

25
26 No building permits will be issued on any lot shown on the subdivision plat until
27 the required copies of the plat have been delivered to the Planning Board in
28 accordance with §150-14.H of the *Code of the Town of Somers*. Upon
29 completion of all improvements, the Applicant shall submit an as-built plan to the
30 satisfaction of the Town Consulting Engineer and shall prove that the road
31 fronting lots have been improved to the binder layer as required according to
32 §74-1 of the *Code of the Town of Somers*.

33
34 Any change in the subdivision plat which is filed in the office of the Westchester
35 County Clerk constitutes a "resubdivision" which is subject to the same
36 procedure, rules and regulations applying to an original subdivision, as stated in
37 §150-4, "Resubdivision", of the *Code of the Town of Somers*.

38
39 This resolution shall have an effective date of March 23, 2016.

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

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John Currie, Chairman

Date

CERTIFICATION

I hereby certify that this is a true and correct copy of Resolution #2016-01 adopted by the Town of Somers Planning Board granting of **Conditional Final Subdivision Plat Approval to Somers Realty Corp. for the Somers Realty Planned Hamlet** at a special meeting held on March 23,, 2016.

Syrette Dym, AICP
Director of Planning

Date

DRAFT

PLANNING AND ENGINEERING DEPARTMENTS

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

Town of Somers
WESTCHESTER COUNTY, N.Y.

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Steven Woelfle
Principal Engineering Technician
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Syrette Dym, AICP
Town Planner
sdym@somersny.com

Planning Board Meeting March 23, 2016

PLANNING BOARD
TOWN OF SOMERS, WESTCHESTER COUNTY, NEW YORK

Resolution No. 2016-02

*Granting of Conditional Site Plan Approval, Steep Slopes Protection, and
Stormwater Management and Erosion and Sediment Control Permits
to AvalonBay Communities Inc.
for*

AvalonBay Somers, a portion of the Somers Realty Planned Hamlet

Town Tax Number: Section 4.20, Block 1, Lots 13, 14, Part of Lot 15

WHEREAS, on February 10, 2009 the Town of Somers Planning Board approved resolution number 2009-02 granting master plan approval pursuant to §170-23.3 of the *Code of the Town of Somers* to Somers Realty Corporation for Somers Realty Planned Hamlet; and

WHEREAS, the Somers Realty Planned Hamlet Master Plan is specific to the development of the Somers Realty Property, a 79.3354 acre site as determined by the subsequent Final Plat dated March 18, 2010 and filed June 17, 2010 as # 2875, located on the south side of Birdsall Road (Route 6) in the Amawalk Reservoir Watershed, in the Baldwin Place area of the Town of Somers, bounded on the west by Mahopac Avenue and on the east by the Somers Commons shopping center located within the Planned Hamlet (PH) Zoning District; and

WHEREAS, The Somers Realty Planned Hamlet Master Plan, as required by §170-23.3 of the *Code of the Town of Somers*, is a general development plan for the site outlining land use, access and circulation, parking and utilities, and a conceptual site design as required by the *Code of the Town of Somers* and such Master plan calls for future development of the plan components through a

1 subdivision of the property and project specific site plans in accordance with the
2 Master Plan and §150 and §144-7 of the *Code of the Town of Somers*; and
3

4 **WHEREAS** as part of the Master Plan Approval, the Town of Somers Planning
5 Board, acting as Lead Agency under the State Environmental Quality Review Act
6 (SEQRA) adopted a Positive Declaration in October 2005 and thereafter
7 conducted a complete environmental review under SEQRA, including preparation
8 of a DEIS and FEIS, which review resulted in the adoption of a Findings
9 Statement pursuant to SEQRA at a Special Meeting held on February 10, 2009,
10 by which the Planning Board found the potential adverse environmental impacts
11 identified will be avoided or minimized to the maximum extent practicable by
12 incorporating the specific mitigation measures and conditions of findings
13 identified; and
14

15 **WHEREAS**, the Master Plan approved as part of Resolution No. 2009-02
16 includes the mitigation measures required as a result of the SEQRA process; and
17

18 **WHEREAS**, the Planning Board is required to evaluate each site plan submitted
19 in relation to the Master Plan and is to confirm that the plans will not result in any
20 additional significant adverse impacts not previously discussed and mitigated;
21 and
22

23 **WHEREAS**, on June 9, 2014 AvalonBay Communities, Inc. ("Applicant")
24 represented by DelBello Donnellan Weingarten Wise & Wiederkehr, LLP,
25 submitted a site plan application to the Town of Somers Planning Board to
26 construct a multi-family community (the "AvalonBay Project") comprised of 152
27 residential apartment units consisting of 62 one-bedroom units, 66 two-bedroom
28 units and 24 three-bedroom units of which 23 are to be affordable in accordance
29 with the Town's affordable housing requirements, having 183,060 square feet of
30 floor area compared with the 183,762 square feet approved as part of the
31 Planned Hamlet Master Plan, and also including an approximately 3,779 square
32 foot community recreation building, an outdoor pool, a "Town Green", and 324
33 parking spaces and related infrastructure; and
34

35 **WHEREAS**, the AvalonBay Project site consists of proposed subdivided Lots 3A,
36 3C and 3D consisting of a total of 45.1 acres and Lot 3B (the Town Green lot)
37 consisting of 1.4 acres, to be subdivided as part of the associated Somers
38 Realty, Inc. Phase III subdivision application; and
39

40 **WHEREAS**, by letter of June 6, 2014, submitted as part of the AvalonBay site
41 plan application, Somers Realty Corp., owner of the subject property, advised the
42 Planning Board that AvalonBay Communities, Inc. was authorized to file any and
43 all applications in connection with the subject property; and
44

45 **WHEREAS**, the Planning Board at its meeting of July 9, 2014, moved to declare
46 its intent to continue to act as Lead Agency pursuant to SEQRA and to circulate
47 a Notice of Intent to all involved and interested agencies, and determined that the

1 proposed action is a Type 1 Action under SEQRA as per Chapter 92 of the *Code*
2 *of the Town of Somers* Section 92-6 due to the construction of 50 or more
3 residential dwelling units; and
4

5 **WHEREAS**, the proposed rental apartment style units constituted a change in
6 the Somers Realty Planned Hamlet Master Plan of February 2009 which called
7 for owner occupied townhouse units in a different site configuration, thereby
8 requiring a modification to the Somers Realty Planned Hamlet Master Plan as
9 part of the Somers Realty Corp. Phase III subdivision plat approval application;
10 and
11

12 **WHEREAS**, the initial submission consisted of the following materials:
13

14 Letters:

- 15 • June 9, 2014 letter from DelBello Donnellan Weingarten Wise
16 &Wiederkehr, LLP
- 17 • Letter of authorization of June 9, 2014 from property owner
- 18 • Site Plan Application
- 19 • Applications for Steep Slopes Protection, Tree Removal, and Stormwater
20 Management and Erosion and Sediment Control Permits
- 21 • Short Form Environmental Assessment Form
- 22 • Engineering Report prepared by Milone & MacBroom dated June 9, 2014
23

24 Plans by Milone & MacBroom dated 06-09-14:

- 25 • Title Sheet
- 26 • IN – Index Plan
- 27 • EX-1-5 – Existing Conditions
- 28 • LA-1 – 2 – Site Plan – Layout
- 29 • LS-1-2 – Site Plan – Landscaping
- 30 • GR-1-2 – Site Plan – Grading
- 31 • UT-1-2 -0 Site Plan – Utilities
- 32 • SA-1-2 - Steep Slope Analysis – Existing and Proposed Conditions
- 33 • SP-1-4 - Stormwater Pollution Prevention Plan and Details
- 34 • SD-1-5 – Site Details
35

36 Plans by Edward R. Kimsey, Jr. AIA, Architect (Niles Bolton) all dated 06-09-14:

- 37 • A2.01 Building Type 201 Building Plans
- 38 • A2.02 Building Type 201S Building Plans
- 39 • A2.03 Building Type 204 Building Plans
- 40 • A2.04 Building Type 204S Building Plans
- 41 • A2.05 Building Type 209 Building Plans
- 42 • A4.01 Building Type 201 Elevations
- 43 • A4.02 Building Type 201S Elevations
- 44 • A4.03 Building Type 204 Elevations
- 45 • A4.04 Building Type 204S Elevations

- 1 • A4.05 Building Type 209 Elevations
- 2 • A5.01 Units AD2 & AD2-L Unit Plan
- 3 • A5.02 Units AD3 & AD3-L Unit Plan
- 4 • A5.03 Units BD3 & BD3A Unit Plan
- 5 • A5.04 Units CD9 Unit Plan
- 6 • A10.01 Lease Office Building Plan
- 7 • A10.02 Lease Office Elevations

8
9 **WHEREAS**, the Applicant has applied for Planning Board approval of
10 construction as a regulated activity within Town-regulated steep slope areas as
11 described in Chapter 148, "Steep Slopes Protection," of the *Code of the Town of*
12 *Somers*; and

13
14 **WHEREAS**, the Applicant has applied for Planning Board approval of a
15 Stormwater Management and Erosion and Sediment Control Permit as described
16 in Chapter 93 of the *Code of the Town of Somers*; and

17
18 **WHEREAS**, the Applicant has applied for Planning Board approval of a Tree
19 Removal Permit as described in Chapter 156 of the *Code of the Town of Somers*;
20 and

21
22 **WHEREAS**, the applications have been revised throughout the review process,
23 including revisions to the site plan drawings prepared by Milone & MacBroom,
24 dated 9-9-14, 11-13-14, 1-5-15, 2-16-15, 1-28-15, 6-5-15, 9-21-15, 2-19-16 and
25 Edward R. Kimsey, Jr. AIA, Architect (Niles Bolton) dated 06-09-14, , and include
26 a Stormwater Engineering Report dated June 9, 2014, and revised February 9,
27 2016, and the revised plans were circulated to the Somers Fire Prevention
28 Bureau, the Somers Open Space Committee, Somers Architectural Review
29 Board, the Somers Highway Department, the Westchester County Planning
30 Board, the Westchester County Department of Health (New Rochelle and Mt.
31 Kisco), New York State Department of Environmental Conservation, New York
32 State Department of Transportation, the New York City Department of
33 Environmental Protection, their comments were considered by the Planning
34 Board; and

35
36 **WHEREAS**, the Planning Board discussed the Applicant's proposed site plan at
37 meetings held on July 9, 2014, August 13, 2014, October 8, 2014, November 12,
38 2014, December 10, 2014, January 28, 2015, February 11, 2015, March 11,
39 2015, April 8, 2015, July 8, 2015, October 14, 2015, February 10, 2016, and
40 March 9, 2016; and

41
42 **WHEREAS**, during the course of the Planning Board's review of the Applicant's
43 proposed site plan the Planning Board received and considered correspondence
44 from the public as well as Town staff, Town advisory boards and other involved
45 Agencies and concerned citizens. Correspondence from Town staff, Town

1 advisory boards, other Involved Agencies and concerned citizens are listed as
2 follows:

- 3
- 4 1. Memoranda from the Somers Town Planner dated August 6, 2014,
5 September 26, 2014, October 23, 2014, December 2, 2014, December 15,
6 2014, January 13, 2015, March 2, 2015, April 2, 2015, April 6, 2015, July 1,
7 2015, August 4, 2015, September 28, 2015.
- 8 2. Memoranda from the Somers Town Consulting Engineer dated July 3, 2014,
9 September 29, 2014, December 3, 2014, January 22, 2015, and March 4,
10 2015.
- 11 3. Memorandum from the Open Space Committee dated October 3, 2014,
12 February 25, 2015, and March 2, 2015.
- 13 4. Memoranda from the Somers Bureau of Fire Prevention dated August 4,
14 2014, September 19, 2014, and March 13, 2015. , June 16, 2015, September
15 17, 2015 Letters from the Westchester County Planning Board dated July 16,
16 2014 and August 19, 2014 (two letters).
- 17 5. Memoranda from the Somers Parks and Recreation Board dated, June 12,
18 2015
- 19 6. Memoranda from the Architectural Review Board dated January 22, 2015.
20 March 26, 2015, April 14, 2015 and October 8, 2015.
- 21 7. Letters from the New York City Department of Environmental Protection dated
22 June 20, 2014 and July 3, 2014 (2 letters). Letters from the New York State
23 Department of Transportation dated August 20, 2014, July 21, 2015 (2
24 letters), February 23, 2015.
- 25 8. Letter from Esther E. Mildner dated October 31, 2014.

26

27 **WHEREAS**, during the course of the Planning Board's review of the Applicant's
28 proposed site plan, the Planning Board received additional correspondence from
29 the Applicant's representatives responding to such public, staff, and Planning
30 Board comments, including the following:

- 31
- 32 • Cover Letter, by Delbello, Donnellan, Weingarten, Wise & Weiderkehr,
33 LLP, dated January 6, 2014.
- 34 • "Engineering Report," prepared by Milone & MacBroom, Inc., dated June
35 9, 2014, last revised January 5, 2015.
- 36 • "Sanitary Sewer and Potable Water Design Summary," prepared by
37 Milone & MacBroom, dated December 10, 2014.
- 38 • Letter, by David G. Sullivan, PE, Milone & MacBroom, dated January 5,
39 2015.
- 40 • "Avalon Bay Somers", Drawing Sheets: 1 – 33, prepared by Milone &
41 Macbroom, Inc., dated June 9, 2014, last revised September 21, 2015.
- 42 • "Avalon Somers," Drawing Sheets SP-01 – A4.04, prepared by The
43 Sullivan Architectural Group, dated December 24, 2014.
- 44 • "Supplemental Technical Data – Volume 2," prepared by Milone &
45 MacBroom, Inc., dated February 16, 2015.

- 1 • "Avalon Bay Somers", Drawing Sheets: 1 – 33, prepared by Milone &
2 Macbroom, Inc., dated June 9, 2014, last revised February 16, 2015.
- 3 • "Fire Truck Movement Diagram," Drawing Sheets: 1 – 2, prepared by
4 Mllone & Macbroom, Inc., dated February 16, 2015.
- 5 • "Garage Buildings," 11"x17" Drawing A9.01, prepared by The Sullivan
6 Architectural Group, dated January 19, 2015.
- 7 • Drawings: "Construction Sequencing Plan", Sheets: "Stage 1" – "Stage
8 IX", prepared by Divney, Tung & Schwalbe., dated July 17, 2015, last
9 revised September 22, 2015.
- 10 • Drawings: "Construction Sequencing Plan", Sheets: "Stage II" – "Stage
11 VIII", prepared by Milone & MacBroom, Inc., dated July 17, 2015, last
12 revised September 22, 2015.
- 13 • "Engineering Report – Avalon Bay Somers", prepared by Milone &
14 MacBroom, Inc., dated June 9, 2014, last revised June 2, 2015.

