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PLANNING DEPARTMENT

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Town of Somers

WESTCHESTER COUNTY, N.Y.

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

SOMERS PLANNING BOARD
AGENDA
MAY 27, 2015
7:30 P.M.

MINUTES Consideration for approval of Draft Minutes for April 8, 2015

SEQRA

1. **SOMERS REALTY PHASE 3 [TM: 4.20-1-15]**
   Application for Preliminary Subdivision Approval, Steep Slopes, Wetland, Tree Removal and Stormwater Management and Erosion and Sediment Control Permits to create Lots 3a, 3b, 3c and 3d (45.1 acres), relative to the Site Plan application of AvalonBay Communities, Inc. and Lot 4 (4.9 acres) and Lot 5 (0.9 acres) for future commercial and firehouse uses respectively and Lot 6 (7.1 acres) to be marketed for an Assisted Living Facility, stormwater management improvements, including road right-of-ways (4.3 acres) as part of the Planned Hamlet proposed subdivision. Property is owned by Somers Realty Corp. and is located on the southeast side of Route 6 and Clayton Blvd. and is in the Planned Hamlet (PH) Zoning District.
   Consideration of a Draft Resolution of Conditional Preliminary Subdivision Approval.

Next Planning Board Meeting is Wednesday, June 10, 2015
Agenda information is also available at www.somersny.com

PLANNING AND ENGINEERING DEPARTMENTS

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Planning Board Meeting May 27, 2015

PLANNING BOARD
TOWN OF SOMERS, WESTCHESTER COUNTY, NEW YORK

Resolution No. 2015-04
Granting of Conditional Preliminary Subdivision Plat Approval, Modification of Somers Realty Planned Hamlet Master Plan, Wetland and Watercourse Protection Permit, Steep Slope Permit, Tree Removal Permit and Stormwater Management and Erosion and Sediment Control Permit, to
SOMERS REALTY CORP.
for the
SOMERS REALTY PLANNED HAMLET MASTER PLAN PHASE 3 SUBDIVISION AND MASTER PLAN MODIFICATION

Town Tax Number: Section 4.20, Block 1, Lot 15 and Lot 18

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

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

WHEREAS, The Somers Realty Planned Hamlet Master Plan, as required by §170-23.3 of the *Code of the Town of Somers*, is a general development plan for the site outlining land use, access and circulation, parking and utilities, and a conceptual site design as required by the *Code of the Town of Somers* and such Master Plan calls for future development of the plan components through a subdivision of the property and project specific site plans in accordance with the Master Plan and §150 and §144-7 of the *Code of the Town of Somers*; and

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

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

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

WHEREAS, on December 9, 2009 the Planning Board granted Preliminary Subdivision Plat Approval to Somers Realty Corp. for the Somers Realty Planned Hamlet Phase 2 Subdivision to create Lot 1 for The Mews Phase 1 containing 5.7760 acres as well as dedicating parcels for the sewer pump station, water tank and road widenings, and a portion of Clayton Boulevard, and a remainder Lot of 70.718 acres for future subdivision; and

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

WHEREAS, on April 14, 2010 by Resolution No. 2010-03 the Planning Board granted Conditional Final Subdivision Approval to Somers Realty Corp. for the Phase 1 subdivision of the Somers Realty Parcel to create Lot 1 for The Mews

Phase 1 containing 5.7760 acres as well as dedicating parcels for the sewer pump station, water tank and road widenings, and a portion of Clayton Boulevard, and a remainder Lot of 70.718 acres for future subdivision; and

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

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

WHEREAS, The Mews at Baldwin Place and associated requirements of the Somers Realty subdivision approval were completed and such housing is now open and occupied; and

WHEREAS, on September 4, 2012 Somers Realty Corp., represented by McCullough, Goldberger and Staudt, LLP, submitted a Phase 2 Preliminary Subdivision Plat application to further subdivide prior created Lot 2 (Town Tax Map 4.20, Block1, Lot 15) into a 7.7139 acres parcel out of the prior 70.7108 acres lot, make a minor lot line change to the previously created Sewer Pump Station Parcel (Town Tax Map 4.20, Block 1, Lot 18) from 0.2453 acres to 0.2432 acres and extend Clayton Boulevard by creating a right of way parcel of 0.6821 acres, and

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

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

WHEREAS, modifications to the Somers Realty Planned Hamlet Master Plan as part of Phase 2 were determined to be:

- Replacement of prior envisioned 80,000 square foot assisted living facility and 30,000 square feet of mixed professional office/retail/restaurant use from the north side of Clayton Boulevard. and replacement with 75 unit affordable senior housing for persons 55 years and older
- Relocation of 80,000 square foot assisted living facility and 30,000 square feet of mixed professional office/retail/restaurant use to the south side of Clayton Boulevard, the ultimate amount and mix of such uses along with those previously identified south of Clayton Boulevard will be determined as part of future subdivision and site specific applications with the PH Planned Hamlet District within the parameters of prior environmental determinations.
- Reduction in overall Planned Hamlet approved parking spaces from 492 to 345, including 147 previously constructed as part of Mews Phase 1 and 2, for a total of 345 remaining, with 193 spaces potentially available and to be constructed on the south side of Clayton Blvd.[1]
- Changes in phasing of sequence of construction already established by prior subdivision and site plan applications have created a need to revise the access road to the sewer pump station.
- Reduction in size of pump station parcel
- Master Plan included a total of 34.545 acres in the northern drainage area that now includes 32.635 acres, representing a reduction of 1.91 acres.
- Master plan included a total of 14.11 acres of impervious surface within the northern drainage area that now includes 8.741 acres, representing a reduction of 5.369 acres.
- Modified stormwater management system to comply with 2010 Revisions of NYS Stormwater Design Manual and NYC DEP 2010 Watershed Rules and Regulations

