

phone
7-5366

AX
77-4093

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 9, 2012 7:30 P.M.

MINUTES Consideration for approval of Draft Minutes for March 14, 2012

TIME-EXTENSION

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

Application of Susan Haft and Ridgeview Designer Builders, Inc. for Final Conservation Subdivision Approval, Stormwater Management and Erosion and Sediment Control, Steep Slopes and a Tree Removal Permit for property located on the east side of Lovell Street, north of Benjamin Green Lane. Request for a 90-day extension of Final Approval from May 21, 2012 to and including August 20, 2012.

This is the sixth request for an extension of Final Subdivision Approval.

DECISION

**2. CVS PARKING AMENDED SITE PLAN
[TM: 17.15-1-13]**

Application of Urstadt Biddle (owner) and CVS Pharmacy (applicant) for Amended Site Plan Approval for property located at the Somers Towne Centre, 325 Route 100, for the alteration to the parking area and walkway in front of the CVS Store. Additional accessible parking spaces will be created from (3) existing. Application submitted on March 6, 2012. Consideration of a Draft Resolution for Amended Site Plan Approval. The Application was last discussed at the April 11, 2012 Planning Board meeting.

PROJECT REVIEW

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

Application of National Golfworx/Rick Van Benschoten (owner) for a mixed use development consisting of five buildings with a combination of retail and residential uses. The site is proposed to be serviced by public sewer and water. The application was last discussed at the March 14, 2012 Planning Board meeting.

Next Planning Board Meeting, June 13, 2012

Agenda information is also available at www.somersny.com

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335 ROUTE 202
SOMERS, NY 10589

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John Currie, *Chairman*
Fedora DeLucia
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John Keane



SOMERS PLANNING BOARD MINUTES
MARCH 14, 2012

ROLL:

PLANNING BOARD

MEMBERS PRESENT:

Chairman Currie, Ms. DeLucia, Mr. Keane,
Ms. Gerbino, Mr. Goldenberg, and Ms.
Gannon

ABSENT:

Mr. Foley

ALSO PRESENT:

Town Planner Sabrina Charney Hull
Consulting Engineer Joseph Barbagallo
Town Attorney Joseph Eriele
Planning Board Secretary Marilyn Murphy

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

MINUTES

APPROVAL OF JANUARY 11, 2012 AND JANUARY 25, 2012 MINUTES

Chairman Currie noted that Planning Board Secretary Marilyn Murphy
prepared and submitted for the Board's consideration the approval of the
draft minutes of the Planning Board meeting held on January 11, 2012

1 consisting of five (5) pages and draft minutes from the January 25, 2012
2 meeting consisting of nine (9) pages.
3 Chairman Currie asked if there were any comments or questions from
4 members of the Board on the draft minutes of January 11, 2012 and no one
5 replied.

6
7 The Chair asked if there was a motion to approve the January 11, 2012
8 draft minutes.

9
10 On motion by Ms. DeLucia, seconded by Mr. Goldenberg, and unanimously
11 carried, the minutes of January 11, 2012 were approved.

12
13 Chairman Currie asked if there were any comments or questions from
14 members of the Board on the draft minutes of January 25, 2012 consisting
15 of nine (9) pages and no one responded.

16
17 The Chair asked if there was a motion to approve the January 25, 2012
18 draft minutes.

19
20 On motion by Ms. Gannon, seconded by Ms. DeLucia, and unanimously
21 carried, the minutes of January 25, 2012 were approved.

22
23 **TIME-EXTENSION**

24
25 **MERRITT PARK ESTATES SUBDIVISION**
26 **[TM: 5.20-1-1]**

27
28 Chairman Currie noted that Geraldine Tortorella, Esq. of Hocherman,
29 Tortorella & Wekstein LLP, the applicant's attorney, provided the Board
30 with a letter asking for consideration for a seventh 90-day time-extension
31 for the Merritt Park Estates Subdivision.

32
33 The Chair asked if there were any comments from staff regarding the time-
34 extension.

35
36 Town Planner Hull and Consulting Engineer Barbagallo responded that
37 they had no objection to the Planning Board issuing the requested time-
38 extension.

39

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

3
4 Ms. DeLucia mentioned that the letter from Attorney Tortorella is self-
5 explanatory and she noted that the legal instruments have been approved
6 by the Town Board.

7
8 On motion by Ms. DeLucia, seconded by Ms. Gannon, and unanimously
9 carried, the Board moved to grant a seventh 90-day time-extension to
10 Mancini Building Corp. for Merritt Park Estates Subdivision to the period of
11 Conditional Final Subdivision Approval from April 9, 2012 to and including
12 July 9, 2012.

13 **INFORMAL DISCUSSION**

14 **IPP SOLAR LLC @ SOMERS COMMONS** 15 **[TM: 4.20-1-11]**

16
17
18
19 Chairman Currie noted that the Planning Board will be having an informal
20 discussion to explain the project so a determination can be made as to
21 whether or not a Site Plan application is needed.

22
23 The Chair asked the applicant's representative to give a brief summary
24 regarding this application.

