

Telephone
(914) 277-5366

PLANNING DEPARTMENT

TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589

FAX
(914) 277-4093

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
JUNE 10, 2015
7:30 P.M.**

PUBLIC HEARING

1. **LORD WETLAND PERMIT [TM: 48.17-1-5]**
Application for a wetland permit by owner Robert Lord for property located on the east side of 7 South Lane for the construction of a detached garage. The property is located in an R-80 Zoning District.

2. **GREENBRIAR SOMERS CORP. [TM: 6.14-1-28, 29]**
Application for Wetland, Steep Slopes, Tree Removal Permit and Stormwater Management and Erosion and Sediment Control Permits for property located on the north side of Greenbriar Drive for the construction of 2 residential townhouse units with connection to existing utility lines and roadway. Consideration of a Draft Resolution of Approval.

3. **GRANITE POINTE FINAL SUBDIVISION [TM: 27.05-3-2, 5]**
Application for Final Subdivision Approval, Wetland, Steep Slopes, and Stormwater Management and Erosion and Sediment Control Permits.
Application for Final Subdivision Approval for property located on the east side of Route 118/202, adjacent to the Amawalk Reservoir and located in an R-40 Zoning District. Property is owned by Suelain Realty, LLC for the development of 23 lots in a Cluster Subdivision.

TIME EXTENSION AND AMENDMENT OF RESOLUTION OF CONDITIONAL FINAL SUBDIVISION APPROVAL

- 4a. MERRITT PARK ESTATES FINAL SUBDIVISION [TM: 5.20-1-1]**
Request for a 90-day time extension for Final Subdivision Plat Approval from June 29, 2015 up to and including September 28, 2015 under Town Law Section 276 (7) ©. This is the twentieth request for a twentieth time extension.

- 4b. MERRITT PARK ESTATES FINAL SUBDIVISION [TM: 5.20-1-1]**
Application for Amendment of the Resolution of Conditional Final Subdivision Plat Approval, Tree Preservation, Steep Slopes and Wetland Permit.
The applicant is requesting to defer payment of the recreation fees until after the Plat is filed, to pay the fees in installments and to link the installments to the issuance of building permits.

PROJECT REVIEW

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

INFORMAL APPEARANCE WITH SKETCH PLAN REVIEW (CONTINUED)

- 6. SOMERS CROSSING [TM: 17.15-1-15.1]**
Application for Informal Appearance with Sketch Plan associated with a proposed action for which the Town Board is Lead Agency under SEQRA that includes amendments to the Town of Somers Zoning Ordinance to create a new Multifamily Residence Downtown Hamlet (MFR-DH) Floating Zone District and the approval of the preliminary development concept plan including a grocery store and an 80 unit multifamily residential community.

Next Planning Board Meeting is Wednesday July 8, 2015
Agenda information is also available at www.somersny.com

*e-
PB
cte
application*

OPEN SPACE COMMITTEE

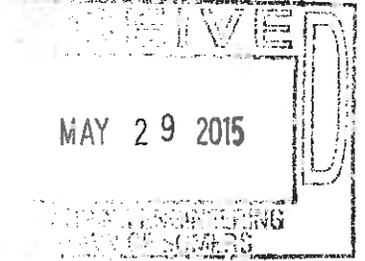
Town of Somers

WESTCHESTER COUNTY, N.Y.

SOMERS TOWN HOUSE
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MICHAEL BARNHART
CHAIRMAN



837

MEMO TO: Planning and Engineering Department

FROM: Open Space Committee

RE: Lord Wetland Application

DATE: May 29, 2015

The Open Space Committee, at their monthly meeting on May 21, 2015, reviewed and discussed the Lord Wetland Application – Renovations and Additions, Drawing No. 1 of 8 and 5 of 7. The only comment was to consider using a rain garden instead of a Cultec recharger to handle the stormwater runoff from the new structure.

*C/PB
CTE
application*

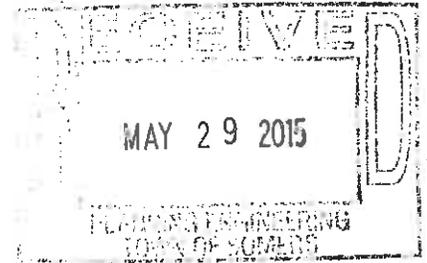
OPEN SPACE COMMITTEE

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Town of Somers
WESTCHESTER COUNTY, N.Y.

SOMERS TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589

MICHAEL BARNHART
CHAIRMAN



338

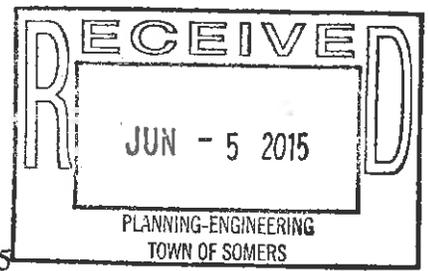
MEMO TO: Planning and Engineering Department

FROM: Open Space Committee

RE: Greenbriar-Somers Corp.

DATE: May 29, 2015

At our monthly meeting on May 21, 2015, the Committee reviewed and discussed the Greenbriar-Somers Corp. – Section 7, Lots 1 and 2, Wetland/Steep Slope/SMESC/Tree Application. We would like to know if the Storm Water Prevention Plan poses a risk of reducing flow into the adjoining DEC-registered wetlands. The drying out of wetlands is a recognized and major threat to their health and especially their habitat function. The Committee would like to see evidence that such an impact either does not exist or has been thoroughly mitigated.



June 1, 2015

Emily Lloyd
Commissioner

Mr. Timothy Allen
Bibbo Associates, LLP
293 Rt. 100, Suite 203
Somers, NY-10589

Re: Granite Pointe Subdivision SWPPP
(T) Somers, Westchester County, New York
DEP Log #1995-AM-0219-SP.3

Paul V. Rush, P.E.
Deputy Commissioner
prush@dep.nyc.gov

Dear Mr. Allen:

The New York City Environmental Protection (DEP) has reviewed your application regarding the above referenced project and has determined that the application is *incomplete*. Please be advised that the following information is required before the DEP can commence its review:

General Requirements

- 1) The report must include a detail list of permits/ approvals and the status of the applications. For e.g. all permits approvals, certifications etc. required for the cleanup project must be part of the report.
- 2) A description and location of any stormwater discharges associated with industrial activities other than construction be mentioned in the report.

Project Description & Stormwater Management

- 1) A downstream survey of watercourses and/or drainage system that will receive stormwater discharges from the site must be provided in the narrative. For areas where the post-development runoff volume will change you must address the potential impacts of the changes on downstream hydrology. If no impacts are anticipated, the narrative must provide adequate documentation to support the conclusion.
- 2) The acreage for which imperviousness will change should be provided in tabular form by sub- watershed and the percent imperviousness of the post

465 Columbus Ave.
Valhalla, New York 10595

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construction drainage area contributory to a proposed stormwater management practice should be included in the report.

- 3) Include the sizing calculations for bioretention basins and infiltration basins in accordance with Chapter 6 of the NYS DEC Manual.

Plans/ Drawings

- 1) Results and locations of any on-site (analysis and infiltration testing) to determine suitability of the site for the proposed stormwater management practices, including a description of the observed, soils on site, depth to ground water or ledge rock must be included.
- 2) Provisions for outlet discharge control and its sizing calculations must be included on the plans.
- 3) The location and size of on and off-site culverts and stormwater management systems that convey runoff to, through and away from the project site must be included.
- 4) The boundary of any 100- year flood plain (USFEMA Maps) on the site. Site boundary infiltration must include any available 100- year flood elevation and flood way boundaries be shown. An evaluation of the post development impact stormwater runoff will have on identified floodplains or designated flood hazard areas in the community must be given in the narrative. If there are no flood plains on site, the report must state it so.

Erosion and Sediment Control

- 1) Any temporary measures, which will be converted to permanent stormwater management/ erosion controls after construction and techniques necessary for proper conversion must be detailed in the plan.
- 2) Calculations used in siting and sizing erosion controls, including sediment basins are to be provided.

Inspection & Maintenance

- 1) Please provide a draft version of the legally binding mechanism that will be utilized to ensure long term maintenance (see section 3-5 of the NYS DM).

The review of your application will not commence until the DEP receives the necessary information and determines that the application is complete. The DEP will notify you within 10 days of its receipt of the additional information requested above as to the completeness of your application. Please be advised that failure to submit information to the DEP or to follow DEP procedures is grounds to deny approval, pursuant to Section 18-23(b) (3).

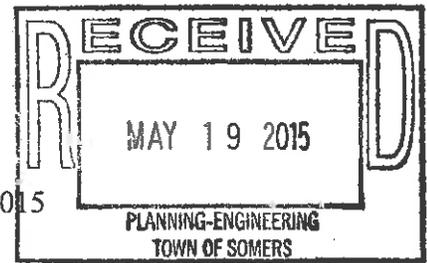
Should you have any questions regarding this letter, please call the undersigned at (914)742-2014.

