Telephone
(914) 277-5366

FAX
(914) 277-4093

PLANNING DEPARTMENT

TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589

Town of Somers

WESTCHESTER COUNTY, N.Y.

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

SOMERS PLANNING BOARD
AGENDA
MAY 1, 2013
7:30 P.M.

MINUTES Consideration for approval of Draft Minutes for December 12, 2012, January 9, 2013 and January 23, 2013.

TIME-EXTENSION

1. **SUSAN HAFT/RIDGEVIEW DESIGNER BUILDERS, INC.**
   FINAL CONSERVATION SUBDIVISION APPROVAL
   [TM: 16.12-1-41 & 42]
   Application of Susan Haft and Ridgeview Designer Builders, Inc. for Final Conservation Subdivision Approval, Stormwater Management and Erosion and Sediment Control, Steep Slopes and a Tree Removal Permit. Request for a 90-day time-extension of Final Approval from May 20, 2013 to and including August 19, 2013 in accordance with §150-13-M of the Code of the Town of Somers. This is the tenth request for an extension of Final Subdivision Approval.

PROJECT REVIEW

2. **BBS SUBDIVISION [FORMERLY STEVENS SUBDIVISION]**
   APPLICATION FOR PRELIMINARY SUBDIVISION APPROVAL, STEEP SLOPES, WETLAND, TREE REMOVAL AND STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL PERMITS
   [TM: 15.12-2-1]
   Application of T. Boniello, M. Barile and N. Stern for a three-lot subdivision on a 9.8 acre parcel located in an R-80 Zone. The parcel is accessed through the Green Tree Road right-of-way and crosses the North County Trailway ROW.

RENEWAL OF SPECIAL USE PERMIT

3. **NEW CINGULAR WIRELESS PCS, LLC (AT&T)**
   RENEWAL OF SPECIAL USE PERMIT
   [TM: 28.10-1-6.1]
   Application of New Cingular Wireless for renewal of Special Use Permit for existing approved AT & T Tower and Related Wireless Facility located at 243 Route 100, Majestech Corporation property.

Next Planning Board Meeting, June 12, 2013
Agenda information is also available at www.somersny.com

PB
TP

HOCHERMAN TORTORELLA & WEKSTEIN, LLP
ATTORNEYS AT LAW

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

GERALDINE N. TORTORELLA
ADAM L. WEKSTEIN

NOELLE CRISALLI WOLFSON

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

HENRY M. HOCHERMAN
OF COUNSEL

April 23, 2013

RECEIVED
APR 23 2013
PLANNING-ENGINEERING
TOWN OF SOMERS

Via Electronic Mail

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

496

Re: Final Subdivision Plat Approval Issued to
Susan F. Haft and Ridgeview Designer Builders, Inc.
Lovell Street, Town of Somers
Tax Identification Nos.: Section 16.12, Block 1, Lots 41 and 42
Tenth Request for Extension of Time to August 19, 2013

Dear Chairman Currie and Members of the Planning Board:

At its meeting on February 13, 2013, the Planning Board granted its ninth extension of Conditional Final Subdivision Approval (the "Final Approval") for the above-referenced subdivision to and including May 20, 2013. We are writing to request an additional 90-day extension of Final Approval to and including August 19, 2013 (the first business day after the ninetieth day, which is Sunday, August 18, 2013). This is our ninth request for an extension of Final Approval which your Board has the authority to grant under Town Law Section 276(7)(c).

Since the last extension, our clients have continued to construct the access and drainage infrastructure for the subdivision. Most of the catch basins and the piping for the drainage are installed, the common driveway/roadway is to grade, the drainage ponds are being worked on, and our client is coordinating the installation of utilities with New York State Electric & Gas Corporation. We also understand that the majority of rock removal associated with the access and drainage infrastructure is completed although some additional rock removal is anticipated as those infrastructure improvements are "finished off." Notwithstanding the progress that has been made, our clients do not anticipate completing that infrastructure work prior to the May 20, 2013 expiration date. Our clients' plan is to continue with the infrastructure work until it is substantially complete, after which they plan to file the Plat.

Based upon this plan, our clients seek a further extension of Final Approval to and including August 19, 2013.

Kindly schedule this request for consideration and action at the Board's May 1, 2013 meeting, and let us know if an appearance is required.

Thank you for your courtesy in this matter.

Respectfully yours,

Hocherman Tortorella & Wekstein, LLP

By: Geraldine N. Tortorella

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

S:\# MATTERS\Moss 0056\Somers Subdiv 001\Letters\Currie 4-23-13 Tenth Extension Request.wpd

PLANNING AND ENGINEERING DEPARTMENTS

Telephone
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Town of Somers

WESTCHESTER COUNTY, N.Y.

SOMERS TOWN HOUSE
335 ROUTE 202
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Steven Woelfle
Principal Engineering Technician
swoelfle@somersny.com

Syrette Dym, AICP
Town Planner
sdym@somersny.com

DATE: **April 14, 2013**

TO: Planning Board

FROM: Syrette Dym, AICP
Town Planner

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

On April 23, 2013, a request for a tenth 90-day time extension of Conditional Final Subdivision Approval was received in relation to the above referenced project. On May 20, 2013, the previously granted time extension for the final subdivision approval will expire. The requested time extension, if granted would extend a 90 day approval up to an including August 19, 2011 (the first business day after the ninetieth day which is Sunday, August 18, 2013).

The Planning Board may want to discuss the status of on-site rock removal operations and whether they are completed or ongoing.

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

cc: Geraldine Tortorella, Esq.
Susan Haft

Z:\PE\Subdivision files\EricMossRidgeview\Time Extensions\9th time extension.doc

PLANNING AND ENGINEERING DEPARTMENTS

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Town of Somers

WESTCHESTER COUNTY, N.Y.

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Steven Woelfle
Principal Engineering Technician
swoelfle@somersny.com

Syrette Dym, AICP
Town Planner
sdym@somersny.com

MEMORANDUM

TO: Town of Somers Planning Board

FROM: Syrette Dym, Town Planner

DATE: April 22, 2013

RE:

Project:	BBS Preliminary Subdivision (Formerly Stevens Subdivision)
Applicant:	Tommy Boniello, Michael Barile & Nicloe Stern
Location:	Green Tree Road end to west of Existing Westchester County North County Trailway; Section 15.12 Block 2 Lot 1
Zoning:	R80 Residence District
Actions:	Review of Preliminary Three Lot Subdivision as Part of a Proposed Open Development Area including Steep Slopes Permit, Tree Removal Permit; Wetland and Watercourse Permit and Stormwater Management Erosion and Sediment Control Permit

The current proposed action consists of the following components:

1. *Subdivision of a 9.78 acre vacant parcel into a three-lot subdivision with no existing frontage on an existing improved road. Proposed consideration as an open development area pursuant to New York State Town Law Section 280-a.*
2. *Steep Slope Permit pursuant to Chapter 148 of the Code of the Town of Somers.*
3. *Wetland and Watercourse Protection Permit pursuant to Chapter 167 of the Code of the Town of Somers for disturbance of wetland area of 3,189 sf within existing Green Tree Road right of way*
4. *Tree Removal Permit pursuant to Chapter 156 of the Code of the Town of Somers for removal of 146 trees*

5. *Stormwater Management and Erosion and Sediment Control Permit pursuant to Chapter 93 of the Code of the Town of Somers*

Background

This application is asking for consideration as an open development area under Section 280-a of Town Law and is considered a continuation of a prior application as Stevens Subdivision for 3-lot subdivision. The application was prior referred to the Planning Board by the Town Board as required by Section 280-a. Based on the project history identified in a memorandum from the former Town Planner of February 6, 2012, there is no record that the Planning Board established itself as lead agency under SEQR or that a SEQR classification was assigned to this project. Therefore, Lead agency should be established and, based on Town Code Chapter 92, this would qualify as a Type I action due to necessity of the access road across a wetland.

1-30-2013– Receipt of application and plans; cover letter dated January 29, 2013

Basis of Comment Memorandum

The following plans drawings prepared by Insite Engineering, Surveying& Landscape Architecture, P.C.were reviewed as the basis of comment in this memorandum.

Insite Engineering, Surveying& Landscape Architecture, P.C.

- Preliminary Subdivision Plat- 1/30-13
- Project Drawing set, 3 h sheets – 1/30/13
- Constraints Map for Conventional Subdivision – 1/30-13
- Soils Map for conventional A Subdivision – 1/30/13
- Open Development Area Map – 1/30/13

<u>Prior Submissions</u>

The cover letter of the submission refers to an Action Item letter of March 13, 2008 from the Town Planner and provides responses to comments raised in that letter. As such, a copy of that letter is attached for reference by the Planning Board. A follow-up letter of February 6, 2012 is also attached for the Board's review.

Current Comments

1. **Surrounding Parcels -**
    a. A review of surrounding parcels indicates that parcels directly north of the Green Tree Road right of way and east of the trailway, are all developed and are accessed off of the built portion of Green Tree Road. There are two undeveloped parcels with frontage on and to the south of Green Tree Road and east of the trailway. See attached map. These parcels are Lot 15.12-2-3 (3.19 acres) and Lot 15.12-4 (7.31 acres). Although there are no development proposals before the Planning Board for these parcels, and their development potential is not known given apparent watercourse,

wetlands and flag lot constraints, their need for future access should be considered. If the driveway to the proposed parcels is considered adequate, would it be adequate for an additional parcel(s) east of the trailway?

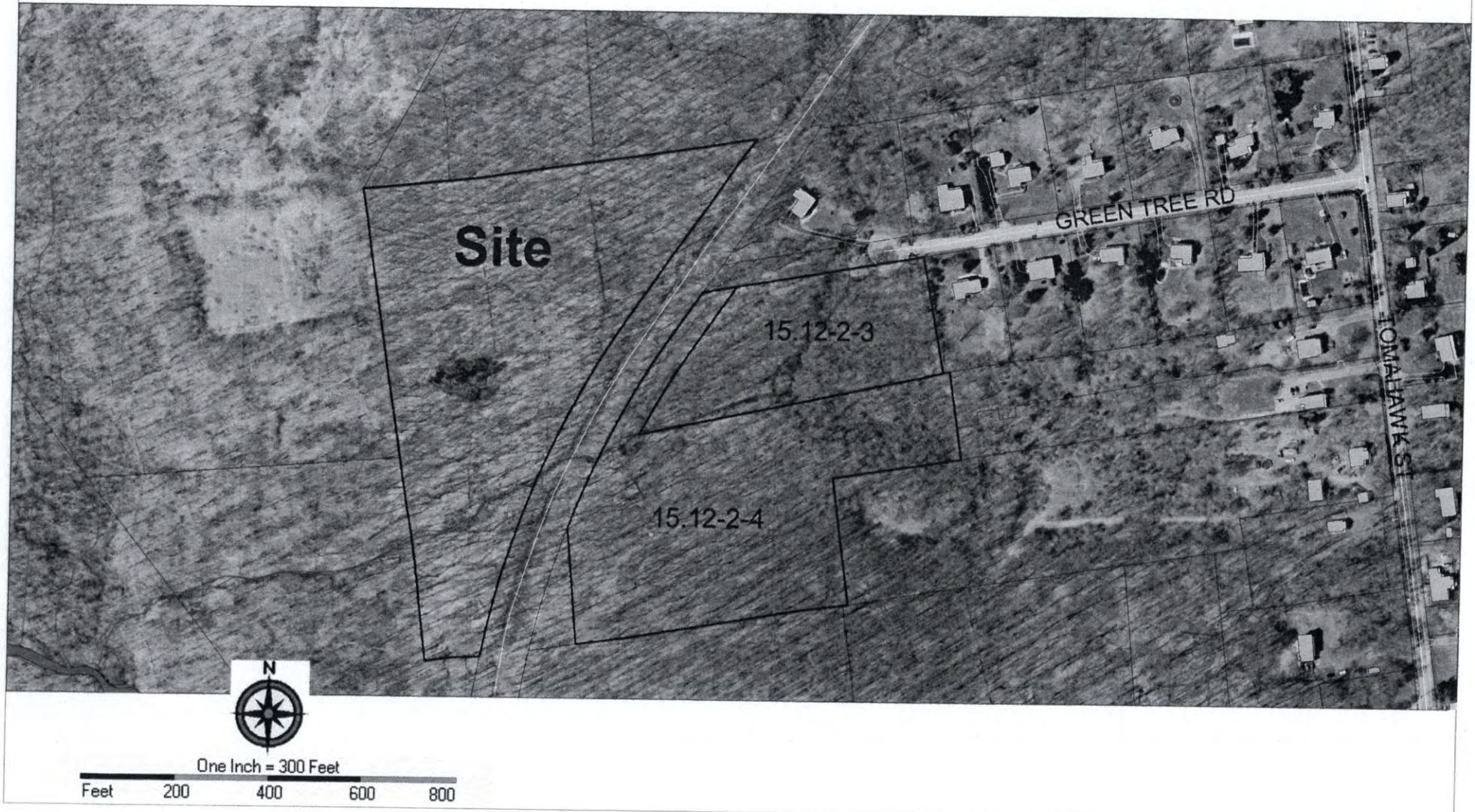
2. **Bureau of Fire Prevention**
   a. Has the applicant met with or talked with the Bureau since the Bureau's request for such a meeting in a memorandum of February 21, 2013?

3. **Wetlands** –An updated wetland delineation map should be submitted that was prepared no earlier than 12 months prior to the date of filing of the application in accordance with Section 167-6A(9)(a). Has such a map been prepared?

4. **NYSDEP** – How has the applicant responded to comments from NYCDEP in its letter of March 12, 2013?

Attach.

Z:\PE\Subdivision files\BBS Subdivision\Planner's Comments\Comments 04-22-13.doc


Site
15.12-2-3
15.12-2-4
GREEN TREE RD
TOMAHAWK ST
N
One Inch = 300 Feet
Feet
200
400
600
800

NOTICE OF SEQR ACTIONS – BBS PRELIMINARYSUBDIVISION

Notice of Re-Designation of Lead Agency

Issued by Town of Somers Planning Board
Westchester County, New York

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act (SEQRA)) of the New York State *Environmental Conservation Law* and Chapter 92 (Environmental Quality Review) of the *Code of the Town of Somers, New York.*

The Planning Board of the Town of Somers, Westchester County, New York, has received an application for Preliminary Subdivision Approval for a three-lot subdivision of a 9.8 acres parcel, located at Green Tree Road, Tax Map Sheet 15.12, Block 2 Lot 1. The parcel is accessed through the Green Tree Road right of way and crosses the North Country Trailway right of way. The applicant has applied for development of the parcel as an Open Development Area serviced by a three-user common driveway. All lots would be serviced by individual drilled wells and individual subsurface sewage treatment systems. The proposed lots are located in a R-80 Residence District.

The Somers Planning Board at its meeting of May 1, 2013 declared its intent to re-establish itself as Lead Agency with regard to this Proposed Action under the procedures and requirements of SEQRA and Chapter 92 of the Somers Town Code. Unless an objection is expressed by any other involved agency within 30 days from the date of this notice, the Somers Planning Board shall assume this role.

The Somers Planning Board has determined that the Proposed Action is an **Unlisted Action** under SEQRA as per Chapter 92 of the *Code of the Town of Somers* in conjunction with Article 24 of the NYS *Environmental Conservation Law.*

PROPOSED LEAD AGENCY: Planning Board, Town of Somers
Somers Town House
335 Route 202
Somers, New York 10589

TITLE OF ACTION: BBS Subdivision Approval, Steep Slopes Permit Approval, Tree Removal Permit Approval, Wetland & Watercourse Permit Approval and Stormwater Management Erosion and Sediment Control Permit Approval.