WHEREAS the Planning Board determined that a Negative Declaration with regard to SEQRA be issued for the Phase 2 subdivision and voted unanimously in favor of such Negative Declaration on December 19, 2012; and

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

WHEREAS, on January 23, 2013, by Resolution 2013-01, the Planning Board granted Conditional Final Subdivision Approval to Somers Realty Corp. for the creation of three lots, one 70.087 acre lot for further future subdivision, and a 5.85 acre lot to the Housing Action Council and Kearney Realty and

[1] This provision was contained in the Phase 2 approval; however, it contains a mathematical error. The correct total is 340, with 147 already constructed as part of the Mews 1 and 2, and 193 to be constructed to serve the future commercial development south of Clayton Boulevard.

Development Group, Inc.; including a lot line change, creation of a road extension parcel and all other associated applications including the Wetlands and Watercourse Protection Permit (§167), Tree Removal Permit (§156) and Stormwater Management and Erosion and Sediment Control Permit (§93), and the approval of the SPPP, in accordance with §93-5(B), and a Master Plan Modification for the Somers Realty Planned Hamlet Subdivision #2; and

WHEREAS, on June 9, 2014, Somers Realty Corp., represented by McCullough, Goldberger and Staudt, LLP, submitted a Preliminary Subdivision Plat application #3 to further subdivide prior created Lot 3 (Town Tax Map 4.20, Block1, Lot 15) into five lots and additional road rights of way to consist of Lots 3a, 3b, 3c with 53.2 acres to be conveyed to Avalon Bay to develop 152 apartment housing units and the Village Green identified in the Master Plan, Lot 4 of 4.9 acres for future commercial development and Lot 5 as the 0.9 acre parcel for the future firehouse; and

WHEREAS, the subdivision application indicates the applicant's opinion that the proposal is consistent with the Master Plan in that the public road layout is the same with the exception that Road B was shortened due to consolidation of the Avalon plan such that it no longer reaches south of the Algonquin gas pipeline to the property boundary; and

WHEREAS, also due to consolidation and less overall disturbance on the site and the resulting imbalance of cut and fill requiring additional export of soil than that previously anticipated; and

WHEREAS, due to modifications to stormwater regulations since adoption of the Master Plan, the proposed site layout has also changed to accommodate the location of additional stormwater management practice areas that differ in practice type and sizing than those considered during Master Plan review, as shown on the approved Somers Realty Planned Hamlet Master Plan dated February 2009 requiring minor disturbance outside the Clearing and Grading Limit Line in an area adjacent to Clayton Boulevard near the Route 6 entrance and in an area adjacent to Proposed Town Road D; and

WHEREAS, changes to the proposed site grading resulting from the reduced overall limits of disturbance and decreased need for fill placement have also resulted in modification to watershed areas reaching the site stormwater drainage design points from those contemplated at the time of Master Plan approval; and

WHEREAS, changes to the phosphorous loading methodology prescribed by NYSDEC and proposed modifications to the design of development stormwater

management systems have resulted in necessary revisions to the Phosphorous Loading analysis that was completed at the time of Master Plan approval; and

WHEREAS, the initial subdivision application included a request by the Applicant for Planning Board approval of a Wetland and Watercourse Permit as described in Chapter 167 of the Code of the Town of Somers and the requisite fee accompanied such application for disturbance of 0.47 acres of wetland and where the approved Master Plan disturbed 0.45 acres of wetland and for disturbance of 2.41 acres of wetland buffer compared with 3.17 acres of disturbance in the approved Master Plan such disturbance totals to be modified as project review has progressed; and

WHEREAS, the subdivision application included a request by the Applicant for Planning Board approval of a Stormwater Management and Erosion and Sediment Control Permit as described in Chapter 93 of the *Code of the Town of Somers* and the requisite fee was paid prior to Conditional Preliminary Subdivision Plat Approval; and

WHEREAS, the subdivision application included a request by the Applicant for Planning Board approval of a Tree Removal Permit for removal of 39 trees, initially but which was modified to removal of 40 trees as a result of subdivision modifications throughout the review process as described in Chapter 156, "Tree Preservation" of the Code of the Town of Somers and the requisite fee accompanied such application; and

WHEREAS, the subdivision application included a request by the Applicant for Planning Board approval of a Steep Slope Permit as described in Chapter 148, "Steep Slopes Protection" of the Code of the Town of Somers and the requisite fee accompanied such application; and