Sincerely,



Mariyam Zachariah
Associate Project Manager
Stormwater Programs

CC: Suelain Realty
Town of Somers Planning Board



May 12, 2015

Emily Lloyd
Commissioner

Mr. Rick Lamontagne
Bibbo Associates, LLP
293 Rt. 100, Suite 203
Somers, NY-10589

Paul V. Rush, P.E.
Deputy Commissioner
prush@dep.nyc.gov

Re: Granite Point Subdivision-Brownfields Plan SWPPP
(T) Somers, Westchester County, New York
DEP Log #1995-AM-0219-SP.2

465 Columbus Ave.
Valhalla, New York 10595

Tel. (845) 340-7800
Fax (845) 334-7175

Dear Mr. Lamontagne

The application for the above-referenced project received by this department on May 8, 2015 was deemed complete on May 12, 2015. The department has commenced review and will notify you by June 25, 2015 of its determination.

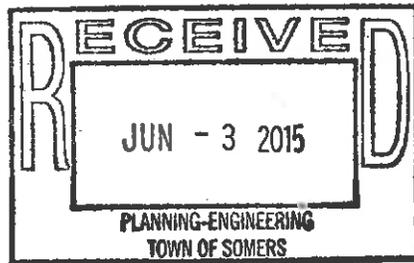
If the department fails to notify you within the above referenced time frame, you may notify the Department of its failure by certified mail, return receipt requested. The notice should be sent to my attention at the address below. This notice must include your name, the location of the project, the office with which you filed the application originally, and a statement that a decision is sought in accordance with §18-23(d) (6) of the Rules and Regulations. If the Department fails to notify you within 10 days of the receipt of the notice, your application will be deemed approved, subject to standard terms and conditions as set forth in the regulations.

If you have any questions, please contact the undersigned at (914) 742-2014.

Sincerely,

Mariyam Zachariah
Associate Project Manager
Stormwater Programs

Cc: Suelain Realty
Town of Somers Planning Board
Stormwater Review Committee:
Armand DeAngelis, NYSDEC



May 28, 2015
By: E-Mail & Mail

Emily Lloyd
Commissioner

Mr. Rick Lamontagne
Bibbo Associates, LLP
293 Rt. 100, Suite 203
Somers, NY-10589

Paul V. Rush, P.E.
Deputy Commissioner
prush@dep.nyc.gov

Re: Granite Point Subdivision-Brownfields Plan SWPPP
(T) Somers, Westchester County, New York
DEP Log #1995-AM-0219-SP.2

465 Columbus Ave.
Valhalla, New York 10595

Tel. (845) 340-7800
Fax (845) 334-7175

Dear Mr. Lamontagne:

New York City Department of Environmental Protection (DEP) determined that the above referenced application was complete on May 12, 2015. The following comments must be satisfactorily addressed prior to approval.

A. General

1. Demonstrate that the treatment volume is the greater volume of runoff generated by the 1-year 24-hour storm or water quality volume (90% storm rainfall) for each of the proposed drainage areas.

B. Hydrology and Stormwater Management

1. Provide a flow diagram for the pre and post development.
2. Predevelopment hydrologic analysis must be provided. The predevelopment drainage map should indicate the flow paths required to calculate the Time of Concentration.
3. Include a comparison of the pre and post peak discharge rates for the 10 and 100 year storms and indicate how the Channel Protection Volume is detained for 24 hours, assuming the sediment traps are full at the beginning of a storm event. The Watershed Regulations do not include an exemption from the CPv, Qp and Qf requirements for projects discharging to fifth order or larger streams. Therefore, you must provide 24-hour detention of the CPv and demonstrate attenuation of 10 and 100 - year peak flows to pre-development levels.

4. The report states that the sediment traps in Catchment C and D discharge to a wetland and it is unclear from the plans where the wetlands are located.
5. The temporary sediment traps must be modeled assuming that they are full at the onset of a storm event based on the proposed outlet type.
6. Provide post clean-up stabilization plans for all the disturbed areas. Permanent stabilization measures should also be included to address the possibility that development of the subdivision does not follow within a reasonable time after completion of the clean-up. If the subdivision work doesn't commence immediately after the cleanup, all the temporary sediment traps must be removed and the site be densely vegetated. Please note that the SWPPP can be modified in the event that the subdivision construction will commence right away following clean up; in that case DEP may allow to provide a temporary stabilization cover on the areas left alone after cleanup.
7. Appropriate seed mixes (temporary and permanent) along with a corresponding planting plan must be provided.
8. Outlet protection sizing calculations must be included in the report/plans.
9. Pipe sizing calculations must be included.
10. The crest length of sediment trap # 2 should be consistent in the report and plans.
11. Verify the bottom elevation of the future stormwater basin C shown in the 'drainage basin map' as it is different from Appendix B of the report.
12. Check the report and plans for consistency regarding the amount of soil to be removed for, e.g. the report states two to four feet of soil is removed and plans shows one to four feet.
13. Clarify whether the permanent SWTA's (future SWTA's A and D) mentioned in the report are consistent with what is shown on the drainage basin map.
14. Please clarify whether or not the areas designated for future subsurface sewage treatment systems (SSTS) within the clean-up area will be filled as part of this plan. If not, please provide clarification regarding how the areas for the subdivision will be tested for SSTS design after the cleanup work is performed.

C. Erosion and Sediment Control Plan & Construction Sequencing

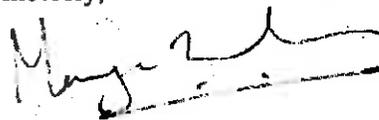
9. A detail for the truck wash down area should be included.
10. Clarify whether the haul road created through the property used currently by the DEP will remain during this cleanup work.
11. Any water (stormwater or groundwater) entering the open excavations or disturbed area prior to remediation must be contained tested appropriately and disposed properly as noted also by DEC. The SWPPP must include measures to accommodate this activity.
12. It should be included in the sequence that DEP shall be notified 48 hours prior to the pre-construction meeting.
13. Provide a sediment marker for the proposed sediment traps.

D. Inspection & Maintenance

1. Include temporary and permanent maintenance criteria for all the temporary and permanent stormwater measure proposed for this project such as proposed traps, catch basins etc. preferably in a table on the plan with intervals and frequency. Confirm that the maintenance requirements of all the stormwater practices are at least as protective as defined in the NYS DM.
2. Comments on the draft maintenance agreement provided will be forwarded separately.

If you have any questions regarding this letter please call me at (914) 742-2014.
Thank you.

Sincerely,



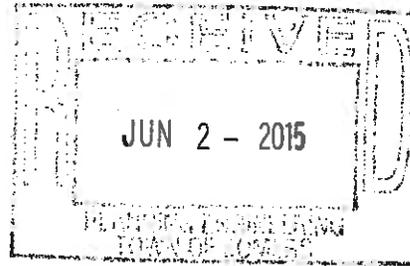
Mariyam Zachariah
Associate Project Manager
Stormwater Programs, EOH

Cc: Town of Somers Planning Board
Suelaine Realty
Armand DeAngelis, NYSDEC
Heidi Dudek, NYSDEC

May 29, 2015

CPB
CTE
applicant

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



RE: Public Hearing Scheduled for June 10, 2015 on proposed Conditional Final Subdivision Approval of the Site Known as the Forested Peninsula of Amawalk Reservoir – Granite Pointe

Members of the Somers Planning Board:

We, the 16 residents of Gwynne Drive, along with our families, residing across Rt. 118 from the Granite Pointe forested promontory of Amawalk Reservoir, write to you as follows:

Whereas at your board meeting of May 13, 2015 the Granite Pointe applicant and his agents introduced to your board for discussion the issuance of Conditional Final Subdivision Approval;

Whereas at your May 13, 2015 meeting your board scheduled a public hearing on June 10, 2015 to receive public comment and inform your deliberations on the issuance of Conditional Final Subdivision Approval of a proposed 23-unit housing subdivision on land that juts into Amawalk Reservoir and is wrapped around on three sides by drinking water;

Whereas such June 10, 2015 scheduled public hearing date is less than 30 calendar days from your May 13, 2015 meeting, at which such public hearing was scheduled;

Whereas the Granite Pointe proposed housing subdivision on the forested peninsula of Amawalk Reservoir continues to stand on a Preliminary Subdivision Application of February, 1995, more than 20 years ago;

Whereas the Granite Pointe proposed housing subdivision on the forested peninsula of Amawalk Reservoir continues to stand on an FEIS and Conditional Preliminary Subdivision Approval granted in April, 1998, more than 17 years ago;

Whereas several of the conditions stated in the FEIS and in the Conditional Preliminary Subdivision Approval of April 1998 were never met by the applicant and never enforced by your board;

Whereas at your board meeting of May, 2004, at which your board rescinded Final Subdivision Approvals you formerly granted to Granite Pointe in 2002 and regranted in 2003, it was clearly the intent and vote of your board that *the applicant must complete an SEIS and furthermore complete remedial action on his site before the applicant can return to your board for new approvals*;

Whereas DSEIS scoping parameters, DSEIS board deliberations and extensive expert and public comments, and FSEIS proceedings all *relied* on the understanding the applicant must complete remedial action on his site before the applicant can return to your board for new approvals;