DESCRIPTION OF ACTION: The project is a request for a three lot subdivision under §280a of New York State Town Law that provides for Permits for Buildings Not on Improved Mapped Streets. Such request would establish an open development area which must be established by the Town Board after review and recommendation by the Planning Board. The parcel is

to be accessed through the Green Tree Road right of way common driveway extension that crosses the North County Trailway to access the three proposed lots. A conventional subdivision lot layout has been prepared to establish lot count prior to consideration of the open development area plan.

LOCATION: The subject property is located west of the North County Trailway at the extension of Green Tree Road from Tomahawk Street (Route 118) and is designated on the Town Tax Maps as Sheet 15.12 Block 2 Lot 1 within the R80 Residence District-

SUPPLEMENTAL INFORMATION: Part I of a Full Environmental Assessment Form (EAF) has been prepared for the Proposed Action. These forms and copies of the proposed subdivision and site plan are being distributed to all Involved and Interested Agencies (see attached list), and this information is also available for review in the Planning and Engineering office at the Town House and on the Town's web site.

Contact: Syrette Dym, AICP, Town Planner
335 Route 202
Somers, New York 10589

Telephone: 914-277-5366

Date of this Notice: May 1, 2013

SEQR DISTRIBUTION LIST – BBS SUBDIVISION

Involved Agencies

Somers Planning Board (Lead Agency)
Somers Town House
335 Route 202
Somers, New York 10589

Town of Somers Town Board
Somers Town House
335 Route 202
Somers, New York 10589

Westchester County Planning Board
432 Michaelian Office Building
White Plains, New York 10601
New York State Department of Transportation

Westchester County Department of Health
25 Moore Avenue
Mt. Kisco, New York 10549
Attn: Frederick Beck

Westchester County Department of Health
145 Huguenot Street
New Rochelle, New York 10801

New York City Department of Environmental Protection
465 Columbus Avenue
Valhalla, New York 10595
Attn.: Cynthia Garcia

New York State Department of Environmental Conservation
Division of Environmental Permits--Region 3
21 South Putt Corners Road
New Paltz, New York 12561-1696
Attn.: Willie Janeway, Regional Director

New York State Department of Transportation
Region 8 Office
4 Burnett Boulevard
Poughkeepsie, NY 12603
Attn: William Gorton, P.E., Acting Regional Director

Interested Agencies

Town of Somers Open Space Committee
Somers Town House
335 Route 202
Somers, New York 10589

Architecture Review Board
Somers Town House
335 Route 202
Somers, New York 10589

Somers Bureau of Fire Prevention
Somers Town House
335 Route 202
Somers, New York 10589

Town of Somers Highway Department
Somers Town House
335 Route 202
Somers, New York 10589

Others

Syrette Dym, Town Planner
Somers Town House
335 Route 202
Somers, New York 10589

Woodard & Curran Engineering P.A P.C.
709 Westchester Avenue Suite L2
White Plains, NY 10604
Attn: Joseph Barbagallo, Senior Vice President

Frederick P. Clark Associates, Inc.
350 Theodore Fremd Avenue
Rye NY, 10580
Attn: Joanne Meder, Vice President

Richard Williams
Insite Engineering, Surveying & Landscape Architecture, P.C.
3 Garrett Place
Carmel, NY 10512

TEL:914-277-3323
FAX:914-277-3960

C/ PB
TP
CE
applicant

KATHLEEN R. PACELLA
TOWN CLERK

TOWN CLERK'S OFFICE

Town of Somers

WESTCHESTER COUNTY, N.Y.

Town House
335 Route 202
Somers, N.Y. 10589

RECEIVED
MAR 12 2013
PLANNING-ENGINEERING
TOWN OF SOMERS

March 8, 2013

475

TO: Planning Department

FROM: Kathleen R. Pacella KRP
Town Clerk

Re: BBS Subdivision (FKA Steven Subdivision)

In response to a memo received dated February 1, 2013 regarding the above mentioned subdivision please be advised that it was discussed at the February meeting of the Town Board and the Supervisor explained that it was on the other side of the bike trail and the Town Board had discussed this years ago. She said that the applicant had gotten an easement for the construction of a common driveway across the North County Trail Way. The Supervisor said that a previous Town Board was concerned about the aspect of crossing the trail which was used by pedestrians. She said that this was still a concern. She said that the applicant wanted to basically put a road in and they did not have an easement for a road. The Supervisor said that the easement was just for a driveway. The Board agreed with the Supervisor's concerns.

Cc: Supervisor

PLANNING AND ENGINEERING DEPARTMENTS

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Town of Somers

WESTCHESTER COUNTY, N.Y.

SOMERS TOWN HOUSE
335 ROUTE 202
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www.somersny.com

Steven Woelfle
Principal Engineering Technician
swoelfle@somersny.com

Syrette Dym, AICP
Town Planner
sdym@somersny.com

MEMORANDUM

TO: Town of Somers Planning Board

FROM: Syrette Dym, Town Planner

DATE: March 6, 2013

RE:

Project:	BBS Preliminary Subdivision (Formerly Stevens Subdivision)
Applicant:	Tommy Boniello, Michael Barile & Nicloe Stern
Location:	Green Tree Road end to west of Existing Westchester County North County Trailway; Section 15.12 Block 2 Lot 1
Zoning:	R80 Residence District
Actions:	Review of Preliminary Three Lot Subdivision as Part of a Proposed Open Development Area including Steep Slopes Permit, Tree Removal Permit; Wetland and Watercourse Permit and Stormwater Management Erosion and Sediment Control Permit

The current proposed action consists of the following components:

1. *Subdivision of a 9.78 acre vacant parcel into a three-lot subdivision with no I existing frontage on an existing improved road. Proposed consideration as an open development area pursuant to New York State Town Law Section 280-a. The current proposal is for 75 units of affordable senior housing.*
2. *Steep Slope Permit pursuant to Chapter 148 of the Code of the Town of Somers.*
3. *Wetland and Watercourse Protection Permit pursuant to Chapter 167 of the Code of the Town of Somers for disturbance of wetland area of 3,189 sf within existing Green Tree Road right of way*

4. *Tree Removal Permit pursuant to Chapter 156 of the Code of the Town of Somers for removal of 146 trees*
5. *Stormwater Management and Erosion and Sediment Control Permit pursuant to Chapter 93 of the Code of the Town of Somers*

Background

This application is asking for consideration as an open development area under Section 280-a of Town Law and is considered a continuation of a prior application as Stevens Subdivision for 3-lot subdivision. The application was prior referred to the Planning Board by the Town Board as required by Section 280-a. Based on the project history identified in a memorandum from the former Town Planner of February 6, 2012, there is no record that the Planning Board established itself as lead agency under SEQR or that a SEQR classification was assigned to this project. Therefore, Lead agency should be established and, based on Town Code Chapter 92, this would qualify as a Type I action due to necessity of the access road across a wetland.

1-30-2013– Receipt of application and plans; cover letter dated January 29, 2013

Basis of Comment Memorandum

The following plans drawings prepared by Insite Engineering, Surveying& Landscape Architecture, P.C.were reviewed as the basis of comment in this memorandum.

Insite Engineering, Surveying& Landscape Architecture, P.C.

- Preliminary Subdivision Plat- 1/30-13
- Project Drawing set, 3 h sheets – 1/30/13
- Constraints Map for Conventional Subdivision – 1/30-13
- Soils Map for conventional A Subdivision – 1/30/13
- Open Development Area Map – 1/30/13

<u>Prior Submissions</u>

The cover letter of the submission refers to an Action Item letter of March 13, 2008 from the Town Planner and provides responses to comments raised in that letter. As such, a copy of that letter is attached for reference by the Planning Board. A follow-up letter of February 6, 2012 is also attached for the Board's review.

Current Comments

1. **Long Form EAF**
    a. The EAF Part 1A. 2 does not present acreage figure that add up. Please correct and provide actual site size.
    b. Part 1A. 11 indicates the site contains a threatened or endangered species. Dependent on the SEQR approach determined by the Planning Board, in any case, analysis regarding the presence of this species will have to be provided relative to the site with findings and mitigation, if necessary.

2. **Wetlands** – An updated wetland delineation map should be submitted that was prepared no earlier than 12 months prior to the date of filing of the application in accordance with Section 167-6A(9)(a).

3. **The Applicant needs to provide a detailed timeline and explanation of the status of review of requests for access easements and permits from NYS DOT and conditions of prior permits for the Planning Board.** The need for updating these permits should be addressed. The operational details of requirements of these permits and their impact on access by potential future residents of the open development area lots should be outlined by the applicant. It appears from prior correspondence (see attached), that a special permit may have been issued by NYSDOT along with a 10 foot wide easement in 1997 with conditions, but that permit expired in 5-1-2000. One of the significant conditions of that permit was that a gate was to be installed east of the trailway line to control access. A 10 foot wide drive would serve undeveloped land northwest of the trailway ROW and was to be limited to a maximum of three (3) residential units. See attached prior Special Permit Conditions. The operational details of a closed gate and whether there was a requirement that it be locked needs to be identified. How the status of the gate closure would be monitored and maintained needs to be addressed.

4. **Plan Comments.** More detailed comments will follow. However, the conventional subdivision layout plan requires some discretion by the Planning Board regarding frontage requirements to achieve three lots. Specifically, Lot 2 is identified as having 84 feet minimum width at the front lot line when 200 feet is required, although Section 170-A1 provides for the opportunity of reduction to not less than 1.3 of the width requirement.

Attach.

Z:\PE\Subdivision files\BBS Subdivision\Planner's Comments\Comments 10-3-12.doc

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

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

PLANNING AND ENGINEERING DEPARTMENTS

Town of Somers

WESTCHESTER COUNTY, N.Y.

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

March 13, 2008

Mr. Roy Stevens
34 High Ridge Road
P.O. Box 403
Mahopac, NY 10541

RE: **ACTION ITEMS FOR STEVENS SUBDIVISION [TM: 15.12-2-1]**

Dear Mr. Stevens:

Pursuant to the March 13, 2008 Planning Board meeting, the Planning Board requested that you address the following action items as discussed at the meeting and so noted in staff review memos prior to your next appearance before the Planning Board.

1. Sign and Stamp all of the plans.

2. Determine if the small southern portion of this property (separated by the Bike Path) is part of the property where the subdivision is proposed to occur or if it is a stand-alone tax parcel.

3. The current plans show a roadway through a wetland and a wetland buffer. Demonstrate how this roadway is in compliance with §167 Wetlands and Watercourse Protection of the *Code of the Town of Somers*.

4. Correct submission materials which reference "sketch plan" to say "preliminary subdivision plan".

5. Clarify the size of the property and the area that is available via easements. There are various acreage numbers throughout the plans and in the EAF. See #2 above.

6. The size of this property does not qualify for consideration of Conservation Zoning per §170-13.2 of the *Code of the Town of Somers.*

7. Note #3 on the Preliminary Subdivision Plat includes discussion of a conservation parcel. No conservation parcel is shown on the plan.

8. The lot lines, particularly for Lot #3 should conform to *§150-23 of the Code of the Town of Somers* and should be drawn as right angles unless otherwise determined by the Planning Board. This would assist in determining the maximum lot count for this property.

9. The signature block for Putnam County Clerk's Office is incorrect- this property is located in Westchester County.

10. The title for the signature block referring to "Planning Board Town of Somers" also includes signatures for the Highway Superintendent and the Building Inspector, therefore change the title to the signature block.

11. EAF Page 3 of 21 A.2- indicates that 2.388 acres will be meadow or brushland after completion of the project. If meadow or brushland refers to manicured grass this should be included as a category in Other.

12. EAF Page 3 of 21 A.6 Provide supporting information.

13. EAF Page 3 of 21 A.7 Provide supporting information.

14. EAF Page 4 of 21 A.11 Provide supporting information.

15. EAF Page 4 of 21 A.16 There are wetlands within and contiguous to this project.

16. EAF Page 4 of 21 A.16.b. Provide the size.

17. EAF Page 5 of 21 A.17 What existing public utilities access the site?

18. EAF Page 5 of 21 B.1.a refer to comment #2 above.

19. EAF Page 5 of 21 B.1.a refer to comment #2 above.

20. EAF Page 7 of 21 B.18.Homeowners may use pesticides / herbicides unless deed restricted.

21. EAF Page 8 of 21 B. 25- The Town Board will approve access, not a conservation subdivision.

22. EAF Page 8 of 21 B. 25- Include environmental permit approvals.

23. EAF Page 9 of 21 C. 3- This stills needs to be confirmed.

24. The conventional plan must be revised to incorporate straight radial lot lines for lot number 3 in order to demonstrate the viability of the lot. The lot conformance table must include the calculations to demonstrate compliance to §170-58.3. and §170-58.4 and the minimum lot areas calculated must be shown on the plan. The stormwater system proposed in the wetland, wetland buffer and steep slopes must be relocated out of the environmentally sensitive lands. After the number of lots has been verified with the conventional plan the option of considering the 280A or Open Development section of the Town Law may be pursued.

25. The plat must be revised to include the following information:

    a. Remove the references to the conservation easement unless one exists; and if it does, it must be shown on the plat.
    b. Remove the references to Putnam County.
    c. The appropriate notes relating to the 280A Town Law Open Development, as may be appropriate, will need to be added.
    d. Add a note about the name of the professional delineating the wetlands and the date conducted.

26. The following preliminary comments on the Open Development concept should be considered:

    a. Provide a driveway profile with maximum 12 % grade.
    b. Demonstrate that fire department apparatus access is provided to within 75 feet of the proposed structures.
    c. The driveway must be provided with a pull off area 50-foot by 12-foot wide at 500-foot intervals.
    d. The driveway base must be designed to support a 30 ton fire fighting apparatus.
    e. The common driveway for three (3) users must be a total of 20-feet wide consisting of 16-feet impervious and 4-feet pervious surfaces.
    f. The common driveway for two (2) users requires an 18-foot driveway width or 14-feet impervious and 4-feet pervious surface.
    g. The driveway for a single user greater than 500 feet in length must be no less than 12 -feet wide or 10-feet impervious with 2-feet pervious surface.

27. The Planning Board had serious concerns about the public safety aspects of allowing vehicles to cross the bike path at mid block especially here where a long constant sloping path exists and bikers have a tendency to gain speed.

Formatted: Justified

Once these items have been addressed and you have received confirmation from NYS DOT regarding the widening of your access easement and all materials have been submitted to this office, you will be scheduled for the next available Planning Board meeting. If you have any questions, please do not hesitate to contact us.

Sincerely,

Sabrina D. Charney Hull, AICP
Town Planner

Guy L. Gagné, P.E.
Town Engineer

cc: Michael Beyer, P.E

Town of Somers

WESTCHESTER COUNTY, N.Y.