25
26 Paul Jeuri, applicant and partner at IPP Solar LLC, said that IPP Solar is a
27 solar development company interested in pursuing an installation of an
28 array of solar photovoltaic panels over the roof of the New York Sports
29 Club located at the Somers Commons Shopping Center. He noted that the
30 installation includes 182 Sharp solar modules on the roof with associated
31 wiring, conduits, meters and an inverter that will be installed on a concrete
32 pad at the back of the building. Mr. Jeuri explained that the installation is
33 100% ballasted and will not involve any roof penetration. He said that the
34 array will not be visible from the ground or alter any structural elements of
35 the building. Mr. Jeuri noted that the panels are installed at a 10 degree tilt
36 and the highest point will be approximately 2.75 feet. He said that the
37 inverter is about the size of a refrigerator and will be placed on a concrete
38 pad. Mr. Jeuri explained that the inverter will be placed against the back
39 wall.

1 Town Planner Hull said that she asked the applicant to come before the
2 Board in an informal capacity. She commented that other than the inverter
3 on the ground there is no visible impacts from this project. Town Planner
4 Hull said she asked for clarification as to the location of the inverter in
5 relation to the existing shrubbery. She opined that the applicant should be
6 directed to obtain approval from the Architectural Review Board (ARB) and
7 pursue the necessary building permits. Town Planner Hull said that in her
8 opinion the proposed installation does not rise to the level of requiring site
9 plan approval.

10
11 Maziar Dalaeli, applicant and partner at IPP Solar LLC, explained that there
12 is a racking system that holds the panels. He noted that his company has
13 worked predominately in New Jersey.

14
15 Mr. Keane asked how the ballast material is held in place so it does not
16 vibrate. He said that his concern is safety.

17
18 Mr. Dalaeli approached the Board and showed them the ballast blocks and
19 how the frames are connected. He indicated that a licensed engineer will
20 handle all the calculations such as wind calculations.

21
22 Mr. Jeuri acknowledged that he will be submitting full engineering drawings
23 to the Building Department for approval.

24
25 Consulting Engineer Barbagallo said that concrete blocks will be used for
26 the ballast and he asked if they will be attached to the frame.

27
28 Mr. Dalaeli said that the ballast is fixed to the frame.

29
30 Ms. Gannon asked the expected life time of the installation and how often
31 inspections are conducted.

32
33 Mr. Dalaeli said that the frame will last for 25-30 years and is made out of
34 galvanized steel so they do not rust. He noted that there is ongoing
35 maintenance to ensure that the system continues to operate and is
36 inspected twice per year.

37
38 Mr. Jeuri explained that there is a web based monitoring system that tracks
39 the performance of the solar array.

40

1 Consulting Engineer Barbagallo asked if this is the first phase of a multi
2 phased project at the Somers Commons Shopping Center.

3
4 Mr. Jeuri stated that he is looking to do similar projects at the Somers
5 Commons Shopping Center.

6
7 Ms. DeLucia asked if shrubbery will be removed.

8
9 Mr. Dalaeli said that no shrubbery will be removed.

10
11 Consulting Engineer Barbagallo questioned if the roof will be visible or if
12 there will be glare when you come down the hill from the A&P location on
13 Route 6. He said that this information will be helpful when the applicant
14 appears before the ARB.

15
16 Mr. Jeuri said if there is reflection of light then the solar panel is not doing a
17 good job.

18
19 Consulting Engineer Barbagallo asked if the ARB requested screening
20 would the applicant object.

21
22 Mr. Jeuri indicated that he had no objection to screening.

23
24 Ms. DeLucia said that the minutes from this meeting should be sent to the
25 ARB and the Building Inspector.

26
27 Consulting Engineer Barbagallo asked the applicant to provide a copy of
28 the Green House omissions.

29
30 Town Planner Hull suggested sending a memo to the ARB and the Building
31 Inspector noting the Planning Board's concerns.

32
33 The Chair asked the Board if the proposed installation rises to the level of
34 requiring a Site Plan.

35
36 The Chair noted that the consensus of the Planning Board is that this
37 proposal does not rise to the level requiring a Site Plan.

38

1 The Chair directed the applicant to appear before the ARB and that a
2 memo be prepared for the ARB and the Building Inspector regarding the
3 discussion tonight and the Board's concerns.
4

5 6 **PROJECT REVIEW**

7 8 **THE GREEN AT SOMERS AMENDED SITE PLAN** 9 **WETLAND, STEEP SLOPES AND STORMWATER** 10 **MANAGEMENT AND EROSION AND SEDIMENT CONTROL** 11 **PERMITS [TM: 4.20-1-3.1]**

12
13 Chairman Currie said that this is the project review of the application of
14 National Golfworx/Rick Van Benschoten, owner, for The Green at Somers
15 for Amended Site Plan, Wetland, Steep Slopes and Stormwater
16 Management and Erosion and Sediment Control Permits. The proposal is
17 for a mixed use development consisting of five buildings with a combination
18 of retail and residential uses. He noted that the site is proposed to be
19 serviced by public water and sewer. The Chair said that this application
20 was last discussed at the December 14, 2011 Planning Board meeting.
21