Whereas your board has given the Granite Pointe applicant **more than 243 months** since his *newer* Preliminary Subdivision Application was submitted to your board on February 17, 1995, while your board

has given the public **only 27 days** from your May 13, 2015 meeting to your scheduled public hearing date of June 10, 2015;

Whereas such 27 days do not fairly allow sufficient time for the public to adequately prepare for a public hearing on land that is a vital environmental, ecological, scenic, and drinking water public resource;

Whereas such 27 days do not fairly allow sufficient time for the public to utilize our scarce personal and family funds, over and above the taxes we pay your town and other government agencies, to engage for a fee the services of reputable experts to inform your board at such public hearing;

Whereas such 27 days do not fairly allow said experts sufficient time, among their multiple project commitments and summer vacation schedules, to thoroughly review Granite Pointe records and avail themselves for preparing and presenting expert testimony at the public hearing;

Whereas a public hearing moved to July or August would not result in a meaningful public presence, as is the goal and intent of a public hearing, critically so for a multiply vital public asset, while the month of September focuses working families on schools reopening, open school nights, and settling children into colleges;

Now, Therefore, Be It Resolved that the Residents of Gwynne Drive, joined by the citizens of this entire Town, and in light of your board's accommodation of more than 243 months afforded the Granite Pointe applicant since his newer Preliminary Subdivision Application, hereby request your board to move the public hearing on the issuance of Conditional Final Subdivision Approval to the Granite Pointe housing subdivision on the forested peninsula of Amawalk Reservoir by merely 4 months from June 10, 2015 to October 14, 2015.

Be it Further Resolved that the Residents of Gwynne Drive, joined by the citizens of this entire Town, request your board not to yield to applicant's and agents' undue pressure on your board and the public that somehow, they are all of a sudden in a rush to carry out remediation *this summer* when they had 16 years—from on or about 1988 when this project was first submitted to your board for review, to June 13, 1990 when your board granted original Preliminary Subdivision Approval (voided by NYCDEP legal action), to April 1998 when your board granted new Preliminary Subdivision Approval, and to May 2004, when your board rescinded Final Subdivision Approval—to fully and truthfully disclose site history facts and carry out site testing and remediation. Since the Granite Pointe applicant and his agents waited 16 years to reluctantly disclose site history and conduct site testing, your board should fairly allow the public 4 months, from June 10, 2015 to October 14, 2015, to hold the public hearing on the issuance of Conditional Final Subdivision Approval to the Granite Pointe housing subdivision on the forested peninsula of Amawalk Reservoir.

Submitted by the Residents of Gwynne Drive, Granite Springs, Town of Somers, New York:

George and MaryAnn Ballow

Cindy and Rick Haas

Ellen and Robert Hansen

Marc and Diane Houslanger

Jayne and Ron Jacobs

Ed and Rosemarie Miraglia

Jack and Valerie Simon

Kate and Ron Weyhrauch

Signed by: All Residents of Gwynne Drive, Rt. 118, Granite Springs

Marc and Diane Houslanger
5 Gwynne Drive

Marc Houslanger

Diane Houslanger

Jayne and Ron Jacobs
1 Gwynne Drive

Jayne Jacobs

Ron Jacobs

Ellen and Robert Hansen
3 Gwynne Drive

Ellen Hansen

Robert Hansen

Cindy and Rick Haas
8 Gwynne Drive

Cindy Haas

Rick Haas

Jack and Materie Simon
4 Gwynne Drive

Jack Simon

Materie Simon

Kate and Ron Weyhrauch
5 Granite Springs Road

Kate Weyhrauch

Unavailable

George and MaryAnn Ballou
7 Gwynne Drive

MaryAnn Ballou

George Ballou

Ed and Rosemarie Miraglia
2 Gwynne Drive

Ed Miraglia

Rosemarie Miraglia

C'
PDS
TP

HOCHERMAN TORTORELLA & WEKSTEIN, LLP
ATTORNEYS AT LAW

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

GERALDINE N. TORTORELLA
ADAM L. WEKSTEIN
NOELLE CRISALLI WOLFSON

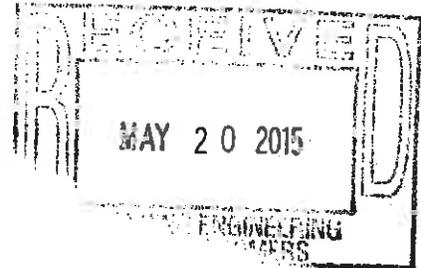
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WEB: WWW.HTWLEGAL.COM

HENRY M. HOCHERMAN
RETIRED

May 20, 2015

Via Electronic and First Class Mail

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



Re: *Merritt Park Estates Subdivision*
Town File No. 767
Twentieth Request for Ninety-Day Extension of Final Subdivision Approval

834

Dear Chairman Currie and Members of the Planning Board:

Yesterday, on behalf of Mancini Building Corp. ("Mancini"), we submitted to your Board a request for Amended Subdivision Approval to modify two conditions of the Resolution of Conditional Final Subdivision Plat Approval, Tree Preservation, Steep Slopes and Wetland Permits Approval (the "Final Approval") for the Merritt Park Estates Subdivision. I inadvertently neglected to include in yesterday's letter a request for a further extension of Final Approval, which is scheduled to expire on June 29, 2015. This letter is submitted to request such extension to and including September 28, 2015 (the first business day after the ninetieth day, which is a Sunday). The last extension was granted by your Board at its meeting on March 11, 2015.

Since the last extension was granted, Mancini has been working on installing the cul-tech units in the Subdivision, continuing the work on the Lovell Street stormwater basin, and discussing the Lake Court basin work with Mr. Steve Woelfle and representatives of the Lake Lincolndale Property Owner's Association ("LLPOA"). Mancini plans to continue with these matters over the next few months.

I understand that Mr. Woelfle inspects the site and construction work regularly and that there have been no issues with the work.

We do not anticipate that the remaining infrastructure improvements will be completed by the June 29th expiration date. Therefore, we respectfully request that the Board grant an additional 90-day extension of Final Approval, to and including September 28, 2015 (the first business day following the

HOCHERMAN TORTORELLA & WEKSTEIN, LLP

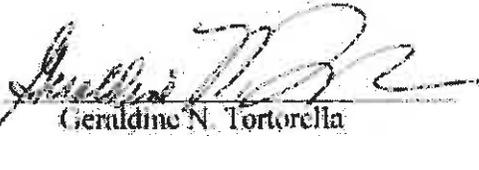
Hon. John Currie, Chairman
and Members of the Planning Board
May 20, 2015
Page 2

ninetieth day, which is a Sunday), at which time we will report on the status of the work. Your Board is authorized to grant this extension pursuant to Town Law Section 276(7)(c).

Kindly schedule this matter for consideration at the Planning Board's June 10, 2015 meeting, together with the request for Amended Final Approval. Thank you for your courtesy.

Respectfully yours,

Hocherman Tortorella & Wekstein, LLP

By: 
Geraldine N. Tortorella

GNT:hc

cc: *(via electronic mail)*
Syrette Dym, AICP
Roland Baroni, Esq.
Joseph P. Eriole, Esq.
Mr. Steve Woelfle
Joseph Barbagallo, P.E.
Mr. Richard Mancini
Mr. John Mancini
Joseph Riina, P.E.

HOCHERMAN TORTORELLA & WEKSTEIN, LLP
ATTORNEYS AT LAW

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

GERALDINE N. TORTORELLA
ADAM L. WEKSTEIN

NOELLE CRISALLI WOLFSON

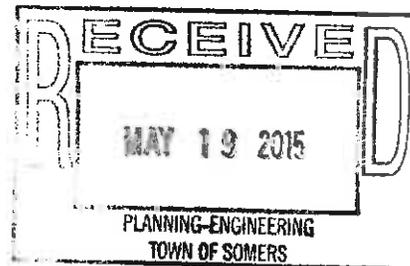
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FAX: (914) 421-1856
WEB: WWW.HTWLEGAL.COM

HENRY M. HOCHERMAN
RETIRED

May 19, 2015

Via Hand Delivery

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



*Re: Application for Amendment of the Resolution of Conditional Final
Subdivision Plat Approval, Tree Preservation, Steep Slopes
and Wetland Permits
Applicant: Mancini Building Corp.
Lovell Street/Adson Way, Town of Somers
Tax Identification No.: Section 5.20, Block 1, Lot 1*

Dear Chairman Currie and Members of the Planning Board:

As you know, this firm represents Mancini Building Corp. ("Mancini" or "the Applicant") in connection with the above-referenced subdivision on Lovell Street and Adson Way in the Town. We submit this letter and its enclosures in support of Mancini's application to amend two conditions of the Resolution of Conditional Final Subdivision Plat Approval, Tree Preservation, Steep Slopes and Wetland Permits (the "Resolution") for the Merritt Park Estates Subdivision to permit the recreation fees to be paid in installments over a three year period when building permits are issued for the lots and to permit Mancini to obtain one building permit before the Plat is filed in recognition of the fact that the Subdivision is comprised of one existing vacant building lot. Enclosed for filing are twelve copies of an Application for Amended Subdivision Approval and a Short Environmental Assessment Form, both signed by Mr. Richard Mancini, President of Mancini Building Corp. I am also enclosing one copy of the Resolution but if you would like additional copies, please let me know.