WHEREAS, an associated application for site plan approval for The Avalon Somers dated June 6, 2014 was submitted on June 11, 2014 for construction of 152 units of rental apartment units and construction of a Village Green on 53.2 acres to consist of lots 3a, 3b and 3c and the Village Green to be created as part of the Somers Realty application for preliminary subdivision approval, along with an application for steep slopes permit dated June 6, 2014, and a tree removal permit application dated June 6, 2014 to remove 129 trees in pursuance of build-out of the Somers Realty Planned Hamlet as proposed to be modified herein, and

WHEREAS, it is the Planning Board's opinion that initially and in accordance with subsequent subdivision and associated site plan submissions that the modifications to the Somers Realty Planned Hamlet were determined to be:

(1) Shortening of proposed Town Road B due to consolidation of Avalon development plan such that the extension from the end of the development will be provided as an unpaved/unimproved Town right-of-way rather than as a paved right-of-way with easements provided for future stormwater management;
(2) Consolidation of AvalonBay site plan resulting in excess material due to imbalance of cut and fill for the entire site and therefore the need for additional export from the site of stockpiled material from construction of Clayton Boulevard associated with the Mews 2;
(3) Additional area required for stormwater management facilities due to compliance with January 2015 Revisions of NYS Stormwater Design Manal and NYC DEP 2010 Watershed Rules and Regulations;
(4) Minor disturbance outside of the designated Clearing and Grading Limit Line in area adjacent to Clayton Boulevard near the Route 6 entrance;
(5) Potential permanent loss of some portion of prior envisioned 30,000 square feet of mixed professional office/retail/restaurant use from the north side of Clayton Boulevard; considered for construction on the south side of Clayton Boulevard as a result of the Phase 2 approval process. Future replacement of assisted living facility on Lot 6 to be accessed by extension of an entry boulevard to Avalon at Somers project;
(6) Provision of a looped water supply system along Route 6 connecting to that system to be provided by yet to be approved Hidden Meadow development;
(7) Net decrease in size of northern drainage area and associated decrease in impervious surface and net increase in acreage of southern drainage area and associated increase of impervious surface with related change in stormwater runoff peak flows at the four drainage design points analyzed as part of the Master Plan;
(8) change in calculated phosphorous effluent load and resulting reduction due to modified calculation methodology following the latest recommendations of the NYS Office of the Attorney General Watershed Inspector General (a net reduction in phosphorus is still maintained for the project), new phosphorous concentrations by NYSDEC and revised site and stormwater management practices layout;
(9) Reduced demand flowrates (utilizing latest NYSDEC published flow rates) for water and wastewater systems for residential development;
(10) Change in the quantity of wetland disturbance resulting from increased disturbance to regulated wetland A due to proposed construction of stormwater management practices;
(11) Change in fiscal impacts and school children generation due to change from owner occupied residential development to a renter occupied residential development; (12) Change in design guideline setbacks from paved road surfaces;

(13) Change in Village Green Design to incorporate active playscape and picnic area;
(14) Change in provision of completed Road D leading to adjacent land locked parcel;
(15) Sidewalks to be provided outside boundaries of parcels to be subdivided and owned by Avalon;
(16) Change in provision and location of required residential parking spaces
(17) Provision of easement by Somers Realty in favor of the Town of Somers from the terminus of proposed Road D across newly to be created Lot 3C to access the potential future water tower on parcel to be dedicated to the Town of Somers by Somers Realty as part of the Subdivision of Lot 3.

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

WHEREAS, the initial submission consisted of the following materials:

- Cover letter from McCullough, Goldberger & Staudt , LLP dated June 9, 2014
- Application for Preliminary Subdivision Approval signed and dated June 9, 2014
- Applicant Acknowledgement dated June 8, 2014
- Certification document dated June 12, 2014
- Letter from Town of Somers, dated June 4, 2014,indicating no outstanding taxes on lot 4.20-1-15
- Application Processing Restrictive Law Affidavit signed and notarized on June 12. 2014
- Application for Wetland and Watercourse Protection Permit signed and dated June 9, 2014;
- Application for Stormwater Management and Erosion and Sediment Control Permit signed and dated June 9, 2014
- Application for Steep Slope Protection Permit dated June 9, 2014
- Tree Removal Permit Application signed and dated June 9, 2014;
- Short Environmental Assessment Form completed by applicant's engineer dated and signed September 9, 2014
- Copy of Re-subdivision of Lot 2 and Sewer Pump Station Parcel of Filed Map #28375
- Preliminary Subdivision Plat prepared by Insite Engineering, Surveying, Landscape Architecture, P.C. dated February 18, 2015.