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

Steven Woelfle
Principal Engineering Technician
swoelfle@somersny.com

Town House
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Somers, N.Y. 10589
Tele #: 914-277-5366
FAX #: 914-277-4093
www.somersny.com

DATE: February 6, 2012

TO: Town of Somers Planning Board

FROM: Sabrina D. Charney Hull, AICP, Town Planner

SUBJECT: **STEVENS SUBDIVISION PRELIMINARY SUBDIVISION APPLICATION [TM: 15.12-2-1]**

Site Description

PROJECT NAME	**STEVENS SUBDIVISION**
TM #	15.12-2-1
OWNER	Roy Stevens, 34 High Ridge Rd., Mahopac, NY 10541
PROPERTY SIZE	9.8 acres
ZONING DISTRICT	Single Family Residential R-80 (80,000SF)
APPLICATION FOR	Preliminary Subdivision Application
DESCRIPTION	Subdivision of a 9.81 acre parcel into three residential building lots. The currently vacant property is located beyond the cul-de-sac at the end of Green Tree Road and to the west of the existing bike/trailway.
SEQR CLASSIFICATION	TBD

Project Description

This application is for the subdivision of a 9.8 ac. vacant parcel of land into a three-lot subdivision located beyond the cul-de-sac at the end of Green Tree Road. This property is located to the west of the existing Westchester County Bike Path. This property does not have frontage on an existing improved road. However, the submission materials indicate that the applicant intends to access the lots from an unimproved portion of Green Tree Road across a 16.5 foot wide easement across the Westchester County Bike Path, provided by the NYS DOT.

Project History

- 10/17/05 Town Engineer and Town Planner informal application meeting with Applicant's Engineer regarding proposed subdivision.

- 11/9/05 Informal Application submission requesting subdivision of 9.8 acres into 3 lots;
- 01/6/06 Memo from Town Engineer noting revisions to conventional 4-lot plan (i.e. cul-de-sac, lot lines, stormwater detention, water quality improvements, DOT documentation, etc.)
- 01/09/06 Memo from Town Planner noting need to refer to Town Attorney for review and opinion regarding road frontage.
- 1/11/06 Planning Board meeting included discussion of DOT easement and referral to Town Attorney.
- 6/26/06 Submission from Applicant of revised sketch plan;
- 6/27/06 Referral to Town Attorney;
- 11/1/06 Memo from Town Attorney to Planning Board noting project to proceed as an "open development project".
- 11/13/06 Town Engineer memo to Planning Board indicating changes to the wetland report and revisions to the conventional layout to reflect the wetland boundary, wetland buffer and soils.
- 11/13/06 Town Planner memo to Planning Board indicating that the ROW is not accurately represented on the plans and issues regarding declaration of an Open Development Area.
- 11/15/06 Planning Board meeting discussion regarding Open Development Law [280a(40)], wetland delineation and report, access easement width and plan presentation, and Town wetland regulations.
- 11/17/06 Submission of the wetlands report.
- 11/30/06 Memo from the Town Engineer to the Applicant commenting on the wetland report.
- 11/6/07 Submission of Preliminary Subdivision Application and associated materials.
- 11/29/07 Submission of additional application materials.
- 1/9/08 Submission of additional application materials.
- 1/23/08 Referral of Application and materials to Town Board, Conservation Board, NYC DEP, NYS DOT, WCPD.
- 3/5/08 Memo from Somers ~~Town Clerk~~ to Planning Board indicating Town Board conversation regarding the Open Development Law in relation to this property and overall feeling that the Town Board did not think that crossing the bike path with a driveway was a good idea.
- 03/07/08 Town Planner Planning Board memo
- 03/07/08 Town Engineer Planning Board memo
- 03/13/08 Action Letter
- 03/17/08 Planning and Engineering memo to NYSDOT inquiring about crossing of the trailway and associated procedures involving NYSDOT highway permit.
- 04/28/08 Receipt of NYSDOT response to 03/17/08 Letter.

Project Review

This review is based upon the following submission materials:

- Narrative letter prepared by Jeffrey Contelmo, P.E. of Insite Engineering, Surveying & Landscape Architecture, P.C. dated January 27, 2012;
- Narrative letter to NYSDOT requesting permit information prepared by Jeffrey Contelmo, P.E. of Insite Engineering, Surveying & Landscape Architecture, P.C. dated January 27, 2012;
- Map titled "Stevens Subdivision Conventional Subdivision Constraints Map", prepared by Insite Engineering, Surveying & Landscape Architecture, P.C., dated January 27, 2012;
- Map titled "Stevens Subdivision Open Development Area Map", prepared by Insite Engineering, Surveying & Landscape Architecture, P.C., dated January 27, 2012;
- Map titled "Stevens Subdivision Soils Map", prepared by Insite Engineering, Surveying & Landscape Architecture, P.C., dated January 27, 2012;

This office has received a request for the Planning Board to entertain an informal discussion regarding the above referenced application. This application was last discussed before the Planning Board in March 2008. In March of 2008, the Planning Board expressed great concern regarding crossing of the North County Trailway, among other things. As such, the Planning and Engineering Office submitted inquiry to the NYSDOT regarding their procedures and requirements for crossing the trailway. Attached you will find the letter of inquiry made to NYSDOT as well as NYSDOT's response. Please note that two attachments to NYSDOT's response which depicted the property and trailway crossing were not scanned due to their size.

The Applicant is requesting a discussion with the Planning Board to review the new subdivision layouts and wetland delineations, to further inform the Planning Board of their discussions with NYSDOT, to establish the process for proceeding with an Open Development Area and to discuss creation of a stormwater management plan for the development.

- In regards to the subdivision layout, the property is 9 acres and does not meet the acreage requirement to be developed under the Conservation Subdivision regulations found within the Somers Town Code. The applicant has indicated they would like to develop the property as an Open Development Area. This office has referred this application to the Planning Board Attorney so that he can advise the Board of its role in review of an Open Development Area. My understanding is that the Open Development Act allows the property owner to access the property but does not dictate how many houses can be placed on a property.
- The access off of Green Tree Road as depicted on the submitted plans shows crossing within a wetland. To date this office is unaware of the Planning Board permitting a roadway through a wetland. This crossing will need to be discussed further with the applicant.

This office will continue to review this application as directed by the Planning Board.

cc: Planning Board Attorney, Insite Engineering, Roy Stevens

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

Sabrina D. Charney Hull
Town Planner
ownplanner@somersny.com

PLANNING AND ENGINEERING DEPARTMENTS

Town of Somers

WESTCHESTER COUNTY, N.Y.

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

March 17, 2008

Mrs. Joan Dupont, P.E. Regional Director
New York State Department of Transportation
Eleanor Roosevelt State Office Building
4 Burnett Boulevard
Poughkeepsie, NY 12603

RE: Crossing the North County Trailway, Town of Somers, Westchester County NY

Dear Mrs. Dupont:

The Town of Somers Planning Board is currently reviewing a proposed preliminary subdivision application which involves crossing the North County Trailway (Bike Path) with a common driveway to serve a three lot subdivision off an unimproved section of Green Tree Road in the Town of Somers. This portion of the North County Trailway is bound by Granite Springs Road (to the north) and Mahopac Avenue (to the south). The crossing would interrupt an existing 8,500 foot stretch of the trailway. The property is a 9.92 ac. parcel bound by the North County Trailway. The North County Trailway runs in a northeast to southwest direction as identified on the attached Figure 1.

The Planning Board is extremely concerned for the public safety of the users of the North County Trailway and would like to know the New York State Department of Transportation's (NYSDOT) policies in relation to:

- Crossing the North County Trailway in the middle of a section;
- Emergency Response in relation to the North County Trailway; and
- Maintenance responsibilities and associated requirements for the North County Trailway.

For your reference, enclosed you will find a copy of a portion of a drawing on which the permanent easement lies and is issued to the property owner, as well as an expired highway work permit that the owner submitted to the Planning Board. If you have any questions, please do not hesitate to contact me or the Town Engineer, Guy L. Gagné, P.E.

Sincerely,

Sabrina D. Charney Hull
Town Planner

att.
cc: Town Engineer
Planning Board
Applicant
WCDP
WCDOT

HIGHWAY WORK PERMIT #08-97-0523

SPECIAL PERMIT CONDITIONS

1. Sawcut trailway pavement and replace existing pavement with a heavy-duty section. Maximum width of crossing and drive within State R.O.W shall be 10'

2. 10' paved crossing shall extend a minimum of 20' from each side of paved railway. Existing drainage patterns shall be maintained.

3. Speed bumps shall be required on access drive on both sides of trailway.

4. Stop signs shall be required on access drives on both side of the trailway.

5. A gate shall be installed east of the trailway line controlling access, as more specifically detailed in Item 5 of said August 20, 1997 easement – Liber 11792 cp 262.

6. The Highway Work Permit application shall include the attached subdivision map, plan and applicable section, and shall include the condition of a maximum one day partial closure of the trailway to complete the work.

7. Access across the trailway has been provided by permanent easement via Map 30C, Parcel 96.

8. The 10' wide drive shall serve undeveloped lands northwest of the trailway ROW which should be limited to a maximum of three (3) residential units to insure safe access.

MAM

Bike path Trailway

Trailway crossing

State of New York
Department of Transportation
Residency 8-8 Northern Westchester - Katonah
85 Route 100
Katonah, NY 10536
(914) 232-5065 Off.
(914) 232-0719 Fax

Astrid Glynn
Commissioner

David A. Paterson
Governor

April 7, 2008

Beyers Associates
Attn: Mr. Michael Beyer, P.E
273 Starr Ridge Road
Brewster, N.Y. 10509

RE: KPA # 455, Bike Path
Town of ~~South Salem~~ Somers
Access across Trailway Row
Stevens Subdivision

Dear Mr. Beyer,

Your permit, (# 08-97-0523) is effective for one year. As such this permit is no longer a viable instrument and you will have to re-apply to proceed with your project.

The Guaranteed Deposit of $10,440.00 on file with the New York State Department of Transportation, will be transferred to the new permit.

To re-apply:

1) Submit Perm 33 with appropriate fees.
2) Submit a complete copy of plans addressing both the pertinent items on the enclosed "PARCL" and the "Special Permit Conditions".
3) There will need to be a Maintenance and protection of traffic plan to address the Bike Path users while construction commences.

Forms and information are available on our website at www.nysdot.gov

If you have any questions, or require any further information, you can contact me at (914) 232 –5065, Mon. – Fri.
7:30 – 3:30.

Sincerely,

Stuart Sprague
Residency Permit Engineer

CC: 1) MJM 2) TD 3) Permit 4) SS

Hull

C:\Documents and Settings\sprague\Desktop\2007 permit letters by number\Letters 400, 499\455 1 KPA Bike Path Crossing .doc

SPECIAL PERMIT CONDITIONS (REVISED 9/23/97)

HIGHWAY WORK PERMIT #08-97-0523

1. Sawcut trailway pavement and replace existing pavement with a heavy-duty section. Maximum width of crossing and drive within State R.O.W. shall be 16.5'

2. 16.5' paved crossing shall extend a minimum of 20' from each side of paved railway. Existing drainage patterns shall be maintained.

3 Speed bumps shall be required on access drive on both sides of trailway.

4. Stop signs shall be required on access drives on both sides of the trailway.

5. A gate shall be installed east of the trailway line controlling access.

6. The Highway Work Permit application shall include the attached subdivision map, plan and applicable section, and shall include the condition of a maximum one day partial closure of the trailway to complete the work.

7. Access across the trailway has been provided by permanent easement via Map 30-C, Parcel 96.

8. The 16.5' wide drive shall serve undeveloped lands northwest of the trailway ROW which should be limited to a maximum of four (4) residential units to insure safe access.

State of New York
Department of Transportation
Residency 8-8 Northern Westchester - Katonah
85 Route 100
Katonah, NY 10536
(914) 232-5065 Off.
(914) 232-0719 Fax

Astrid Glynn
Commissioner

David A. Paterson
Governor

April 23, 2008
Beyers Associates
Attn: Mr. Michael Beyer, P.E
273 Starr Ridge Road
Brewster, N.Y. 10509

RE: KPA # 455, Bike Path
Town of Somers
Access across Trailway Row
Stevens Subdivision

Dear Mr. Beyer,

To clarify my recent letter of April 7, 2008, your request to re-apply submission of plans must address "Special Permit Conditions. In particular:

1) Details of locked gate mentioned both in the 1997 Easement and Special Permit Conditions attached to Permit # 08-97-0523. Put a note on the plans, in bold letters, as follows:
   "LOCKED GATE IS TO BE INSTALLED AND MAINTAINED BY PERMITTEE AND SUBSEQUENT OWNERS."
2) Speed Bumps
3) Stop signs
4) All pertinent items on the Permit Applications Review Check List.

If you have any questions, or require any further information, you can contact me at (914) 232 –5065, Mon. - Fri.
7:30 – 3:30.

Sincerely,

Stuart Sprague
Residency Permit Engineer

CC: 1) MJM 2) TD 3) Permit 4) SS
TD

4-28-08
Somers - Hull

C/ PB TP CTE applicant

Westchester gov.com

Referral Review
Pursuant to Section 239 L, M and N of the General Municipal Law and Section 277.61 of the County Administrative Code

Robert P. Astorino
County Executive

County Planning Board

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FEB 27 2013
PLANNING-ENGINEERING
TOWN OF SOMERS

467

February 27, 2013

Syrette Dym, AICP, Town Planner
Town of Somers Town House
335 Route 202
Somers, NY 10589

Subject: **Referral File No. SOM 13-002 – BBS Subdivision**

Dear Ms. Dym:

The Westchester County Planning Board has received a package of materials in support of a proposed 3-lot residential subdivision of a 9.8 acre tract that has no street frontage. The subdivision maps are dated January 30, 2013. The east side of the tract abuts, over a length of 1,266 feet, the New York State-owned property in which the North County Trailway is located. The end of an unimproved Town of Somers-owned right-of-way abuts a portion of the east side of the NYS property, opposite the subject tract. This right-of-way extends east 350 feet to the cul-de-sac end of Green Tree Road, which then extends east to an intersection with Tomahawk Street (NYS Route 118).

The applicant presents two development scenarios; both show access provided to the three proposed lots from Green Tree Road, through the unimproved Town right-of-way, across the NYS property and across the North County Trailway. The first plan is a conventional subdivision where Green Tree Road is extended in the Town-owned right-of-way, across the trailway and ending in a new cul-de-sac serving three new driveways to single-family homes on the three new lots. The second scenario proposes that a common driveway be constructed from the existing Green Tree Road cul-de-sac, through the Town-owned right-of-way, across the trailway and then splitting to serve the three new lots. The second concept is proposed under Open Development Area provisions of New York State law.

The application materials report that NYS Department of Transportation previously granted an easement for a common driveway to cross the state-owned land and, therefore, the North County Trailway. The materials also report that the NYS DOT had issued a Highway Work Permit to allow construction of the driveway and that this permit required installation of specific safety measures to protect the trailway and its users. The permit is reported as now expired and would require renewal.

We have the following comments and recommendations:

1. **Protection of the North County Trailway**. As the agency that operates and maintains the trailway, the County Department of Parks, Recreation and Conservation is not in favor of any new vehicular crossing of this County park. However, the land for the park is under the ownership of the NYS DOT and that agency shall make any final decision.