15
16 **WHEREAS**, a duly noticed public hearing on the applications was opened on
17 January 28, 2015 at which time all those wishing to be heard were given the
18 opportunity to be heard; and
19

20 **WHEREAS**, building plans and elevations were submitted to the Planning Board
21 as part of the plan set submission of January 6, 2015, with architectural plans
22 prepared by The Sullivan Architecture Group; and
23

24 **WHEREAS**, in response to concern by the Planning Board regarding the fire
25 safety of the construction method of the proposed apartment units, the project
26 architect at the Planning Board meeting of February 11, 2015, indicated that the
27 construction type is 5A, meaning that the residential buildings will be wood frame
28 having a one hour fire rating, and in addition the buildings will have sprinklers in
29 accordance with the NFPA13R standards of the National Fire Protection Agency;
30 and
31

32 **WHEREAS**, the Bureau of Fire Prevention requested a one hour fire rated draft
33 stopping in the attics of the residential buildings and the Planning Board
34 expressed a desire for a fire alarm communication system that in addition to
35 audible alarms has wiring for visual alarms (for the hearing impaired); and
36

37 **WHEREAS**, as part of the AvalonBay Project review the Town clarified that while
38 a Town Green was a required element of the Planned Hamlet Master Plan, the
39 Town did not intend to own and maintain the Town Green as a Town park but
40 intended that such Town Green be owned and maintained by the residential
41 developer; and
42

43 **WHEREAS**, the Applicant has agreed to build, own and maintain the Town
44 Green as a primarily passive space with some active recreation, as decided by
45 the Planning Board, based on a conceptual plan prepared by Milone &
46 MacBroom, Inc., and

1 **WHEREAS**, at its meeting of February 25, 2015, the Parks and Recreation Board
2 agreed with the Applicant's request to reduce the recreation fee based on the
3 provision of the 23 affordable housing units, similar to the Mews II reduction, but
4 did not recommend a reduction for the proposed provision of a Town owned and
5 maintained Town Green; and

6
7 **WHEREAS**, at the Planning Board meeting of March 11, 2015, it was determined
8 that, in accordance with Section 170-41 of the *Code of the Town of Somers*, 28
9 "landbanked" but unbuilt parking spaces would be required to be shown on the
10 plan to meet the parking requirement for the AvalonBay Project, since the 36
11 spaces around the Town Green in Town street rights of way do not officially fulfill
12 this zoning requirement; and that as a result, a total of 332 parking spaces, or
13 eight more than required, were to be provided; and

14
15 **WHEREAS**, at the meeting of March 11, 2015, having heard all those wishing to
16 be heard, the Planning Board closed the public hearing and the Applicant agreed
17 to waive the 62 day period for approval of a resolution; and

18
19 **WHEREAS**, in response to concerns of the Somers Highway Superintendent
20 regarding parking on the Town roads surrounding the Town Green during
21 snowstorms, it has been determined that parking spaces identified on Town
22 Roads A, B, C and D shall be subject to and comply with the regulations of
23 Chapter 158 Vehicles and Traffic of the Code of the Town of Somers whereby no
24 vehicle shall be parked, left standing or abandoned upon a Town highway (as
25 defined in the NYS Vehicle and Traffic Law) within the Town of Somers at any
26 time during a snowstorm, flood, fire or other public emergency or when snow
27 removal or ice control operations are in progress in those areas affected by any
28 of the foregoing. To ensure compliance with such law, Avalon shall erect signs
29 on the above Town roads indicating "No Parking During Snowstorms/Snow
30 Removal - Subject to \$50 Fine" and that such signs shall be in place only during
31 the period from December 1st to March 15th; and .

32
33 **WHEREAS**, by memorandum of June 12, 2015 regarding its meeting of June 4,
34 2015, the Parks and Recreation Board voted to recommend a reduction in the
35 recreation fee due to the addition of draft stopping in the attics of the residential
36 buildings and due to the Applicant's agreeing to build, own and maintain the
37 Town Green and make it available for public use; and

38
39 **WHEREAS**, after review and analysis of the potential environmental effect of the
40 proposed AvalonBay Project and the associated proposed Somers Realty Phase
41 III subdivision, the Planning Board determined that the potential impacts resulting
42 from the modifications compared to the approved Planned Hamlet Master Plan
43 have been mitigated to the maximum extent practicable and determined that
44 there are no significant additional impacts beyond those previously identified,
45 discussed, and mitigated, and adopted a Negative Declaration at its meeting of
46 July 8, 2015; and

47

1 **WHEREAS** at its meeting of July 8,2015, based on the recommendation of the
2 Parks and Recreation Board and the Town Board, the Planning Board, pursuant
3 to Section 170-114C. (1) of the *Code of the Town of Somers*, approved a
4 reduction in the recreation fee to \$876,450; and
5

6 **WHEREAS**, by letter of July 21, 2015, the NYSDOT recommended a sidewalk
7 along the Route 6 frontage of the Planned Hamlet along with other areas of
8 concern that needed to be addressed by Somers Realty as part of the Phase III
9 subdivision; and
10

11 **WHEREAS**, at its meeting of September 9, 2015, the Planning Board discussed
12 such Route 6 sidewalks and determined they are not in favor of a sidewalk along
13 the Route 6 frontage of the Planned Hamlet but would consider requiring a
14 sidewalk in the future along the north side of Route 6; and
15

16 **WHEREAS**, to implement the Stockpile Export Plan dated April 22, 2015 created
17 by Insite Engineering, Somers Realty Corp's engineer, requested an amendment
18 to the NYCDEP approval for the Somers Realty Subdivision-Phase II Road
19 Construction SWPPP prepared by Keane Coppelman Gregory Engineers, P.C.
20 dated September 23, 2013, and such amendment was granted by NYCDEP by
21 letter of July 17, 2015, permitting the removal in accordance with the Negative
22 Declaration adopted on July 8, 2015, of the stockpile prior to Phase III final
23 subdivision approval with the knowledge and approval of the of the Planning
24 Board; and
25

26 **WHEREAS**, at its meeting of September 24, 2015, the Architectural Review
27 Board approved the site plan indicating that each individual building shall have a
28 combination of two different siding colors, such color combination as depicted on
29 Drawing Number A400 Titled: Exterior Color Scheme Coordination Site Plan,
30 Dated 8/6/15, and shown and detailed on Drawing Number M1.00 Titled: Material
31 and Color Selections, dated 9/23/15; and
32

33 **WHEREAS**, on February 3, 2016, the Applicant requested that the Planning
34 Board grant the tree removal permit prior to site plan approval since the Draft
35 Permit issued to Somers Realty from the Army Corps of Engineers stated that
36 "The Permittee shall conduct all tree clearing between October 31st and March
37 31st when Indiana Bats and Northern Long-Eared bats are in hibernation", and
38 the Applicant did not want to lose the construction season prior to October 31,
39 2016, anticipating that approvals of the Somers Realty Phase III subdivision and
40 its own applications would be forthcoming in the next month; and
41

42 **WHEREAS**, at its meeting of February 10, 2016, the Planning Board considered
43 a tree removal permit to remove 171 trees, the Applicant having deposited an
44 additional tree removal fee reflecting the change in number of trees requested to
45 be removed since the original application dated June 9, 2014 and such permit
46 also reflected trees needing to be removed for construction of roadways that are
47 the responsibility of Somers Realty, Inc., and approved such permit; and

1 **WHEREAS**, in addition to the plan alternatives and reports reviewed throughout
 2 the review process and as a result of the review of those additional documents
 3 by the Planning Board, Town staff and other advisors to the Planning Board
 4 throughout the review process, the following plans and reports (as required to be
 5 revised by the conditions of this resolution) were submitted for the Planning
 6 Board's consideration and are the subject of this conditional approval:

7
 8 Site Plan Drawing Set dated February 9, 2016 prepared by Milone and
 9 MacBroom, Inc., including:

10
 11 Plans by Milone & MacBroom, Inc., dated 06-09-14, last revised 02-19-16:

- 12
- 13 • Title Sheet
- 14 • IN – Index Plan
- 15 • EX-1-6 – Existing Conditions and Tree Removal
- 16 • LA-1 – 2 – Site Plan – Layout
- 17 • LS-1-2 – Site Plan – Landscaping
- 18 • GR-1-2 – Site Plan – Grading
- 19 • UT-1-2 Site Plan – Utilities
- 20 • SP-1-4 - Stormwater Pollution Prevention Plan and Details
- 21 • ST1-ST11 Site Design-Construction Phase Grading
- 22 • SD-1-6 – Site Details
- 23 • CH-1 Site Plan Clubhouse
- 24 • Ph1 Photometric Plan
- 25 • PR1-PR-5 Road Plan and Profile
- 26 • DP1-DP4 Storm Drainage Profiles

27
 28 Plans by Sullivan Architecture Group:

Drawing No.	Title	Date
SP-01	Architectural Site Plan	12-24-14
A1.01	Building 201 Floor Plans	12-05-14
A1.02	Building 201-S Floor Plans	12-05-14
A1.03	Building 204 Floor Plans	12-05-14
A1.04	Building 204-S Floor Plans	12-05-14
A1.05	Building 209 Floor Plans	12-05-14
A1.06	Club House Floor Plan	12-05-14
A2.01	Building 201 Elevations	11-20-14
A2.02	Building 201S Elevations	11-20-14
A2.03	Building 204 Elevations	11-20-14
A2.04	Building 204S Elevations	11-20-14
A2.06	Leasing Office Elevations	11-20-14
A2.07	Leasing Office Elevations	11-20-14
A4.01	Unit AD2 Plans	12-23-14

A4.02	Unit AD3 Plans	12-23-14
A4.03	Unit BD3A	12-05-14
A4.04	Unit CD9 Plans	12-05-14

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- Engineering Report: "Avalon Bay Somers", prepared by Milone & Macbroom, Inc., dated June 9, 2014, last revised February 5, 2016
- Letter by Milone & MacBroom, Inc., dated March 1, 2016.
- Design Supplement: "Water Harvesting Cisterns for Irrigation", prepared by Milone & MacBroom, Inc., dated November 5, 2015.
- Design Supplement: "Construction Sequencing Plan prepared by Milone & MacBroom, Inc., dated February 17, 2016.

WHEREAS, the latest plans for the proposed AvalonBay Project involve potential disturbance to approximately 52,272 square feet of steep slopes between 15% and 25%, thereby requiring the approval of a steep slopes permit in accordance with the provisions of Chapter 148, "Steep Slopes Protection," of the *Code of the Town of Somers* prior to the issuance of a building permit, for which the required application fee has partially been paid; and

WHEREAS, the latest plans for the proposed AvalonBay Project including the Town Green involve a total area of disturbance of 18.7 acres and the creation of 315,327 square feet (7.24 acres) of impervious surfaces; and

WHEREAS, the latest plans for the proposed AvalonBay Project involve the removal of 171 trees compared with the original proposed removal of 140 due to inclusion of 31 trees to be removed for Somers Realty road construction, and compared with only 140 trees identified for removal on proposed Plan Drawing EX5 Existing Conditions & Tree Removals – Schedule of Tree Removals; and

WHEREAS, since the AvalonBay Project proposes the disturbance of more than 5,000 square feet, coverage under the New York State Department of Environmental Conservation (NYSDEC) SPDES General Permit No. GP-0-15-002 is required; and

WHEREAS, the applications involve the disturbance of controlled environmental areas that require environmental permit approvals by the Planning Board, including the following actions:

- Disturbance in excess of 5,000 square feet of land is a regulated activity requiring the approval of a Stormwater Management and Erosion and Sediment Control Permit, as defined by §93-5(B) of the *Code of the Town of Somers* .
- Disturbance to regulated steep slope areas, consisting of at least 10,000 square feet, having a topographical gradient of 15% or more is a regulated

1 activity requiring the approval of a Steep Slopes Protection Permit, as
2 defined by §148-5(B) of the *Code of the Town of Somers*.

- 3 • Removal of greater than the allowable number of trees on a single
4 property during a calendar year is a regulated activity requiring the
5 approval of a Tree Removal Permit, as defined by §156-4(A)(7)(e) of the
6 *Code of the Town of Somers* .