The proposed amendments do not require any changes to the approved plans and, therefore, no plans are being submitted herewith. I understand that no application fee is required to be paid but if my understanding is not correct, please advise and we will have the fee delivered to the Planning Department.

Condition number 12 of the Resolution (page 18) requires payment of the recreation fees prior to the final plat being signed. Mancini sought relief from the Town Board with respect to this requirement, in part, because Mancini is making a considerable amount of off-site drainage and stormwater-related improvements within Heritage Hills and on property owned by Lake Lincolnale Property Owners Association. Many of those improvements are already underway. Mancini

HOCHERMAN TORTORELLA & WEKSTEIN, LLP

Hon. John Currie, Chairman
and Members of the Planning Board
May 19, 2015
Page 2

proposes to defer payment of the recreation fees until after the Plat is filed, to pay the fees in installments and to link the installments to the issuance of building permits. Specifically, it proposes to pay the fee in equal installments prorated on the basis of 15 lots over a three year period commencing on the date the Plat is filed. An installment would be paid each time a building permit is issued with any unpaid balance of the recreation fees being paid on the third anniversary of the filing of the Plat. This proposal was discussed and approved by the Town Board and, we understand, your Board has received a Memorandum from the Somers Park & Recreation Board, dated April 23, 2015, supporting the measure under the circumstances. Please let us know if you need additional copies of the Memorandum.

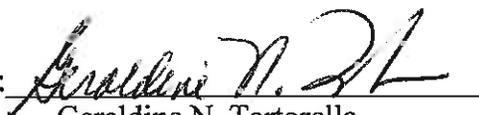
The other condition we would like to have amended is set forth in the second to last paragraph on page 19 of the Resolution, which states that "[n]o building permits will be issued on any lot shown on the subdivision plat until the required copies of the plat have been delivered to the Planning Board in accordance with §150-14.H of the *Code of the Town of Somers*." As you know from our periodic reports on construction, a substantial amount of the infrastructure has been installed but Mancini is still working on some of the drainage improvements within the Subdivision and on the LLPOA off-site improvements. Mancini would like to start construction of a home on one of the lots. Since the property is a single vacant lot, Mancini would like the Resolution amended to permit it to pull a building permit for one house so it can get started with construction before it files the Plat.

Given the limited nature of the requested amendments and the fact that they do not result in a change in the nature or extent of the improvements to be constructed or the configuration of the lots, road, drainage system or other elements of the infrastructure, we respectfully request that the Board waive the public hearing.

Kindly schedule this matter for discussion at the Board's June 10, 2015 meeting. Thank you for your courtesy in this matter.

Respectfully yours,

Hocherman Tortorella & Wekstein, LLP

By: 
Geraldine N. Tortorella

GNT:mc
Enclosures
cc: (via electronic mail)
Syrette Dym, AICP
Roland Baroni, Esq.
Joseph P. Eriole, Esq.

HOCHERMAN TORTORELLA & WEKSTEIN, LLP

Hon. John Currie, Chairman
and Members of the Planning Board
May 19, 2015
Page 3

Mr. Steve Woelfle
Mr. Richard Mancini
Mr. John Mancini
Joseph Riina, P.E.

S:\# MATTERS\Mancini 0047\Merritt Park 001\Letters\Currie Amended Subdivision Approval 5-19-15.docx

SOMERS PLANNING BOARD
APPLICATION FOR FINAL APPROVAL OF SUBDIVISION

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

I. IDENTIFICATION OF APPLICANT:

- A. OWNER: Mancini Building Corp. SUBDIVIDER: Same
 ADDRESS: c/o Richard Mancini ADDRESS: 8 Elide Road, Katonah, NY 10536
 TELE #: 914-760-4196 (R. Mancini Cell) TELE #:
- B. SURVEYOR: Donald J. Donnelly, L.S. TELE #: 914-962-2215
 ENGINEER: Site Design Consultants TELE #: 914-962-4488
 (Joseph Riina, P.E.)

II. IDENTIFICATION OF PROPERTY:

- A. Subdivision identifying Title: Merritt Park Estates Subdivision
- B. Street abutting property: Lovell Street Adson Way
- C. Tax Map Designation: Sheet: 5.20 Block: 1 lot: 1
- D. Zoning District: Residence R40 District
- E. Total area of property in acres: 19.99 Acres

III. APPLICATION FEES PAID: By certified check payable to Town of Somers
 Fee: \$150 for each lot shown on the final subdivision plat, minimum N/A
 application fee is \$600. Fee: _____ Paid: _____
 14 copies of all correspondence/plans must be submitted to the Planning Board during review.

- A. _____ 14 copies of Final Subdivision Plat.
- B. _____ 14 copies of Construction Plans.
- C. _____ Proof of ownership by the applicant of the premises affected by the application.
- D. _____ Certificate of Title Company covering all interests, liens, & objections to title if any.
- E. _____ Engineer's or surveyor's certification of total area of subdivision shown on the plat.
- F. _____ Length of all proposed streets shown on plat.
- G. _____ Engineer's estimate of cost of construction of the subdivision streets and all other improvements shown on the final construction plans.
- H. _____ Deed to Town of the proposed streets and park areas shown on the plat.
- I. _____ Proof of approval by Somers Town Board of all proposed street names.
- J. _____ Proof of approval by the State Department of Transportation or the County Department of Public Works, as appropriate, of the design and proposed construction of any intersection of a proposed street on the plat with a State or County highway if any.
- K. _____ Proof that taxes have been paid.

IV. LIST OF ADJOINING PROPERTY OWNERS OF RECORD: N/A

NAME	ADDRESS	BLOCK	LOTS

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

WAIVERS: As part of this application, I request the Planning Board to authorize certain exceptions that lie within its discretion to the regulation, codes, ordinances and/or specification governing subdivisions and I attach hereto a list of such exceptions with the reason for each exception as set forth.

The undersigned applicant requests the Planning Board to approve his plat.

_____ Date: _____
 Applicant's Signature, Mancini Building Corp.
Richard Mancini PRES Date: May 19, 2015
 _____ Date: _____
 Owner's Signature, Richard Mancini, President

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

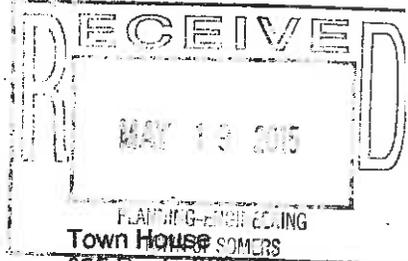
Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
Mancini Building Corp., Amdmt. Merritt Park Estates Condit. Final Sub. Plat, Tree Preserv., Steep Slopes, Wetland Permit Approvals			
Name of Action or Project: Amdmt. Merritt Park Estates Condit. Final Sub. Plat, Tree Preserv., Steep Slopes, Wetland Permit Approvals			
Project Location (describe, and attach a location map): Easterly side of Lovell Street, southerly side of Adson Way			
Brief Description of Proposed Action: Sponsor/Owner is seeking amendment of two conditions of the Resolution of Conditional Final Subdivision Plat, Tree Preservation, Steep Slopes and Wetland Permit Approvals for the Merritt Park Estates Subdivision to: (i) permit the Recreation Fee to be paid in installments over a three year period following filing of the Subdivision Plat in the Office of the Westchester County Clerk; and (ii) permit the issuance of one building permit for a new home on one of the approved lots prior to the Final Plat being filed since the property comprising the Subdivision is an existing lot. Granting of these amendments will not result in any change in or to the layout of the lots, roads, drainage or other utility infrastructure for the Subdivision, much of which has already been installed by the Sponsor/Owner. The home for which a building permit is sought will be developed in a manner consistent with all aspects of the Planning Board's prior approval.			
Name of Applicant or Sponsor: Mancini Building Corp.		Telephone: 914-962-2215	
		E-Mail: richardmancinir@gmail.com	
Address: 8 Elide Road			
City/PO: Katonah		State: New York	Zip Code: 10536
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/> YES <input checked="" type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: Town Board approval of the structure for payment of the Recreation Fee was required and has been obtained. Otherwise, the discrete amendments sought by this action do not require the action of any other governmental Agency.			NO <input type="checkbox"/> YES <input checked="" type="checkbox"/>
3 a. Total acreage of the site of the proposed action?		19.99 acres	
b. Total acreage to be physically disturbed?		0.0 (no dist.) acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		19.99 acres	
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____			
<input type="checkbox"/> Parkland			

<p>18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)?</p> <p>If Yes, explain purpose and size: _____</p> <p>Approved basins have been constructed. No change is proposed to be affected by the proposed action.</p>	<p>NO</p> <p><input type="checkbox"/></p>	<p>YES</p> <p><input checked="" type="checkbox"/></p>
<p>19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?</p> <p>If Yes, describe: _____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?</p> <p>If Yes, describe: _____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</p> <p>Applicant/sponsor name: <u>Mancini Building Corp/ by Richard Mancini, President</u> Date: <u>May 18, 2015</u></p> <p>Signature: <u><i>Richard Mancini Pres</i></u></p>		

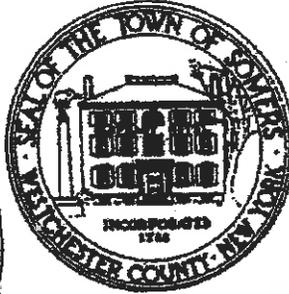
Town of Somers

WESTCHESTER COUNTY, N.Y.