Additional reports and plans:

- Cover Letter from Insite Engineering Dated September 17, 2014

- Wetland Mitigation Narrative and Specification and attached 11x17 Wetland Mitigation Plan prepared by Tim Miller Associates
- Phosphorus Loading Analysis dated September 17, 29014
- Preliminary Stormwater Pollution Prevention Plan- 9-17-14
- Stormwater Pollution Prevention Plan, dated September 17, 2014
- Phosphorous Loading Analysis, dated September 17, 2014
- Highway improvement plans prepared by Maser Consulting dated July 9, 2014

Plans submitted are the following: in September 17, 2014 submission

- Preliminary Subdivision Plat - Somers Realty – PH Zone Phase III – Resubdivision of Lot 3 dated 9-17- 14 by Insite Engineering
- Resubmitted Plan set by Insite Engineering including the following:
  - OP-1 – Overall Site Plan –9-17-14
  - Sp-1.1 – Layout and Landscape Plan
  - SP-1.2 – Layout and Landscape Plan
  - SP-1.3 - Layout & Landscape Plan
  - SP-2.1 - Grading & Utilities Plan
  - SP-2.2 – Grading & Utilities Plan
  - SP-2.3 – Grading & Utilities Plan
  - SP-3.1 – Sediment & Erosion Control Plan
  - SP 3.2 – Sediment & Erosion Control Plan
  - SP-3.3 – Sediment & Erosion Control Plan
  - PR-1 – Road Profiles
  - D-1 – D-6 - Details
- Pre-Development Phosphorus Analysis Figure 1 and Post Development Phosphorous Analysis Figure 2, dated 9-17-14, by Insite Engineering.
- Wetland & Wetland Buffer Impact Analysis Dated 9-15-14 by Insite Engineering

WHEREAS, the September 17, 2014 submittal modified the proposal to include six rather than 5 lots, Lot 6 of 7.1 acres previously identified as a Reserve Parcel that was part of the Lot #3A such that Lot 3A, previously 45.4 acres is now 38.3 acres and the overall Avalon acreage was reduced from a total of 53.2 acres to 45.1 acres, and

WHEREAS the September 17, 2014 submission plans did not indicate the extension of Road B south through the Algonquin Gas pipeline to the property boundary, but, after input from the adjacent property owner and the Planning Board, it was shown in plans of October 20, 2014 as a Town right of way to be paved in the future by others; and

WHEREAS, this subdivision application, beyond the creation of a further subdivision of prior created Lot 3 consists of the completion of Clayton Boulevard to Route 6 which will require a variance from NYC DEP, completion of interior roads to be dedicated as Town Roads and construction of a stormwater management system; and

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

WHEREAS, the following conditions of the Master Plan Findings statement that are relevant to the subdivision application <u>have been met</u> as part of this application; some of which relate to the Findings conditions to be met as part of the associated application for site plan approval for the AvalonBay at Somers project:

- For the Avalon project a minimum of 15 per cent of the units or 23 units will be affordable housing units
- Design guidelines regarding setbacks from paved roads have been modified, but such modifications have been found to be in keeping with the overall Master Plan concept Plan by the Planning Board
- The Clearing and Grading Limit Line as shown on the approved final Master Plan has been shown compared with the proposed Clearing and Grading Limit Line on the Wetland Impact/Clearing & Grading Limit Line Modification Figure Drawing W-1 dated 4/22/15 and the impacts for disturbed area around Route 6 have been identified as an increase of 1.8 acres of which half was previously disturbed during construction of NYSDOT shoulder improvements in 2009, is now proposed to be disturbed for the construction of additional stormwater management practices.. A change in overall site disturbance is from 51.2 to 50.2 acres with the current CGLL. The change also results in an increased disturbance to Wetland A from 0.09 acres to 0.19 acres. Disturbance to wetland buffer of Wetland A will also increase to 1.92 acres from 1.86 acres. .such that total wetland disturbance increases from 0.43 to 0.53 acres compared with the Master Plan CGLL. Since the Master Plan Wetland Mitigation plan provided greater than the required minimum wetland mitigation area, it has already provided sufficient mitigation to mitigate this additional wetland impact at the required ratio. Wetland

Permit approval from the U.S. Army Corp of Engineers and development of a Wetlands Construction & Monitoring Plan shall be required prior to start of any disturbance activities.

- Due to consolidation of the residential plan and inclusion of a new access road to proposed lot 6, the site will no longer be fully balanced with cut and fill and there will be approximately 70,000 cu./yds. of excess material, 45,000 cu./yds. of which will be exported off the site. Off-site hauling operations are proposed to consist of a maximum of 12 truck trips per hour (6 in /6 out) for about six to eight weeks, eight hours a day from 8AM to 4PM Monday through Friday, but these trips are not deemed to result in significant adverse environmental impacts beyond those previously discussed and mitigated
- The variance required from NYC DEP to connect Clayton Boulevard to Route 6 shall be granted prior to final subdivision approval
- A 0.9 acre Lot 5 on Mahopac Avenue is being shown as being created for use as the site for a future firehouse.
- A looped water system considered in the findings but for which a hydropneumatic system was substituted as a required back-up emergency water system, now shall be provided. Somers Realty will install or provide the funds to the Town for the Town to undertake the connection from the Somers Realty property to the point at which the water main is extended by the Hidden Meadow project, now pending approval, or the Town, if such is the case, subject to agreement to be entered into between Somers Realty and the Town.