7 **WHEREAS**, the proposed actions are not subject to separate, individual permits
8 due to their association with the application for site plan approval, but are
9 required to meet the standards defined by the *Code of the Town of Somers* for
10 issuance of those permits; and

11
12 **WHEREAS**, the applications were found to be complete and contained all
13 required elements as specified by the following sections of the *Code of the Town*
14 *of Somers*:

- 15 • §148-8(C) relative to Steep Slopes Protection Permit Application to the
16 Planning Board.
- 17 • § 93-6 relative to Stormwater Management and Erosion and Sediment
18 Control Permit Application to the Planning Board.
- 19 • §156-5 relative to Tree Removal Permit Application to the Planning Board;
20 such permit was issued at the Planning Board meeting of February 10,
21 2016 in advance of this Resolution by Permit No. T 2016-07 issued to
22 Somers Realty Corp. for AvalonBay Communities Inc., to facilitate tree
23 removal prior to the period during which tree removal would have had
24 impacts on endangered species and to facilitate the construction of 23
25 affordable housing units; and

26 **WHEREAS**, the proposed site plan and associated environmental permits were
27 reviewed by the Planning Board and its consultants relative to their conformance
28 with the following environmental permit standards:

- 29 • Performance and design criteria for a Stormwater Management and
30 Erosion and Sediment Control Permit, as established by §93-7 of the
31 *Code of the Town of Somers* and conformance with best engineering
32 practices and specific Technical Standards, including:
 - 33 ○ The New York State Stormwater Management Design Manual,
34 prepared by the New York State Department of Environmental
35 Conservation, dated January 2015; and
 - 36 ○ The New York Standards & Specifications for Erosion and
37 Sediment Control, prepared by the New York State Department of
38 Environmental Conservation, dated August 2005; and

- 1 • Standards for the Disturbance of Steep Slopes, as established by §148-7
2 of the *Code of the Town of Somers*; and
- 3 • Tree Removal Permit Standards, as established by §156-4 of the *Code of*
4 *the Town of Somers*; and

5

6 **WHEREAS**, the requirement for referral of these permit applications to the Town
7 of Somers Open Space Committee and Town Board for review and comment
8 was met by referral of the site plan application to these boards along with others
9 and no comments were received; and

10

11 **WHEREAS**, the Steep Slopes Protection Permit requires a public hearing and
12 such requirement was met by the Public Hearing opened on January 28, 2015
13 during which comments were taken, and the Public Hearing was closed on
14 March 11, 2015; and

15

16 **WHEREAS**, the Town Consulting Engineer recommended to the Planning Board
17 that the site plan and associated documents provide the required elements
18 necessary for approval of the site plan and issuance of environmental permits by
19 the Planning Board providing that all outstanding engineering comments are
20 addressed prior to the times set forth as conditions under this Resolution; and

21

22 **WHEREAS**, the design of all stormwater management practices have been
23 incorporated into the comprehensive project Stormwater Pollution Prevention
24 Plan, prepared by Insite Engineering, Surveying and Landscape Architecture,
25 P.C., dated December 19, 2015, for the Somers Realty Corporation Phase III
26 subdivision application as required for approval of a Stormwater Management
27 and Erosion and Sediment Control Permit as described in Chapter 93 of the
28 *Code of the Town of Somers*; for which an application fee has already been paid;
29 and

30

31 **WHEREAS**, the subject application is located within the Amawalk Reservoir
32 Watershed which is located in the New York City East-of-Hudson Croton
33 Watershed, which in accordance to Section 18-39 of the *Rules and Regulations*
34 *for the Protection from Contamination, Degradation, and Pollution of the New*
35 *York City Water Supply and Its Sources*, requires SWPPP approval by NYCDEP;
36 and

37

38 **WHEREAS**, required SWPPP approval from NYCDEP has not yet been obtained
39 but the Applicant has acknowledged that NYCDEP approval will be required prior
40 to Town acceptance of the final SWPPP and signing of the site plan and has
41 further acknowledged that in the event that the conditions of SWPPP approval by
42 the NYCDEP cause any modification in the design of the proposed stormwater
43 management plan or the site plan, the Planning Board shall have the authority to
44 require the submission of an application for amended site plan approval as

1 deemed necessary in the judgment of the Planning Board to ensure that potential
2 impacts associated with stormwater drainage and/or impacts on surface or
3 groundwater resources are adequately mitigated to the maximum extent
4 practicable as part of an application for amended site plan approval; and
5

6 **WHEREAS**, based upon site information provided by the Applicant for the
7 Somers Realty Corp. Phase III Subdivision, there are no large quantities of rock
8 located on the AvalonBay Project site that will necessitate the use of blasting and
9 any encountered rock is planned to be excavated through mechanical
10 hammering methods; and
11

12 **WHEREAS**, the Planning Board finds that a proper case exists for requiring that
13 a park or parks be suitably located for playgrounds and other recreational
14 facilities within the Town, upon an evaluation of the present and anticipated
15 future needs for park and recreational facilities in the Town based upon the
16 projected population growth to which this particular site plan will contribute, and
17 that the proposed site plan presents a proper case for requiring a park or parks to
18 be suitably located for playgrounds or other recreational purposes, but that a
19 suitable park or parks of adequate size to meet the requirement cannot be
20 suitably located on such site, after assessing the size and suitability of lands
21 shown on the site plan that could be possible locations for park or recreational
22 facilities, as well as factors including whether there is a need for additional
23 facilities in the immediate neighborhood and the prospective character of the
24 development, and, therefore in lieu thereof a recreation fee shall be paid for the
25 152 new residences to be constructed on the subject site in the amount
26 determined by the Town Board; and
27

28 **WHEREAS**, the Applicant has requested a reduction of the recreation fee per
29 Chapter 55.5 Recreation Fees of the *Code of the Town of Somers*; and
30

31 **WHEREAS**, such fee have been reviewed and approved by the Planning Board,
32 Town Board and Parks and Recreation Board, and have been reduced and were
33 determined to be \$876,450, which shall be paid prior to issuance of a Building
34 Permit; and
35

36 **WHEREAS**, the Planning Board has reviewed and is familiar with the AvalonBay
37 Project and has inspected the site and its surroundings; and
38

39 **WHEREAS**, the Planning Board, on July 8, 2015 confirmed that this site plan
40 application is consistent with the Somers Realty Planned Hamlet Master Plan as
41 modified as part of a separate but associated application by Somers Realty Corp.
42 for Phase III subdivision approval for the remaining lots in the Planned Hamlet
43 consisting of ROW lots for Clayton Blvd. Extension and Town Roads B, C, D and
44 F; and Lot 3A, 3B, 3C, 3D, 4, 5, and 6; and
45

46 **WHEREAS**, the Planning Board adopted a Negative Declaration on, July 8,
47 2015, having circulated such document to all involved and interested agencies,

1 and having thoroughly reviewed the proposed action and proposed modification
2 to the Planned Hamlet Master Plan and compared the potential impacts of the
3 AvalonBay Project with those identified in the Environmental Findings of
4 February 10, 2009, determined that the proposed AvalonBay Project would have
5 no greater impact on the environment than those impacts originally identified and
6 mitigated in the Environmental Findings, and that there will be no significant
7 adverse impact on the environment or need for additional or different mitigation;
8 and
9

10 **WHEREAS**, the Planning Board has carefully considered all of the comments
11 raised by the public and other interested agencies, organizations and officials,
12 including those presented at meetings of the Board as well as those submitted
13 separately in writing; and
14

15 **WHEREAS**, this conditional site plan approval is contingent on the filing of Final
16 Subdivision Plat for the Somers Realty Corp. Phase III subdivision; and
17

18 **NOW, THEREFORE, BE IT RESOLVED** that the foregoing WHEREAS clauses
19 are incorporated herein by reference and are fully adopted as part of this
20 approval; and
21

22 **BE IT FURTHER RESOLVED**, that the applications for **conditional site plan**
23 **approval, steep slopes protection permit (§148 of the Code of the Town of**
24 **Somers), tree removal permit (§156 of the Code of the Town of Somers)**
25 **(previously approved as Permit No. T2016-07), stormwater management**
26 **and erosion and sediment control permit (§93 of the Code of the Town of**
27 **Somers) and the approval of the SWPPP in accordance with §93-5(B) of the**
28 **Code of the Town of Somers), submitted by AvalonBay Communities Inc.**
29 **for AvalonBay Somers as shown and described by the materials enumerated**
30 **herein, ARE HEREBY CONDITIONALLY GRANTED** in accordance with Section
31 274-a of the New York State Town Law SUBJECT TO the following modifications
32 and conditions being fulfilled:
33

34 **Conditions Required Prior to Signing of Site Plan**
35

- 36 1) All conditions necessary to be addressed to allow for signature of the
37 Somers Realty Corp. Phase III final subdivision plat are satisfied.
38
39 2) Outstanding items enumerated in the Town Consulting Engineer's March 4,
40 2016 memorandum shall be completed by the Applicant and approved by the
41 Town Consulting Engineer prior to the Chairman's signing of the site plan,
42 including the following conditions:
43
44 i. The Applicant must provide the final comprehensive SWPPP
45 prepared in conjunction with the Somers Realty Corp. Phase III

- 1 subdivision that addresses all outstanding technical comments
2 of the Town Consulting Engineer.
- 3 ii. Provide updated information to address outstanding engineering
4 comments related to the proposed rainwater cisterns.
- 5 iii. The Applicant shall address remaining technical comments
6 related to the design of proposed water main and sanitary sewer
7 infrastructure.
- 8 iv. Post construction maintenance and inspection provisions for
9 proposed site stormwater practices must be incorporated into
10 the revised Stormwater Maintenance Agreement for review and
11 approval recommendation by the Town Consulting Engineer
12 and Town Attorney.
- 13 v. The Applicant in conjunction with Somers Realty Corp. shall
14 obtain approval of the final SWPPP from the NYCDEP and
15 provide documentation of such approval to the Town of Somers.
- 16 3) The Applicant shall pay the associated Recreation Fees to the Town of
17 Somers in the total amount of \$876,450 reflecting a reduction in standard
18 fees based on the addition of fire walls to the attic spaces and ownership,
19 maintenance and accessibility of the Town Green to all Somers residents.
20
- 21 4) The Applicant shall reimburse the Town for any outstanding review fees, as
22 applicable, consistent with §133-2 of the *Code of the Town of Somers* as well
23 as State and local environmental quality review laws.
24
- 25 5) The Applicant must provide documentation of having received approval of
26 the proposed water main extension and sanitary sewer extension from the
27 Westchester County Department of Health.
28
- 29 6) The Applicant shall demonstrate approval from the NYCDEP for the
30 proposed private sanitary sewer main extension and service connection.
- 31 7) Easement agreements for the proposed sanitary sewer main extension
32 intended to serve proposed Lot 6 crossing Lot 3A must be reviewed and
33 accepted by the Town Consulting Engineer and Town Attorney. Final
34 easement agreements must be recorded in the Westchester County Clerk's
35 Office.
- 36 8) Pursuant to an agreement to be recorded, Avalon shall be responsible for
37 constructing its 28 landbanked parking spaces at such time as they are
38 determined to be required by the Planning Board.
- 39 9) AvalonBay shall enter into an agreement with the Town of Somers
40 designating permanent operation and maintenance responsibilities for the
41 water main identified on the site plan to AvalonBay. Such agreement is
42 required because, although the new water main is identified as a public main

1 on the plan, AvalonBay shall be responsible for its construction, operation
2 and maintenance. The draft agreement shall be reviewed by the Town Water
3 & Sewer Superintendent in consultation with the Consulting Town Engineer
4 and Town Attorney and a final agreement shall be executed prior to signing
5 of the site plan. The final executed agreement shall be recorded in the
6 Office of the Westchester County Clerk with documentation of such record
7 provided to the Town of Somers prior to issuance of the first certificate of
8 occupancy for the newly constructed dwellings.

9
10 **On-going Conditions Required After Signing of Site Plan**

- 11
12 1) Parking spaces identified on Town Roads A, B, C and D shall be subject to
13 and comply with the regulations of Chapter 158 Vehicles and Traffic of the
14 Code of the Town of Somers whereby no vehicle shall be parked, left
15 standing or abandoned upon a Town highway (as defined in the NYS Vehicle
16 and Traffic Law) within the Town of Somers at any time during a snowstorm,
17 flood, fire or other public emergency or when snow removal or ice control
18 operations are in progress in those areas affected by any of the foregoing. To
19 ensure compliance with such law, Avalon shall erect signs on the above Town
20 roads indicating "No Parking During Snowstorms/Snow Removal - Subject to
21 \$50 fine". Such signs shall be posted only during the period from December
22 1st to March 15th.
- 23
24 2) The Applicant shall obtain coverage for the AvalonBay Project under the
25 NYSDEC General Permit No. GP-0-15-002 with a copy of the MS4
26 Acceptance form executed by the Consulting Town Engineer in accordance
27 with the Town's MS4 manual, and final SWPPP provided to the Town Clerk
28 prior to issuance of a Building Permit. The Applicant shall implement
29 construction activities in accordance with the approved SWPPP and the
30 requirements of GP-0-15-002.
- 31
32 3) Prior to issuance of Town environmental permits, an engineering inspection
33 fee for the site plan shall be paid by check made payable to the Town of
34 Somers in accordance with the Fee Schedule adopted by the Town Board.
35 The amount of such fee shall be set after submission by the Applicant of
36 estimated costs for required improvements, as identified by the Town
37 Consulting Engineer and Principal Engineering Technician.
- 38
39 4) Appropriate erosion control measures satisfactory to the Principal
40 Engineering Technician shall be installed prior to starting the construction and
41 maintained during the construction period, in accordance with the New York
42 State Standards and Specifications for Erosion and Sediment Control, dated
43 August 2005, and the New York State Stormwater Management Design
44 Manual, dated January 2015 (including all updates/or revisions).
- 45
46 5) Construction activity, with the exception of rock removal shall be limited to
47 Monday through Saturday 7AM to 6PM. Rock removal shall be limited to

1 Monday through Friday 8AM to 6PM. No construction activity shall occur on
2 Sundays or legal New York State holidays as specified by §144-7D. (13) of
3 the *Code of the Town of Somers*.

4
5 6) The Somers Engineering Department shall be notified (914-277-5366) prior to
6 the beginning of any work on the site and also upon completion of the
7 approved work.

8
9 7) No more than 5 acres of area are to be disturbed and left exposed at one
10 time.

11
12 8) Field changes that do not change the intent of the design or are not
13 significant, if required, may be approved by the Department Engineering
14 Technician and the Town Consulting Engineer prior to implementation.
15 Significant field changes or those that deviate from the intent of the design as
16 approved by that Planning Board must be approved by the Planning Board.

17
18 9) In the event that unforeseen volumes of rock are encountered during site
19 excavation that warrant the use of blasting to be considered then such
20 blasting operations shall be undertaken in accordance with the terms of
21 Master Plan Findings Statement Condition No. 18 that includes but is not
22 limited to preparation of a blasting schedule, implementation of protective
23 measures and notification of municipal officials and neighboring residents
24 within required distance.

25
26 10) Storage of winter deicing materials onsite shall be prohibited unless such
27 materials are planned for storage in proper containment units that are
28 approved by the Planning Board.

29
30 11) Somers Realty Corp. shall provide Avalon with an easement for construction
31 and maintenance of the sidewalks in the public right-of ways and Avalon shall
32 be responsible for the construction and maintenance of the sidewalks. Upon
33 dedication of the roads to the Town, Avalon shall remain responsible for the
34 maintenance of the sidewalks pursuant to Town Code Chapter 142.

35
36 12) The Applicant must file final stormwater management easement agreements
37 reserved for construction of future stormwater management practices
38 necessary to address attenuation requirements resulting from potential future
39 extension of Reynolds Drive, Halstead Street and development of Lot 6, prior
40 to issuance of certificate of occupancy.

41
42 13) Prior to issuance of a Building Permit a performance surety shall be posted in
43 conjunction with the Somers Realty Corp. Phase III subdivision based upon
44 the cost to implement soil erosion and sedimentation control measures on the
45 site and restore site stabilization during the course of construction.

46

1 14) Prior to the issuance of a Building Permit, a restoration surety shall be posted
2 in conjunction with the Somers Realty Corp. Phase III subdivision based upon
3 the cost to restore traveled portions of completed Clayton Boulevard during
4 construction of the AvalonBay Project.

5
6 15) The Applicant shall be responsible for contracting with a private carrier to
7 collect residential solid waste.

8
9 16) Prior to the issuance of a Building Permit, the Applicant shall provide
10 structural design calculations for proposed retaining walls greater than four
11 feet in height that are signed and sealed by a licensed professional engineer.