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

Steven Woelfle
Principal Engineering Technician
swoelfle@somersny.com



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

Planning Board Meeting Date of April 14, 2010

PLANNING BOARD
TOWN OF SOMERS, WESTCHESTER COUNTY, NEW YORK

Resolution No. 2010-02
*Granting of Conditional Final Subdivision Plat Approval, Tree Preservation,
Steep Slopes and Wetland Permits to*
Mancini Building Corp.
For
MERRITT PARK ESTATES SUBDIVISION
Town Tax Number: Section 5.20, Block 1, Lot 1

WHEREAS, an application for preliminary approval of a subdivision, dated January 31, 1996, was submitted by Mancini Building Corp., Katonah, New York, and said application also consisted of a Full Environmental Assessment Form (EAF) and the "Subdivision Plan with Topography", as prepared by Site Design Consultants; and

WHEREAS, the subject property, which consists of approximately 19.99 acres, is located on the easterly side of Lovell Street, with access to the subdivision from a new street off Robert Martin Boulevard, and is shown on the Town Tax Maps as Sheet 5.20, Block 1, Lot 1; and

WHEREAS, the subject lands are designated "Suburban Density" as indicated in the Planning Board's 1994 Comprehensive Master Plan, which recommends a density of one (1) dwelling per acre; and

WHEREAS, the subject property is classified as "Residence R40 District" as defined by Chapter 170, "Zoning", of the *Code of the Town of Somers*; and

WHEREAS, the application originally proposed a conventional plan showing 17 one-acre lots with access from a new road off Robert Martin Boulevard; and

WHEREAS, an "Interim Development Law" was enacted by the Town Board on April 6, 1995, in order to establish a six-month moratorium on the acceptance, review, and approval of Preliminary Subdivision Plats, Site Plans, and Special Exception Use Permits in order to accommodate the preparation, study and adoption of amendments to the Town's zoning, subdivision, site plan and other land use regulations to implement the 1994 Comprehensive Master Plan. This moratorium was extended an additional four months, until February 1996; and

WHEREAS, as a result of the Interim Development Law, the Applicant was required to obtain a determination from the Town Board as to whether or not the subject proposal was in accordance with the Comprehensive Plan before any further review of the plans could occur; and

WHEREAS, in a memo dated January 10, 1996, Frederick P. Clark Associates, Inc., planning consultants to the Town Board, notified the Town Board that the application was consistent with and is not in conflict with the Comprehensive Master Plan, and furthermore, that the application should be exempt from the Interim Development Law; and

WHEREAS, the Town Board determined at a Regular Meeting on January 18, 1996, that the Merritt Park Estates Subdivision application is consistent with and is not in conflict with the Comprehensive Master Plan, and that the application was exempt from the Interim Development Law; and

WHEREAS, the application was initially discussed at the Planning Board's Work Session on February 14, 1996, where the Board discussed access and stormwater management issues, and alternate plans were requested; and

WHEREAS, site walks were held April 20, 1996 and August 22, 2000; and

WHEREAS, at the August 13, 1997 Work Session, the Planning Board, acting as Lead Agency, classified the proposed development as an Unlisted Action under the New York State Environmental Quality Review Act (SEQR) and Town of Somers Environmental Quality Review regulations as stated in their notice dated August 20, 1997 and conducted a coordinated review; and

WHEREAS, at the September 10, 1997 Work Session, the Board requested an Expanded Environmental Assessment Form (EAF) limited to the effects of the project on Lake Lincolnale, the aquifer, hydrology, and the ability of the soils to accept septic systems; and

WHEREAS, the EAF was revised several times, with the last revision of the EAF on October 31, 2001; and

WHEREAS, in addition to the many plan alternatives and reports reviewed throughout the environmental review process, the following plans and reports were submitted for the Board's consideration:

1. Plan entitled, "Preliminary Subdivision Map — On-Site Detention Alternate," dated March 27, 1999, last revised February 20, 2002, prepared by Site Design Consultants.
2. Plan entitled, "Preliminary Subdivision Map", dated March 27, 1999, last revised February 20, 2002, prepared by Site Design Consultants.
3. Plan entitled, "Road Profiles", dated March 27, 1999, last revised February 20, 2002, prepared by Site Design Consultants.
4. Plan entitled, "Landscape and Erosion Control Plan", dated March 27, 1999, last revised October 30, 2001, prepared by Evans Associates Environmental Consulting, Inc.
5. Plan entitled, "Erosion and Sediment Control Plan Notes", dated March 27, 1999, last revised October 30, 2001, prepared by Evans Associates Environmental Consulting, Inc.
6. Plan entitled, "Construction Details", dated October 30, 2001, prepared by Site Design Consultants.

WHEREAS, the Planning Board held a public hearing on the preliminary subdivision application on December 12, 2001 and was continued to March 6, 2002; and

WHEREAS, two alternative plans were reviewed by the Planning Board at the public hearing, including the subdivision layout of the 19.99 acres of land into 15 single family building lots, with individual wells and septic systems. Stormwater management was originally proposed to be provided in two (2) on-site stormwater detention basins, and two off-site basins providing peak rate attenuation on Lake Lincolnale Property Owners' Association (LLPOA) property; and

WHEREAS, the alternative subdivision layout proposed by the Applicant included 14-lots with all stormwater managed on site; however, the Planning Board has stated that, if this alternative were to proceed, that the size and potential disturbance of construction of the water quality basin along Lovell Street is not to be greater than the same basin in the 15-lot plan; and

WHEREAS, during the Public Hearing written and oral comments were received expressing concern about the potential for soil erosion and water run-off; effect on water quality; existing wells and nearby ponds and streams; increase in traffic on Lovell Street; proximity of proposed stormwater detention areas to perimeter lot lines; health and safety concerns regarding these areas; and the two off-site detention basins on the LLPOA property included in the 15-lot plan;

WHEREAS, the Planning Board determined that the 15-lot alternative is the preferred action since it would provide substantive improvement to Lake Lincolndale's water quality and thereby offer Town-wide benefits, but if the LLPOA will not permit the off-site basins to be constructed and permanently maintained on its property, the 14-lot alternative is also acceptable; and

WHEREAS, the applicant agreed to diligently pursue the 15-lot alternative in order to receive approval from the NYCDEP and LLPOA for the two off-site detention basins, including involving Town Staff in all meetings and forward all correspondence during the approval process; and

WHEREAS, after requiring the above stringent mitigating measures, the Planning Board determined that the proposed subdivision would not result in a significant loss or degradation of steep slopes and would minimize the adverse environmental impacts to the greatest extent practicable; and

WHEREAS, the Stage 1A and IB archaeological reports were included with the Full EAF, which concurred with the conclusions contained in the reports that no further work was recommended, as stated in the Phase IB report dated June 10, 1996; and

WHEREAS, the Planning Board throughout the review process has considered the Conservation Board's comments; and

WHEREAS, the Planning Board throughout the review process has considered the LLPOA comments; and

WHEREAS, the Planning Board has encouraged the Applicant throughout the review process to file a formal application with the NYCDEP so that their comments could be accommodated as best as possible at this stage of the subdivision design, and in this regard the Applicant has indicated that any changes required to the plan as a result of the NYCDEP's review will require that the Applicant return to the Planning Board for further review and approval; and

WHEREAS, the Planning Board has considered, in accordance with Town Law §277(4) and §150-24.A of the Town Code, the relationship between the proposed subdivision and the potential recreational needs resulting therefrom; and

WHEREAS, the Planning Board finds that a proper case exists for requiring that a park or parks be suitably located for playgrounds and other recreational facilities within the Town, upon an evaluation of the present and anticipated future needs for park and recreational facilities in the Town based upon the projected population growth to which this particular subdivision will contribute, and that the proposed subdivision plat presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be suitably located on such subdivision plat, after assessing the size and suitability of lands shown on the subdivision plat which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood and the prospective character of the development, therefore, in lieu thereof, a recreation fee shall be paid in the amount determined by the Town Board; and

WHEREAS, the Planning Board adopted a Negative Declaration on March 6, 2002, and determined that the Proposed Action would not be expected to have any adverse environmental effects as proposed; and

WHEREAS, the preliminary subdivision approval of *Resolution #2002-16*, dated May 8, 2002, was extended from time to time; and

WHEREAS, *Resolution #2002-16* stipulates that the Applicant shall make every reasonable effort to obtain the necessary approval for construction of two stormwater treatment basins on property owned by the LLPOA from the Association; and

WHEREAS, in a letter dated May 4, 2004, the Applicant, by its attorney, advised the Planning Board that upon application for approval of the subdivision from the Westchester County Department of Health ("WCDOH") for the plan shortly after the Planning Board granted preliminary approval, the Health Department required that the Applicant pursue a connection to the Heritage Hills water and sewer systems instead of providing individual wells and septic systems; and