WHEREAS, the February 10, 2009 Findings Statement assumed there would be a connection to the North County Trailway, the Planning Board upon review of the project understood that the Planned Hamlet property was not adjacent to the trailway and determined that provision of public road D once connected to future adjacent subdivision would provide such access connection; and

WHEREAS, the Applicant shall provide draft easements to the Town for review and approval by the Town Attorney for the new easement from the terminus of Road D to the newly to be created lot for the potential future water tower and the new stormwater management easement to be created within the unpaved/unimproved Town right-of-way extension of Road B from the Avalon project to the project lot boundary; and

WHEREAS, the subdivision application, as revised throughout the review process, was circulated to the Somers Open Space Committee, the Somers Fire Prevention Bureau, Somers Energy Environment Committee, Somers Architectural Review Board, Somers Affordable Housing Board, Somers Highway Department, Westchester County Health Department, the Westchester County Planning Board, New York State Department of Environmental Conservation,

the New York City Department of Environmental Protection, the New York State Department of Transportation and their comments were considered by the Planning Board; and

WHEREAS, the Planning Board discussed the Applicant's proposed subdivision plan at meetings held on July 9, 2014, August 13, 2014, October 8, 2014 November 12, 2014, December 10, 2014, January 28, 2015, March 11, 2015, April 8, 2015, and May 13, 2015; and May 27, 2015; and

WHEREAS, during the course of the Planning Board's review of the Applicant's proposed subdivision plan application, the Planning Board received and considered correspondence from the public as well as Town staff, Town advisory boards and other Involved Agencies and the Applicant's representatives. Correspondence from Town staff, Town advisory boards and other Involved Agencies and the Applicant's representatives are listed as follows:

1. Memoranda from the Somers Director of Planning dated July 3, 2014, August 6, 2014, September 26, 2014, October 30, 2014, December 1, 2014, December 15, 2014, January 13, 2015, February 27, 2015, and March 25. 2015, April 2, 2015,
2. Memoranda from the Somers Town Consulting Engineer dated June 9, 2014, July 3, 2014 ; September 29, 2014, October 30, 2014;January 22, 2015, March 4, 2015, and May 6, 2015
3. Memoranda from the New York City Department of Environmental Protection of July 3, 2014, October 14, 2014, October 15, 2014
4. Letter from Westchester County Panning Board dated July 16, 2014
5. Letter from NYS DOT dated August 20, 2014, Letter of August 20, 2014,February 23, 2015
6. Letter from Tim Miller Associates, Inc., Applicant's wetland consultant, dated
7. Letters from Applicant's Representative McCullough, Goldberger & Staudt, LLP of June 9, 2014, July 30,2014, October 20, 2014,January 6, 2015
8. Letters and memoranda from Applicant's Engineer Insite Engineering, Surveying & Landscape Architecture, P.C. of September 17, 2014; December 3, 2014, January 6., 2015; February 16, 2015, March 5. 2015, March 18, 2015, April
9. Letter from Esther Mildner dated October 31, 2014

WHEREAS, a duly advertised public hearing on the application for subdivision approval was opened and held on November 12, 2014, at which time all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, Planning Board comments at its meeting of November 12, 2014 focused on provision of access to Lot 6 which the Planning Board would require

to be accessed internally from within the Planned Hamlet rather than from Mahopac Avenue on which it has frontage due to the Mahopac Avenue scenic corridor and design of the original Planned Hamlet Master Plan concept plan, and

WHEREAS, no final determination regarding such internal access road was made, the Planning Board voted unanimously to keep the public hearing open for further input by the applicant; and

WHEREAS, at its meeting of December 10, 2014 the Planning Board continued the public hearing and reviewed a proposed internal connection to Lot 6; and

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

Prepared by Insite Engineering, Surveying and Landscaping, P.C.:

- Sheet 1 - Proposed Preliminary Subdivision Plat Section 1 – PH Zone Phase II- 2/18/15
- Sheet 2 - Existing Conditions and Removals Plan – 2/18/15
- Sheet 3 – Proposed Road Layout & Grading Plan – 2/18/15
- Sheet 4 – Proposed Drainage and Utility Plan – 02/18/15
- Sheet 5 – Stormwater Pollution Prevention Plan – 02/18/15
- Sheet 6- Planting and Restoration Plan – 02/18/15
- Sheet 7 – Proposed Road Profile – 02/18/15
- Sheet 8 – Subdivision Table and Notes – 02/18/15Sheet 9 – Construction Details – Sheet 1 – 02/18/15
- Sheet 10 – Construction Details – Sheet 2 – 02/18/15
- Sheet 11 – Construction Details – Sheet 3 – 02/18/15
- Sheet 12 – Planting Details and Notes – 02/18/15
- Preliminary Subdivision Plat dated 02/18/15
- Stormwater Pollution Prevention Plan Narrative of 10/01/12; revised 10-31-12; and revised 12/11/12; and
- Master Plan Conformance Drawing – Drawing MC-10 04-22-15
- Slope Map
- Wetland Impact/Clearing & Grading Limit Line Modification Figures – 04-22-15
- Soil Stockpile Export Plan- Drawing EP-1; 04-22-15
- Export Details – Drawing MC-1 – 04-22-15

Prepared by Others:

- Memorandum from Maser Consulting dated 04/15/15
- Highway Improvement Plans by Maser Consulting, P.C. Drawing 1-10, dated 07-09-14
- Report titled "Stormwater Pollution Prevention Plan for Somers Realty Planned Hamlet Subdivision, PH Zone Phase II Road Construction," prepared by Keane Coppelman Engineers, P.C., dated October 1, 2012, revised October 31, 2012, and further revised December 11, 2012.