22 The Chair acknowledged receipt of minutes from Town Clerk Kathleen
23 Pacella dated March 14, 2012 for review and comment for The Green at
24 Somers Site Plan held at the Regular Meeting of the Town Board on
25 March 8, 2012.
26

27 The Chair asked the applicant's representative to update the Board on the
28 application.
29

30 Linda Whitehead, the applicant's attorney, explained that per the Planning
31 Board referral she went to the Town Board for their January work session.
32 She said that she showed the Board a 3D presentation that was prepared
33 by the County Planning department. Attorney Whitehead indicated that the
34 Town Board was not prepared to act on applying the incentives that were
35 written into Zoning for Affordable Housing. She mentioned that the
36 Planning Board asked the Town Board to authorize the Planning Board to
37 reduce the required number of parking spaces and allow the increase in the
38 maximum permitted building height to three stories and authorize the
39 Planning Board to allow a mixture of residential and retail uses on the first
40 floor due to the concern about a lack of market for retail. Attorney

1 Whitehead explained that the Town Board would like the Planning Board to
2 be further in its review before the Town Board was comfortable in taking
3 action. She stated that the Town Board was also not prepared to entertain
4 a Zoning Amendment with respect to retail. Attorney Whitehead noted that
5 the Planning Board did not want to go further in its review until the Town
6 Board approved the three incentive items. She noted that the applicant
7 had no choice but to come back to the Planning Board to proceed further
8 and hopefully get to a point where the Town Board feels that the Planning
9 Board has done enough of a review to move forward.

10
11 Attorney Whitehead said that the comments from staff and the Planning
12 Board have been addressed, revised plans, updated traffic study, updated
13 wetland report and an updated preliminary stormwater analysis
14 have been submitted. She mentioned that the applicant is working on
15 hiring an engineering firm to do the soil borings which will take place once
16 the location of the buildings is definite. Attorney Whitehead mentioned that
17 the drawings show a different approach to retail. She explained that both
18 Boards were concerned with mixing commercial and retail on the first floor.
19 She commented that the revised plan reflects retail in Buildings 1 and 2
20 across the entire front of the first floor. She said that visually it will appear
21 that it is all retail on the first floor. Attorney Whitehead noted that the
22 applicant would like to move forward with the retail in Buildings 1 and 2
23 because there is no interest in a project that has retail on the first floor of all
24 the buildings. She stated that the applicant is willing to apply for a variance
25 if the Town Board is not willing to amend Zoning. She mentioned that with
26 the reduction in the amount of retail the parking will be reduced from 296
27 spaces to 234 spaces. Attorney Whitehead commented that this will
28 reduce the impervious surface on the site. She noted that because of the
29 reduced amount of retail shared parking is not appropriate. Attorney
30 Whitehead explained that with the reduced amount of retail there will now
31 be 82 residential units, consisting of 61 one bedroom and 16 two bedroom
32 units. She noted that the revised plan shows minor adjustments in the
33 location and origination of the buildings. She said that the disturbance in
34 the steep slopes along the easterly side of the property will be reduced and
35 the separation will be increased between buildings 3 and 4. Attorney
36 Whitehead noted that Building 1 has been rotated which will reduce the
37 linear look and will give that building a softer shape. She mentioned that
38 because of the reduced parking the stormwater mitigation area has been
39 moved further from the edge of the Department of Conservation (DEC)
40 wetland. Attorney Whitehead said that stormwater improvements are

1 shown within the wetland buffer as have been permitted by this Board and
2 the DEC. She stressed that stormwater improvements are not prohibited
3 but require a permit. She opined that by putting in stormwater mitigation
4 you improve the function of the buffer. Attorney Whitehead said that the
5 quantity of stormwater runoff will be reduced by the reduction of impervious
6 surfaces.

7
8 Attorney Whitehead addressed the memo that was received from Town
9 Clerk Kathleen Pacella. She said that she had no idea why the application
10 of The Green at Somers was on the Town Board agenda. She opined that
11 it was inappropriate to discuss an application without advising the applicant
12 or his representative.

13
14 Ms. DeLucia said that The Green at Somers was on the Town Board
15 agenda for review and comment.

16
17 Attorney Whitehead said she would like to clarify some of the statements in
18 the Town Clerk's minutes. She said the statement about Norma
19 Drummond from the County saying that this project was not the one she
20 spoke about in her address with regard to Affordable Housing is confusing
21 because a formal application cannot be made to Westchester County for
22 funding for an affordable housing project until the applicant has municipal
23 approvals. She noted that there have been informal discussion with the
24 County and Ms. Drummond may not have been involved in those
25 discussions. Attorney Whitehead opined that the discussion at the Town
26 Board meeting leaves out an important factor because Somers modified its
27 code for a prior application on this site by adopting incentives for affordable
28 housing which included the increased FAR for the third floor and shared
29 parking. She said for the Town Board to take credit by saying that the
30 Town of Somers was ahead of the curve in terms of modifying legislation
31 for Affordable Housing and then not being willing to apply the legislation by
32 making comments that a third story would be detrimental to the Town.
33 Attorney Whitehead stated that the Town Board put the legislation in their
34 zoning and is taking credit as a zoning amendment that promotes
35 affordable housing. She also questioned the comment that there are
36 several affordable housing projects in the hopper as this is the only project
37 before the Planning Board. Attorney Whitehead also referenced the
38 comments about the 3D visual of the project which did not work out well.
39 She noted that the Planning Board also viewed the 3D visual which was not
40 prepared by the applicant but was prepared by the County. She also was