WHEREAS, with the same May 4, 2004 letter, the Applicant submitted to the Planning Board amended plans titled "Subdivision Plan Prepared for Merritt Park Estates" (Sheets 1-3), prepared by Site Design Consultants, dated March 27, 1999 and last revised April 12, 2004 (hereinafter collectively referred to as the "Amended Preliminary Subdivision Plans") showing the addition of community water and sewer lines and the elimination of individual septic systems and wells; and

WHEREAS, with the same May 4, 2004 letter, the Applicant requested that the conditional preliminary subdivision approval granted by *Resolution #2002-16* be amended to permit the installation of community sewer and water lines and the elimination of individual septic systems and wells on each of the lots; and

WHEREAS, Resolution #2002-16 requires that the Highway Superintendent be satisfied with the location of the proposed stormwater detention basins; and

WHEREAS, at its May 26, 2004 meeting, the Planning Board took no action on the Applicant's request for Amended Preliminary Approval because the Applicant advised the Board that it had not yet received a signed contract for the community water and sewer services from Heritage Hills Sewage Works and Water Works Corporations, but granted the Applicant's request for a time-extension of *Resolution #2002-16* to November 4, 2004; and

WHEREAS, in a June 21, 2004 letter to the Applicant's counsel and a July 16th, 2004 letter to Marc Brassard, Vice President of Heritage Hills Water Works Corporation, the WCDOH confirmed its position that it was important for the Heritage Hills Water Works and Sewage Works Corporations to offer community water and sewer service to the Merritt Park Estates Subdivision and stated that if such services were not available then the Corporations must submit supporting proof of that condition; and

WHEREAS, in an October 22, 2004 letter, the Applicant's counsel advised the Planning Board that the Applicant had entered into contracts with the Heritage Hills Water Works and Sewage Works Corporations and Heritage Hills of Westchester, LLP, for the provision of community water and sewer services to the Merritt Park Estates Subdivision, subject to approval of the extension of the Water and Sewer Districts and service areas by the Somers Town Board and other governmental agencies; and

WHEREAS, in the October 22, 2004 letter, the Applicant's counsel also stated that assuming all approvals necessary to extend the Water and Sewer Districts and service areas were granted, individual on-site septic systems and private wells would not be provided on each lot. Instead, extensions to the Heritage Hills sewer and water mains would be constructed to service this Subdivision; and

WHEREAS, the "Merritt Park Estates Subdivision Plan" prepared by Site Design Consultants dated December 21, 2004 was received by the Planning Department on December 24, 2004, and an Erosion and Sediment Control Plan prepared by Site Design Consultants and dated November 4, 2004 was received by the Somers Planning Department on December 24, 2004; and

WHEREAS, in a memorandum dated January 21, 2005, the Town Engineer requested further revision of the Merritt Park Estates Subdivision Plan, last revised December 21, 2004, to add or modify drainage practices on the lots and within the road, to modify the design of the sewer laterals, and to reconcile discrepancies among the drawings; and

WHEREAS, the Applicant revised its subdivision plan in response to the Town Engineer's January 21, 2005 memorandum and submitted on or about March 4, 2005, revised plans titled "Subdivision Plan", "Grading and Utility Plan", "Profiles", and "Erosion and Sediment Control Plan", prepared by Site Design Consultants, last revised March 4, 2005; and

WHEREAS, a public hearing was opened at the Planning Board Meeting of March 9, 2005 to consider amending *Resolution #2002-16 Granting of Conditional Preliminary Subdivision Plat Approval and Steep Slopes - Merritt Park Estates Subdivision*, at which time public comments were received; and

WHEREAS, the March 9, 2005 public hearing was adjourned to the Planning Board Meeting of April 13, 2005; and

WHEREAS, on April 1, 2005, the Applicant's wetlands and environmental consultant, Evans Associates, submitted a detailed response to the comments received at the March 9, 2005 public hearing and submitted a stormwater management narrative, dated the same date, describing the proposed stormwater management system for the Merritt Park Estates Subdivision; and

WHEREAS, on April 6, 2005, the Applicant's engineer, Joseph Riina, P.E., of Site Design Consultants, submitted revised subdivision plans, last revised April 4, 2005, in response to further comments from the Town Engineer; and

WHEREAS, at the April 13, 2005 public hearing, the Planning Board received extensive comments on the proposed amendment, and adjourned the public hearing to May 25, 2005; and

WHEREAS, on May 26, 2005, the Applicant made a submission responding to written and verbal comments made at or in connection with the April 13, 2005 public hearing and providing evidence of the WCDOH's resolve that a connection to community water and sewer be made. The submission consisted of letters from Evans Associates (dated May 25, 2005), the Applicant's attorney, Hocherman, Tortorella, & Wekstein, LLP (dated May 26, 2005), and revised plans titled, "Subdivision Plan", "Grading and Utility Plan", and "Profiles" (Sheets 1 through 3, respectively), prepared by Site Design Consultants, dated March 27, 1999 and last revised May 26, 2005; and

WHEREAS, at the Applicant's request, the public hearing was further adjourned to June 8, 2005 to afford the Applicant time to complete its responses to the public comments made at the April 13, 2005 public hearing; and

WHEREAS, the June 8, 2005 public hearing was postponed to June 22, 2005 due to an absence of a Planning Board quorum; and

WHEREAS, on June 16, 2005, Evans Associates submitted to the Planning Board a digest of each of the public hearing comments and the pages in the Applicant's May 26, 2005 submission on which responses thereto were contained; and

WHEREAS, on June 17, 2005, the Applicant submitted to the Planning Board a letter from counsel for the Heritage Hills Water and Sewage Works Corporations regarding the scope of his client's rights, pursuant to easements held by them, to extend the water and sewer mains to provide service to properties outside the original district and a map showing the Corporation's water and sewer customers, some of whom are outside the original boundaries of the district; and

WHEREAS, the submitted plans reviewed at the June 22, 2005 public hearing are titled "Subdivision Plan Prepared for Merritt Park Estates" (Sheets 1-3 titled "Subdivision Plan", "Grading and Utility Plan", and "Profiles"), prepared by Site Design Consultants, dated March 27, 1999 and last revised May 26, 2005, along with the "Erosion and Sediment Control" plan, last revised March 4, 2005; and

WHEREAS, at the June 22, 2005 public hearing three major issues were summarized by the Applicant's attorney and commented on by the public and included:

- (1) Lots 14 & 15 stormwater basin impact upon the Richard and Mary O'Reilly ("O'Reilly") property.
- (2) Heritage Hills water and sewer main extensions and the right of the Heritage Hills Water and Sewage Works Corporations to allow the same.
- (3) Approval of Lake Lincolndale Property Owners Association for the installation of stormwater basins on their property west of Lovell Street.

WHEREAS, at the June 22, 2005 public hearing other discussions included the scope of historic easements held by the Heritage Hills Water and Sewage Works Corporations, the capacity of the Heritage Hills water and sewer systems to provide service to the Subdivision, treatment of stormwater flow into Lake Lincolndale, town maintenance of Lovell St. stormwater basins, the provision of a letter from the LLPOA Board of Directors to augment the letter from its president which consented to the construction of stormwater basins on LLPOA property, and the future presentation of alternate plans for the Heritage Hills water and sewer main extensions; and

WHEREAS, at the June 22, 2005 public hearing a plan titled "Utility Alternative Plan", prepared by Joseph Riina, P.E., of Site Design Consultants, showing three alternative locations for the Heritage Hills water and sewer main extensions titled "A", "B", and "C" was presented for the first time and officially submitted to the Planning Board on June 23, 2005; and

WHEREAS, on June 30, 2005, the Applicant's counsel submitted to the Town Attorney copies of the deeds referred to in blanket easements held by the Heritage Hills Water Works and Sewage Works Corporations; and

WHEREAS, during the public hearing, adjacent property owners expressed concern about off site impacts from construction of stormwater basins, due to basins holding water and becoming regulated wetlands potentially impacting existing residences; and

WHEREAS, the Town Engineer's memorandum, dated July 5, 2005, to the Applicant's engineer Joseph Riina, P.E., recommended that: "...the sediment traps should be kept 100 feet from the surrounding potable wells and not increase the level of regulated areas...." of the existing abutting property owners; and

WHEREAS, a letter submitted on July 8, 2005 by attorney Edward Pico, representing Town residents Richard and Mary O'Reilly, raised objections to the placement of a stormwater retention basin adjacent to their rear property line; and

WHEREAS, a Planning Board site walk was scheduled for and held on July 9, 2005; and

WHEREAS, the LLPOA Board of Directors submitted a letter on July 13, 2005 confirming to the Planning Board that the LLPOA Board of Directors agrees to the construction of the basins on its property, that it consents to the Applicant's request to construct them, and that it will cooperate with the Applicant in the construction by providing access to LLPOA property for the work; and

WHEREAS, on July 13, 2005 the public hearing was closed and the Planning Board motioned to have a draft Resolution of Amended Conditional Preliminary Subdivision Approval prepared for the September 7, 2005 meeting; and