432 Michaelian Office Building
148 Martine Avenue
White Plains, New York 10601 Telephone: (914) 995-4400 Fax: (914) 995-9098 Website: westchestergov.com

2. **Town Master Plan policies on cluster development**. To our knowledge, the Town of Somers has utilized, as do most Westchester County municipalities, the provisions for cluster development under NYS Town Law and not the provisions for Open Development Area to process requests to adjust the standard zoning requirements for new subdivisions. In fact, the ***Town of Somers Comprehensive Master Plan*** sets forth very specific recommendations for the review and approval of cluster developments:

> PROCEDURES FOR CLUSTER DEVELOPMENT At a minimum, the cluster regulations should include the following requirements -
>
> - An applicant shall submit a written statement spelling out with conviction the benefits to the Town of clustering consistent with adopted Town policies.
> - An applicant shall submit a buildable conventional subdivision plan that meets Town regulations for a preliminary subdivision plan so as to establish maximum permitted density and provide a base for comparison of what benefits can or cannot be achieved with a cluster plan.
>
> STANDARDS FOR CLUSTER DEVELOPMENT The cluster regulations should specify objectives and development forms to be encouraged, including -
>
> - Guidelines to promote flexibility in housing type to be constructed; in particular incentives to include more affordable attached dwellings.
> - Policy and guidelines on the establishment of recreation areas in cluster subdivisions.
> - Policy and guidelines on the ownership of open space and common lands.
> - General standards on minimum lot sizes (i.e. reduction in area from normal zoning requirement) with emphasis on relating lots and property lines to land.
> - Allowance for common driveways shared by three or less homes.
> - Criteria for considering flag lot layout as alternative to construction of short dead-end streets; tradeoffs may include establishment of open space and a reduction in overall density.

We note in particular the last listed standard. It suggests that it would be appropriate for the Town to entertain a reduction in density from three to two lots as a consideration for having the applicant avoid the cost of constructing the road that would be necessary under the conventional plan.

Thank you for calling this matter to our attention.

Respectfully,
WESTCHESTER COUNTY PLANNING BOARD

For
By:

Edward Buroughs, AICP
Commissioner

cc: David DeLucia, Director of Park Facilities, County Department of Parks, Recreation and Conservation
Richard Dillman, PE, SEQR Unit, NYS Department of Transportation, Region 8

C/ PB TP CTE Applicant

BUREAU OF FIRE PREVENTION

Telephone
(914) 277-8228
Fax
(914) 277-3790

EFREM CITARELLA
CHIEF

Town of Somers

WESTCHESTER COUNTY, N.Y.

SOMERS TOWN HOUSE
ANNEX
337 ROUTE 202
SOMERS, NY 10589

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FEB 22 2013
PLANNING-ENGINEERING
TOWN OF SOMERS

465

MEMO TO: Planning Board

FROM: Bureau of Fire Prevention

RE: BBS Subdivision – Green Tree Road

DATE: February 21, 2013

At our monthly meeting on February 13, 2013, the site plans submitted for the BBS Subdivision on Green Tree Road were reviewed. The Bureau would like to meet with a representative of Insite Engineering to discuss what is being proposed regarding access to this property.

COMMITMENT & INTEGRITY
DRIVE RESULTS

709 Westchester Avenue | Suite L2
White Plains, New York 10604
www.woodardcurran.com

T 800.807.4080
T 914.448.2266
F 914.448.0147

446

RECEIVED
FEB 11 2013
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TOWN OF SOMERS

WOODARD &CURRAN

MEMORANDUM

TO: Syrette Dym, AICP, Town Planner
CC: Marilyn Murphy, Planning Board Secretary
FROM: Joseph C. Barbagallo, P.E., BCEE
DATE: February 7, 2013
RE: Establishment of Escrow Fees
BBS Subdivision
Subdivision Application, Erosion and Sediment Control Permit, Steep Slopes Permit and Wetlands Permit
Green Tree Road
TM: 15.12-2-1, R-80

Based on our initial review of the above referenced project that has been submitted to the Planning Board, our anticipated review fee is described as follows below. This establishment of escrow fee memorandum will supersede any previous escrow budget established for "Steven's Subdivision", under which this application was previously named.

BBS Subdivision Application – In accordance with Task Order No. 1-2 for Escrow Based Town Engineering Services, we recommend an escrow review fee of **$19,500** to cover time and effort associated with the following tasks:

- Subdivision Plat Submittal Review
  - Review of a Stormwater Pollution Prevention Plan (SWPPP), Accounting for Two Subsequent Revised SWPPP Submittals
  - Subdivision Plat Review and Planning Board Memorandum Creation for 6 Planning Board Meetings
  - Coordination of Plat Review With Other Involved State, County and Local Agencies
- Wetlands Mitigation Plan Review
  - Site walk by Wetlands Specialist
  - Review of Buffer Mitigation Plan, Accounting for Two Subsequent Revised Mitigation Plan Submittals
  - Review of Wetlands Mitigation Plan, Accounting for Two Subsequent Revised Mitigation Plan Submittals
  - Coordination of Review with Applicant Wetlands Specialist
- Site Walk
  - Site walk by Consulting Engineers with Planning Board
  - Preparation of Memorandum Summarizing Observations from Site Walk
- Assistance with project review under the NYSDEC SEQR program.
- Assistance with preparation of Planning Board resolutions of approval for Preliminary Subdivision Plat and Final Subdivision Plat
- Consulting Engineer Meeting Attendance at 6 Planning Board Meetings
- Review of Final Conditions of Resolution for Planning Board Approval

- Project Administrator Invoicing for 6 Billing Periods

The provided budget is intended to account for all anticipated charges to complete our review of the project through final Planning Board approval. In the event additional budget is required to account for unforeseen conditions, we will prepare a subsequent memorandum that defines the additional escrow amounts required and supporting documentation of the unforeseen conditions.

Feel free to contact our office at anytime with any questions or concerns.

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

January 30, 2013

Town of Somers Planning Board
335 Route 202
Somers, New York 10589

RECEIVED
JAN 30 2013
PLANNING ENGINEERING
TOWN OF SOMERS

RE: BBS Subdivision, (Formerly Stevens Subdivision)
Green Tree Road
Tax Map No. 15.12-2-1

Dear Chairman Currie and Members of the Board:

Enclosed please find fourteen (14) copies of the following in support of an Application for Preliminary Subdivision Approval, Steep Slopes Permit, Tree Removal Permit, Wetland & Watercourse Permit and Stormwater Management Erosion and Sediment Control Permit for the above referenced application:

- Property Deed
- Application for Preliminary Approval of Subdivision, dated January 29, 2013.
- Chapter 67 – "Application Processing Restrictive Law" Certification, dated January 29, 2013.
- Applicant Acknowledgement, dated January 29, 2012.
- January 28, 2012 Letter from the Town Receiver of Taxes.
- Application for Environmental Permit Chapter 148 "Steep Slopes," dated January 29, 2013.
- Tree Removal Permit Application, dated January 29, 2013.
- Application for a Wetland & Watercourse Permit, dated January 29, 2013.
- Application for Environmental Permit Chapter 93 "Stormwater Management and Erosion & Sediment Control," dated January 29, 2013.
- Full Environmental Assessment Form, dated January 30, 2013.
- Preliminary Subdivision Plat, dated January 30, 2013.
- Project Drawing Set, 3 sheets, dated January 30, 2013.
- Constraints Map for Conventional Subdivision, dated January 30, 2013.
- Soils Map for Convention Subdivision, dated January 30, 2013.
- Open Development Area Map, dated January 30, 2013.

Also enclosed is Check #578 in the amount of $2,000.00 for the application fee.

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

Beyer & Associates Consulting Engineers was the previous engineer of record, and last formally presented the application to the Planning Board on March 13, 2008. Our office informally appeared

before the Planning Board on February 8, 2012, to present a project update to the Board. There is an outstanding Planning Board *Actions Items for Steven Subdivision* letter (Action Items letter) from that meeting. The attached Project Drawings address the items contained in that letter. Responses to the Action Items letter are provided below. At the February 8, 2012 Planning Board meeting this office informally presented an update on the application to the Board. Since that time, ownership of the property has transitioned, and Mr. Stevens is no longer involved in the project. Tommy Boniello, Michael Barile, and Nicole Stern now own the property. The name of the subdivision has been changed to BBS Subdivision. As a result of the transition of ownership, new applications have been provided.

We request this application be placed on the February 13, 2013 Planning Board agenda. At that meeting we wish to establish the escrow review fees for the project, and have the Planning Board authorize a consultant to verify the wetland flagging.

The following responses are to the outstanding March 13, 2008 Planning Board Action Items letter. These responses address comments based upon the review of the plans last submitted by Beyer & Associates Consulting Engineers:

1. All of the plans have been signed and sealed as requested.
2. The small triangular piece of property on the east side of the bike trail, and adjacent to Somers Koegel Park belongs to the applicant. This piece of property is not part of the subdivision application, although it is acknowledged an asphalt path has been constructed across this parcel. Please note the applicant did not construct this path. The applicant is proposing to dedicate this parcel to the Town of Somers.
3. This comment requests the applicant demonstrate compliance with Section 167, Wetlands and Watercourse Protection, of the Town code because the Conventional Subdivision Layout illustrates a portion of the proposed road through an existing wetland.

   Pursuant to Section 167-4(B)(1) the construction of a roadway within a wetland or wetland buffer is a regulated activity not a prohibited activity. Upon verification of the wetland boundary by the Town, the project Wetland Report can be completed and will address the Standards for Application Permit Decisions enumerated in Section 167-8 of the Town code. It is important to note that the Open Development Area alternative minimizes the wetland disturbance.
4. There are no references to "sketch plan," and as appropriate, the submission materials indicate "preliminary subdivision plan."
5. The Site Data on Drawing SP-1 indicates the total lot area, as well as the areas for each lot and the proposed road right-of-way (conventional layout only).
6. The current application illustrates a Conventional Subdivision Layout. A Conservation Subdivision is not proposed.
7. The current application illustrates a Conventional Subdivision Layout. A Conservation Subdivision is not proposed.
8. The proposed lot lines have been illustrated to conform to Section 150-23 of the Town code.
9. All signature blocks reference Westchester County.
10. The signature block for the Town of Somers on the Preliminary Plat does not reference the Planning Board as previously submitted.
11. A category for lawn has been provided on question A. 2 (page 3 of 21) of the Full Environmental Assessment Form (EAF).
12. The print out from the New York State Office of Parks, Recreation and Historic Preservation has been attached to the EAF, and clearly indicates the property is not contiguous to a building, site or district, listed on the State or National Register of Historic Places.

13. See response #12. The same print out illustrates that the project is not substantially contiguous to a site listed on the Register of National Natural Landmarks.
14. The print out from the New York State Department of Environmental Conservation (NYSDEC) Environmental Resource Mapper has been attached and lists the threatened or endangered species within the project locale.
15. Item A. 16 (page 4 of 21) on the EAF indicates the wetlands on and contiguous to the project site.
16. Item A. 16.b (page 4 of 21) indicates the size of the onsite wetlands, and the size of the wetlands within the existing Green Tree Road right-of-way.
17. Item A. 17 (page 5 of 21) on the EAF indicates that there are no existing utilities servicing the site.
18. The area of the project and the contiguous holdings of the applicant have been provided on Item B.1.A (page 5 of 21) of the EAF.
19. No response is necessary as this comment is identical to the previous comment.
20. Item B. 18 (page 7 of 21) of the EAF indicates "yes" based upon the recommendation of the previous Town Planner.
21. Item B. 25 (page 7 & 8 of 21) of the EAF indicates Town Board Approval will be required for establishment of an Open Development Area. Again this is the preferred development alternative by the applicant.
22. Item B. 25 (page 7 & 8 of 21) of the EAF includes all of the Environmental Permits necessary for the project.
23. Item C. 3 (page 9 of 21) of the EAF indicates the maximum potential development of the site as permitted by present zoning is 3-lots, which is consistent with what is presented in the Conventional Subdivision and what is contemplated by the application.
24. The proposed lot lines have been illustrated to conform to Section 150-23 of the Town code. Also, the lot conformance table on the Project Drawings demonstrates conformance with Section 170-58.3 and 58.4 of the Town code. The proposed stormwater management areas have been located outside of the wetlands, wetland buffer, and steep slope to the maximum extent practicable. The only area where stormwater management is proposed within the wetland and wetland buffer is within the existing Green Tree Road right-of-way. Since the wetland and buffer intersect the existing right-of-way there is no alternative or way to avoid locating the stormwater management areas within the wetland, wetland buffer or steep slopes.
25. The requested references and notes have been added to the Preliminary Plat as requested. Ultimately as the Open Development Area option is considered and pursued the applicable notes will be added.
26. With respect to the Open Development Area Map the following is noted:
    a. The driveways have been laid out so they are less than 12%. Driveway profiles can be provided upon request of the Planning Board.
    b. The proposed individual and common driveways have been laid out to permit a fire department apparatus to access each dwelling. Turning plans can be provided upon request of the Planning Board.
    c. The fire department pull off areas have been illustrated on the Open Development Area Map.
    d. A driveway detail meeting the requirements of Section A174-29 will be provided on the Project Drawings for the Open Development Area.

e. The common driveway on the Open Development Area Map meets the requirements for 3-users, and provides 16 feet of impervious surfaces, and 4-feet of pervious traversable shoulder in all areas.

f. The common driveway on the Open Development Area Map meets the requirements for 2-users, and provides 14 feet of impervious surfaces, and 4-feet of pervious traversable shoulder in all areas.

g. All single user driveways are less than 500 feet.

27. The New York State Department of Transportation (NYSDOT) has granted an easement for the construction of a common driveway across the North County Trailway. The existing easement is sufficient to address the common driveway illustrated on the Open Development Area Map. With respect to the Conventional Subdivision layout, it is proposed to cross the Trailway with a Town Road right-of-way. An easement is not required when one public right-of-way crosses another public right-of-way. This is similar to any other Town / State road crossing, such as Mahopac Avenue and NYS Route 35, whereby an easement was not granted to the Town to cross US Route 35. However, a Highway Work Permit would be required for the improvements. It is noteworthy to point out the NYSDOT previously issued a Highway Work Permit for the construction of the common driveway. The Highway Work Permit indicated the common driveway would service 3-lots. The previous Highway Work Permit has expired and will need to be renewed as an outside agency approval within the overall subdivision process. During their previous review, the NYSDOT required specific safety measures be installed in order to use the Trailway for access. Based on preliminary conversations with the NYSDOT these same safety measures will be a part of the renewed Highway Work Permit.

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

Very truly yours,

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

By: _____
Jeffrey J. Contelmo, P.E.
President / Principal Engineer

JJC/rdw

cc: T. Boniello / M. Barile / N. Stern (1 copy with enclosures)
A. Mole, Esq.

Insite File No. 09119.100

7/02

SOMERS PLANNING BOARD
APPLICATION FOR PRELIMINARY APPROVAL OF SUBDIVISION

Application Processing Affidavit must also be signed. Please click here for form.

I. IDENTIFICATION OF APPLICANT:

A. OWNER: Tommy Boniello, Michael Barile & Nicole Stern
ADDRESS: 888 Route 6
Mahopac, NY 10541
TELE #: (845) 621-1317

SUBDIVIDER:
ADDRESS:
TELE #:

B. SURVEYOR: Robert E. Baxter, P.L.S.
ENGINEER: Jeffrey J. Contelmo, P.E.

TELE #: (914) 621-8562 Baxter Land Surveying, P.C.
TELE #: (845) 225-9690 Insite Engineering, Surveying & Landscape Architecture, P.C.