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

- Development outside of the prior established Clearing and Grading Limit Line (CGLL) such that the increase in disturbed area around Route 6 is about 1.8 acres, although there is a decrease in overall site disturbance from 51.2 acres to 50.5 acres
- An imbalance of cut and fill with an excess of 70,000 cubic yards of soil stockpile of which as opposed to a formerly understood to be balanced site, 25,000 cubic yards will be used on site and 45,000 cubic yards which will be exported prior to construction of the associated AvalonBay Somers project. Need for additional truck trips from construction traffic related to imbalance of cut and fill and need to remove excess soil from site over a six to eight week period, prior to construction start of Avalon Bay project
- Substitution of provision of a water loop by installing 10-inch water main between the new proposed point of water main termination located at the intersection of U.S. Route 6 and Windsor Road, intended to serve the proposed Hidden Meadow development, and Mahopac Avenue instead of formerly anticipated hydropneumatic system for emergency provision of onsite water. Such loop is dependent on the approval and installation by a separate Hidden Meadow project development achieving its own approvals and phasing in coordination with the subject project. In the absence of such approval, the Town will extend the line at its own cost and expense to the point that would have been reached by the Hidden Meadow development and Somers Realty will install or provide funds to the Town for the Town to undertake the connection from the Somers Realty property to the point at which the water main is extended by either Hidden meadow or the Town. Should Somers Realty not undertake the water extension project, it will provide funds sufficient to design permit and construct the portion of the water main from Mahopac Avenue to the proposed Hidden Meadow Development.
- The change in the CGLL around Route 6 results in an increase in disturbance to Wetland A from 0.9 acres to 0.19 acres. Disturbance to the wetland buffer of Wetland A will increase from 1.92 acres to 1.86 acres determined at time of Master Plan approval. So total wetland disturbance

increases from 0.43 to 0.53 acres. The Wetland Mitigation Area is proposed to be 0.85 acres to compensate for the 0.53 acres of wetland disturbance, greater than the 0.80 acres of restored wetland that would be required based on the minimum required restoration ratio of 1.5 (restored) to 1.0 (disturbed). Restored wetland area must be constructed in accordance with Construction and Monitoring Plan to be developed in accordance with the Master Plan findings requirements. Specific design measures for enhancement of wetland and wetland buffer functions will also be incorporated prior to Final Subdivision Plat approval. Maintenance of the Wetlands Mitigation Area will be required to be completed by the Property Owner through a legally binding agreement to be filed in the Office of the County Clerk and will include measures for proper continued maintenance include regular inspection during first planting season and annual reports filed with Town of Somers and Army Corps of Engineers

- Phosphorus loading calculation methodology and reduction results are different from what was considered in the Master Plan approval due to updated methodology and modifications of site layout and location of additional stormwater practices. Phosphorous loading will have a post-development reduction of 0.46/lb./year (2.3%) compared with predevelopment conditions. Any further changes will still require a reduction compared to pre-development conditions.
- Current development proposes a net decrease in northern drainage area (Design Points No. 1&2) by 1.2± acres with an associated decrease of 4.7± acres in impervious surfaces. The current development conversely proposes to increase the southern drainage area (Design Points No. 3&4) by 3.4+- acres with an associated increase of 0.2± acres of impervious surface. ±.
- As summarized in the current project SWPPP, stormwater peak flows reaching all four drainage design points have maintained a reduction in post development conditions from those of pre-development. Any further modifications to the project stormwater management design will be required to maintain proposed peak flows as less than or equal to pre-development conditions.
- Shortened Town Road B due to consolidation of Avalon development such that the extension from the end of the development will be provided as an unpaved Town right-of-way with easements provided for future stormwater management rather than a paved right-of-way
- Prior envisioned assisted living facility north of Clayton boulevard now to be developed on Lot 6
- Portion of 30,000 square feet of mixed professional office/retail may be relocated to south side of Clayton Boulevard on east side of village green