12
13 17) The Applicant shall provide 23 affordable housing units of which 10 will be
14 provided in accordance with the requirements of Westchester County's Fair
15 and Affordable Housing regulation and the other 13 shall be provided in
16 accordance with the provisions of the Town of Somers Affordable Housing
17 law as per Article XIA of the Somers Zoning Law.

18
19 18) The conditions of the Resolution approved by the Architectural Review Board
20 on April 22, 2015 such that each individual building shall have a combination
21 of two different siding colors, such color combination as depicted on Drawing
22 Number A400 Titled: Exterior Color Scheme Coordination Site Plan, Dated
23 8/6/15 and shown and detailed on Drawing Number M1.00 Titled: Material
24 and Color Selections, dated 9/23/15.

25
26 19) Constructed retaining walls greater than four feet in height shall be inspected
27 by a licensed professional engineer to certify through report to the Town
28 Building Inspector and Town Consulting Engineer that the wall construction is
29 consistent with the submitted wall structural design details and calculations
30 prior to issuance of certificate of occupancy.

31
32 20) Following the substantial completion of all construction activity, the Applicant
33 will be required to submit an as-built survey of all constructed site structures
34 and utilities, consistent with the requirements of §144-7 of the Code of the
35 Town of Somers prior to issuance of certificate of occupancy.

36
37 **BE IT FURTHER RESOLVED** that the granting of site plan approval is also
38 subject to compliance with the following condition:

39
40 1) This Resolution is made final and granted on March 23, 2016 but does not go
41 into effect until such time as the Applicant shall provide documentation that
42 the Somers Realty Corp. Phase III final subdivision plat, which includes the
43 newly created ROW Lots for Clayton Blvd. Extension and Town Roads B, C,
44 D and F, and Lots 3A, 3B, 3C, 3D, 4, 5, and 6, from prior created Lot 3, is
45 signed and filed at the Westchester County Clerk's Office.

46

1 **BE IT FURTHER RESOLVED**, that upon determination of compliance with the
2 foregoing conditions, including the conditions of the final approval for the Somers
3 Realty Corp. Phase III subdivision, the Planning Board Chairman is hereby
4 authorized to endorse this upon all maps and drawings constituting the site plan.
5 The Applicant shall provide six (6) prints of each map and drawing to the
6 Planning Board Secretary. No construction or site work is authorized until the
7 site plan has been signed by the Chairman and the required copies delivered.

8
9 In accordance with §170-114.H, "Time for Signature of Site Plan", and §170-
10 114.K, "Extension", of the *Code of the Town of Somers*, failure to comply with the
11 above shall result in the expiration of this approval on March 23, 2017, unless an
12 extension of this time period is requested prior to the expiration date and
13 approved by the Planning Board.

14
15 Site plan approval and its continued validity are subject to all requirements of
16 Section 170-114, "Site Plan Approval", and Chapter 144, "Site Plan Review", of
17 the *Code of the Town of Somers*. Approval shall be deemed null and void one
18 (1) year from the date of signing of the site plan unless a Building Permit in
19 compliance with the above shall have been obtained and construction
20 progressed as required by §170-114.I, "Time to Obtain Permit and Complete
21 Construction", of the *Code of the Town of Somers*.

22
23 In accordance with §170-114.M(2) of the *Code of the Town of Somers*, before
24 the completion of the improvements shall be approved and the Certificate of
25 Occupancy issued, the Applicant shall submit an as-built plan to be approved by
26 the Town Consulting Engineer.

27
28 The validity of any Certificate of Occupancy shall be subject to continued
29 conformance with the approved site plan.

30
31 This resolution shall have an effective date of

32
33 **BY ORDER OF THE PLANNING BOARD**
34 **OF THE TOWN OF SOMERS**

35
36
37
38
39 _____
40 **John Currie, Chairman**

_____ **Date**

41 **CERTIFICATION**

42
43 I hereby certify that this is a true and correct copy of Resolution #2016-02
44 adopted by the Town of Somers Planning Board granting of conditional site plan
45 approval, steep slopes protection permit, tree removal permit (prior approved),
46 and stormwater management and erosion and sediment control permit to

1 AvalonBay Communities Inc. for AvalonBay Somers at a special meeting held on
2 March 23, 2016.

3
4
5
6
7
8

Syrette Dym, AICP
Director of Planning

Date

DRAFT

PLANNING AND ENGINEERING DEPARTMENTS

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Fax
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WESTCHESTER COUNTY, N.Y.

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Syrette Dym, AICP
Director of Planning
sdym@somersny.com

MEMORANDUM

TO: Town of Somers Planning Board
FROM: Syrette Dym, Director of Planning
DATE: March 17, 2016
RE: Application for Additional Signage – Somers Commons Shopping Center (4.20-1-11)

Based on comments received at the Planning Board meeting of January 13, 2016, the Applicant submitted the following:

- Response letter of February 24, 2016 from Insite Engineering
- Amended Site Plan Set (2sheets) last revised February 24, 2016
- Drawing C-1, Approved Site Plan Comparison Plan, dated February 24, 2016
- Cost Estimate for Determining Clayton Boulevard Surety

Comments Addressed in Memorandum of January 8, 2016 From Director of Planning

Locations of Signs and Site Easements

The requirements of Section 170-35 of the Zoning Code have been adequately addressed. Drawing D-1 - Enlarged Amended Site Plans & Detail Sheet, indicates that there is adequate unobstructed site distance for vehicles traveling east on Route 6 given the proposed location of Sign#1 at the Route 6 Clayton Boulevard entrance. Drawing D--1 also shows adequate unobstructed sight distance for the proposed Route 118 entrance Sign #2 between the entrance and the Route 6 intersection. This site exit is right turn only travelling south on Route 118.

Revised Site Plan

The request of the Planning Board and Director of Planning regarding identification of the changes that have taken place on the site in comparison with the originally approved site plan have been met by submission of the Approved Site Plan Comparison Plan Drawing CP-1 and the Overall Amended Site Plan Drawing OP-1. The differences in the as built condition from the originally approved plan are reflected in General Note 5 on the Comparison Plan and General Note 4 on the Amended Site Plan.

Looking at the comparison plan, the major adjustments to the site plan would appear to be the following:

- Buildings 4A and 4B were constructed as standalone buildings but were originally conceived as one angled building
- The location of proposed building 3 was flipped
- Beyond the slight shifting of parking spaces it appears that some parking spaces have been eliminated including:
 - 10 spaces south of the Home Goods and Goodwill buildings
 - Elimination of a row of about 22 spaces north of Building 5
 - Elimination of about 17 and eight parking spaces to the south of Buildings 7 and 6, respectively, with replacement by traffic islands
 - Shifting of parking spaces around Building 3
 - Addition of about 20 spaces north of Building 7 and west of Building 6.
 -

With provision of these two site plans for filing in the Department of Planning & Engineering that identify these plan changes and the proposed location of the two additional signs, I would recommend that the applicant has adequately updated the site plan and suggest that the Planning Board consider waiving the requirements of Section 144-7 of the Code of the Town of Somers.

SEQR

Given that this is a Type II action, no further SEQR action is required. .

Z:\PE\Site plan files\Baldwin Place\Somers Commons Signs\Town Comments\Planner Comments 03-17-16.docx

STEPHENS, BARONI, REILLY & LEWIS, LLP

ATTORNEYS AND COUNSELORS AT LAW

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CROSS RIVER, NEW YORK 10518

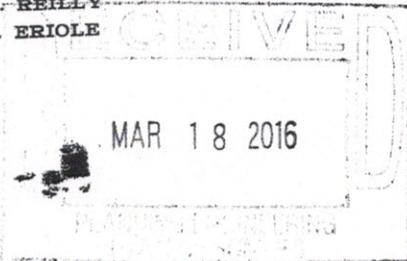
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March 17, 2016

To: Chairman John Currie & Members of the Planning Board

From: Roland A. Baroni, Jr.

Re: Granite Pointe - Interaction with The Watershed Inspector General

Since Mid-February, we have been engaged in discussions with Philip Bein, the Watershed Inspector General (WIG). It is the WIG's position that the Planning Board violated the State Environmental Quality Review Act by failing to ensure compliance with Paragraph IV.3.f of the Planning Board's October 2014 Findings Statement (copy attached).

It is clear from the Record that the applicant did not prepare and file an updated SWPPP consistent with the guidance provided by the WIG at the time it submitted its application for Final Subdivision Plat Approval. There is a note in the file indicating the applicant's engineer would do so but this note has since been interpreted to refer to the SWPPP for the cleanup and not for the Subdivision.

Faced with the threat of imminent litigation by the WIG, as the WIG believed the statute of limitations was set to expire, Counsel for the applicant and I agreed to a Tolling Agreement so that the Planning Board could have the opportunity to provide guidance on this matter. A copy of the Tolling Agreement is attached. This agreement has been further extended to the end of March, and a copy of this extension is also attached.

The WIG did provide Comments on the last revised Subdivision SWPPP on February 24, 2016, and its Comments are substantive. A copy of the Comments is attached.

Chairman John Currie & Members of the Planning Board

March 17, 2016

Page 2

The applicant has not re-drafted the Plan to address the comments for two reasons:

1. The applicant and Planning Board are engaged in the defense of an Article 78 Proceeding, the outcome of which is unknown at the present time.

2. The applicant continues to wait for comments from NYCDEP so that its revision can address the comments of both the WIG and NYCDEP in one document submission.

It is believed that what the WIG is looking for at the present time is an affirmation from the Planning Board and its staff consultants that the Subdivision SWPPP accepted by the Planning Board will be consistent with the WIG comments. To this point, Joe Barbagallo initiated a conference call yesterday with NYCDEP representatives and WIG representatives in furtherance of the objective of having all regulatory agencies work in unison.

Given the time delay caused by factors 1 and 2 above, it may be that the applicant and the Planning Board may have to enter into a Tolling Agreement of undetermined length so that the WIG's litigation position is not compromised by the time delays and the applicant's reluctance to move forward with a revised SWPPP until the extant litigation reaches a final adjudication.

Hence, I am seeking both an affirmation from the Planning Board of its continuing offer to cooperate with the WIG in its review of a revised SWPPP for this Subdivision and, secondly, your authorization to enter into a Tolling Agreement with the applicant and WIG, the length of which will be determined by the final adjudication of the extant litigation and resolution of the apparent delay in receiving NYCDEP comments on the last revised Subdivision SWPPP.

I am not available to attend your meeting on March 23, 2016, but feel free to contact me with any comments. Gerry Reilly will be present at your meeting, and I will brief him on this matter.



Roland A. Baroni, Jr.

RABjr/wf

Enc.

cc: Syrette Dym
Joseph Barbagallo
Linda Whitehead

OCTOBER 2014 FINDINGS STATEMENT
Paragraph IV.3.f

Granite Pointe Subdivision
Lead Agency's SEORA Findings Statement

Inspector General. The environmental impacts associated with stormwater will be mitigated to the maximum extent practicable. No permits will be issued until the remediation SWPPP has addressed these requests and has been approved by the NYC DEP.

- f. Consistent with the guidance provided by the WIG, the Applicant shall be required to prepare an updated Stormwater Pollution Prevention Plan (SWPPP) for the proposed subdivision development at the time of Application for Final Subdivision Plat approval. The SWPPP will be required to conform with the then current requirements of the NYSDEC "Stormwater Management Design Manual", latest edition, the NYSDEC "New York Standards and Specifications for Erosion & Sediment Control", latest edition, the NYC DEP "Rules & Regulations for the Protection from Contamination, Degradation and Pollution of the New York City Water Supply and its Sources", and the Town Code. In addition, the SWPPP must include a Pollutant Loading Analysis that quantifies and compares site pre-development phosphorous effluent loading to the post development condition, consistent with the then current NYSDEC approved methodology. The Pollutant Loading Analysis will be reviewed by the Consulting Town Engineer in consultation with the WIG prior to final acceptance of the Subdivision SWPPP and issuance of any permits for the project.

B. Evaluation of Groundwater/Surface Water

1. Impacts Identified

- a. Soil contamination impacts were detected from 0 to 4 feet below grade, with the majority within 2 feet below grade. Detectable soil impacts, which have existed for approximately 40 years, have been limited to at least 6 feet above the water table.
- b. Lead and manganese above NYSDEC Groundwater Quality Standards were found in samples collected along the eastern boundary of the area

TOLLING AGREEMENT

TOLLING AGREEMENT CONCERNING STORMWATER POLLUTION PREVENTION AT THE GRANITE POINTE SITE

This Agreement (“Agreement”) is entered into as of February 16, 2016 between the State of New York (the “State”), the Planning Board of the Town of Somers (Planning Board), and Suelain Realty, Inc. (Suelain), owner of the Granite Pointe site that is located near, and within the watershed of, New York City’s Amawalk Reservoir in Somers, New York (the Site).

WHEREAS:

1. Since 2006, the State through its Watershed Inspector General (WIG) has been actively engaged in efforts to review and comment on plans relating to the Site for the purpose of protecting the Amawalk Reservoir (Reservoir) from groundwater and stormwater pollution.
2. The plans of concern to the WIG address cleanup of lead contaminated soil at the Site, restoration of areas disturbed by the cleanup, preventing stormwater pollution discharges to the Reservoir from the cleanup work, and preventing stormwater pollution discharges associated with the construction and development by Suelain of a residential subdivision at the Site (Subdivision).
3. The State has investigated whether it has claims against the Planning Board and/or Suelain (Potential Claims) for violating statutes, regulations, or common law relating to the plans discussed above or to the WIG’s efforts to review and comment on them.
4. The State believes that the Planning Board has violated the State Environmental Quality Review Act by failing to ensure compliance with paragraph IV.3.f. of the Planning Board’s October 2014 findings statement. The State has requested that the Planning Board revise the Granite Pointe subdivision stormwater plan so that it is consistent with the WIG’s guidance, all of which revisions shall also be subject to approval by the New York City Department of Environmental Protection.
5. The Planning Board and Suelain deny that SEQRA has been violated.
6. The parties enter into this Tolling Agreement in a good faith effort to resolve the State’s Potential Claims.

Accordingly, it is agreed as follows:

1. If the State commences any legal action or proceeding asserting any Potential Claim against the Planning Board and/or Suelain, the applicable limitations period shall be tolled as to such Potential Claim for the period beginning on February 16, 2016, and continuing through March 16, 2016 (Tolling Period).