WHEREAS, the Planning Board rescheduled the review of a draft resolution of amended preliminary approval to the September 21, 2005 meeting;

WHEREAS, the Applicant's attorney submitted a letter dated September 12, 2005 confirming the agreement to adjourn the Planning Board's time to render a decision on the application for amended preliminary subdivision approval to and including September 21, 2005; and

WHEREAS, in response to recommendations of the Town Engineer and a field meeting with an abutting property owner, on August 10, 2005, Joseph Riina, P.E., of Site Design Consultants, submitted to the Planning Board a "Utility Alternative Plan 'A1' prepared for Merritt Park Estates", dated August 1, 2005 and letter, dated August 8, 2005, which identifies an area in the rear of the abutting property owner's site (Tax Lot #5.16-2-33) that might be able to be conveyed to the Applicant or to the Heritage Hills Water and Sewage Works Corporations directly in exchange for property on Merritt Park Estates (the "Land Swap") in order to facilitate a shifting of the proposed water and sewer mains even further from Condo 29, as depicted in "Alternative A1"; and

WHEREAS, Joseph Riina, P.E. mailed the "Utility Alternative Plan A1" to the property owner of Tax Lot #5.16-2-33 for consideration of approval; and

WHEREAS, a SEQR short form EAF dated March 2, 2005 was submitted by the Applicant concerning the amendment to the previously granted 2002 Merritt Park Estates Conditional Preliminary Subdivision Plat (*Resolution #2002-16*, dated May 8, 2002) and on September 21, 2005 the Planning Board determined that, under the SEQR law, no significant impact on the environment would result from this Unlisted Action, because the provision of community water and sewer for the proposed residences and the installation of stormwater basins on LLPOA property will decrease potential impacts on the environment; and

WHEREAS, the consideration of wetlands protection was made by the Planning Board, and in accordance with the Town's "Wetland and Watercourse Protection" regulations, Chapter 167 of the Town Code, it was determined that the Property does not contain wetlands. However, off-site wetland and associated 100-ft. regulated wetland buffer areas extend onto the property and the off-site detention basins would be constructed within the 100-ft buffer area to the Lake, and therefore, the application fees for Wetlands and Watercourse Protection are required as a condition of the final subdivision application; and

WHEREAS, the proposed stormwater basin on Lots 14 and 15 is proposed to function as wetland and the improvements on those lots would be located within 100 feet of the edge of the basin; and

WHEREAS, in addition to the on-site stormwater basin of Lots 14 and 15 and the two off-site stormwater treatment basins on property owned by the LLPOA, the Applicant shall also construct the water quality improvement basins and drainage system proposed on the Heritage Hills Condo 29 property below the Robert Martin Boulevard Right Of Way as part of the Town approved stormwater pollution prevention plan for the Merritt Park Estates Subdivision; and

WHEREAS, the consideration of flood damage protection was made by the Planning Board, and it was determined by reference to the Flood Insurance Rate Maps (FIRM) that a floodway or floodplain was not located on the site, and therefore, further consideration of the "Flood Damage Prevention" regulations, Chapter 102 of the Town Code, was not applicable; and

WHEREAS, the consideration of steep slopes protection was made by the Planning Board, and in accordance with the Town's "Steep Slopes Protection" regulations, Chapter 48 of the Town Code, it was determined that the site contains steep slopes which are proposed to be disturbed in construction of the on-site stormwater detention basin along Lovell Street and for regrading purposes on Lots 12 and 13, and therefore, the Steep Slope Protection application fees were required to be submitted by the Applicant for public improvements as a condition of preliminary approval; and

WHEREAS, the Planning Board reiterated its prior finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds and other recreational facilities within the Town, upon an evaluation of the present and anticipated future needs for park and recreational facilities in the Town based upon the projected population growth to which this particular subdivision will contribute, and that the proposed subdivision plat presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be suitably located on such subdivision plat, after assessing the size and suitability of lands shown on the subdivision plat which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood and the prospective character of the development; therefore, in lieu thereof, a recreation fee shall be paid in the amount determined by the Town Board.

WHEREAS, the Planning Board affirmed that the proposed subdivision and the amendments thereto are Unlisted Actions and its issuance of a Negative Declaration for the project on the grounds that the provision of community water and sewer for the proposed residences and the installation of detention basins on LLPOA property will decrease the potential adverse impacts; and

WHEREAS, on September 21, 2005, the Planning Board approved *Resolution #2005-04 titled Granting of Amended Conditional Preliminary Subdivision Plat Approval and Steep Slopes, Tree, and Wetland Permits for Merritt Park Estates Subdivision*, amending the Merritt Park Estates Subdivision plan by eliminating private septic systems and wells for the proposed residences, granting approval for the installation of stormwater basins on the LLPOA property, and permitting the installation of water and sewer main extensions to provide community water and sewer service for the residences, as shown on the plans prepared by Site Design Consultants, titled "Subdivision Plan", "Grading and Utility Plan", and "Profiles" (Sheets 1-3), dated May 27, 1999, last revised May 26, 2005, and

"Alternative A" shown on the "Utility Alternative A" prepared by Site Design Consultants, dated June 23, 2005, and the "Erosion and Sediment Control" plan, prepared by Site Design Consultants, last revised March 4, 2005; and

WHEREAS, on September 21, 2005, the Planning Board approved *Resolution #2005-04* titled *Granting of Amended Conditional Preliminary Subdivision Plat Approval and Steep Slopes, Tree, and Wetland Permits for Merritt Park Estates Subdivision*, to approve the installation of community water and sewer main extensions in the location known as "Alternative A", as shown on the "Utility Alternative Plan" prepared by Site Design Consultants; and

WHEREAS, during the NYCDEP's review of the Stormwater Pollution Prevention Plan, it was directed that all attenuation was to occur on property owned by Mancini Building Corp. and as a result of which the stormwater basins located on property owned by the LLPOA were re-designed for stormwater quality and not attenuation purposes (stormwater quantity) and;

WHEREAS, the applicant agreed to continue to pursue the off-site stormwater improvements on the LLPOA property to address stormwater management issues that are having a deleterious effect on Lake Lincolnale, and which are of no relation to the subject subdivision and the Applicant has agreed to expend money to implement these off-site improvements which will save the Town thousands of dollars in relation to its obligation under the Municipal Separate Storm Sewer System (MS4) permit; and

WHEREAS, the amended conditional preliminary subdivision approval of *Resolution #2005-04*, dated September 21, 2005 was extended from time to time; and

WHEREAS, an application for Final Subdivision Approval was received on February 17, 2010 and included the following plans and documents:

1. Cover letter from Hocherman Tortorella & Wekstein, LLP dated February 16, 2010;
2. Letter dated February 10, 2010 from Alan Pilch, Evans Associates Environmental Consulting, Inc. to Joseph Riina, P.E. regarding existing wells in relation to stormwater management basins on west side of Lovell Street.
3. Subdivision Plat, prepared by Donald J. Donnelly, L.S., dated March 6, 2009 and last revised February 12, 2010;
4. Drawing "Title Sheet Merritt Park", prepared by Site Design Consultants, dated February 2010;

5. Drawing "Subdivision Plan (C-101)", prepared by Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010;
6. Drawing "Grading and Utility Plan (C-102)", prepared by Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010;
7. Drawing "Road Profiles Road Details (C-301)", prepared by Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010;
8. Drawing "Utility Profiles (C-302)", prepared by Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010;
9. Drawing "Water Details (C-501)", prepared by Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010;
10. Drawing "Drainage and Sanitary Sewer Details (C-502)", prepared by Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010;
11. Drawing "Details (C-503)", prepared by Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010;
12. Drawing "Notes (C-504)", prepared by Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010;
13. Drawing "Existing Conditions (S-501)", prepared by Site Design Consultants, dated March 27, 1999 and Evans Associates Environmental Consulting, Inc. dated July 28, 2008 and last revised February 10, 2010;
14. Drawing "Erosion and Sediment Control Plan / Phase I Construction Sequence SPPP Plan Notes (S-501.1)", prepared by Evans Associates Environmental Consulting, Inc. and Site Design Consultants, dated May 26, 2006 and last revised February 10, 2010;
15. Drawing "Erosion and Sediment Control Plan / Phase 2 Construction Sequence SPPP Plan Notes (S-501.2)", prepared by Evans Associates Environmental Consulting, Inc. and Site Design Consultants, dated May 26, 2006 and last revised February 10, 2010;
16. Drawing "Erosion and Sediment Control Plan Details / Mitigation Planting Plans (S-501.3)", prepared by Site Design Consultants, dated May 26, 2006 and Evans Associates Environmental Consulting, Inc. dated January 14, 2008 and last revised February 10, 2010;
17. Drawing "Soils Map (S-502)", prepared by Evans Associates Environmental Consulting, Inc. and Site Design Consultants, dated May 26, 2006 and last revised February 10, 2010;