1 concerned with the statement that the applicant was asking for
2 authorization for a third story, for a reduction in parking, a change in the
3 Code to permit residential on the first floor and a lot of different things. She
4 stressed that the applicant was not looking for a lot of different things but
5 only for the three incentives listed in zoning and the amendment the
6 Planning Board asked the Town Board to consider. She said that she
7 has concerns about the comment in regard to the amount of commercial
8 and the commercially zoned areas. Attorney Whitehead noted that
9 looking at the Planned Hamlet Zoning a concern was to restrict the amount
10 of retail because of concerns about the heavy commercial traffic on Route
11 6. Attorney Whitehead opined that the concern in the Town Board minutes
12 in reference to commercially zoned areas is inaccurate. She mentioned
13 that when the zoning was adopted to allow the third story residential in the
14 Neighborhood Shopping (NS) Zone for affordable housing they said that
15 they were allowing more residential in the NS Zone to encourage affordable
16 housing. Attorney Whitehead said there were misconceptions on why the
17 applicant was at the December Planning Board meeting. She said that the
18 Planning Board sent a memo to the Town Board asking them to consider
19 some things before the Planning Board spent additional time without having
20 input from the Town Board. She felt that a part of the Town Board minutes
21 reads like the applicant was misleading the Town Board when the Planning
22 Board sent the request for input from the Town Board. Attorney Whitehead
23 said that the Town Board Minutes also say that they will continue to go
24 through the normal Planning process that the Town did with every building
25 that goes up and go from there. She explained that the normal planning
26 process does not always require approval from the Town Board; however,
27 this project does because that is the way the Town Board wrote the zoning.
28 Attorney Whitehead commented that the Town Board minutes state that
29 Neighborhood Shopping allows businesses other than retail but the actual
30 language in the Code says apartments over stores, so it is limited to retail.
31 She said that she spoke to the Town Board in January and they said that
32 they would be willing to modify the Code to allow other types of commercial
33 uses. Attorney Whitehead indicated that because the applicant did not
34 know about the discussion at the Town Board meeting they were not
35 allowed to address the misstatements.

36
37 Ms. Gannon noted that she attended the Town Board meeting and she felt
38 that the Town Board did not have enough information on this project.
39

1 Mr. Keane said that the Town Board rejected the recommendations of the
2 Planning Board. He noted that the revised plans change things.

3
4 Attorney Whitehead corrected Mr. Keane and said that the Town Board
5 decided it was not ready to act yet.

6
7 Mr. Keane opined that under SEQRA a substantive alternative should be
8 provided. He suggested that a substantive alternative would be meeting
9 the design criteria guidelines under Section 170-21 before you get to the
10 affordable housing alternatives.

11
12 Attorney Whitehead said that at this point in the SEQRA process it does not
13 require alternatives. She said that a determination of significance
14 does not ask to analyze alternatives.

15
16 Mr. Keane noted that the applicant is seeking a Negative Declaration that
17 demonstrates that there are no significant environmental impacts. He said
18 that 3 stories changes the visual impact.

19
20 Attorney Whitehead said that the proposed action is the three story action.
21 She noted that the applicant provided information on the impact of the third
22 story (height of tree line) that the buildings will not come up higher than the
23 tree line.

24
25 The Chair asked Town Planner Hull to summarize her memo dated March
26 9, 2012.

27
28 Town Planner Hull said that she submitted a request to Michael Galante of
29 Frederick P. Clark regarding the estimated cost of his review of the updated
30 traffic analysis. She noted that she would like the Board to declare its
31 intent to be Lead Agency once the plans are in form and substance to be
32 circulated. She mentioned that the Board will have to determine if this is a
33 Type I action or an unlisted action under SEQRA.

34
35 Attorney Whitehead noted that she will revise the EAF and plans so Lead
36 Agency can be circulated.

37
38 The Chair asked Consultant Town Engineer Barbagallo to summarize his
39 memo dated March 8, 2012.

40

1 Consultant Town Engineer Barbagallo said that at this time the Planning
2 Board should consider how it intends to proceed in the addressing of the
3 alternatives for site development such that the information requested by the
4 Town Board can be developed as opposed to getting into the specifics of
5 the site plan submitted prior to this meeting.

6
7 Attorney Whitehead stated that the Planning Board is supposed to circulate
8 its intent to be Lead Agency once the EAF and application are submitted to
9 start the SEQRA process.

10
11 Town Planner Hull explained that under SEQRA the first step is to declare
12 the Board's intent to be Lead Agency and then the discussion of impacts
13 and then the applicant will provide further analysis.

14
15 Town Attorney Eriole advised that there is nothing preventing the Board
16 tonight from declaring its intent to be Lead Agency contingent upon
17 receiving revised plans and the updated EAF.