2. In the event that the State asserts any Potential Claim against the Planning Board and/or Suelain, they each agree not to assert or rely on the Tolling Period as a legal, equitable or other defense to such Potential Claim.
3. Nothing in this Agreement shall be construed as precluding the Planning Board or Suelain from asserting a defense, response or claim of untimeliness as to any Potential Claim brought by the State; provided they shall not, in asserting such a defense, response or claim, rely on the passage of time comprising the Tolling Period. Further, the execution of this Tolling Agreement shall not prejudice any party's position with respect to any other defense, response or claim.
4. In the event a notice or other paper shall be necessary, such service shall be made by email and first class mail to the undersigned or their designees.
5. This Tolling Agreement expires on March 16, 2016, one week after the Planning Board will next meet. Within one day of that meeting, counsel for the Planning Board will inform counsel for the other parties by email whether the Planning Board agrees to the State's request, which is discussed in paragraph 4 of the Whereas clauses above, and whether it will agree to a process intended promptly to address the WIG's concerns regarding stormwater plans relating to the Site.
6. In the meantime, the WIG will provide its comments regarding these stormwater plans to counsel for the Planning Board and Suelain, and the parties' technical staff can engage in informal discussions concerning these comments. Comments will be provided in advance of the March 9, 2016 Planning Board meeting.
7. This Tolling Agreement may not be extended, modified or altered except in writing signed by the parties. This agreement may be executed in counterparts by email.
8. The parties agree that this Tolling Agreement, including tolling of the applicable limitations period (and any other legal, equitable or other basis for barring any claim or prosecution based on the passage of time) is knowing and voluntary and in express reliance on the advice of counsel.

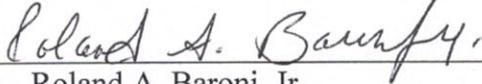
ERIC T. SCHNEIDERMAN
Attorney General of the State of New York

By: _____

Philip Bein
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Albany, New York 12224
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Philip.Bein@ag.ny.gov

Dated:

Stephens, Baroni, Reilly & Lewis LLP



By: Roland A. Baroni, Jr.
175 Main Street, Suite 800
White Plains, NY 10601
914-761-0300

Dated February 16, 2016

Attorneys for the Planning Board

McCullough, Golderger and Staudt, LLP

By: Linda B. Whitehead
1311 Mamaroneck Avenue, Suite 340
White Plains, NY 10605
914-949-6400

Dated

Attorneys for Suelain Realty, Inc.

MODIFIED TOLLING AGREEMENT

**MODIFIED TOLLING AGREEMENT CONCERNING
STORMWATER POLLUTION PREVENTION AT THE
GRANITE POINTE SITE**

This Agreement (Agreement) is entered into as of March 16, 2016, to modify the Tolling Agreement dated February 16, 2016, between the State of New York (the State), the Planning Board of the Town of Somers (Planning Board), and Suelain Realty, Inc. (Suelain), owner of the Granite Pointe site that is located near, and within the watershed of, New York City's Amawalk Reservoir in Somers, New York (the Site).

WHEREAS:

1. Since 2006, the State through its Watershed Inspector General (WIG) has been actively engaged in efforts to review and comment on plans relating to the Site for the purpose of protecting the Amawalk Reservoir (Reservoir) from groundwater and stormwater pollution.
2. The plans of concern to the WIG address cleanup of lead contaminated soil at the Site, restoration of areas disturbed by the cleanup, preventing stormwater pollution discharges to the Reservoir from the cleanup work, and preventing stormwater pollution discharges associated with the construction and development by Suelain of a residential subdivision at the Site (Subdivision).
3. The State has investigated whether it has claims against the Planning Board and/or Suelain (Potential Claims) for violating statutes, regulations, or common law relating to the plans discussed above or to the WIG's efforts to review and comment on them.
4. The State believes that the Planning Board has violated the State Environmental Quality Review Act by failing to ensure compliance with paragraph IV.A.3.F of the Planning Board's October 2014 findings statement. The State has requested that the Planning Board ensure that the Granite Pointe subdivision stormwater plan is revised so that it is consistent with the WIG's guidance. The WIG's guidance will be supported by review and analysis performed by a P.E. or other qualified

professional in the field of stormwater planning. In the event that the New York City Department of Environmental Protection, in applying any of its regulations, affirmatively objects in writing to any aspect of the revised plan, such aspect will be removed from the revised plan.

5. The Planning Board and Suelain deny that SEQRA has been violated.
6. The parties enter into this Modified Tolling Agreement in a good faith effort to resolve the State's Potential Claims.

Accordingly, it is agreed as follows:

1. If the State commences any legal action or proceeding asserting any Potential Claim against the Planning Board and/or Suelain, the applicable limitations period shall be tolled as to such Potential Claim for the period beginning on February 16, 2016, and continuing through March 30, 2016 (Tolling Period).
2. In the event that the State asserts any Potential Claim against the Planning Board and/or Suelain, they each agree not to assert or rely on the Tolling Period as a legal, equitable or other defense to such Potential Claim.
3. Nothing in this Agreement shall be construed as precluding the Planning Board or Suelain from asserting a defense, response or claim of untimeliness as to any Potential Claim brought by the State; provided they shall not, in asserting such a defense, response or claim, rely on the passage of time comprising the Tolling Period. Further, the execution of this Modified Tolling Agreement shall not prejudice any party's position with respect to any other defense, response or claim.
4. In the event a notice or other paper shall be necessary, such service shall be made by email and first class mail to the undersigned or their designees.
5. This Modified Tolling Agreement expires on March 30, 2016. By no later than March 24, 2016, counsel for the Planning Board will inform counsel for the other parties by email whether the Planning Board agrees to the State's request, which is discussed

in paragraph 4 of the Whereas clauses above, and whether it will agree to a process intended promptly to address the WIG's concerns regarding stormwater plans relating to the Site.

6. The WIG provided its comments concerning the stormwater plan for the Subdivision on February 24, 2016, and comments concerning the stormwater plan for the cleanup work on March 15, 2016.
7. This Modified Tolling Agreement may not be extended, modified or altered except in writing signed by the parties. This agreement may be executed in counterparts by email.
8. The parties agree that this Modified Tolling Agreement, including tolling of the applicable limitations period (and any other legal, equitable or other basis for barring any claim or prosecution based on the passage of time) is knowing and voluntary and in express reliance on the advice of counsel.

ERIC T. SCHNEIDERMAN
Attorney General of the
State of New York

By: Philip Bein

Philip Bein

Watershed Inspector
General
Environmental Protection
Bureau The Capitol
Albany, New York 12224
Phone: 518-776-2413

Dated: 3/16/16

Stephens, Baroni, Reilly & Lewis
LLP

By: Roland A. Baroni, Jr.

Roland A. Baroni, Jr.

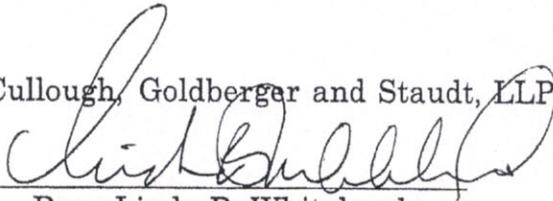
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Dated: 3/16/16

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Dated: 3/16/16 by PB

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COMMENTS OF THE WATERSHED INSPECTOR GENERAL

**COMMENTS OF THE OFFICE OF THE WATERSHED INSPECTOR
GENERAL CONCERNING STORMWATER POLLUTION PREVENTION
AT THE GRANITE POINTE SUBDIVISION SITE**

February 24, 2016

The Office of Watershed Inspector General (WIG or WIG Office)¹ respectfully submits these comments concerning stormwater plans for the Granite Pointe site to the Planning Board of the Town of Somers (Planning Board) and Suelain Realty, Inc. (Suelain).

Two stormwater plans are at issue here: the stormwater pollution prevention plan (SWPPP) for the cleanup of lead-contaminated soil, and the SWPPP for the Granite Pointe residential subdivision project (Subdivision or Project). The Project, sponsored by Suelain, is to be constructed in the Town of Somers, New York. Runoff from this development during the cleanup and thereafter will discharge into New York City's Amawalk Reservoir (Reservoir), a waterbody that fails to meet water quality standards due to excessive discharges of phosphorus. The City's drinking water supply system, of which the Reservoir is a crucial part, has historically provided drinking water to almost one million New Yorkers each day.

As discussed below and in the attached Technical Comments, dated February 24, 2016, by Donald Lake, P.E., WIG's consultant, our office concludes as follows: (1) the WIG's previous comments regarding deficiencies in the SWPPP for the cleanup at the site (Site Cleanup SWPPP) have not been satisfactorily resolved, and (2) the WIG's review of the SWPPP for construction and development of the Granite Pointe residential subdivision (Subdivision SWPPP), discussed in detail in the Technical Comments, has disclosed significant deficiencies and violations of applicable regulations and guidelines that need to be corrected.

Unless revisions are made to the two SWPPPs, the cleanup and development of the Granite Pointe site will likely result in increased discharges of lead, phosphorus, and other pollutants to the Amawalk Reservoir in violation of applicable laws, regulations and guidelines.

¹ The position of WIG was established by the New York City Watershed Memorandum of Agreement and implemented through successive Executive Orders of four governors, most recently pursuant to 9 NYCRR § 8.2, "to enhance current efforts to protect the New York City drinking water supply from activities that have the potential to adversely affect the New York City Watershed reservoirs and tributaries." See 9 NYCRR §§ 5.86, 6.5, 8.2. The WIG conducts investigations, brings lawsuits, and recommends legislative, regulatory and management practice changes to protect the Watershed. 9 NYCRR §§ 5.86, 6.5, 8.2.

I. Background

Granite Pointe is a promontory jutting into the Reservoir. A strip of buffer land on Granite Pointe, located directly west and adjacent to the Amawalk Reservoir, is owned by the New York City Department of Environmental Protection (DEP). The Project is to be constructed on land located next to the DEP buffer land, just 200 feet from the Reservoir (the Site). The Site is almost 29 acres in size. The Subdivision will have 23 lots for single family homes, with 2,105 feet of new town road looping on and off Tomahawk Street. The Project will increase the amount of impervious area by more than 3 acres. Each lot will receive public water and have its own subsurface sewage disposal system.

From 1938 to 1968, the Site had been used as a trap and target shooting range. As a result, lead-contaminated soil from errant lead bullets is present at the Site and on the adjoining DEP parcel. The State and DEP plan to remove the lead-contaminated soil on DEP land. And Suelain plans to remove such soil on the Site under the Brownfield Cleanup Program administered by the New York State Department of Environmental Conservation (DEC). Construction of the Project cannot occur until the cleanup of contaminated soil is complete.

All stormwater runoff from Granite Pointe lies within the watershed of the Amawalk Reservoir. That means that all runoff from the site will drain to the Reservoir.. The Croton system of which the Amawalk is a part historically has provided water to nearly one million New Yorkers each day and, when necessary, can supply as much as thirty percent of the water used by New York City and other communities. *Friends of Van Cortlandt Park v. City of N.Y.*, 95 N.Y. 623, 626 (2001). Water from the Amawalk Reservoir feeds the City's New Croton Reservoir, is filtered and disinfected with chlorine, and then is distributed to consumers through a system of pipes.

Pursuant to § 17-0301 of the New York Environmental Conservation Law (ECL), the DEC has promulgated water quality standards for the Amawalk Reservoir, designating it a Class A water body. 6 NYCRR § 864.6. Class A waters are intended to be used as "a source of water supply for drinking, culinary or food processing purposes; primary and secondary contact recreation; and fishing." 6 NYCRR § 701.6(a). DEC water quality standards prohibit discharges of pollutants into the Reservoir "in amounts that will result in growths of algae, weeds and slimes that will impair the waters for their best usages." 6 NYCRR § 703.2. These standards also prohibit discharges into the reservoir of "[t]aste-, color-, and odor-producing, toxic and other deleterious substances . . . in amounts that will adversely affect the taste, color or odor thereof, or impair the waters for their best usages." *Id.*

The Amawalk, like other New York City reservoirs within the Croton watershed, is "eutrophic," meaning that it suffers from excessive algae in the growing seasons because of

discharges of the pollutant phosphorus.² Excessive algae growth impairs the taste and odor of reservoir water and depletes levels of dissolved oxygen in the reservoir's bottom waters, impairing aquatic life and releasing metals into the water. Eutrophic conditions also result in increased levels of organic carbon in the water.

The construction and development of land is a major source of phosphorus and other pollutants that discharge in stormwater runoff into the Croton Watershed.. "Stormwater pollution is one of the most significant sources of water pollution in the nation." *Environmental Def. Ctr., Inc. v. EPA*, 344 F.3d 832, 840 (9th Cir. 2003). Discharges of stormwater from construction sites include sediment, a pollutant that also serves as a carrier of other pollutants, such as phosphorus, pathogens, metals (including lead, a potent neurotoxin), and organic compounds.

As a result of phosphorus pollution, the Reservoir fails to comply with water quality guidelines and standards established by DEC pursuant to both State law and the federal Clean Water Act, 33 U.S.C. § 1251 *et seq.* The watershed for the Reservoir is a "phosphorus restricted basin" because phosphorus concentrations exceed DEC guidelines, and are subject to additional federally mandated pollution controls called Total Maximum Daily Loads. *See* 10 NYCRR §§ 128-1.6(a)(80), 4.1(c); 33 U.S.C. § 1313(d).

Any additional phosphorus discharged in runoff into the Reservoir during the cleanup or construction and development of the Subdivision will contribute to existing violations of water quality standards for the Reservoir, in violation of the federal Clean Water Act.

Under the Clean Water Act, a National Pollutant Discharge Elimination System (NPDES) permit authorizing discharges of a pollutant to a waterbody (such as the Reservoir) may not be issued to a "new source" (*e.g.*, cleanup activities at the Site or the Project, during and after its construction and development) or "new discharger" (*e.g.*, Suelain), if the waterbody fails to meet water quality standards concerning the pollutant, and the discharges "will contribute to the violation of water quality standards." 40 C.F.R. § 122.4(i); *Friends of Pinto Creek v. EPA*, 504 F.3d 1007, 1011-12 (9th Cir. 2007); *see* 40 C.F.R. §§ 122.4(a), (d).

Article 17, title 8, of the Environmental Conservation Law, New York's Water Pollution Control Law, implements the NPDES program in New York, which is referred to as the "State Pollutant Discharge Elimination System" (SPDES) program. SPDES permits for stormwater discharges from construction activity issued by DEC under New York law, like NPDES regulations for such discharges under federal law, do not authorize "discharges which either cause or contribute to a violation of water quality standards." *See* DEC SPDES General Permit for Stormwater Activity from Construction Activity, Permit No. GP-0-15-002 (effective January 29, 2015) at Part I.F.5.