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- Flow rates for water and wastewater systems will be reduced from the residential development from those envisioned in the Master plan
- School generation rates of proposed Avalon Bay development to be similar to those of Master Plan, but due to change from owner to rental type property, school taxes to be generated will decrease significantly
- The village green design has changed to incorporate some area of active recreation
- Avalon buildings have some additional setbacks from the roads compared with guidelines in the master plan
- Town Road D will now only be built to the subase level (i.e. Item 4) and gated and maintained by the applicant until adjacent land is developed
- Sidewalks along Clayton Boulevard and around the Green that fall outside subdivision parcels to be owned by Avalon Bay will be owned and maintained by Avalon Bay, not the Town
- Permanent Easement from the terminus of Road D across lot 3C to provide access to future water tower parcel shall be provided by the Applicant and shall be reviewed and approved by the Town Attorney
- Construction of a stormwater management system and soil erosion and sediment control plan to accommodate drainage areas located on of the subdivision. The stormwater management system includes stormwater piping, catch basins, manholes, conveyance swales, Pocket Wetlands, Dry Swales, Extended Detention Stormwater Pond, Bioretention Filter Areas rip rap apron and level spreader for basin discharges as detailed in the subdivision plans and analyzed in the stormwater pollution prevention plan prepared in accordance with Chapter 93 of the Code of the Town of Somers and the NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activities (Permit Number GP-0-15-002). The Soil Erosion and Sediment Control measures during and after construction detailed in the above plans include silt fencing, erosion matting; temporary sediment basins, anti-tracking pad and temporary diversion swales, and soil stabilization measures.
- The Stormwater Pollution Prevention Plan which details the design of the Stormwater Management System and the Soil Erosion and Sediment Control Plan includes measures to ensure the monitoring and maintenance of the entire Stormwater Management and Soil Erosion and Sediment Control system and practices.
- Maintenance agreements for the roadway, sidewalks and stormwater infrastructure the plans indicate that blasting will occur and that such blasting shall be conducted in accordance with Steep Slopes, Chapter 148-7B(4)(k) of the Code of the Town of Somers; and

WHEREAS, having kept the public hearing open from November 12, 2014 and through meetings on December 10, 2014, January 28, 2015 to provide an

opportunity for continued comments from the public, agencies and the Planning Board and consideration of new plan details presented by the applicant and having heard all those wishing to be heard, the Planning Board voted to close the public hearing on March 11, 2015; and

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

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

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

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

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

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 Preliminary Subdivision Plat Approval and all other associated approvals of this application for the Somers Realty Planned Hamlet Phase 3** as shown and described by the materials enumerated herein including **Modification of the Somers Realty Planned Hamlet Master Plan**, **IS HEREBY CONDITIONALLY GRANTED** in accordance with the New York State Town Law §§276 and 278 and in accordance with §150-13J "Planning Board Action" of the Code of the Town of Somers, **SUBJECT TO** the following modifications and conditions being fulfilled prior to Final Subdivision Plat Approval, unless otherwise stated below:

1. That the standard subdivision plat notes, including references to the Planned Hamlet Master Plan Maintenance Agreements, Health Department approval block, name of water and sewer districts serving the lots, etc. are included on the plat as part of the final submission.

2. That the Applicant is required to review the crossing of Town Wetland A and a NYC DEP identified watercourse by the extension of Clayton Boulevard to its intersection with U.S. Route 6 and the construction of Town Road D through a portion of Town Wetland E with the NYC DEP, obtain all required variances and address al NYC DEP requirements to achieve issuance of necessary permits and approvals.

3. That the NYSDOT concerns regarding inadequate drainage facilities along Route 6 being only temporarily addressed shall be addressed to the satisfaction of NYSDOT.

4. That the applicant shall provide sight distances at project intersections to identify whether proposed site grading of proposed plans has not affected the prior sight distances.

5. That sight easement agreements required by Town Code Section 150-24-(E) be included as part of future submittals

6. That the Applicant provide additional details of design documents related to Route 6 improvements to the Town Consulting Engineer.

7. That the Applicant provide documentation of no objection by the Somers Fire Prevention Bureau of the proposed plan prior to final subdivision approval.

8. That the Applicant provide the Town with documentation of Army Corps Wetland Permit

9. That the Applicant must prepare an acceptable Wetlands Mitigation Plan to include all structural design measures and mitigation practices as detailed by the Master Plan FEIS and that is to the satisfaction of the Consulting Town Engineer.

10. That the Applicant shall prepare an acceptable Wetlands Construction, Inspection and Monitoring Plan that addresses all measures as detailed in the Master Plan FEIS and is to the satisfaction of the Consulting Town Engineer.

11. That the Applicant shall provide final detailed design layout, construction details and engineers report for the proposed water main extension within Clayton Boulevard

12. That the Applicant proposed layout of site electrical and gas service mains for the proposed development within the proposed Town Roads be provided

13. That the Applicant shall produce a revised SWPPP document that addresses all outstanding stormwater management concerns of the Consulting Town Engineer, including but not limited to the following:
    a. Update the SWPPP and HydroCAD report to address all outstanding technical design and modeling comments to the satisfaction of the Consulting Town Engineer
    b. Demonstrate that the stormwater practice design documents and HydroCAD report have been planned to accommodate required stormwater quality treatment and peak flow attenuation resulting from future development of proposed assisted living facility on Lot 6.
    c. Demonstrate that the stormwater practice design documents and HydroCAD report have been planned to accommodate required stormwater water quality treatment and peak flow attenuation resulting from future construction of "Town Road B" to the southern property line.
    d. Provide Landscaping Plans for all applicable stormwater management practices in accordance with the NYSDEC Stormwater Management Design Manual, latest edition.
    e. Prepare an acceptable Stormwater Maintenance Agreement for the inspection and maintenance of permanent stormwater management practices to the satisfaction of the Consulting Town Engineer and Town Attorney.

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14. That the updated SWPPP shall include a detailed Land Disturbance Phasing Plan that is coordinated with the project Erosion and Sediment Control Plan and Earthwork Plan to ensure that no more than five acres of land will be disturbed at any one point in time.