II. IDENTIFICATION OF PROPERTY:

A. Subdivision identifying Title: BBS Subdivsion
B. Street abutting property: Green Tree Road
C. Tax Map Designation: Sheet: 15.12 Block: 2 Lot: 1
D. Zoning District: R-80 (Residential)
E. Project (does) (does not) connect directly into (State) (County) highway.
F. Proposed drainage (does) (does not) connect directly into channel lines established by the County Commission of Public Works.
G. Project site (is) (is not) within 500 feet of Town boundary.
H. Affected Wetland Area: 3,189 s.f. Wetland Buffer Area: 11,763 s.f.
I. Affected Steep Slope Areas: 15% - 25%: 14,365 Over 25%: 688
J. Total area of property in acres: 9.78 AC

III. APPLICABLE FEES PAID: By certified check payable to Town of Somers
Abbreviated Procedure fee of $250: Date Paid:
Preliminary Subdivision Plat is $400 per lot $1,200.00
Number of lots: 3 Date Paid:
Wetland Permit Fee: $200 min. fee + $100 per 5,000 s.f. of regulated area or proposed portions to be disturbed. ($500.00)
Steep Slope Permit Fee: $150 min. fee + $75 per 10,000 s.f. of regulated area or proposed portions to be disturbed. ($300.00)
Total Fee: $2,000.00 Date Paid:

IV. DOCUMENTS TO BE SUBMITTED WITH THIS APPLICATION
14 copies of all submitted correspondence during review process

A. X 14 copies of Preliminary Plat
B. X 14 copies of Preliminary Construction Plans
C. X 14 copies of Topographic Map
D. X 2 copies of Affidavit of Ownership & Title Policy
E. X 14 copies of Environmental Assessment Form
F. X Proof that taxes have been paid

V. ADJOINING PROPERTY OWNERS

A. Identify all adjoining property owners & owners directly across any and all adjoining streets including those in adjoining communities. Submit stamped envelopes addressed as listed.

SHEET BLOCK LOT NAME OF OWNER & MAILING ADDRESS

See Attachment

If necessary, continue listing on additional sheet.

By submission of this application, the property owner agrees to permit Town officials and their designated representatives to conduct on-site inspections in connection with the review of the proposal.

Property shall be identified on site as being proposed for subdivision. Center line of proposed roadway(s) shall be staked prior to scheduling of a walk-through by the Planning Board.

It is the responsibility of the applicant to be knowledgeable of the law. The following are available at the Town Clerk's Office: Master Plan, Zoning Ordinance, Subdivision Regulation, State Environmental Quality Review Act, Wetland and Steep Slope Ordinances, Road Specifications.

All revised plans shall be accompanied by a letter indicating what has been changed. All costs incurred by the Town for Professional Services and SEQR review will be paid by the applicant.

The undersigned applicant hereby requests approval by the Planning Board of the Preliminary Plat and Construction Plans.

Date:

Applicant

Date: 1-29-13

Property Owner Same As Owner

7/02

SOMERS PLANNING BOARD

APPLICATION FOR PRELIMINARY APPROVAL OF SUBDIVISION

Application Processing Affidavit must also be signed. Please click here for form.

I. IDENTIFICATION OF APPLICANT:

A. OWNER: Tommy Boniello, Michael Barile & Nicole Stern
ADDRESS: 888 Route 6
Mahopac, NY 10541
TELE #: (845) 621-1317

SUBDIVIDER:
ADDRESS:
TELE #:

B. SURVEYOR: Robert E. Baxter, P.L.S.
TELE #: (914) 621-8562 Baxter Land Surveying, P.C.
ENGINEER: Jeffrey J. Contelmo, P.E.
TELE #: (845) 225-9690 Insite Engineering, Surveying & Landscape Architecture, P.C.

II. IDENTIFICATION OF PROPERTY:

A. Subdivision identifying Title: BBS Subdivsion
B. Street abutting property: Green Tree Road
C. Tax Map Designation: Sheet: 15.12 Block: 2 Lot: 1
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G. Project site (is) (is not) within 500 feet of Town boundary.
H. Affected Wetland Area: 3,189 s.f. Wetland Buffer Area: 11,763 s.f.
I. Affected Steep Slope Areas: 15% - 25%: 14,365 Over 25%: 688
J. Total area of property in acres: 9.78 AC

III. APPLICABLE FEES PAID: By certified check payable to Town of Somers
Abbreviated Procedure fee of $250: Date Paid:
Preliminary Subdivision Plat is $400 per lot $1,200.00
Number of lots: 3 Date Paid:
Wetland Permit Fee: $200 min. fee + $100 per 5,000 s.f. of regulated area or proposed portions to be disturbed. ($500.00)
Steep Slope Permit Fee: $150 min. fee + $75 per 10,000 s.f. of regulated area or proposed portions to be disturbed. ($300.00)
Total Fee: $2,000.00 Date Paid:

IV. DOCUMENTS TO BE SUBMITTED WITH THIS APPLICATION
14 copies of all submitted correspondence during review process

A. X 14 copies of Preliminary Plat
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C. X 14 copies of Topographic Map
D. X 2 copies of Affidavit of Ownership & Title Policy
E. X 14 copies of Environmental Assessment Form
F. X Proof that taxes have been paid

V. ADJOINING PROPERTY OWNERS

A. Identify all adjoining property owners & owners directly across any and all adjoining streets including those in adjoining communities. Submit stamped envelopes addressed as listed.

SHEET BLOCK LOT NAME OF OWNER & MAILING ADDRESS

See Attachment

If necessary, continue listing on additional sheet.

By submission of this application, the property owner agrees to permit Town officials and their designated representatives to conduct on-site inspections in connection with the review of the proposal.

Property shall be identified on site as being proposed for subdivision. Center line of proposed roadway(s) shall be staked prior to scheduling of a walk-through by the Planning Board.

It is the responsibility of the applicant to be knowledgeable of the law. The following are available at the Town Clerk's Office: Master Plan, Zoning Ordinance, Subdivision Regulation, State Environmental Quality Review Act, Wetland and Steep Slope Ordinances, Road Specifications.

All revised plans shall be accompanied by a letter indicating what has been changed. All costs incurred by the Town for Professional Services and SEQR review will be paid by the applicant.

The undersigned applicant hereby requests approval by the Planning Board of the Preliminary Plat and Construction Plans.

Applicant [signature] Date:

Property Owner Same As Owner Date: 1-29-13

TOWN OF SOMERS
WESTCHESTER COUNTY, NEW YORK
APPLICATION FOR ENVIRONMENTAL PERMIT
CHAPTER 93 "STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL"

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

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

OWNER: Tommy Boniello, Michael Barile & Nicole Stern **Tel.#:** (845) 621-1317
Mailing Address: 888 Route 6, Mahopac, NY 10541
APPLICANT: Same as owner **Tel. #:**
Mailing Address:
State authority: If other than owner, authorization must be submitted in writing

PREMISES: Sheet: 15.12 **Block:** 2 **Lot:** 1

DESCRIPTION OF WORK AND PURPOSE: Construction of residences, driveways, road, utilities, and stormwater basins for a 3-lot residential subdivision.

SIZE OF ACTIVITY AREA: 500 **feet by** 500 **feet**
(include all construction activity area)

VOLUME OF EXCAVATED MATERIAL: 0 cy Total. 1,000 cy Cut / 1,000 cy Fill
(leave blank if not known)

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

PROPOSED STARTING DATE: 1/2014 **PROPOSED COMPLETION DATE:** 1/2015
PLANS PREPARED BY: **DATED:** 1-30-13
Insite Engineering, Surveying & Landscape Architecture, P.C.
*****Plans and copy of Stormwater Pollution Prevention Plan must be submitted with application.*****

LIST OF APPLICABLE COUNTY, STATE, OR FEDERAL PERMITS: WCDOH Realty Subdivision Approval; Army Corps of Engineers Nationwide Permit; NYCDEP SWPPP Approval; NYSDOT Highway Work Permit; NYSDEC Coverage under GP-0-10-001

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

NAME	ADDRESS	BLOCK/LOT
See attachment (to be provided)		

APPLICANT'S SIGNATURE: **DATE:**
OWNER'S SIGNATURE: **DATE:**

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

7/02

TOWN OF SOMERS
WESTCHESTER COUNTY, NEW YORK
APPLICATION FOR ENVIRONMENTAL PERMIT
CHAPTER 167 "WETLAND AND WATER COURSE PROTECTION"

APPLICATION FEE:
Alteration of Wetlands: $200 minimum fee plus $100 per 5,000 S.F. of regulated area or proposed portions thereof to be disturbed.
Annual Maintenance Permit Renewal Fee: Administrative Permit: $25.00, Planning Board Permit: $75.00

OWNER: Tommy Boniello, Michael Barile & Nicole Stern **Tel.#:** (845) 621-1317
Mailing Address: 888 Route 6, Mahopac, NY 10541
APPLICANT: Same **Tel. #:** _____
Mailing Address: _____
State authority: _____ **If other than owner, authorization must be submitted in writing.**

PREMISES: Sheet: 15.12 **Block:** 2 **Lot:** 1
Situated on the left **side of** Green Tree Road **(Street),** 1,500 **feet from the intersection of** Tomahawk (NYS Route 118) **(Street)**

DESCRIPTION OF WORK AND PURPOSE:
Construction of residences, driveways, road, utilities, and stormwater basins for a 3-lot residential subdivision.

SIZE OF ACTIVITY AREA: 3.9 Ac ±
Is work proposed in Wetland: yes **or Wetland Control Area:** yes
Is there an existing house located on the site: no
Is pond, lake or detention basin proposed to be cleaned: no
Functions provided by Wetland: Refer to Wetland Report to be provided
Wetland Expert delineating Wetland: Evans Associates
ESTIMATED QUANTITY OF EXCAVATION: 0 **C.Y.** 1000 **CUT** 1,000 **FILL**
ESTIMATED TOTAL VALUE OF WORK: $ 350,000.00
PROPOSED STARTING DATE: 1/1/14 **PROPOSED COMPLETION DATE:** 1/1/15
PLANS PREPARED BY: Insite Engineering **DATED:** 1/30/13
*****Plans must be submitted with application.*****
LIST OF APPLICABLE COUNTY, STATE, OR FEDERAL PERMITS: WCDOH-Subdivision Approval
NYSDOT-Highway Work Permit; NYCDEP-Stormwater Pollution Prevention Plan Approval
Army Corps of Engineers-Nationwide Permit

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

NAME	ADDRESS	BLOCK	LOTS
See attachment			

APPLICANT'S SIGNATURE: [signature] **DATE:** 1-29-13
OWNER'S SIGNATURE: _____ **DATE:** _____

*APPLICATION MUST BE ACCOMPANIED WITH A COMPLETED ENVIRONMENTAL ASSESSMENT FORM, COMPLETE PLANS FOR LOT IMPROVEMENTS, AND LOCATION MAP OF WETLANDS AS THEY EXIST IN THE FIELD OR AS SHOWN ON SOMERS ENVIRONMENTAL MAPS.

ACONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

THIS INDENTURE, made the 28th day of September, two thousand twelve

BETWEEN

ROY B. STEVENS, residing at158 See Avenue, Mahopac, New York 10541,

party of the first part, and

MICHAEL BARILE, NICOLE STERN and TOMMY BONIELLO, as Tenants in Common, all with a mailing address at 888 Route 6, Mahopac, New York 10541

party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second party forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Somers, County of Westchester and State of New York, being more particularly bounded and described on the annexed Schedule "A" and made a part hereof.

BEING the same Premises conveyed by deed dated 08/08/85, and recorded on , in the Office of the Clerk of Westchester County, in Liber 8189, Page 290.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted in the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.
AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.
The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

Acknowledgment taken in New York State

STATE OF NEW YORK, COUNTY OF PUTNAM , ss:

On the 28th day of September , in the year 2012, before me, the undersigned, personally appeared **KURT SCHMITT** , personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

PETER J. REYNOLDS
Notary Public, State of New York
No. 4990951
Qualified in Westchester County
Commission Expires Jan. 21, ~~1994~~ 2014

Notary Public

Acknowledgment by Subscribing Witness taken in New York State

.TE OF NEW YORK, COUNTY OF , ss:

On the day of in the year before me, the undersigned, personally appeared , the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who being by me duly sworn, did depose and say, that he/she/they reside(s) in that he/she/they know(s) to be the individual described in and who executed the foregoing instrument; that said subscribing witness was present and saw said execute the same; and that said witness at the same time subscribed his/her/their name(s) as a witness thereto.

Notary Public

Acknowledgment taken in New York State

STATE OF NEW YORK, COUNTY OF , ss:

On the day of in the year , before me, the undersigned, personally appeared , personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

Acknowledgment taken outside New York State

*STATE OF , COUNTY OF ,ss:
*(or insert District of Columbia, Territory, Possession or Foreign Country)

On the day of in the year before me, the undersigned, personally appeared , personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in the

(add the city or political subdivision and the state or country or other place the acknowledgment was taken).

Notary Public

Bargain and Sale Deed
WITH COVENANT AGAINST GRANTOR'S ACT
TITLE NO.

ROY B. STEVENS

TO

MICHAEL BARILE, NICOLE STERN and
TOMMY BONIELLO

SECTION	15.12
BLOCK	2
LOTS	1 and 5
TOWN	SOMERS
TAX BILLING ADDRESS	888 Route 6 Mahopac, NY 10541

Return by Mail To:

Jennifer M. Herodes, Esq.
Herodes & Mole, PC
888 Route Six
Mahopac, New York 10541

SCHEDULE A

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Somers, County of Westchester and State of New York, bounded and described as follows:

PARCEL NO. 2

BEGINNING at a point on the westerly side of right of way of the Putnam Division of the New York Central and Hudson River Railroad Company, and at the end of a stone wall adjoining land now or late of William H. Moore, and running thence partly along land now or late of said Moore and partly along land now or late of J. Vernol north 87° 44' west 558.22 feet; north 85° 52' west 294.74 feet to land now or late of said Vernol; thence partly along the last mentioned land and partly along land now or late of David Hallock south 2° 8' 30" west 684.15 feet and south 2° 43' 30" west 335.95 feet, said two last courses being along a stone wall, to other land now or late of said David Hallock; thence along the last mentioned land and along a stone wall south 84° 49' east 59.70 feet and south 88° 8' east 58.56 feet to the westerly side of right of way of the said Railroad first above mentioned; thence along said westerly side of the said right of way and partly along a stone wall the following courses and distances, to wit:-- north 23° 31' east 177.60 feet; north 31° 11' east 138.08 feet; north 33° 4' 30" east 146.32 feet; north 37° 10' 30" east 126.48 feet; north 42° 35' east 171.26 feet; north 45° 28' east 348.04 feet and north 46° east 156.49 feet to the PLACE OF BEGINNING.

PARCEL NO. 3

Together with the right, title and interest, if any, of the sellers in a triangle piece of land of about .3 acres area bounded on east by land of Robert Faillace; on the south by land of Town of Somers and on the west by land of New York Central Railroad, now known as Penn Central Railroad.

.X MAP
.IGNATION

Dist.

Sec.

Blk.

Lot(s):

7/02

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

APPLICATION FEE:

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

OWNER: Tommy Boniello, Michael Barile & Nicole Stern **Tel. #:** (845) 621-1317

Mailing Address: 888 Route 6, Mahopac, NY 10541

APPLICANT: Same as Owner **Tel. #:** _____

Mailing Address: Same of Owner

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

Premises: Sheet: 15.12 **Block:** 2 **Lot:** 1

Situated on the left **side of** Green Tree Road **(Street)** 1,500 **feet from the intersection of** Tomahawk (NYS Route 118) **(Street)**

Description of Work and Purpose: Construction of residences, driveways, roads, utilities, and stormwater basins for a 3-lot residential subdivision.

Estimated Quantity of Excavation: 0 **C.Y.** 1,000 **CUT** 1,000 **FILL**

Size of Activity Area: 3.5 Ac

Total Value of Work: 350,000

Slope Category: 15%<25% 2,400 sf **25%<35%** 1,300 s.f. **or >35%:** 11,300 s.f.