² New York City Department of Environmental Protection, "Proposed Phase II Phosphorus TMDL Calculations for Amawalk Reservoir," March 1999 ("DEP Amawalk Report"), at 2-3, 14.

II. WIG's Unresolved Review of Plans Relating to the Cleanup at the Site

It is essential that stormwater plans for cleanup activities at both the Site and the DEP buffer land comply with State regulatory standards and guidelines, in order to prevent lead, phosphorus, and other pollutants from being discharged into the Reservoir.

Our office has been involved with the Project since 2006. On January 24, 2007, we supplied comments to the Planning Board on the Draft Supplemental Environmental Statement (SEIS) concerning the cleanup of lead-contaminated soil at the Site.

On October 22, 2013, WIG submitted comments to the Board on the Final SEIS, addressing the 2008 draft Site Cleanup SWPPP for remediating lead-contaminated soil at the Site. In addition, the comments noted the absence of a draft Subdivision SWPPP to address construction and development of the Subdivision, which is to occur after the Cleanup is complete. On September 5, 2014, we submitted comments to the Board on revisions to the draft Site Cleanup SWPPP dated August 2014. After receiving a later revised version of that draft, on May 21, 2015 the WIG provided comments to the Board's Consulting Town Engineer and to Suelain's engineer, pinpointing important issues previously raised in our September 5, 2014 comments that had still not been addressed. The engineer for Suelain, in an email in which he copied in the Town Consulting Engineer, stated that he would not provide a revised Site Cleanup SWPPP to the WIG until later in its development. Accordingly, our concerns regarding that SWPPP remain largely unresolved.

In addition to the WIG's efforts to review stormwater plans for the Site, we have also reviewed the draft SWPPP for the cleanup of lead contamination on the DEP parcel, and submitted comments to DEC and DEP on that draft on February 9, 2015. All of our comments concerning the Cleanup SWPPP for the DEP parcel have been satisfactorily resolved.

III. WIG's Unresolved Review of the SWPPP for Construction and Development of the Granite Pointe Subdivision

The WIG did not receive the Subdivision SWPPP, other than a draft pollutant loading analysis (a small but important part of the SWPPP), until after the Town Planning Board voted to grant final conditional subdivision plat approval for the Project on October 14, 2015. WIG provided its comments on the draft Pollutant Loading Analysis, dated September 30, 2015, to the Town's Consulting Engineer on October 1, 2015. But these comments have not been satisfactorily resolved.

As detailed in the attached technical comments, the Subdivision SWPPP in its current form, is not sufficient to prevent and mitigate increased pollutant discharges to the Amawalk Reservoir during the construction and development process, and thereafter. The SWPPP does not conform to the technical criteria required in the January 29, 2015 NYSDEC General Permit for Stormwater Discharges from Construction Activities (GP-0-015-002) nor to the technical standards set forth in the January 2015 New York State Stormwater Management Design Manual or the August 2005 New York Standard and Specifications for Erosion and Sediment Control.

For example, in contravention of the New York State Stormwater Design Manual, tests for infiltration rates for three proposed infiltration basins have not been performed or reported by the Planning Board or Suelain to the WIG. Without such tests, the effectiveness of these basins in preventing stormwater pollution of the Amawalk Reservoir has not been demonstrated.

The Subdivision SWPPP also assumes that most soils at the Site are within hydrologic soil group C, despite the fact that tests on each building lot indicate that their soils are within hydrologic soil group A. If further testing confirms the predominance of A soils, this would have a major impact on all of the stormwater calculations reported in the plan, affecting stormwater runoff volumes, peak rates of discharge, water quality treatment volumes, and discharges of pollutants into the Amawalk Reservoir. Without further testing and revised calculations, the effectiveness of the SWPPP in preventing stormwater pollution of the Amawalk Reservoir cannot be demonstrated.

In addition, as shown in the Technical Appendix, the loading analyses performed by the WIG's consultant project an increase in phosphorus discharges from the Project. These should be offset by actions of Suelain to implement on-site green infrastructure practices (as proposed by the WIG Office) and/or offsite stormwater retrofits, or to fund such retrofits, within the Amawalk Reservoir Watershed.³

* * * *

The WIG Office appreciates this opportunity to submit these comments concerning prevention of discharges of polluted runoff to the Amawalk Reservoir from the Site.

Respectfully yours,

/s

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³ To offset increased phosphorus loads from the Project, any stormwater retrofit projects would be in addition to (and not substitute for) projects already planned or required to be implemented under the applicable municipal separate storm sewer system permit.

Technical Appendix: Granite Pointe Residential Development

Prepared by Donald W. Lake Jr., P.E., CPESC⁴

February 24, 2016

I. DOCUMENTS REVIEWED

The following documents were reviewed:

- a. Stormwater Pollution Prevention Plan (Subdivision SWPPP) for Granite Pointe, Rev: July 13, 2015, and Pollutant Loading Analysis (PLA), Rev: August 31, 2015 were prepared by Timothy Allen, P.E. of Bibbo Associates, LLP,
- b. Appendices A through O of the July 13, 2015 SWPPP,
- c. HydroCAD program files for the 5 pre-developed sub-areas and the 5 post-developed sub-areas with Stormwater Management Practice (SMP) designs, dated June 18, 2015 and July 10, 2015, and
- d. Engineering Drawings as follows:
 1. Sheet 1 of 10, Subdivision of Property, Donald J. Donnelly, Rev: May 8, 2003
 2. Sheet 2 of 10, IPP, Construction and Integrated Plot Plan, April 10, 2015
 3. Sheet 3 of 10, RP-1, Road Profiles and Details, April 10, 2015
 4. Sheet 4 of 10, D-1, Details, April 10, 2015
 5. Sheet 5 of 10, EC-1, Erosion Control Plan, April 10, 2015
 6. Sheet 6 of 10, EC-2, Erosion Control Details, October 6, 2014
 7. Sheet 7 of 10, SW-1, Stormwater Basins, April 10, 2015
 8. Sheet 8 of 10, SW-2, Stormwater Treatment Details, April 10, 2015
 9. Sheet 9 of 10, WL-1, Water Line Profile & Details, April 10, 2015
 10. Sheet 10 of 10, PH-1 Phasing Plan, April 10, 2015

⁴ A copy of my resume is attached to this Technical Appendix.

My recommendations on the Subdivision SWPPP, including the PLA, are listed and described below with additional supporting data and documentation provided in four technical appendices:

II. STORMWATER MANAGEMENT

1. The Hydrologic Analysis Uses Outdated Rainfall Values and Rainfall Distributions

The stormwater hydrologic model for the project utilizes HydroCAD and has been well constructed. However, the long outdated rainfall values and distributions derived from the National Weather Service Technical Paper 40 rainfall data from 1961 was used, which is no longer valid in New York. The new Northeast Regional Climate Center (NRCC) rainfall data should be used with the HydroCAD model to generate new rainfall distribution curves for the project for different storm frequencies. This data better reflects hydrologic impacts associated with recent climate change.

2. Hydrologic Soil Group Confirmation is Needed

The United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) has grouped soils into the following four distinct hydrologic classes (A, B, C, and D), based on how they usually respond to water.

A: High Infiltration Rate (water “seeps” into the ground quickly)

B: Moderate Infiltration Rate

C: Slow Infiltration Rate

D: Very Slow Infiltration Rate (if the site is “flat”, water is prone to form puddles; if the site is “hilly”, water will likely flow downhill)

(NRCS, National Engineering Handbook – Part 630, Hydrology, Chap. 7, Hydrologic Soil Groups, 2009).

Group A soils are often sandy, whereas Group D soils often have high clay content or a restrictive layer (e.g., bedrock).

The majority of the hydrologic analysis for the project assumed a Hydrologic Soil Group (HSG) “C” for the Paxton soil on site, as presented in the NRCS web soil survey for Putnam and Westchester counties (SWPPP Appendix J). However, the site specific information for the percolation tests that were conducted to locate potential septic system areas on each lot (Sheet 2 of 10, IPP, Construction and Integrated Plot Plan, 4-10-15) and the soil logs shown in Appendix H (Stormwater Management Practices Soil Testing Results), indicate that the onsite Paxton soil should be re-classified as HSG “A”, due to its high permeability characteristics. This HSG classification issue needs to be resolved.

To do so, the Hydrologic Soil Groups (HSGs) at the site need to be further investigated by a soil scientist. If the soil scientist determines that the HSG at the site has been incorrectly classified, the change in HSG from "C" to "A" will have a major impact on all of the stormwater calculations presented in the Subdivision SWPPP. The entire HydroCAD analysis, which utilizes USDA NRCS TR-55 methodology, would then need to be rerun and reanalyzed because the change in HSG affects projected stormwater runoff volumes, peak rates of discharge, water quality treatment volumes, and pollutant discharges. (TR-55 is a watershed hydrology model developed to calculate runoff volumes and provide a simplified routing for storm events through ponds.) My preliminary hydrologic evaluation and results using HSG A soils rather than HSG C soils are described in Appendix A, Hydrologic Analysis.

The current SWPPP, Appendix D, One Year vs. 90th % Runoff Volume Comparison, will also need to be re-analyzed if the HSG for the site is reclassified from a HSG "C" to HSG "A". My calculations show that the stormwater quality runoff volume from the 90th % storm would exceed the runoff from the 1 year 24 hour storm runoff and therefore govern for most sub-areas. This is based on the requirement that a minimum runoff coefficient (Rv) of 0.2 be used to calculate water quality volume for the 90th % method. See my comparisons in Appendix B.

3. Green Infrastructure Practices Have Not Been Fully Evaluated or Implemented

Green infrastructure includes a wide variety of practices to reduce runoff and/or establish natural vegetative features and habitats. Some examples of green infrastructure include: green roofs; trees and tree boxes; pervious pavement; rain gardens; reforestation; soil restoration; and protection and enhancement of floodplains, stream banks and river banks. Although the current (7/13/15) Subdivision SWPPP discusses aspects of Green Infrastructure, the use of rain gardens has been discounted. However, this practice has high merit, especially where HSG "A" and "B" soils may exist on the site (see Comment #2 above). All roof drains should be treated with rain gardens or bio-retention areas to reduce the volume of water that would otherwise need to be treated by standard stormwater management practices. This eliminates the need for untreated concentrated roof runoff to be conveyed through underground pipes to the infiltration or detention basins.

4. Required Infiltration Tests Have Not Been Conducted

HydroCAD is a computer aided design tool used by engineers to model stormwater runoff. Infiltration is a stormwater treatment process designed to capture stormwater runoff and soak it into the ground. Infiltration rate is the rate at which stormwater percolates into the subsoil, measured in inches per hour. The HydroCAD model presented in the current SWPPP uses an infiltration rate of 5.0 inches per hour for the three infiltration basins and an infiltration rate of 1.0 inches per hour for the two underground infiltrators. However, there are no infiltration test results shown in the Subdivision SWPPP to support these values. Infiltration tests must be completed at the infiltration location and interface elevation in accordance with Appendix D of the January 2015 New York State Stormwater Management Design Manual. Infiltration rates are

also important in designing the pretreatment systems for infiltration practices. Without such tests, we do not know whether the infiltration basins will soak up polluted runoff as is required.

Normally, 25% of the water quality volume is used to size pretreatment practices for infiltration rates of 0.5 to 2.0 in/hr. If the infiltration rate is between 2.0 and 5.0 in/hr., that volume needs to be increased to 50% of the water quality volume. When the infiltration rates are very high (i.e. greater than 5.0 in/hr.), then the volume for the design of the pre-treatment system, prior to entering the infiltration system, must equal 100% of the water quality volume. The water quality volume is the stormwater runoff volume required to be treated. This volume is either the runoff volume of the 90th% percentile storm, or the runoff volume from the 1 year 24 hour storm, whichever is larger.

5. Water Quality Swales Have Not Been Properly Designed

Pretreatment refers to techniques employed in stormwater management plans to provide storage or filtering to help trap coarse materials before they enter a standard treatment practice. Stormwater flowing in a swale prior to treatment in an infiltration basin is an example of pretreatment. A swale is a vegetated open drainage channel or depression explicitly designed to detain and promote the filtration of stormwater runoff. A design criterion for water quality swales is that the flow velocity must be 1.0 feet per second (fps) or less (January 2015 New York State Stormwater Management Design Manual, pg. 5-55). As noted in Appendix B, Post-Developed Hydrology Analysis, Swale #1 has a 1 year stormwater quality velocity of 2.7 feet per second (fps), Swale #3 has a 1 year stormwater quality velocity of 1.6 fps and Swale #6 has a 1 year stormwater quality velocity of 1.2 fps. A different water quality storm velocity for a 1 year storm of 0.56 fps is presented on Table B on page 8 of the SWPPP. This inconsistency needs to be addressed.

HydroCAD results for Swales #1 and #6 and likely #3, preclude their use for infiltration basin pre-treatment as well as for runoff reduction (RRv) allowances because their velocities are too great. They will not filter polluted runoff as intended and the suspended fine particles remaining will impair the ability of infiltration basins to do so as well. These swales need to be redesigned to meet the January 2015 New York State Stormwater Management Design Manual criteria or an alternative pre-treatment practice should be applied. The outlets of Swale #1 and Swale #4 and their connection to stormwater quality basin A (SWQB-A), and the outlet of Swale #5 to SWQB-B should be designed to prevent scour and erosion, that would otherwise transport sediment and plug the surface of the infiltration basins.

6. Stormwater Management Practice Design Details are Needed

There is insufficient detail and documentation in the Subdivision SWPPP or the accompanying drawings to evaluate and verify that the proposed stormwater management system is in compliance with the design criteria presented in the January 2015 New York State Stormwater

Management Design Manual. Without design details, the effectiveness of the system in preventing discharges of polluted runoff cannot be demonstrated.

Required details include additional cross-sections of the infiltration practices and the extended detention pond to verify their fit and capacity on the site and to confirm that they can be constructed as designed. The specific locations and vertical elevations for all observation wells for the infiltration practices must be included on the design drawings, as required by Chapter 6 of the January 2015 New York State Stormwater Management Design Manual. Also, a detailed profile needs to be included for each on-lot infiltrator system to illustrate its pre-treatment components, elevations, dimensions and connections.