18
19 The Chair noted that there was a consensus of the Board and staff to
20 declare its intent to be Lead Agency.

21
22 On motion by Chair Currie, seconded by Mr. Goldenberg, and unanimously
23 carried, the Board moved to declare its intent to be Lead Agency on The
24 Green at Somers Site Plan and circulate the notice to interested and
25 involved agencies.

26
27 Ms. DeLucia suggested using rain gardens on this project.

28
29 Nathaniel Holt, the applicant's engineer, mentioned expanding the old
30 drainage situation into a vegetated swale along the westerly property line.
31 He said that along the northern side of the driveway there will also be
32 vegetated swales. Engineer Holt indicated that some of the topography
33 is not suitable for rain gardens but he will look at other things that will do
34 the same thing.

35
36 Ms. Gerbino said that historically this site is a swamp but she appreciates
37 that there are 62 fewer parking spaces.

38
39 Attorney Whitehead opined that you can't say we are not going to change
40 zoning you have to look at the realities of the world. She said recognizing

1 that the Town Board may not want to change zoning; the applicant is willing
2 to go to the Zoning Board of Appeals and try to get a variance. She noted
3 that if you put all the retail that is required in the Code there will be a lot of
4 empty buildings.

5
6 Mr. Keane asked that screening be used on Building 3 to address the
7 visual impact and that further analysis be done on the 3 story buildings. He
8 said that the applicant may want to change the height of the buildings.

9
10 Consultant Town Engineer Barbagallo said the Board should provide
11 guidance to the applicant on the height of the trees.

12
13 Attorney Whitehead said that she will have a landscape architect provide a
14 planting plan for the Board's review.

15
16 Ms. DeLucia suggested using brick or concrete for the walkway.

17
18 Attorney Whitehead said that when you are using public funding for
19 affordable housing they are very particular. She indicated that she will
20 consider the porous walkway.

21
22 Consulting Town Engineer Barbagallo opined that the County will fund the
23 porous sidewalk.

24
25 Ms. DeLucia noted that she got the impression that the Town Board was
26 not in favor of residential on the first floor.

27
28 Attorney Whitehead stressed that if they have 30,000 SF of retail they will
29 have a ton of parking and there will be empty stores. She said that two of
30 the buildings are shown with the first floor being partial retail, the entire
31 front and from a visual standpoint it is a full row of stores. Attorney
32 Whitehead explained that two buildings will be all residential.

33
34 Mr. Keane agreed that retail will be a problem and will be economically
35 infeasible. He said that if the applicant is successful in getting a variance
36 why not reduce the buildings to 2 stories. He said that he is concerned
37 visually with Building 4.

38
39 Town Planner Hull said documentation should be provided justifying retail
40 versus residential on the first floor.

1 Consultant Town Engineer Barbagallo asked about the stormwater basin in
2 the wetland buffer and asked if wetland mitigation will be provided.

3
4 Attorney Whitehead stated that wetland mitigation will be provided.
5 Ms. Gannon asked about scheduling a site walk of the property.

6
7 The Chair directed that a site walk be scheduled for Saturday, April 14,
8 2012 at 7:30 AM with walkers meeting at the site. He said that the site
9 must be flagged.

10
11 There being no further business, on motion by Ms. Gerbino, seconded by
12 Mr. Goldenberg, and unanimously carried, the meeting adjourned at 9:30
13 P.M. and the Chair noted that the next Planning Board meeting will be held
14 on Wednesday, April 11, 2012 at 7:30 P. M. at the Somers Town House.

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16
17
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21
22
23
24
25

Respectfully submitted,

Marilyn Murphy
Planning Board Secretary

C-
PB
CTE

HOCHERMAN TORTORELLA & WEKSTEIN, LLP
ATTORNEYS AT LAW

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GERALDINE N. TORTORELLA
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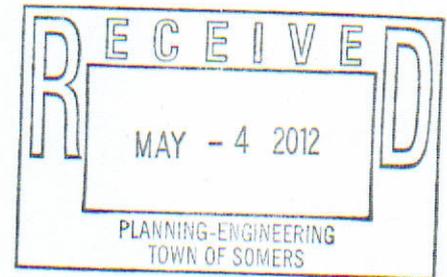
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HENRY M. HOCHERMAN
OF COUNSEL

May 4, 2012

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



299

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
Sixth Request for Extension of Time to August 20, 2012*

Dear Chairman Currie and Members of the Planning Board:

At its meeting on February 8, 2012, the Planning Board granted its fifth extension of Conditional Final Subdivision Approval (the "Final Approval") for the above-referenced subdivision to and including May 21, 2012. We are writing to request an additional 90-day extension of Final Approval to and including August 20, 2012 (the first business day after the ninetieth day, which is August 19, 2012). This is our sixth request for an extension of Final Approval which your Board has the authority to grant under Town Law Section 276(7)(c).