Soil Types: Charlton Loam 2-8% slopes very stony (CIB), Charlton Loam 8-15% slopes (ChC), Carlisle Muck (Ce), Ridgebuy Loam 2-8% slopes (RdB)

Proposed Starting Date: 1/1/2014 **Proposed Completion Date:** 1/1/2015

Plans Prepared by: Insite Engineering **Dated:** 1/30/2013

*****Plans must be submitted with application.*****

List of Applicable County, State, or Federal Permits:

WCDOH-Subdivision Approval; NYSDOT-Highway Work Permit; NYCDEP-Stormwater Pollution Prevention Plan Approval;

Army Corps of Engineers-Nationwide Permit; Coverage under General Permit GP-0-10-001

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

NAME	ADDRESS	BLOCK	LOTS
See Attahcment (to be provided)			

Applicant's Signature: [signature] **Date:** 1-29-13

Owner's Signature: _____ **Date:** _____

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

.....**Office Use Only**.....

Administrative Permit: _____

Planning Board Permit: _____

08/28/06

TREE REMOVAL PERMIT APPLICATION
SECTION 156, TREE PRESERVATION

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

DATE: 1/18/13

1. APPLICATION FEE:

Tree Removal - $50.00 for the first five (5) trees to be removed, $15.00 for each additional tree to be removed.
Erosion and Sediment Control Application fee - $100 for disturbances of at least one acre or for the placement or removal of 20 cubic yards of soil, plus $500 for each additional acre of disturbance.

2. IDENTIFICATION OF APPLICANT:

OWNER: Tommy Boniello, Michael Barile & Nicole Stern Tel #: (845) 621-13-17
Mailing Address 888 Route 6, Mahopac, NY 10541

APPLICANT: (if other than Owner)
Same as Owner Tel. #: Same as Owner
Mailing Address: Same as Owner
Professional preparing site plan: Insite Engineering, Surveying & Landscape Architecture, P.C.
State authority: _____ If other than owner, authorization must be submitted in writing.

3. IDENTIFICATION OF SUBJECT PROPERTY

Address Green Tree Road
PREMISES: Sheet: 15.12 Block: 2 Lot: 1

4. NUMBER OF TREES TO BE REMOVED (12-INCHES OR GREATER)

Zoning District: R10 R40 (R80) R120 Other (Circle)

146 **Quantity of trees to be removed (Must be tagged/identified to evaluate permit requirements)**

5. PURPOSE FOR TREE REMOVAL

Construction of residences, driveways, road, utilities, and stormwater basins for a 3-lot residential subdivision.

6. **SKETCH OR *SITE PLAN* ***

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

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

APPLICANT'S SIGNATURE: [signature] **DATE:** 1-29-31

OWNER'S SIGNATURE: Same as Applicant **DATE:** _____

By submitting this application I understand, allow and agree to a Town inspector making a site visit to the exterior of my property. _____
(Initial)

APPLICANT ACKNOWLEDGEMENT

By making this application, the undersigned Applicant agrees to permit Town officials and their representatives to conduct on-site inspections in connection with the review of this application.

The applicant also agrees to pay all expenses for the cost of professional review services required for this application, as referred to in §133-1 of the Code of the Town of Somers. As such, an Escrow Account, according to §133-2 of the Code of the Town of Somers, may be required.

It is further acknowledged by the Applicant that all bills for the professional review services shall be mailed to the Applicant, unless the Town is notified in writing by the Applicant at the time of initial submission of the application that such mailings should be sent to a designated representative instead.

Signature of Applicant: _____ Date: 1-29-31

Signature of Property Owner: Same as Applicant Date: _____
(if different from applicant)

617.20
Appendix A
State Environmental Quality Review
FULL ENVIRONMENTAL ASSESSMENT FORM

Purpose: The full EAF is designed to help applicants and agencies determine, in an orderly manner, whether a project or action may be significant. The question of whether an action may be significant is not always easy to answer. Frequently, there are aspects of a project that are subjective or unmeasurable. It is also understood that those who determine significance may have little or no formal knowledge of the environment or may not be technically expert in environmental analysis. In addition, many who have knowledge in one particular area may not be aware of the broader concerns affecting the question of significance.

The full EAF is intended to provide a method whereby applicants and agencies can be assured that the determination process has been orderly, comprehensive in nature, yet flexible enough to allow introduction of information to fit a project or action.

Full EAF Components: The full EAF is comprised of three parts:

Part 1: Provides objective data and information about a given project and its site. By identifying basic project data, it assists a reviewer in the analysis that takes place in Parts 2 and 3.

Part 2: Focuses on identifying the range of possible impacts that may occur from a project or action. It provides guidance as to whether an impact is likely to be considered small to moderate or whether it is a potentially-large impact. The form also identifies whether an impact can be mitigated or reduced.

Part 3: If any impact in Part 2 is identified as potentially-large, then Part 3 is used to evaluate whether or not the impact is actually important.

DETERMINATION OF SIGNIFICANCE -- Type 1 and Unlisted Actions

Identify the Portions of EAF completed for this project ☒ Part 1 ☐ Part 2 ☐ Part 3

Upon review of the information recorded on this EAF (Parts 1 and 2 and 3 if appropriate), and any other supporting information, and considering both the magnitude and importance of each impact, it is reasonably determined by the lead agency that:

☐ A. The project will not result in any large and important impact(s) and, therefore, is one which **will not** have a significant impact on the environment, therefore **a negative declaration will be prepared.**

☐ B. Although the project could have a significant effect on the environment, there will not be a significant effect for this Unlisted Action because the mitigation measures described in PART 3 have been required, therefore **a CONDITIONED negative declaration will be prepared.***

☐ C. The project may result in one or more large and important impacts that may have a significant impact on the environment, therefore **a positive declaration will be prepared**.

*A Conditioned Negative Declaration is only valid for Unlisted Actions

BBS Subdivision
Name of Action

Name of Lead Agency

Print or Type Name of Responsible Officer in Lead Agency | Title of Responsible Officer

Signature of Responsible Officer in Lead Agency | Signature of Preparer (if different from responsible officer)

January 30, 2013
Date

PART 1--PROJECT INFORMATION

Prepared by Project Sponsor

NOTICE: This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

Name of Action BBS Subdivision		
Location of Action (include Street Address, Municipality and County) Green Tree Road		
Name of Applicant/Sponsor Tommy Boniello, Michael Barile, Nicole Stern	Business Telephone (845) 621-1317	
Address 888 Route 6		
City/PO Mahopac	State NY	Zip Code 10541
Name of Owner(if different) Same as Applicant/Sponsor	Business Telephone ( )	
Address		
City/PO	State	Zip Code
Description of Action Construction of residences, driveways, roads, utilities, and stormwater basins for a 3-lot residential subdivision.		

Please Complete Each Question--Indicate N/A if not applicable

A. SITE DESCRIPTION

Physical setting of overall project, both developed and undeveloped areas.

1. Present land use: ☐ Urban ☐ Industrial ☐ Commercial ☐ Residential (suburban) ☐ Rural (non-farm)
   ☒ Forest ☐ Agricultural ☐ Other _____

2. Total acreage of project area: 9.78 acres (ac.)

APPROXIMATE ACREAGE	PRESENTLY		AFTER COMPLETION	
Meadow or Brushland (Non-agricultural)		ac.		ac.
Forested	10.0	ac.	6.2	ac.
Agricultural (Includes orchards, cropland, pasture, etc.)		ac.		ac.
Wetland(Freshwater or tidal as per Articles 24,25 of ECL)	0.2	ac.	0.1	ac.
Water Surface Area		ac.		ac.
Unvegetated (Rock, earth or fill)		ac.		ac.
Roads, buildings and other paved surfaces		ac.	0.7	ac.
Other (Indicate type) Lawn		ac.	3.2	ac.

3. What is predominant soil type(s) on project site? _____
   a. Soil drainage: ☒ Well drained 80 % of site ☒ Moderately well drained 5 % of site
   ☒ Poorly drained 15 % of site
   b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYS Land Classification System? _____ acres (See 1 NYCRR 370).

4. Are there bedrock outcroppings on project site? ☐ Yes ☒ No
   a. What is depth to bedrock? >7' (in feet)

5. Approximate percentage of proposed project site with slopes: ☒ 0-10% 65 % ☒ 10-15% 21 %
☒ 15% or greater 14%

6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or the National Registers of Historic Places? ☐ Yes ☒ No

7. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks? ☐ Yes ☒ No

8. What is the depth of the water table? >7 (in feet)

9. Is site located over a primary, principal, or sole source aquifer? ☐ Yes ☒ No

10. Do hunting, fishing or shell fishing opportunities presently exist in the project area? ☐ Yes ☒ No

11. Does project site contain any species of plant or animal life that is identified as threatened or endangered?
☒ Yes ☐ No According to: NYSDEC Environmental Resource Mapper
Identify each species American Burying Bettle

12. Are there any unique or unusual land forms on the project site?(i.e., cliffs, dunes, other geological formations)
☐ Yes ☒ No Describe

13. Is the project site presently used by the community or neighborhood as an open space or recreation area?
☐ Yes ☒ No If yes, explain

14. Does the present site include scenic views known to be important to the community?
☐ Yes ☒ No

15. Streams within or contiguous to project area Un-named brook along southern edge of property
a. Name of Stream and name of River to which it is tributary Muscoot River

16. Lakes, ponds, wetland areas within or contiguous to project area:
a. Name Town of Somers/Army Corps of Engineers Regulated Wetland
b. Size (In acres) Onsite wetland area = 6.965 s.f.; Wetland area within existing Green Tree Road right-of-way = 3,189 s.f.

17. Is the site served by existing public utilities? ☐ Yes ☒ No
a) If Yes, does sufficient capacity exist to allow connection? ☐ Yes ☐ No
b) If Yes, will improvements be necessary to allow connection? ☐ Yes ☐ No

18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☐ Yes ☒ No

19. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 617? ☐ Yes ☒ No

20. Has the site ever been used for the disposal of solid or hazardous wastes? ☐ Yes ☒ No

B. PROJECT DESCRIPTION

1. Physical dimensions and scale of project (fill in dimensions as appropriate)
a. Total contiguous acreage owned or controlled by project sponsor 10.08 ac.
b. Project acreage to be developed: 0 ac. initially; 3.9 ac. ultimately.
c. Project acreage to remain undeveloped 6.28 ac.
d. Length of project, in miles: N/A (if appropriate).
e. If the project is an expansion, indicate percent of expansion proposed N/A %.
f. Number of off-street parking spaces existing 0 ; proposed 6
g. Maximum vehicular trips generated per hour 3 (upon completion of project).
h. If residential, Number and type of housing units:

	One Family	Two Family	Multiple Family	Condominium
Initially	0			
Ultimately	3			

i. Dimensions (in feet) of largest proposed structure 30 height N/A width, N/A length. (5% of lot area)
j. Linear feet of frontage along a public thoroughfare project will occupy is? 756 ft.

2. How much natural material (i.e., rock, earth, etc.) will be removed from the site? 0 cubic yards.

3. Will disturbed areas be reclaimed? ☒ Yes ☐ No ☐ N/A

   a. If yes, for what intended purpose is the site being reclaimed? Disturbed areas will be reclaimed as lawn

   b. Will topsoil be stockpiled for reclamation? ☒ Yes ☐ No

   c. Will upper subsoil be stockpiled for reclamation? ☒ Yes ☐ No

4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? 3.9 acres.

5. Will any mature forest (over 100 years old) or other locally-important vegetation be removed by this project? ☐ Yes ☒ No

6. If single phase project: Anticipated period of construction, 12

7. If multi-phased:

   a. Total number of phases anticipated _____ (number).

   b. Anticipated date of commencement phase 1 _____ month _____ year

   c. Approximate completion date of final phase _____ month _____ year.

   d. Is phase 1 functionally dependent on subsequent phases? ☐ Yes ☐ No

8. Will blasting occur during construction? ☐ Yes ☒ No

9. Number of jobs generated: during construction? 20 ; after project is complete? 0 .

10. Number of jobs eliminated by this project? _____.

11. Will project require relocation of any projects or facilities? ☐ Yes ☒ No If yes, explain _____

12. Is surface liquid waste disposal involved? ☐ Yes ☒ No

    a. If yes, indicate type of waste (sewage, industrial, etc.) and amount _____

    b. Name of water body into which effluent will be discharged _____

13. Is subsurface liquid waste disposal involved? ☒ Yes ☐ No Type Residential Sewage

14. Will surface area of an existing water body increase or decrease by proposal? ☐ Yes ☒ No

    Explain _____

15. Is project, or any portion of project, located in a 100-year flood plain? ☐ Yes ☒ No

16. Will the project generate solid waste? ☒ Yes ☐ No

    a. If yes, what is the amount per month? 0.7 tons.

    b. If yes, will an existing solid waste facility be used? ☒ Yes ☐ No

    c. If yes, give name To be determined-private hauler ; location _____

    d. Will any wastes not go into a sewage disposal system or into a sanitary landfill? ☐ Yes ☒ No

    e. If Yes, explain _____

17. Will the project involve the disposal of solid waste? ☐ Yes ☒ No

    a. If yes, what is the anticipated rate of disposal? _____ tons/month.

    b. If yes, what is the anticipated site life? _____ years.

18. Will project use herbicides or pesticides? ☒ Yes ☐ No

19. Will project routinely produce odors (more than one hour per day)? ☐ Yes ☒ No

20. Will project produce operating noise exceeding the local ambient noise levels? ☐ Yes ☒ No

21. Will project result in an increase in energy use? ☒ Yes ☐ No

    If yes, indicate type(s) Electricity

22. If water supply is from wells, indicate pumping capacity >5 gallons/minute.

23. Total anticipated water usage per day 2,400 gallons/day.

24. Does project involve Local, State or Federal funding? ☐ Yes ☒ No

    If yes, explain _____

25. Approvals Required:

			Type	Submittal Date
City, Town, Village Board	☒ Yes	☐ No	Establishment of Open Development Area	Pending
City, Town, Village Planning Board	☒ Yes	☐ No	Subdivision Approval	Pending
			Steep Slope Permit	Pending
			Wetland Permit	Pending
			Stormwater Management and Erosion & Sediment Control Permit	Pending
			Tree Removal Permit	Pending
City, Town Zoning Board	☐ Yes	☒ No		
City, County Health Department	☒ Yes	☐ No	Realty Subdivision Approval	Not yet submitted
Other Local Agencies	☐ Yes	☒ No		
Other Regional Agencies	☒ Yes	☐ No	NYCDEP SWPPP Approval	Not yet submitted
State Agencies	☒ Yes	☐ No	NYSDEC Coverage Under General Permit GP-0-10-001	Not yet submitted
			NYSDOT Highway Work Permit	Not yet submitted
Federal Agencies	☐ Yes	☒ No		

C. ZONING AND PLANNING INFORMATION

1. Does proposed action involve a planning or zoning decision? ☒Yes ☐ No

   If Yes, indicate decision required:

   ☐ zoning amendment ☐ zoning variance special use permit ☒ subdivision ☐ site plan

   ☐ new/revision of master plan ☐ resource management plan ☐ other

2. What is the zoning classification(s) of the site? R-80
3. What is the maximum potential development of the site if developed as permitted by the present zoning?

   3-lots
4. What is the proposed zoning of the site? No Change (R-80)
5. What is the maximum potential development of the site if developed as permitted by the proposed zoning?

   No Change (3-Lots)
6. Is the proposed action consistent with the recommended uses in adopted local land use plans? ☒ Yes ☐ No
7. What are the predominant land use(s) and zoning classifications within a 1/4 mile radius of proposed action?