7. Soil Restoration is Not Included in the Subdivision SWPPP

The Subdivision SWPPP does not discuss soil restoration as part of the project's design. There are soil restoration notes contained on drawing EC-2, Erosion Control Details, but they are limited in description and a plan view is not provided to identify where the work is to be conducted on site. Criteria Table 5.3 entitled "Soil Restoration Requirements" in Chapter 5 of the January 2015 New York State Stormwater Management Design Manual should be included on the construction drawings in its entirety to cover all of the potential construction disturbance activities. **If soil restoration is not included in the SWPPP, all calculations for the stormwater runoff and water quality treatment volume must be redone to account for the expected increased runoff from soils compacted from construction activities.** Without soil restoration, the increase in runoff is likely to result in increased discharges of polluted runoff from the site.

8. Pollutant Loading Analysis (PLA)

The current Subdivision SWPPP, Appendix E, Pollutant Loading Analysis Calculations, contains an outdated analysis from June 2015. I reviewed and commented on an updated PLA prepared by Thomas Shay, Woodard and Curran, dated October 14, 2015, which was an update to a previous PLA submitted by Bibbo Associates, LLP dated August 31, 2015. The WIG completed an updated pollutant load analysis (PLA) on October 29, 2015, using the standard Simple Method. Our results showed an increase in total phosphorus (TP) leaving the site from pre-development conditions of approximately 3.74 pounds. This is a conservative estimate because it assumes that all of the stormwater management problems with the Subdivision SWPPP outlined in Section II of this Technical Appendix are corrected, with the exception of our proposed use of green infrastructure (*see* comments 3 above and 9 below) which, if implemented, could help to mitigate an increase in pollutant loadings.⁵

⁵ USEPA- approved TMDLs for the Amawalk Reservoir require a 7% reduction in phosphorus loads to the reservoir from baseline conditions. If this percent reduction applied to the Project, an additional 1.02 pounds of phosphorus should be offset. Adding this amount to the increased load of 3.74 pounds discussed above, yields a total of 4.8 pounds TP (3.74 + 1.02) which should be reduced or otherwise offset based on Simple Method calculations.

Based on the most recent SWPPP, revised pollutant loading analysis, and potential stormwater issues concerning HSG "A" and "C" soils (*see* Comment #3 above), I recalculated the PLA on January 19, 2016. This analysis used a modified version of the Simple Method which takes into account the hydrologic soil groups on site and their ability to absorb stormwater runoff (Center for Watershed Protection, Technical Memorandum: The Runoff Reduction Method, April 18, 2008). This modification differs from the standard method where the runoff volume is based solely on the percent of impervious cover.

There is some question whether the onsite Paxton soil is an HSG A or and HSG C soil. Onsite percolation tests for the residential wastewater systems showed very high infiltration capability which would classify as a HSG A soil. However, the USDA NRCS soil survey classifies the soil in the HSG C group. For this reason two separate PLA analyses were done.

The results of these analyses show that there is a total phosphorus increase from pre-development conditions ranging from 30% (5.1 pounds for HSG C) to 42% (5.4 pounds for HSG A) in the total phosphorus pollutant load leaving the site after post-development treatment. Again, this is a conservative estimate because it assumes that all of the stormwater management problems with the Subdivision SWPPP described in Section II of this Technical Appendix (other than failure to implement proposed green infrastructure) are corrected. This range results from the potential differences in the hydrologic soil category of the Paxton soil on the site.⁶

9. Homeowner Maintenance of Infiltrators is Often Unreliable

"Post Construction Maintenance of Stormwater Management Plans" described in the Subdivision SWPPP on page 23, and also in Note D of drawing EC-2, Erosion Control Details, states that the homeowner will be responsible for the maintenance of the on-lot subsurface infiltration chambers. This is not practical. It assumes that the homeowner has the expertise to correctly evaluate the condition of the practice, will inspect it as required, and will finance any and all maintenance activities necessary for operation. Poor homeowner maintenance can be expected to increase discharges of polluted runoff from the Site.

The onsite underground chambers should be eliminated in favor of above ground rain gardens or bio-filters. If this cannot be done, the operation and maintenance for this complex underground system should be undertaken by the Town of Somers or another appropriate governmental entity. All swales necessary for stormwater conveyance, runoff reduction, and/or pre-treatment for the stormwater infiltration basins and pond, should be similarly operated and maintained.

⁶ If a 7% reduction of the existing loads applied, this would add 1.2 pounds for HSG C or 0.9 pounds for HSG A. Then, the total offsetting reductions would be 6.3 pounds for both cases, based on calculations under the modified version of the Simple Method. The breakdown of the analyses is contained in Appendix D.

III. Erosion & Sediment Control (ESC) Deficiencies

Problems associated with construction activities, like soil erosion, water pollution, flooding, stream channel damage, decreased ground water storage, slope failures, and damage to adjacent or downstream properties can be successfully minimized by implementing erosion and sediment control measures on construction sites. These measures help prevent soil movement or loss, enhance project aesthetics and eliminate appreciable damage to off-site receiving channels, property and natural resources. The purpose of an erosion and sediment control plan is to define and schedule the control measures that will be used to minimize erosion, detain excess stormwater runoff and prevent offsite sedimentation. The plan should serve as a blueprint for the location, installation and maintenance of stormwater practices to control all anticipated erosion, and prevent sediment and increased runoff from leaving the site.

An erosion and sediment control plan is important on every construction site, but it is especially critical at Granite Pointe because the project boundary is only a couple of hundred feet from the Amawalk reservoir. The submitted E&S portion of the SWPPP for this project does not provide sufficient detail to protect the reservoir from sediment, including lead and phosphorus, from washing off the site and into the reservoir. There are numerous issues and concerns that need to be addressed to complete the comprehensive E&S Plan for this site. Appendix C identifies 18 ESC deficiencies, such as errors and missing details needing correction for the E&S plan for the Project.

Appendix A

Hydrologic Analysis

We received the complete “live” HydroCAD files for the project for both the existing condition and the developed condition. This allowed me to run the HydroCAD model and compare the runoff volumes at each sub-area for the two different hydrologic soil groups. I also determined the differences in peak rates of runoff for all storm events; and, in turn, compared the differences of the changes between (or deltas) for the pre and post conditions.

In order to compare “apples to apples”, the rainfall and rainfall distribution values were not changed, neither were the HSG “D” mapped soils or the “times of concentration” (T_c) for each sub-area. The time of concentration is the time required for water to flow from the most remote point of a watershed to the outlet. However, the Paxton soil values for HSG “C” were changed to HSG “A” to obtain revised Technical Release No. 55 (TR-55) Runoff Curve numbers. Two adjustments were made to the HydroCAD model provided by the developer’s engineers. The first concerned the minimum runoff curve number (RCN) and the second involved the specific type of infiltrator units used on proposed Lots 19 and 29. The minimum composite RCN that TR-55 accepts for a drainage area is 40. So, when a RCN was less than 40, the RCN was increased to 40. This occurred in three of the five existing condition sub-areas. The second adjustment was for the specific infiltrator units used on Lots 19 and 29, which are Cultec R-330XLHD units. My HydroCAD program library does not contain information on the Cultec R-330XLHD infiltrator unit, so I substituted information for the Cultec R-330XL infiltrator unit. Since the unit floor surface areas of the two units are equal, this adjustment does not affect the resulting infiltration discharges, (which are determined using the unit floor surface area and the base soil infiltration rate). All other design configurations used in the HydroCAD model for the proposed stormwater treatment system, such as swale sizes, basin geometry, stage storage volumes, and structural outlet devices, were maintained. No attempt was made to re-design or balance geometry for the infiltration basins or micro-pool extended detention pond. All pre-developed and post-developed sub-areas were maintained as originally set by the designer.

Results

- a. Sub-areas A, B, and D contain only Paxton soil which changed from an HSG “C” to an HSG “A”, and therefore their runoff curve numbers were reduced significantly.
- b. Sub-area C, is approximately 65% Paxton and 35% Ridgebury and thus also decreased, however, the fair amount of HSG “D” soil (Ridgebury) moderated this change.

- c. Sub-area E, is approximately 85% Paxton and 15% Leicester, also a “D” soil. Since this sub-area was not further subdivided into smaller sub-areas like the other four, this “D” soil has little affect compared to the change of Paxton soil from HSC “C” to “A”.
- d. The comparison of the differences or deltas in the runoff volumes (Rv) over the entire site (which includes sub-areas A, B, C, D, and E) for specific rainfall events is as follows:

	<u>Paxton HSG C</u>	<u>Paxton HSG A</u>
Delta Rv 1 year	25,942 cu. ft.	5,967 cu. ft.
Delta Rv 2 year	37,619 cu. ft.	15,587 cu. ft.
Delta Rv 10 year	53,347 cu. ft.	39,129 cu. ft.
Delta Rv 25 year	61,283 cu. ft.	54,236 cu. ft.
Delta Rv 100 year	75,915 cu. ft.	90,028 cu. ft.

The above summed values were determined from the HydroCAD routing by adding the runoff volume for each individual sub-area in the post-developed configuration using the corresponding HSG for Paxton soils. For example, Paxton HSG “C” for the project site was calculated by adding the runoff values from Sub-areas A through E together, which shows an increase in runoff volume between the existing development and the post-development of 25, 942 cubic feet for the 1 year, 24 hour storm (this is also generally used as the water quality volume (WQv) storm). The comparison table for Paxton HSG “A” soil shows runoff volume to be reduced to 5,967 cubic feet.

- e. Similarly, the Paxton HSG “C” comparison for the 100 year, 24 hour storm shows a total runoff volume increase of 75,915 cubic feet, while the Paxton HSG “A” comparison for this storm is 90,028 cubic feet. The HydroCAD routing summaries for Sub-areas B, C, and E, not shown in the above table, each have a larger delta volume than the Paxton HSG “C” soil, for the 100 year storm.

Note: Of the 16 total sub-areas for the post-developed condition, the runoff from Sub-areas A4, B2, B5, and D1 are not collected by the proposed stormwater management practice system.

- f. NYC DEP requires that the water quality volume selected for use in the hydrologic analysis be the larger runoff volume from either the 1 year, 24 hour storm runoff value or the runoff volume from the 90th % storm, as defined in the January 2015 New York State Stormwater Management Design Manual. With the Paxton HSG “C” soil, the 1 year storm runoff was larger than the runoff from the DEC 90th % storm for all sub-areas. However, with the change to an HSG “A” for Paxton soil, the 90th %

- storm is greater than runoff from the 1 year, 24 hour storm in all sub-areas except for C1 and C4; and the summary volume is dramatically reduced (see attached table).
- g. When summing all of the site sub-areas runoff volumes from the HydroCAD routings, the total post-developed site runoff volume for the 100 year storm with Paxton as HSG "C" is 750,533 cubic feet; while with Paxton as an HSG "A" soil the volume is 323,017 cubic feet or 57% less.
 - h. With the change of Paxton soil to HSG "A", the results of my modified HydroCAD routings for all sub-areas, showed no discharge from the site for the 1 year, 24 hour storm event. Also there are greatly reduced peak discharges for all the other storm events; i.e. for sub-area A the 100 year peak discharge was 37.5 cfs for the Paxton HSG "C" but only 9.3 cfs for Paxton HSG "A". This is almost a 75% decrease.

Note: Comparisons of the runoff volumes and peak runoff rates have been evaluated based on the HSG rating of Paxton soil for both the existing and post-developed land use changes. No evaluations have been made regarding the post-developed stormwater treatment system due to an absence of verified infiltration rates for the stormwater quality basin (SWQB) locations and the appropriate water quality volume and pretreatment to be used.

Appendix B

One Year 24 Hour Storm Volumes vs. 90th % Storm Volumes

Basin	1 Year 24 hr. Storm (2.75") HSG "A" (cubic feet)	1 Year 24 hr. Storm (2.75") HSG "C" (cubic feet)	90th % Storm (1.45") (cubic feet)
A			
sub-basin A-1	39	10,371	3,536*
sub-basin A-2	1,380	12,846	4,827
sub-basin A-3	170	11,473	3,690*
sub-basin A-4	0	805	310*
B			
sub-basin B-1	229	15,505	4,987*
sub-basin B-2	0	3,333	1,365*
sub-basin B-3	136	9,211	2,963*
sub-basin B-4	16	4,154	1,416*
sub-basin B-5	0	854	373*
C			
sub-basin C-1	2,181	6,007	2,012
sub-basin C-2	0	2,923	1,198*
sub-basin C-3	639	3,075	934*
sub-basin C-4	498	498	272
D			
sub-basin D-1	758	14,618	4,598
sub-basin D-2	300	1,430	638
E			
sub-basin E-1	629	14,068	4,525*

Notes:

1. For hydrologic soil group (HSG) "C" soils, the water quality volume = 1 year 24 hour runoff in all sub-basins.

Appendix C

Erosion & Sediment Control

1. The notes on drawing EC-1 should state that all erosion and sediment control practices will be designed in accordance with the August 2005 NY Standards and Specification for Erosion and Sediment Control. Also, a note should be added stating that all cleared trees and stumps will be removed from the site.
2. Note #6 under construction sequencing on EC-1, should add seeding with mulch. These soil stockpiles may be there for up to 4 months and vegetation will better stabilize these piles. The stockpile shown on Lot 12 is on a steep slope and needs to be relocated.
3. On drawing PH-1, Phasing Plan, Phases 3 through 5 should specify which 5 lots are "initially" anticipated to be disturbed. Also, Phase 3 should have 4.95 acres listed in the Legend instead of 1.2 acres.
4. Although Water Breaks are detailed on drawing EC-2 and listed on the NOI, they are not shown on the EC-1 plan. If these are not to be used, they should be deleted from the drawings.
5. The two seeding recommendations on EC-2 differ from each other and the seeding requirements noted on drawing D-1, Details. This inconsistency needs to be reconciled and all seeding and vegetated requirements placed on one drawing.
6. On drawing D-1, the Rip-Rap Outlet Detail, Section A-A shows a median rock size, D 50, of 4" while the sizing table shows two rock outlet protection (ROP) structures with a D50 of 6". The A-A dimension should reflect this variable. Also on this sheet, the bottom width dimensions and filter fabric under the rock should be added to the Rip-Rap Swale Detail.
7. It appears that the stormwater quality basin outlets for Basins A, B, and C are outletting directly into a stone wall. These areas need to be opened up to allow free discharge. The drawings and scope of work should be modified to show this.
8. The stormwater and foundation pipe drainage system located on Lot 29 outlets at rock end section, ES#5. This outlet discharges just above Tomahawk Street and appears to dump out onto the street. Details of how this flow is to be managed must be provided.
9. The Lot #12 Roof/Foundation drain is shown outletting into a stone wall. This needs to be re-routed and its outlet needs to be protected from erosion.
10. Drawing SW-1, Stormwater Basins, the Stormwater Quality Basin C detail shows the entrance road guiderail at road station 21+00 to be installed across the top of the proposed Vortech Hydrodynamic Separator (HDS#3), pre-treatment structure. This needs to be avoided to allow for appropriate access to the unit for maintenance.
11. SWPPP Appendix K, Anti-Seep Collar & Sediment Trap Design Calculations, notes that sediment trap #B is designed for a drainage area of 8.9 acres which exceeds the maximum drainage area limit for this stone outlet sediment trap of 5 acres (ST-IV in the NYS Standards and Specifications for Erosion & Sediment Control, August 2005). This area must be re-configured to comply with the standards.