As was explained to your Board when the prior extensions were sought, and granted, there are a few conditions of approval that require the payment of funds and/or posting of security which our clients are not prepared to undertake at this time given current economic conditions that are outside our clients' control. This continues to be the case. We respectfully remind the Board that to the extent our clients' inability to satisfy the conditions of Final Approval are based upon economic factors, there is no legal basis for the Board to deny this extension request on that ground.

There have been no changes in the law nor any change in circumstances surrounding the property that would justify denial of the extension. The potential impacts of the proposed subdivision are unchanged and, therefore, an extension will not have a detrimental effect on public health, safety and general welfare. Indeed, were our clients to make a "new" application for final subdivision approval tomorrow, there would be no basis to deny such application. Thus, we believe it would be arbitrary and capricious for the Board to deny the extension request.

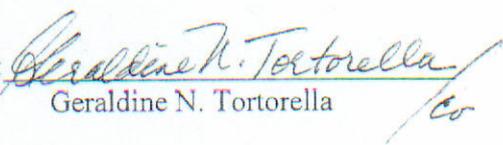
Kindly schedule this request for consideration and action at your next available meeting, and let us know if an appearance is required.

Thank you for your courtesy in this matter.

Respectfully yours,

Hocherman Tortorella & Wekstein, LLP

By:


Geraldine N. Tortorella

GNT:mc

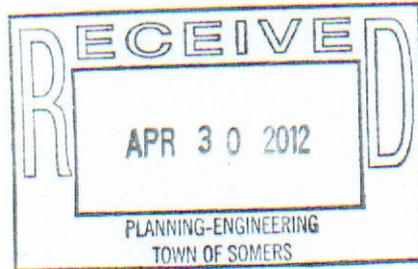
cc: *(via electronic mail)*
Roland Baroni, Esq.
Joseph P. Eriole, Esq.
Timothy Allen, P.E.
Mr. Matt Gironda
Ms. Susan F. Haft
Mr. Eric Moss



April 27, 2012

Planning Board
Town of Somers
335 Route 202
Somers, NY 10589

Subject: CVS/pharmacy Store # 0531
325 Route 100
Somers, NY 10589



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www.mma-architects.com

Town of Somers Planning Board,

This letter is being sent to you by our firm, Massa Montalto Architects, on behalf of our client, CVS/pharmacy, to request a waiver from the Town of Somers for environmental submission items associated with the long form applications for environmental permits. We have submitted the short form applications due to the limited scope of work of this project.

The scope of work identified for this project is focused on the parking area located directly in front of the CVS/pharmacy store entrances only. All other parking spaces at this site are existing to remain and will not be altered by this scope of work.

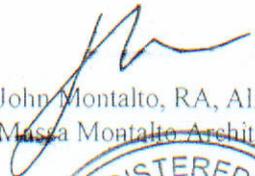
We have addressed issues such as storm water runoff protection in the case of the stockpiling of construction materials on our plans and have indicated existing drainage slopes in the area of construction, which will not be impacted or changed.

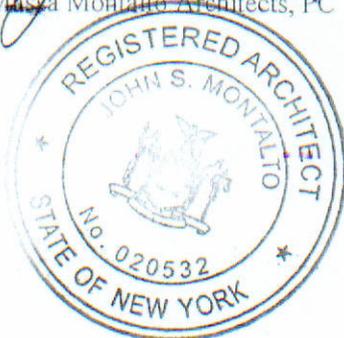
This project will pose no alteration to wetlands, steep slopes, topography or soils.

We respectfully request a waiver from the Town of Somers for these submission materials which are not relevant to this scope of work.

Thank you for your time. Please call if you have any questions or require additional information.

Respectfully Submitted,


John Montalto, RA, AIA.
Massa Montalto Architects, PC



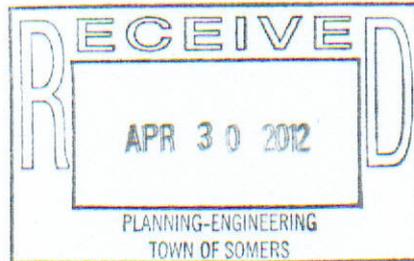
April 26, 2012

John Currie
Planning Board Chairman
Town of Somers
335 Route 202
Somers, NY 10589

Subject: CVS/pharmacy Store # 0531
325 Route 100
Somers, NY 10589



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Dear Mr. Currie,

This letter is being sent to you by our firm, Massa Montalto Architects, on behalf of our client, CVS/pharmacy, to request approval from the Town of Somers to allow for the alteration of the parking spaces at the CVS/pharmacy located at 325 Route 100.

We have revised our plans in response to: Town Planner Sabrina Charney Hull's comments (4-9-12), Town Engineers Robert Wasp & Joseph Barbagallo's comments (4-6-12) & the Town of Somers Planning Board's comments made on April 11.

Town Planner Sabrina Charney Hull's comments (4-9-12):

1. The existing site plan (ES-1) does not accurately reflect the existing conditions of the site. Specifically the Metro PCS cell tower and land banked parking associated with that application are not shown or referenced on that plan.

The Existing Site Plan (ES-1) has been updated with current site information.