   R-80 (2 Acre)
8. Is the proposed action compatible with adjoining/surrounding land uses within a 1/4 mile? ☒ Yes ☐ No
9. If the proposed action is the subdivision of land, how many lots are proposed? 3

   a. What is the minimum lot size proposed? 2.3 Acres
10. Will proposed action require any authorization(s) for the formation of sewer or water districts? ☐ Yes ☒ No
11. Will the proposed action create a demand for any community provided services (recreation, education, police, fire protection)? ☒ Yes ☐ No

    a. If yes, is existing capacity sufficient to handle projected demand? ☒ Yes ☐ No
12. Will the proposed action result in the generation of traffic significantly above present levels? ☐ Yes ☒ No

    a. If yes, is the existing road network adequate to handle the additional traffic? ☐Yes ☐ No

D. Informational Details

Attach any additional information as may be needed to clarify your project. If there are, or may be, any adverse impacts associated with your proposal, please discuss such impacts and the measures which you propose to mitigate or avoid them.

E. Verification

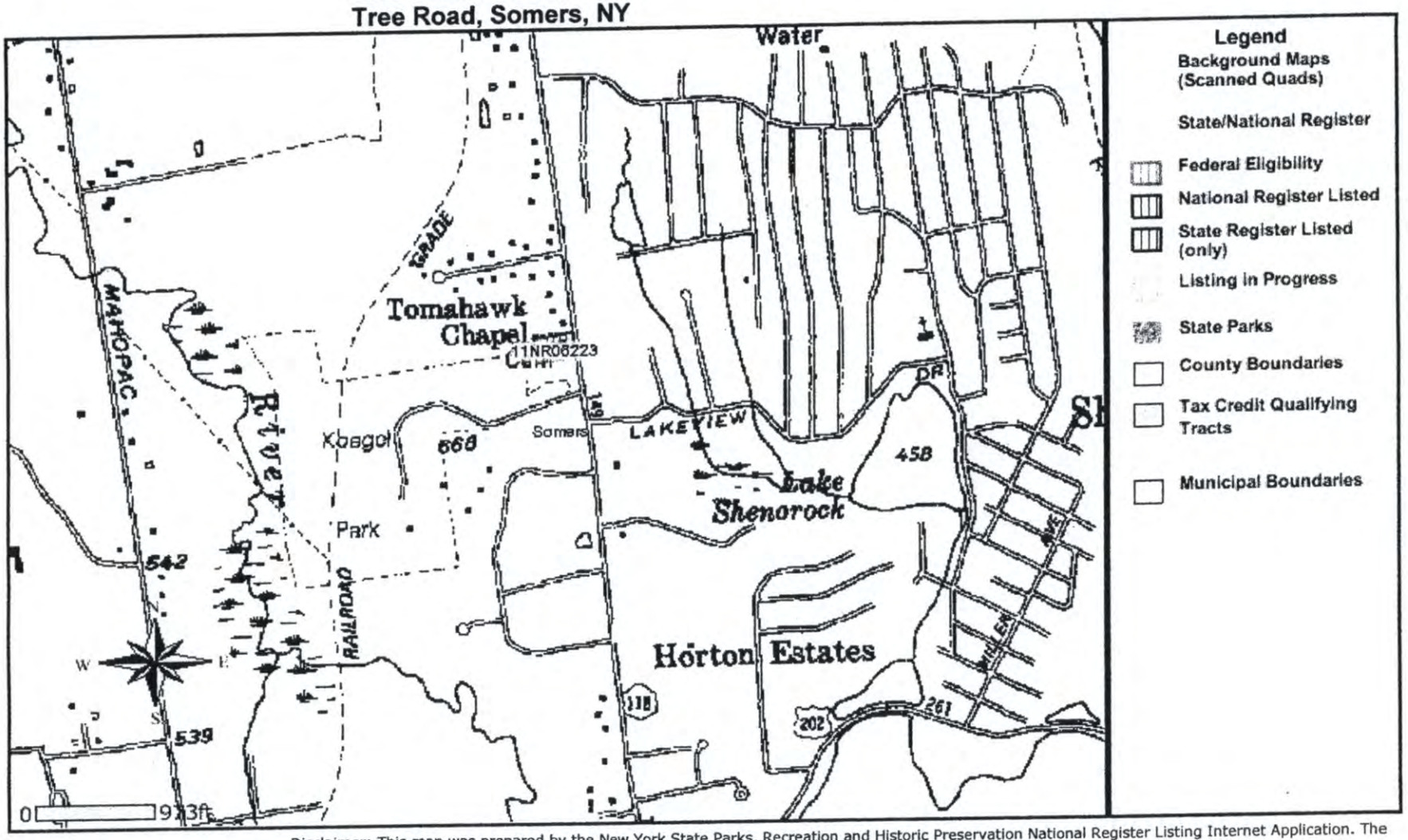
I certify that the information provided above is true to the best of my knowledge.

Applicant/Sponsor Name Jeffrey J. Contelmo, P.E. (Insite Engineering) Date 1/30/13

Signature _____ Title Agent for Owner

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment.

BBS Subdivision, Green Tree Road, Somers, NY



January 29, 2013

Disclaimer: This map was prepared by the New York State Parks, Recreation and Historic Preservation National Register Listing Internet Application. The information was compiled using the most current data available. It is deemed accurate, but is not guaranteed.

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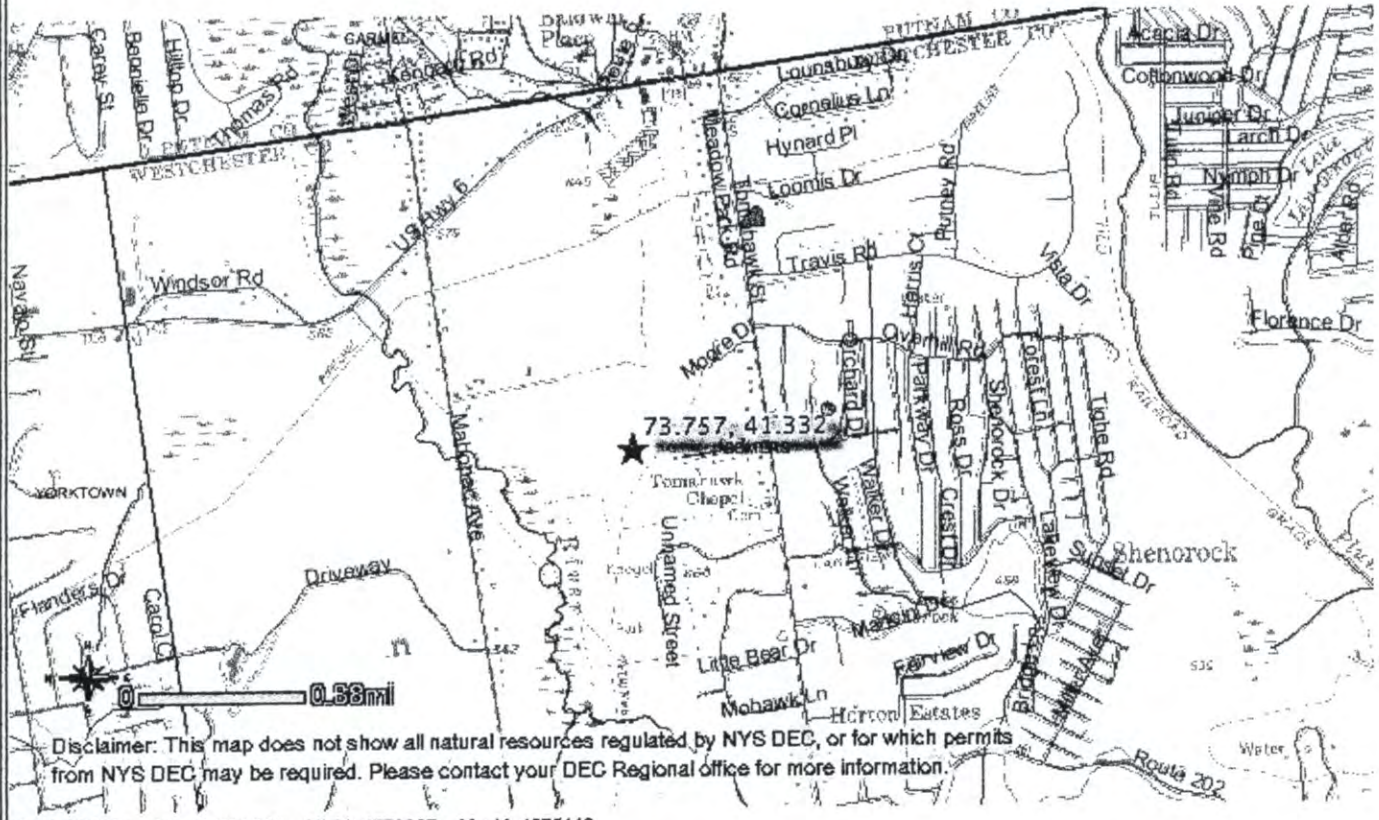
Please set your printer orientation to "Landscape".

BBS Subdivision, Green Tree Road, Somers, NY



MinX: 601808, MaxX: 606668, MinY: 4578067, MaxY: 4575113

Visible Layers

CUDDY&
FEDER LLP

445 Hamilton Avenue, 14th Floor
White Plains, New York 10601
Tel 914.761.1300 Fax 914.761.5372
www.cuddyfeder.com

April 10, 2013

RECEIVED
APR 11 2013
PLANNING ENGINEERING
TOWN OF SOMERS

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

Re: New Cingular Wireless PCS LLC ("AT&T")
Existing Approved AT&T Tower & Related Wireless Facility
Premises: 243 Route 100 (Majestech Corporation property)
Tax Id: Section 28.10, Block 1, Lot 6.1

Dear Chairman Currie and Members of the Planning Board:

This letter is respectfully submitted on behalf of New Cingular Wireless PCS LLC (AT&T) in connection with the above-referenced AT&T wireless facility for which the Town of Somers Planning Board granted on March 13, 2013 an Amended Special Permit and an Amended Site Plan approval for minor upgrades pursuant to Town of Somers Zoning Law Sections 170-129 and 170-114 as well as Town of Somers Chapter 144 entitled "Site Plan Review".

We are in receipt of a subsequent March 25, 2013 memorandum from the Town Planner positing as a question whether a separate and formal resolution of renewal of the originally issued special permit for the facility is required under Zoning Law Section 170-129.6G. AT&T's original special permit was issued by the Zoning Board of Appeals and the Town Board subsequently amended its regulations in December of 2010 to provide the Planning Board with special permit jurisdiction over wireless facilities. Our client's position is that, the Town Board's action in amending the regulations resulted in new five year terms being issued for any existing special permit facilities in the community. Moreover, the Planning Board in amending the special permit at AT&T's request, implicitly granted a renewal of the special permit for another five year term for purposes of Section 170-129.6G. This particularly given recent federal law requiring approval of tower modifications such as the one proposed by AT&T and approved by the Planning Board.

Notwithstanding same and without prejudice, AT&T hereby seeks renewal of its existing special permit by way of this letter and formal application which is enclosed. Importantly, a renewal special permit application is a Type II action exempt from the State Environmental Quality Review Act per Section 617.5c(26). Further, the Town of Somers Zoning Law does not require a public hearing on renewal of a special permit. See Sections 170-129.6F and 170-129.6G.

In support of its request for renewal of its Special Permit, AT&T incorporates by reference all the materials previously submitted to the Planning Board and the Zoning Board of Appeals when it originally approved the subject wireless facility as well as all materials submitted thereafter to these Boards and the Building Department as well as those reports and documents submitted relative to the March 2013 approved modifications which address Section 170-129.6G specifically and include:

* A Structural Analysis, prepared by GPD Group, dated December 28, 2012, certifying that the proposed modifications to the existing wireless facility comply with the requirements of TIA/EIA-222-F standards.
* A Radio Frequency Exposure Analysis, dated October 18, 2012, prepared by Senior RF Engineer Bernard Morgan of Bechtel Communications, concluding that the site complies with all applicable emissions standards promulgated by Federal and State law. Per the

methodology established in FCC Bulletin OET 65, the percentage of cumulative MPE is less than 0.35%, which is far below the FCC limits.

* Photographs of the Existing Conditions at this wireless facility substantiating that AT&T's proposed modifications will have no discernible visual effect because the equipment modifications are within the fenced compound and internal to the flagless flagpole design of the existing monopole.

*. Copies of prior land use and building department approvals issued by the Planning Board and Building Department relative to this wireless facility including its Certificate of Occupancy/Compliance issued January 6, 2009.

We also have enclosed a Cuddy & Feder LLP Check made payable to the Town of Somers, in the amount of $300.00, representing payment of the special permit renewal application fee.

Of note, the Town's zoning code does not limit the issuance of a building permit for those modifications recently approved by the Planning Board even if the Planning Board requires a formal renewal of the special permit for the facility. As such, the Building Department can and should process AT&T's application and issue the necessary building permits for AT&T's March 13, 2013 approved modifications that are pending before the Building Department presently. In the interim, we would ask that the Planning Board place this matter on its April 2013 agenda for review and action.

Thank you for your cooperation and consideration in this matter.

Very truly yours,

Neil J. Alexander

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

TOWN OF SOMERS
WESTCHESTER COUNTY, NEW YORK
APPLICATION FOR SPECIAL USE PERMIT
WIRELESS TELECOMMUNICATIONS FACILITY

Facility Owner/User AT&T Towers **Tel. #:** 856-625-1596
Address: 340 Mt Kemble Ave., Morristown, NJ 07960
Property Owner: Samaj Investors Corporation **Tel. #:**
Address: 243 Route 100, Somers, NY 10589
Applicant: New Cingular Wireless PCS LLC **Tel. #:** 856-625-1596
Address: 340 Mt. Kemble Ave., Morristown, NJ 07960
Managing Agent: **Tel. #:**
Address:
Westchester County Agent: Cuddy & Feder LLP **Tel. #** 914-761-1300
Address: 445 Hamilton Avenue, White Plains, NY 10601

Premises: Sheet: 28.10 **Block:** 1 **Lot:** 6.1 **Situated on the** West **side of** Route 100 **(Street)** 1,250 +/- **feet from the intersection of** Highview Terrace **(Street)**
Zoning District Light Industry (OLI) zoning district
PROJECT TITLE: AT&T Wireless Facility
DESCRIPTION OF WORK AND PURPOSE:
Renewal of Special Permit issued for existing wireless facility.

TYPE OF PERMIT REQUESTED: **ORIGINAL**
3/13/13 **AMENDED (Date of Original Permit)**
12/20/05 & 11/15/06 **RENEWAL (Date of Original Permit)**
SIZE OF ACTIVITY AREA: 0 square feet
ESTIMATED TOTAL VALUE OF WORK: 0 dollars
PROPOSED STARTING DATE: n/a
PROPOSED COMPLETION DATE: n/a
PLANS PREPARED BY: n/a **DATED:**
Plans must be submitted with application.

APPLICATION FEE: **$300**
Based upon Somers Town Code §133-2. At the time of submission of any application, an Escrow Account shall be established to pay for the costs of professional review services.