12. The Notice of Intent (NOI), Section 26, lists the erosion and sediment control practices to be used on the project. The list needs to be updated to add check dams, storm drain inlet protection topsoiling and retaining walls.
13. Rolled Erosion Control Products (RECPs) should be used on all disturbed slopes equal to or greater than 3:1. This would apply to disturbed areas on Lots 7, 8, 19, and 20 as well on all stormwater basins and pond slopes. These areas need to be shown on the Erosion & Sediment control Plan view, drawing EC-1, and labeled.
14. Stone check dams need to be used instead of hay bale check dams as listed on drawing EC-1, Erosion Control Plan. These check dams need to be shown on the plan view. The legend on this drawing needs to be amended to add rock outlet protection structures and RECP designation
15. Rock outlet protection needs to be placed at the outlets of swales #1, 4, 5, and 6 to prevent scour and possible plugging areas at the bottom of the infiltration basins. These could be combined with plunge pools to add pre-treatment to the basins.
16. The roof drain outlets on Lots 10, 11 and 12 discharge on the slope of the infiltration basin. The slopes should be protected with a scour pad or turf reinforcement mat to prevent erosion of fine material in the infiltration basin.
17. Filter fabric drop inlet protection shown on drawing EC-2, Erosion Control Details, is not appropriate once the infrastructure has been paved. A different alternative needs to be used for this situation.
18. Drawing SW-2, Stormwater Treatment Details, the Stormwater Basin Berm Details, Note 1, states that at least 20% minus #200 sieve material shall be used as earthfill in the berm. If permanent water is designed against this berm, the percentage should be raised to 40% to prevent seepage. Also, a footer on the bottom of the pre-cast concrete riser should be evaluated to prevent floatation and add stability.

Appendix D

Modified Pollutant Loading Analysis

The results shown below are based on a Modified Simple Method for pollutant load evaluation which utilizes refined coefficients to account for runoff reduction for forest and turf areas based on HSG soil type. The Rv for "A" soil forest = 0.02, and turf = 0.15. The Rv for "C" soil forest = 0.04, with turf = 0.22. All other elements of the Simple Method formula remain the same.

Existing Condition Summary

Sub Area	Pounds of Total Phosphorus (TP) with Paxton HSG "C" Soil	Pounds of TP with Paxton HSG "A" Soil
A	2.8	1.7
B	3.8	2.6
C	1.1	0.9
D	6.5	5.5
E	2.8	2.1
Total	17.0	12.8

Future Condition Summary

Sub Area	Pounds of Total Phosphorus (TP) with Paxton HSG "C" Soil	Pounds of TP with Paxton HSG "A" Soil
A	14.2	11.4
B	11.5	9.3
C	4.2	3.7
D	6.4	5.5
E	5.5	4.5
Total	41.8	34.4

Future Condition with Treatments

Sub Area	% TP Removed ¹	Pounds of TP "C"	Pounds of TP "A"	Pounds of Rem "C" ²	Pounds of Rem "A"
A1	75	4.0	2.9	1.0	0.7
A2	55	5.5	4.8	2.5	2.2
A3	50	4.4	3.5	2.2	1.8
A4	0	0.3	0.2	0.3	0.2
B1	50	5.5	4.6	2.8	2.3
B2	0	0.9	0.6	0.9	0.6
B3	55	3.5	2.8	1.6	1.3
B4	75	1.4	1.2	0.4	0.3
B5	0	0.2	0.1	0.2	0.1
C1	46	2.3	2.1	1.2	1.1
C2	70	0.7	0.5	0.2	0.2
C3	70	1.0	0.9	0.3	0.3
C4	82	0.2	0.2	---	---
D1	0	5.8	4.9	5.8	4.9
D2	70	0.6	0.6	0.2	0.2
E1	55	5.5	4.5	2.5	2.0
Totals		41.8	34.4	22.1	18.2

¹ Based on Bibbo revisions with WIG comments on revised spread sheet.

² Remaining total phosphorus load

The following calculations are based on the site configuration submitted with the July 13, 2015 SWPPP and the technical comments contained in this document. The swales are not designed to water quality standards and pretreatment does not occur at many inflow points to the stormwater quality basins. These revised pollutant loading calculations are based on a Center for Watershed Protection "Technical Memorandum: The Runoff Reduction Method" dated April 18, 2008 (pages 13-16) and takes into account different hydrologic soil groups on site and how they influence runoff volumes.

For Paxton at HSG "C":

The existing site load = 17.0 pounds (#)

The future site load = 41.8#

And future load with treatment 22.1# (a 30% increase in total phosphorus)

For Paxton at HSG "A":

The existing site load = 12.8#

The future site load = 34.48#

And future load with treatment 18.2# (a 42% increase in total phosphorus)

Donald W. Lake Jr. P.E.

Curriculum Vitae

EMPLOYMENT

Adjunct Assistant Professor, SUNY-College of Environmental Science & Forestry
2011 - 2014

Visiting Instructor, SUNY-College of Environmental Science and Forestry,
2003 – 2010

Adjunct Professor, Department of Civil & Environmental Engineering,
Syracuse University, 1991 – 2012

Engineering Specialist, New York State Soil & Water Conservation Committee,
1997 – 2006

President, DuLac Engineering, 1995 – current

State Conservation Engineer, USDA-Natural Resources Conservation Service,
1983 – 1995

State Design Engineer, USDA-Natural Resources Conservation Service, 1978 – 1983

Project Engineer, USDA-Natural Resources Conservation Service, 1973 – 1978

Staff Engineer, USDA-Natural Resources Conservation Service, 1970 – 1973

Engineering Student Trainee, USDA- NRCS, 1966 - 1970

EDUCATION

B.S. Civil Engineering, State University of New York at Buffalo, 1970

LICENSES/CERTIFICATIONS

Professional Engineer, New York State (#53844), 1976
Certified Professional Erosion & Sediment Control Specialist (CPESC #738)
Certified Stormwater Quality Specialist (CPSWQ #2)

MEMBERSHIPS/ACTIVITIES

Erosion & Sediment Control Expert Panel, Chesapeake Bay Program (2013)
Chair, International CPESC Council (2010-2012)
Past Chair, International CPESC Council (1996-1998)
Past Technical Vice-Chair, International CPESC Council
New York State Department of Conservation Stormwater Workgroup

MEMBERSHIPS/ACTIVITIES cont'd

National Society of Professional Engineers
Soil and Water Conservation Society
Association of State Dam Safety Officials
American Society of Testing & Materials (Committee D 18.25)
International Erosion Control Association
USDA-Natural Resources Conservation Service, Standards Committee
New York Non Point Source Committee
New York State Department of Transportation Erosion & Sediment Control Task Force

HONORS & AWARDS

Commendation Award, NY Land Improvement Contractor's Association, 2009
Commendation Award, New York Association of Conservation Districts, 2006
CPESC Distinguished Service Award, 2004
Presidents Citation, Soil and Water Conservation Society, 1998
International Erosion Control association, Sustained Contributor Award, 1996
NY Land Improvement Contractors of America Outstanding Service Award 1995
Commendation Award, Empire Chapter, Soil and Water Conservation Society 1995
Conservation Education Award, Empire Chapter, Soil And Water Conservation Society, 1992
Special Award, NY Conservation District Employees Association, 1991
Certificates of Merit (13), USDA-Soil Conservation Service

BACKGROUND & EXPERTISE

Civil Engineering – hydrology, urban hydrology, soil erosion evaluation, soil mechanics, development construction techniques and procedures, sedimentation processes and capture design, applied channel and structure hydraulics, site planning and resource assessments, pollutant wash off methods, stormwater management practices design including extended detention ponds, wetlands, filtering systems and infiltration, stormwater pollution prevention plan review, effect of vegetation in abating negative water quality impacts.

TECHNICAL SERVICE RECIPIENTS

New York State Dormitory Authority
New York State Office of General Services
New York State Office of the Attorney General
New York State Department of Environmental Conservation
New York State Department of Transportation
Loess Hills Alliance, Iowa
Nebraska Cooperative Extension Service

SERVICE RECIPIENTS cont'd

International Erosion Control association
Hansen Aggregates, Inc.
Groton Housing Authority
C&S Engineers, Inc.
O'Brien & Gere Engineers, Inc.
Lamont Engineers, Inc.
Barton & Loguidice, P.C.
North Carolina State University, Water Resources Institute
Energize Vermont, Inc.

PUBLICATIONS

1. Books/Manuals

- a. R. Pitt, S. Clark, D. Lake, Construction Site Erosion and Sediment Controls, Planning, Design and Performance, August 2007, ISBN: 1-932078-38-X.
(College textbook)
- b. New York Standards and Specifications for Erosion and Sediment Control, August 2005.
- c. New York Guidelines for Urban Erosion and Sediment Control, 1988, Rev. 1991, 1994, 1997.
- d. New York Contractors Erosion and Sediment Control Field Notebook, 1994; Revised January 2013.

2. Papers

- a. D. Lake, "Struggle for Compliance (New York Perspective)", 15 pgs. Delaware Urban Erosion, Sediment and Stormwater Conference 2000, October 25, 2000.
- b. D. Lake, "Common Threads of Disaster", 1998, Newark, Delaware
- c. D. Lake, "Best Management Practices for Urban Erosion and Sediment Control in New York Counties and Towns", 1990
- d. J. Dickerson, D. Lake, "Biotechnical Slope Protection", ASAE Conference, New Orleans, 1989
- e. D. Lake, Transition Structure Performance for Flood Control", ASAE Conference, Chicago, 1987

2. Papers, cont'd

- f. A. Feher, D. Lake, "Alternative Methods for Unloading Manure Storage Structures", 1994
- g. D. Lake, "Rehabilitation of Embankment Conduits", ASAE Conference, New Orleans, 1984
- h. S.K. Bhatia, J.L. Smith, D. Lake, D. Walowsky, "A Technical and Economical Evaluation of Geosynthetic Rolled Erosion Control Products in Highway Drainage Channels", May 2002.
- i. J.L. Smith, S.K. Bhatia, D. Lake, D. Walowsky, "Evaluation of Vegetative and Root System Growth Through Different Geosynthetic Rolled Erosion Control Products in a Highway Drainage Channel", September 2003.
- j. Donald W. Lake Jr., "National Urban Erosion Control Standards and Specifications, Do We Need Them? A Perspective From New York", November, 1993.
- k. Donald W. Lake Jr., "Training For Use of New York's Guidelines For Urban Erosion And Sediment Control", March, 1993.
- l. J. Dickerson, T. Kelsey, C. Jones, D. Lake, R. Godfrey, "Obtaining Plant Materials For Biotechnical Work", February, 1990.
- m. T. West, J. Southerland, J. Bloomfield, D. Lake, "Final Report, A Study Of The Effectiveness Of A Vortechs Stormwater Treatment System For Removal Of Total Suspended Solids And Other Pollutants In The Marine Village Watershed, Village Of Lake George, New York", January, 2001.

INSTRUCTIONAL/TRAINING ACTIVITIES

Mr. Lake has an extensive training history presenting 1,540 courses, seminars, lectures and workshops for over 37,250 individuals. Some highlights of this career appear below:

- A. Instructor for SUNY-CESF ERE – 596-02, Stormwater Management Design from 2003 to 2010. 205 students completed the course.
- B. Organized the SUNY-CESF Stormwater Management Outreach Program in 2005. Through spring 2009, 104 courses have trained 3,027 participants. The venues included Syracuse, Buffalo, Rochester, Albany, Middletown and Fishkill.

- C. Designed, prepared and presented 34, one day workshops for construction contractors and highway department employees. Sessions began 1987 and continue through 2000. 1,095 people attended.
- D. Designed, prepared and presented 80, two day stormwater management and erosion control workshops for design professional. Sessions included field problems and dealt with water quality. Since these began in 1989, 2007 individuals have attended these courses.
- E. Since 1988, prepared and conducted 155, one day seminars in erosion and sediment control and stormwater management. 5,701 people have attended these seminars.
- F. Created, organized and coordinated the Syracuse University Stormwater Management Program Workshop Series through SUCE for the years 1997 through 2004. Since this 7 short course curriculum began the recorded attendance was as follows:
1997-84; 1998-104; 1999-93; 2000-217; 2001 – 180; 2002 – 164; 2003 – 270;
2004 – 439.
- H. Instructed as Adjunct Professor, CIE 600/500 Urban Erosion and Stormwater Design at Syracuse University, fall 1992 – thru 2002. A total of 128 students completed the full semester course.
- I. Developed the Regional Stormwater Training system creating four locations in New York State to host stormwater management and other courses. These locations, Henrietta, Syracuse, Ballston Spa, and Middletown, offered 63 courses from spring 2010 through the spring of 2011. Attendees for these courses numbered 1,306.

RESEARCH ACTIVITIES

- a. “Controls on Water Quality in the New Croton Reservoir/Turkey Mountain Watershed” Final Report for NYS-DOT, March 2006.
- b. “A Study of the Effectiveness of a Vortec Stormwater Treatment system in Total Suspended Solids and Contaminant Removal in the Marine Village Watershed, Village of Lake George, New York”, New York Department of Conservation, \$20,000, New York State Department of Transportation, \$50,000, with J. Sutherland, NYS-DEC, and T. West, Darren Fred Water Institute.
- c. “Economical Gains and Performance of Geocomposites in Preventing Erosion in Highway Ditches”, Unfunded, with S. Bhatia, J. Hoy, and D. Walowsky.

PUBLIC SERVICE

a. Scientific Community

Reviewed papers for the following professional journals:

Civil Engineering News
Erosion Control Magazine

Reviewed proposals for:

New York State Environmental Trust Fund
New York State Environmental Bond Act
New York State Transportation Infrastructure Research Consortium

b. General Community

Served as member of the Town of Manlius Planning Board since 1995 to 2001
Served as member of the Fayetteville Manlius School Board, 1992