2. Conceptually this office has no objection to increasing the number of handicapped parking spaces or the reduction of standard parking spaces, however with the change in the overall number or parking spaces must be in accordance with 170-4. Which states that if the Planning Board determines as part of the site plan review process, that probable variations in the times of peak usage of parking and loading spaces serving different types of land uses or that the nature of a particular land use is such that the number of off-street parking or loading units required by this chapter may be excessive, said Board may allow a reduction in the number of spaces initially improved, subject to such conditions as said Board may deem necessary to assure the future improvement of such spaces at any time the Board may determine that they are necessary. The Applicant will need to demonstrate that the loss of three standard parking spaces (one parking spaces overall) will not affect the availability of parking spaces for the center as a whole.

The loss of (1) overall space does not create a non-conformance condition & still exceeds the required number of 399. History has shown that the center is not deficient in standard parking spaces however the number of accessible spaces is deficient based on demand (but not by code).

3. The applicant will need to request a waiver from the Planning Board for those application submission materials that were deemed to be not relevant to this application. Those submission items should be identified for the file (Environmental Constraints Mapping, Topography, Soils, etc.)

Please refer to the enclosed letter requesting a waiver for the application materials deemed to be not relevant to this application.

4. A parking conformance table should be included on the proposed site plan so that at such time this application is approved, there is a signed record of the parking conditions located at this site.

The Parking Conformance Table is shown on Sheets T-1, ES-1 & AS-1

5. The total area of disturbance in accordance with the EAF is approximately 1,704 square feet. As such, this application can be considered a Type II action under SEQRA in that construction or expansion of the accessory/appurtenant facility involves less than 4,000 square feet.

This item was resolved during the previous Planning Board meeting.

Town Engineers Robert Wasp & Joseph Barbagallo's comments (4-6-12):

1. The Applicant shall revise drawings to show limits of disturbance and will include a note specifying total land disturbance in square feet.

The area of disturbance is 606 SQ. Ft. This has been noted on the Title Sheet, Sheet TS-1.

2. Based upon the provided drawings it appears the total proposed land is less than 5,000 square feet. Although it is noted the proposed activities are to occur entirely within existing impervious surfaces, runoff from disturbed surfaces had the ability to impact nearby storm water infrastructure. The Applicant shall prepare a satisfactory Erosion & Sediment Control Plan shall depict the location of drain inlet protection practices as well as temporary material stockpiles and shall describe the proposed sequence of construction. The Applicant shall provide construction details for erosion and sediment control practices, consistent with the NYSDEC New York Standards and Specifications for Erosion & Sediment Control, latest edition.

Please see the revised Proposed Site Plan, Sheet AS-1 for notes regarding storm water runoff.

3. The Applicant shall provide additional information to describe existing Site storm water infrastructure. The Applicant shall revise drawings to show the location of any drainage structures within the vicinity of the drainage path of the proposed limits of construction.

Please see the revised Proposed Site Plan, Sheet AS-1 for information regarding drainage structures and drainage path.

4. Westchester County Geographical Information Systems maps depict NYSDEC and Town regulated wetlands to be located west of the existing shopping center parking lots. The Applicant shall revise existing condition site plan drawings to show the location of nearby wetlands and shall show 100 foot wetlands buffers.

As per previous Planning Board meeting, based on scope of work this information is not required.



5. The Applicant shall provide additional information to identify if any utilities are located within the proposed area of disturbance. The Applicant shall depict all impacted utilities on revised drawings.

There are no known utilities within the impacted area. Please see the revised Proposed Site Plan, Sheet AS-1 for notes regarding utilities.

6. The Town of Somers requires topography to be depicted on drawings included as part of a Site Plan application. This requirement may be waived at the discretion of the Planning Board. From an engineering perspective, we are comfortable with waiving this requirement providing that the Applicant describes the drainage path of storm water runoff produced from the proposed work area.

As per previous Planning Board meeting, based on scope of work this requirement has been waived.

Please see the revised Proposed Site Plan, Sheet AS-1 for notes regarding drainage path and storm water runoff.

Enclosed with this letter please find 14 copies of the revised construction documents.

Thank you for your time. Please call if you have any questions or require additional information.

Respectfully Submitted,


John Montalto, RA, AIA.
Massa Montalto Architects, PC



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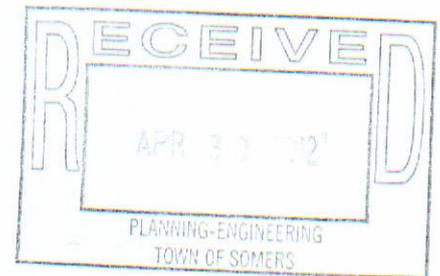
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EVANS V. BREWSTER (1920-2005)

April 27, 2012

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



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

Dear Chairman Currie and Members of the Planning Board:

You will recall that at your March meeting you circulated your intent to act as Lead Agency in this matter, and we also discussed the visual impact issue and some other items. In addition, you set the site walk which was held on April 14.