DOCUMENTS TO BE SUBMITTED WITH THIS APPLICATION:
14 Copies of all correspondence and plans submitted to the Planning Board.
Please refer to Somers Town Code §170-129.8, Application procedure. for the required documents to be submitted. (see attached)

APPLICANT/FACILITY/OWNER/USER SIGNATURE: Neil J. Alexander, as attorney for Applicant and tower owner
DATE: April 10, 2013
PROPERTY OWNER'S SIGNATURE:
DATE:

TOWN OF SOMERS
PLANNING BOARD
APPLICATION FOR SITE PLAN APPROVAL

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

I. IDENTIFICATION OF APPLICANT:

A. Owner: AT&T Towers — Applicant: New Cingular Wireless PCS, LLC
Address: 340 Mt Kemble Ave, Morristown, NJ 07960 — Address: 340 Mt Kemble Ave, Morristown, NJ 07960
Tele #: 856-625-1596 — Tele #: 856-625-1596

B. Architect: _____ — Engineer: Richard M. Coad
Address: _____ — Address: 100 Paragon Dr., Suite 275, Montvale, NJ 07645
Tele #: _____ — Tele #: 201-571-0730

C. Surveyor: _____ — Tele #: _____
Address: _____

II. IDENTIFICATION OF PROPERTY:

A. Identifying Title: 243 Rt 100, Somers, NY
B. Tax Map Design: Sheet: 28.10 Block: 1 Lot(s): 6.1
C. Zoning District: OLI - Office, light business
D. Street which property abuts: Rt 100
E. Does property connect directly into State or County highway? yes
F. Is site within 500 feet of Town Boundary? _____
G. Total area of site: _____ — Area of site activity: 175 sq ft
H. Site coverage: _____ % — Building coverage: _____ %
I Affected Wetland Area _____ — Wetland Buffer Area _____
J. Affected Steep Slope Area: 15%-25% _____ — Over 25% _____
K. Existing building size: _____ — New/additional building size: _____
L. Existing parking spaces: _____ — New parking spaces: _____

III. APPLICATION FEE:

$500 base fee plus $50 per 1,000 sq.ft or part thereof plus $25 per parking space to be paid by certified check to the Town of Somers.

Wetland Permit Fee: $200 min. fee + $100 per 5,000 sf. of regulated area or proposed area to be disturbed.

Steep Slope Fee: $150 min. fee + $75 per 10,000 s.f. of regulated area or proposed area to be disturbed.

Total Fee: _____ Date Paid: _____

IV. DOCUMENTS TO BE SUBMITTED WITH THIS APPLICATION:

Submit 14 copies of all correspondence and plans to the Planning Board.

A. 14 copies of Site Plan with north arrow and location map drawn to scale of 1" = 1,000'.
B. Survey Map defining precise boundaries of property.
C. Copies of all existing and proposed deed restrictions or covenants applying to the property, including covenants and agreements restricting use, and establishing future ownership and maintenance responsibilities for all private roads, recreation and open space areas.
D. Preliminary Architectural Drawings to be submitted to Planning Board prior to public hearing for referral to Building Inspector and Architectural Advisory Review Board.
E. Environmental Assessment Form.
F. Proof that taxes have been paid.

It is the responsibility of the applicant to be knowledgeable of the law. The following are available at the Town Clerks Office: Master Plan, Zoning Ordinance, Site Plan Regulations, State Environmental Quality Review (SEQR) and Environmental Quality Review, Wetland and Steep Slope Ordinances of the Town of Somers.

All revised plans shall be accompanied by a letter indicating what changes were made. All costs incurred by the Town for professional services and SEQR review will be paid by the applicant.

By submission of this application, the property owner agrees to permit Town Officials and their designated representatives to conduct on-site inspections in connection with the review of the proposal. The property shall be identified on site as being proposed for site plan approval.

Neil J. Alexander, as attorney for Applicant and Tower Owner — Date: 4/10/13
Signature of Applicant

_____ — Date: _____
Signature of Owner

PLANNING AND ENGINEERING DEPARTMENTS

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

Town of Somers
WESTCHESTER COUNTY, N.Y.

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

Steven Woelfle
Principal Engineering Technician
swoelfle@somersny.com

Syrette Dym, AICP
Town Planner
sdym@somersny.com

Planning Board Meeting Date of May 1, 2013

PLANNING BOARD
TOWN OF SOMERS, WESTCHESTER COUNTY, NEW YORK

Resolution No. 2013-07
Granting of Conditional Renewed Amended Special Permit Approval to

NEW CINGULAR WIRELESS PCS LLC (AT&T)
for
RENEWAL OF EXISTING APPROVED AT&T TOWER AND RELATED WIRELESS FACILITY

At 243 Route 100 (MAJESTECH CORPORATION PROPERTY)
Town Tax Number: Section 28.10, Block 1, Lot 6.1

WHEREAS, a formal application by New Cingular Wireless PCS, LLC ("AT&T") (Applicant), dated April 10, 2013, for Renewed Amended Special Permit Approval pursuant to Sections 170-129 and 170-114of the *Code of the Town of Somers*, was received on April 10, 2013 consisting of the following materials:

1. Application for Special Use Permit Approval, dated April 10, 2013; and

2. Cover letter dated April 10. 2013 from Cuddy & Feder as AT&T's representative identifying the application as a renewal of its existing, originally issued special permit for the tower and facility.

WHEREAS, the subject application is for the renewal of an existing Special Permit granted by the Zoning Board of Appeals per Resolution #BZ04C/05 on December 20, 2005 to install a wireless telecommunications facility to consist of six(6) antennas concealed by and internally mounted within a 100 foot 6 inch tall "stealth" flagpole and a fenced compound containing the concrete pad on which equipment cabinets would be placed, located at 243 Route 100, the Majestech Corporation Property, on property which is shown on the Town Tax Maps as Section 28.01, Block 1, Lot 6.1; and

WHEREAS, the subject lands are owned by Majestech Corporation; and

WHEREAS, the subject lands consist of a total area of approximately 14.51 acres and are located on the west side of Route 100, south of Highview Terrace, within the Muscoot Watershed Basin in the Office and Light Industry (OLI) zoning district in the Town of Somers which is considered a "Low Impact Location" in accordance with §170-129.6A (1) of *The Code of the Town of Somers;* and

WHEREAS, on or about November 1, 2004, New Cingular Wireless PCS, LLC made an application to the Somers Zoning Board of Appeals for the original special permit and an area variance to install such wireless telecommunications facility, and

WHEREAS, an application for site plan approval and special exception use permit for location within the Groundwater Protection Overlay District was received by the Planning Board on December 29, 2005; and

WHEREAS, the Town of Somers Planning Board by Resolution #2007-01 granted Conditional Amended Site Plan Approval and Special Exception Use Permit on November 15, 2006 to New Cingular Wireless for location of a wireless communication facility within the Groundwater Protection Overlay District ; and

WHEREAS, such telecommunications facility was constructed and is operating in accordance with such approvals; and

WHEREAS, the current uses on the subject property consist of a two-story office building and a one-story warehouse and associated parking areas and access driveways along with a wireless telecommunications facility; and

WHEREAS, an application by New Cingular Wireless PCS, LLC (AT&T) dated January 31, 2013 for Amended Special Permit Approval pursuant to Sections 170-129 and 170-114 and Amended Site Plan Approval pursuant to

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Chapter 144 of the Code of the Town of Somers, was received on February 1, 2013 ; and

WHEREAS, the subject application was for the implementation by AT&T of modifications including 4G LTE Upgrades to its existing wireless facility; and

WHEREAS, the Applicant made a preliminary presentation to the Planning Board for the Amended Special Permit and Amended Site Plan Application on February 13, 2013;and

WHEREAS, the subject application proposed the installation of new antennas and cable equipment at the same elevation of existing AT&T equipment on the existing Tower and also includes the installation of a new geographical positioning system (GPS) unit, cable and new service cabinet at ground level and all work is shown to occur within the existing fenced equipment compound located at the Tower base; and

WHEREAS, the Planning Board determined that the proposed application constituted as an eligible facilities request in accordance with the Section 6409 Middle Class Tax Relief and Job Creation Act of 2012 and it did not substantially change the physical dimensions of the subject Tower.

WHEREAS, the Somers Planning Board at their regular meeting of February 13, 2013 determined that this action was a Type II Action and is, therefore, exempt pursuant to the New York State Environmental Quality Review Act (SEQRA) Section 617.5(c)(7) 2 which states that construction or expansion of a primary or accessory/appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls is a Type II action under SEQRA and that the proposed project involved less than 4,000 square feet, and, therefore, no further action under SEQRA would be required as directed by a motion and second unanimously carried by the Board; and

WHEREAS, the Somers Planning Board at their February 13, 2013 meeting determined to waive the site plan public hearing in accordance with §170-114C.(8)(e) and the special permit public hearing in accordance with §170-129.6F; and

WHEREAS, the Planning Board accepted the findings of the Radio Frequency Exposure Analysis, dated October 11, 2012, concluding that the site complies with all applicable emissions standards promulgated by Federal and State Law and that as per the methodology, established in FCC Bulletin OET 65, the

percentage of cumulative MPE is less than 0.35 %, and is below the FCC limits; and

WHEREAS, as part of the review of the application for modification of the existing approved AT&T wireless facility, it came to the Planning Board's attention that more than five years had elapsed since issuance of the original special permit to AT&T as owner/ground lessor for the "stealth" flagpole and as co-locator for its original six antennas concealed and internally mounted within such pole, such permits having been issued, on December 20, 2005 by Resolution # BZ04C/05 by the Zoning Board of Appeals; and

WHEREAS, the Planning Board by Resolution #2013-04 granted Conditional Amended Special Permit Approval and Amended Site Plan Approval for the requested upgrades; and

WHEREAS, the Planning Board directed the Applicant to apply for renewal of those original permit's as a condition of approval of the special permit that was the subject of Resolution No. 2013-04; and

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

WHEREAS, the Planning Board determined that the proposed renewal application constituted as an eligible facilities request in accordance with the Section 6409 Middle Class Tax Relief and Job Creation Act of 2012 and it did not substantially change the physical dimensions of the subject Tower.

WHEREAS, the Somers Planning Board at their special meeting of May 1, 2013, determined that this action was a Type II Action and is, therefore, exempt pursuant to the New York State Environmental Quality Review Act (SEQRA) Section 617.5(c)(26) and Section 92-6.B.(15) of the Code of the Town of Somers which state that license and permit renewals where there will be no material change in permit conditions or the scope of permitted activities is a Type II action under SEQRA, and, therefore, no further action under SEQRA would be required as directed by a motion and second unanimously carried by the Board; and

WHEREAS, Section 170-129.6.G of the Code of the Town of Somers provides that a special permit may be renewed for an additional five-year term provided the applicant demonstrates that the wireless or attached wireless telecommunications facility is and has been in compliance with the requirements of this article, the special permit and conditions; and

WHEREAS, since AT&T is the sole carrier on this flagless flagpole style monopole, the materials submitted in support of the Application for Conditional Amended Special Permit Approval and Amended Site Plan Approval for modification of the existing approved AT&T Wireless Facility, including the structural report, RF report, photographs and site plan drawings, conditionally granted by the Planning Board by Resolution No. 2013-04 on March 13, 2013 and incorporated by reference as part of this renewal application, reflect the AT&T carrier condition as well as the entirely of the wireless facility seeking renewal; and

WHEREAS, by e-mail of April 18, 2013 , the Applicant's representative indicated to the Town Planner and attested to the Planning Board at the May 1, 2013 Planning Board special meeting, that AT&T, as the owner of the wireless facility, has not received any requests for co-location and does not have any future plans for the construction of new wireless or attached wireless telecommunications facilities in the Town, and will continue to keep its removal bond in place for the ensuing five-year period; and

WHEREAS, the Somers Planning Board at their May 1, 2013 meeting determined to waive the special permit public hearing in accordance with §170-129.6G; and

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

BE IT FURTHER RESOLVED, that the application for Conditional Amended Special Permit Approval, to New Cingular Wireless PCS LLC (AT&T) as shown and described by the materials enumerated herein, is HEREBY **CONDITIONALLY GRANTED** in accordance with the New York State Town Law §276 and §278 and in accordance with §170-114.C. (12) "Planning Board Action" of the *Code of the Town of Somers,* New *York,* SUBJECT TO the following conditions set forth below:

<u>Conditions Associated with Special Use Permit:</u>

1. **Maintenance Plan:** The applicant commits to continue to maintain all visible aspects of the installation resulting from these amended applications.

2. **Performance/Removal Bond**: The Applicant shall purchase, renew and keep in effect, a performance/removal bond as required by Section 170-

129.5(K) of the Zoning Code of the Town of Somers in an amount and form satisfactory to the Town (and its attorneys and consultants as the case may be) to ensure that the facility with the proposed modifications is properly maintained and/or removed if abandoned. The amount and sufficiency may from time to time, at the Town's discretion, be adjusted to account for increased costs of maintenance and/or removal as the case may be.

3. **Compliance With Town Code**: The Applicant shall comply with all applicable provisions of the Zoning Code of the Town of Somers as set forth in Section 170-129.4 and such other laws as may be applicable to wireless telecommunications facilities.

4. **Operations (future):** Operations shall be maintained in accordance with the Town's Wireless Ordinance and all other relevant Town codes.

5. **Permit Term**: Pursuant to Section 170.129.6(D), (F) and (G) of the *Code of the Town of Somers*, the Special Use Permit renewal shall have a term of five (5) years from the date of this resolution (May 1, 2013) for both the "stealth" flagpole and the six (6) original antennas pole originally granted by Zoning Board Resolution BZ04C/05 dated December 20, 2005. This Special Use Permit may be renewed on application for additional five-year terms, provided the applicant shall demonstrate that the wireless telecommunications facility is and has been in compliance with the requirements of the *Code of the Town of Somers* per §170-129.6G. As such, the renewal shall run from May 1, 2013 up to and including April 30, 2018.

<u>Conditions Required Prior to Signing of Amended Site Plan:</u>

6. **Review Fees**: All review fees associated with this application shall be paid by the applicant. The Applicant is to be responsible for the costs of all consulting engineer services and reviews required hereunder.

<u>On-going Conditions Required After Signing of Site Plan</u>

7. **Town Code Compliance:** The Applicant shall comply with all applicable provisions of the *Code of the Town of Somers* as set forth in Section 170-129.4 & 129.5 and such other laws as may be applicable to wireless telecommunications facilities.

8. **Federal Code Compliance**: The wireless telecommunication facility shall comply with any and all applicable laws, rules and regulations, including the provisions of the Code of Federal Regulations pertaining to objects

affecting navigable airspace as delineated in Federal Aviation Regulation (FAR) Part 77 and the criteria for obstructions to air navigation as established by FAR part 77, Subpart C, Obstruction Standards and the wireless telecommunication facility shall comply at all times to the applicable FCC non-ionizing electrical radiation standards.

BE IT FURTHER RESOLVED, that upon determination of compliance with the foregoing conditions, the Planning Board Chairman is hereby authorized to endorse Amended Special Permit Approval by signing of this Resolution...
The validity of any Certificate of Occupancy shall be subject to continued conformance with the approved Renewed Amended Special Permit and prior approved Site Plan.

This resolution shall have an effective date of May 1, 2013.

BY ORDER OF THE PLANNING BOARD
OF THE TOWN OF SOMERS

_____ _____

John Currie, Chairman **Date**

CERTIFICATION

I hereby certify that this is a true and correct copy of Resolution #2013-07 adopted by the Town of Somers Planning Board granting an Amended Special Permit and Amended Site Plan Approval, subject to the modifications stated herein, to New Cingular Wireless PCS LLC (AT&T) at Majestech Corporation Site at a regular meeting held on May 1, 1013.

_____ _____

Syrette Dym, AICP **Date**
Town Planner