15. That the Applicant shall prepare a Rock Removal plan that estimates thee approximate volume of rock excavation and describes the methodology and anticipated duration of rock removal activities.

16. That the Applicant provide the following with regard to the Proposed Subdivision Phase II SWPPP amendment and stockpile export hauling plan:
    a. Posting of Surety for the portions of Clayton Boulevard to be traversed during stockpile hauling operations based on Applicant prepared costs estimate and documentation of existing conditions of Clayton Boulevard, subject to acceptance of the Consulting Town Engineer and Principal Engineering Technician.
    b. The Applicant shall characterize all soils planned for export to demonstrate compliance with NYSDEC DER-10 and CP-51 guidance document standards
    c. That the plans are revised to note that the Planning Board reserves the right to require the change in use of 30 cubic yard hauling trailers to tri-axle style dump trucks if the Board determines such is necessary to protect traffic and pedestrian safety
    d. A template for weekly stockpile hauling reports shall be submitted by Applicant

17. That the Applicant obtains review and approval by the Water Superintendent and the Bureau of Fire Prevention for the hydrant placement with respect to the street curb and the sidewalk.

18. That the Applicant submits written evidence of having obtained approval by the Westchester County Department of Health for the realty subdivision and sewer and water main extensions.

19. That the Applicant obtains coverage under the NYSDEC General Permit No. GP-0-15-002 with a copy of the NOI provided to the Town.

20. That the Applicant demonstrates approval from the NYCDEP for the Stormwater Pollution Prevention Plan (SWPPP).

21. That, since the portion of Clayton Boulevard to be constructed as part of this subdivision application will not be dedicated as a Town Road until Avalon is complete, the Applicant as owner will be obligated to maintain the

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road until dedication to the Town. Upon dedication of the road, the maintenance of the sidewalk will be the obligation of the adjacent property owner pursuant to Somers Code Chapter 142.

22. That the Applicant submits easement agreements for temporary access from the existing Town right-of-way traveling through "Town Road D" and Lot 3C for access to the Water Tower parcel. Temporary easement will be necessary because this portion of Town Road D is proposed to be constructed to Item 4 sub-base as part of this Subdivision Application and will not be paved until future development on the adjacent parcel. Such temporary easement shall terminate following completion of Town Road D with asphalt paving and Town acceptance of dedication of "Town Road D", at which point access to the Water Tower Parcel will be provided by permanent easement through proposed Lot 3C.

23. That the Applicant submits easement agreements for permanent access from the terminus of Road D to the newly created lot for the future potential water tower and for the stormwater easement within the unpaved/unimproved right of way from the terminus of Road B at the end of the Avalon development to the boundary of the Avalon lot for review and approval by the Town Attorney prior to Final Subdivision Plat Approval.

24. That the Applicant has obtained the variance from the NYC DEP relative to Section 18-39(8a) (6) (ii) of the Watershed Rules and Regulations for connection of Clayton Boulevard to Route 6.

25. That the Applicant provides a performance bond to cover the restoration of the existing portions of Clayton Boulevard in the event it is damaged during construction in an amount to be determined based on cost estimates as reviewed and approved by the Consulting Town Engineer prior to issuance of the building permit. The Applicant shall prepare a construction cost estimate for determination of the surety amount based upon the cost of milling and repaving of asphalt top course on Clayton Boulevard, including replacement of curbs and drainage structure frames and grates

26. That the Applicant files a pre-construction notification for coverage under Nationwide Permit #18 relative to wetland disturbance with the Army Corps of Engineers and submit a copy to the Town prior to issuance of a building permit.

27. That the Applicant provides an updated final Master Plan Conformance drawing illustrating any future design modifications following preliminary subdivision plat approval prior to Final Subdivision Plat approval.

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28. That the Applicant provides documentation of NYS Department of Transportation approval for proposed work within the right of way, including right of way improvements to the shoulder of Route 6 for the new turning lane prior to the signing of the Final Subdivision Plat by the Chairman.

29. That the Applicant enter into an agreement with the Town regarding the details of provision of the looped water system and the obligations and options for funding or construction of such loop by the Applicant, and that such agreement be reviewed and approved by the Town Consulting Engineer and the Town Attorney.

BE IT FURTHER RESOLVED that the Conditional Granting of Preliminary Subdivision Plat Approval is also subject to compliance with the following condition:

1. All references to "the Applicant" shall include the Applicant's successors and assigns

BE IT FURTHER RESOLVED, that this conditional approval of the preliminary subdivision plat application shall expire on November 23, 2015, if no application for final subdivision plat approval is submitted, unless an extension of this time period is requested by the Applicant prior to the expiration of the conditional approval, and approved by the Planning Board in accordance with §150-12.N of the *Code of the Town of Somers.*

This resolution shall have an effective date of May 27, 2015.

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 #2012-08 adopted by the Town of Somers Planning Board granting of **Conditional Preliminary Subdivision Plat Approval (No.3) to Somers Realty Corp. for the Somers Realty Planned Hamlet** at a meeting held on May 27, 2015.

_____ _____

Syrette Dym, AICP **Date**
Director of Planning

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