In response to the discussion at the March meeting, we are providing herewith revised architectural elevations for Building 4, landscape plans, and a wetland impact report. Building 4 was the building which was of greatest concern to the Board as expressed at the meeting. In particular the view to the side of the building and its height as it would be seen from Route 6. In response to these concerns, the end of this building located closest to Route 6 has been reduced to two stories and the architectural plans submitted provide two alternative roof designs for this end of the building. One option is an intermediary hip roof as shown on the first sheet. The second is making use of a mansard roof as shown on the second sheet. The mansard roof reduces the overall height of the building by approximately 5 feet. These changes will help to reduce any impact of the height of this building as seen from Route 6. We would be happy to discuss a preferred alternative with the Board.

In addition, as was also discussed, the landscape plan is designed to help mitigate any potential impact of the height of the buildings as seen from Route 6. With respect to Building 4, the area between the stormwater mitigation area and Route 6 will be bermed and landscaping will be placed both on and adjacent to the berm. The area will be heavily landscaped with a mix of evergreen and deciduous trees which include 9' to 10' Norway Spruces and a number of significant maple trees. On sheet LP-2 the landscape architect has also prepared a section drawing with a site line from a car on Route 6 into the site and through to Building 4. This section shows that the proposed landscaping will screen the view of the side of Building 4. We are also having a rendering prepared utilizing this landscape plan and we will have the rendering to show you at our May 9, 2012 meeting.

Chairman and Members of the Board
April 27, 2012
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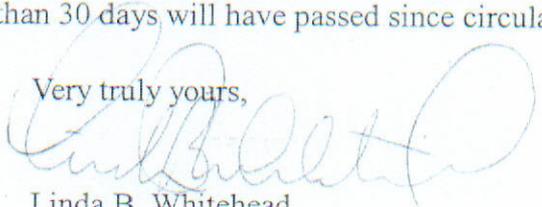
You will recall we had previously submitted to you a wetland delineation report. Our wetland consultant, Paul Jaehnig, is now providing an evaluation of the impacts on each of the wetland areas. That report is submitted herewith. He also includes a short discussion of mitigation measures. No direct wetland impact is proposed. We anticipate that the activities proposed in the wetland buffers will actually provide for better and more functional buffers than exist today. As you will recall, the onsite buffer to the large DEC wetland in the rear is substantially all part of the maintained driving range area at this time. Since this wetland is regulated by the DEC, the final mitigation plan will have to be approved by the DEC. Mr. Jaehnig is contacting DEC representatives to begin discussion of this matter with them.

At the site walk on April 14, some questions were raised by the Board and your consultant, and are set forth in the Memorandum from Joseph Barbagallo dated April 17, 2012. We have confirmed as requested that the perimeter fence poles are in fact 50 feet. We have also confirmed that the parking lot light poles are 25 feet in height. With respect to the height of Building 5, thirty-five feet was indicated on the plans as this is the current maximum building height. We have indicated this building will be one story and do not know what the actual height of this building will be, although it is likely to be lower than the maximum of 35 feet. The final design of the building will likely be dictated by the ultimate user. We understand the need for a balance between this building acting as a screen to the other buildings on the site against the visual impact of this building from Route 6. We would be happy to discuss this issue with the Board.

The next comment in the Memorandum was requesting the landscape plan with sections as provided herewith. We have included a section where we think it was of greatest concern, but will be happy to prepare additional sections if the Board desires. Comment 5 is just explaining for the Board the relationship between the treelines which will serve as a backdrop and the proposed buildings. This is important in that in general the buildings will not be higher than the treeline. Finally, I have confirmed the property is in the Somers Central School District according to the assessor's records.

Thank you for your continued cooperation in this matter and we look forward to discussing the materials provided with you at your May 9, 2012 meeting. We also ask that at that meeting you confirm your Lead Agency status as more than 30 days will have passed since circulation.

Very truly yours,



Linda B. Whitehead

enclosures

cc: Rick VanBenschoten
Nathaniel J. Holt, PE
Joanne Meder, FP Clark



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MEMORANDUM

To: John Currie, Chairman, and Members of the Town of Somers Planning Board

Date: May 3, 2012

Subject: **The Green at Somers – Review of Traffic Impact Study [210.113]**

As requested, we have conducted a review of the revised Traffic Impact Study prepared by the Applicant's Traffic Consultant, John Collins Engineers, P.C., dated January 26, 2012.

This Study was prepared to assess the traffic impacts associated with a proposed mixed-use development to be located on the north side of U.S. Route 6, between Mahopac Avenue and Somers Commons Shopping Center. The Proposed Action will consist of 24,760 square feet of retail space, 4,000 square feet of restaurant use, and 71 apartment/condominium-type residential units. It is estimated to generate 69, 125, and 180 vehicle trip ends during the weekday morning, weekday afternoon, and Saturday midday peak hours, respectively.

The Applicant has indicated that this development will be completed and fully occupied by 2015. An annual traffic growth rate of one percent was employed to the horizon year 2015 to account for traffic associated with the background growth, as well as the traffic associated with any other potential developments in the vicinity of the Study Area. The other developments' traffic volumes included the Lupi Car Wash and Grand Meadow Estates in Carmel.

The Traffic Impact Study addresses the capacity analysis of the 2012 existing traffic conditions and the future 2015 conditions, without and with the proposed development during typical weekday morning and weekday afternoon peak hours.