18. Drawing "Constraints Map (S-503)", prepared by Evans Associates Environmental Consulting, Inc. and Site Design Consultants, dated May 26, 2006 and last revised February 10, 2010;
19. Drawing "Existing Conditions Drainage Area Map (S-504)", prepared by Evans Associates Environmental Consulting, Inc. and Site Design Consultants, dated May 26, 2006 and last revised February 10, 2010;
20. Drawing "Future Conditions Drainage Area Map (S-505)", prepared by Site Design Consultants, dated March 27, 1999 and Evans Associates Environmental Consulting, Inc. dated May 26, 2006 and last revised February 10, 2010;
21. Drawing "Stormwater Basins Planting Plan (S-506)", prepared by Evans Associates Environmental Consulting, Inc. and Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010.
22. Subdivision Plat, prepared by Donald J. Donnelly, L.S., dated March 6, 2009 and last revised June 15, 2009 including Westchester County Department of Health Signature dated December 30, 2009;
23. Document titled " Stormwater Pollution Prevention Plan" prepared by Evans Associates Environmental Consulting, Inc., revised March 31, 2009 (Approved by NYCDEP);
24. Copies of letters from Mr. Keith Sorenson, Vice President of the Heritage Hills Waterworks Corporation and the Heritage Hills Sewage-works Corporation, to the Westchester County Department of Health, dated November 2, 2009 confirming that the Corporations will provide water and sewer service to the subdivision;
25. Letter dated May 11, 2009 from Mary Galasso, New York City Department of Environmental Protection, regarding approval of SPPPP from NYCDEP.
26. Subdivision Plat Title Page, prepared by Site Design Consultants, dated August 2009 with Town Engineer signature dated November 19, 2009 approving roads and drainage.
27. Letter dated March 8, 2010 from Lake Lincolndale Property Owners' Association (LLPOA) to the Somers Planning Board, regarding satisfaction that the storm water basin plan reviewed on March 6, 2010 is the same concept as the plan reviewed in June of 2005.

WHEREAS, on April 8, 2010 the Applicant re-submitted the drawing titled "Subdivision Plan (C-101)", prepared by Site Design Consultants, dated March 27, 1999 and last revised April 8, 2010 and Detail R-1 entitled "Detail of Relocated Stonewall"; and

WHEREAS, the final application includes a 15-lot subdivision of 19.99 acres with community sewer and water service, and stormwater runoff controls; and

WHEREAS, the final application was discussed at the Planning Board's Meetings held on March 10, 2010 and April 14, 2010; and

WHEREAS, at the March 10, 2010 Planning Board meeting the Planning Board discussed the changes that have occurred since the amended preliminary subdivision approval which include: reorientation of lots 14 and 15 due to shifting the proposed stormwater basin further from a neighboring property so that the homes now face Adson Way instead of Merritt Court and redesign of the proposed stormwater treatment facility on lands owned by the LLPOA to add a forebay to the small water quality basin; and

WHEREAS, a condition of the amended preliminary subdivision approval was that the Applicant should use reasonable efforts to consummate a land swap with the property owner of Tax Lot 5.16-2-13 and that the property owner has indicated that after much consideration and meetings with the Applicant's representatives that she is not prepared to grant an easement or convey land for the utility mains to be installed across the rear of her property (Tax Lot 5.16-2-13) and as such, the status of the land swap has been decided; and

WHEREAS, at the March 10, 2010 Planning Board meeting there was discussion of relocating the stone walls crossing Lots 1 and 2 of the subject subdivision and the Applicant requested the ability to relocate them to the rear property line of each lot; and

WHEREAS, the Planning Board discussed and considered this request and upon submission of more detailed information, the Planning Board determined that relocation of the stone walls, in such a manner as to maintain their historical integrity, would be allowed provided that approval from the Consulting Town Engineer will be required before any improvement of the area between the original and new wall locations occur; and

WHEREAS, the Applicant has no immediate plans to improve the areas on Lots 1 and 2 between the existing and proposed stonewalls and as such has proposed to relocate the stonewall without any clearing of the lots in the area between the existing and proposed location on the lots; and

WHEREAS, the applicant acknowledges that if those areas are to be improved in the future, additional stormwater controls may be necessary on those lots and the Applicant has proposed to include a note on the Subdivision Plan (Sheet C101) and the Subdivision Plat which states that "approval from the Consulting Town Engineer will be required before any improvement of the areas on Lots 1 and 2 between the original and new wall locations can occur"; and

WHEREAS, the Planning Board discussed dimensioning the easements as indicated on the Plat and determined that dimensioning the easement on the As-Built drawing for the stormwater basin on the LLPOA property next to Lovell Street should be performed; and

WHEREAS, the Applicant requested that the Planning Board waive the application fees required for wetland disturbance due to the fact that the disturbance occurs in relation to construction of the off-site detention basins located on LLPOA property; and

WHEREAS, the Planning Board made a positive recommendation to the Somers Town Board to consider waiving the required wetland application fee because the improvements in question are not only off-site but are also intended to improve stormwater issues that: (i) are preexisting (meaning "not brought about by the project itself"); and (ii) are having a deleterious effect on Lake Lincolnale. In addition, the Applicant has agreed to expend money to implement these off-site improvements which will save the Town thousands of dollars in relation to its obligation under the Municipal Separate Storm Sewer System (MS4) permit; and

WHEREAS, on April 8, 2010, the Somers Town Board discussed this issue and moved the matter to their consensus agenda on April 15, 2010; and

WHEREAS, in accordance with the provisions of Section 150-13F, the Planning Board, at their March 10, 2010 meeting, deemed the proposed final subdivision to be in substantial conformance with the previously approved amended preliminary subdivision plans, and therefore waived the requirements to hold a public hearing on the final subdivision application; and

WHEREAS, the above-noted plans submitted with the final application are the subject of this approval decision and will be revised in accordance with this resolution.

NOW, THEREFORE, BE IT RESOLVED that the foregoing whereas clauses are incorporated herein by reference and are fully adopted as part of the final subdivision approval, including the SEQR Negative Declaration referenced therein, and furthermore, that the application of Mancini Building Corp. for Final Subdivision Approval and Tree Preservation, Wetland and Steep Slope Permits for the **Merritt Park Estates Subdivision** as shown and described by the materials enumerated herein, **IS HEREBY GRANTED** in accordance with §276

and §278 of Town Law and §150-13.J, "Planning Board Action", of the Code of the Town of Somers, subject to the following modifications and conditions as set forth below:

Conditions Required Prior to Signing of Plat

1. The plat must include NAD 83 Grid coordinates on three corners of the property.
2. A note on the plat must be provided that states "no further subdivision of this property shall occur."
3. A note must be provided on the Subdivision Plan (Sheet C101) and the Subdivision Plat which states that "approval from the Consulting Town Engineer or its designee will be required before any improvement of the areas on Lots 1 and 2 between the original and new wall locations can occur"
4. That information pertaining to the composition, physical condition, and appearance of the stonewall crossing Lots 1 and 2 be provided.
5. That the submitted final plat bears the endorsement of the Westchester County Department of Health.
6. A performance bond/security shall be posted to cover the costs of soil erosion and sedimentation control measures on the site during the course of construction. Said security shall be in an amount recommended by the Consulting Town Engineer and shall be in a form, sufficiency and manner of execution satisfactory to the Town Attorney and approved by the Town Board.
7. A performance bond/security shall be posted to cover the costs of road drainage and other associated public improvements during the course of construction. Said security shall be in an amount recommended by the Consulting Town Engineer and shall be in a form, sufficiency and manner of execution satisfactory to the Town Attorney and approved by the Town Board.
8. An engineering inspection fee for the subdivision shall be paid by certified check to the Town of Somers in accordance with the Fee Schedule adopted by the Town Board. The amount of such fee shall be set after submission by the Applicant of estimated costs for required improvements, as identified by the Consulting Town Engineer, and upon recommendation of the Consulting Town Engineer.

9. The Applicant shall reimburse the Town for any outstanding review fees, as applicable, consistent with §133-1 of the Town Code as well as State and Local Environmental Quality Review laws.
10. The final plat shall reflect the new section, lot and block numbers for each of the 15 lots per the Town Assessor.
11. That the applicant provides the Town Board resolution which states that that the Town Board agrees to waive the wetland application fees for the Merritt Park Estates Subdivision due to the fact that the stormwater improvements are not brought about by the proposed subdivision or that the Applicant submits the required wetland application fees; and
12. The Applicant shall pay recreation fees prior to signing of the final subdivision plat for all 14 buildable lots in accordance with the Fee Schedule adopted by the Town Board as of the effective date of this resolution.

Ongoing Conditions Required After Signing of Plat

1. That all improvements shown on the plans be installed in accordance with the construction standards and specifications of the Town and as detailed on the improvement plans approved by this action.
2. That all work associated with this application shall be subject to the satisfaction of the Consulting Town Engineer.
3. All work shall be performed in accordance with the approved "Stormwater Pollution Prevention Plan" prepared by Evans Associates Environmental Consulting, Inc., revised March 31, 2009 (Approved by NYCDEP);
4. Sedimentation and erosion control measures employing best management practices as outlined in NYS DEC's booklets entitled, "*Reducing the impacts of Stormwater Runoff From New Development*" dated September 2001 (or more recent revisions) and the "*New York State Standards and Specifications for Erosion and Sediment Control*", also known as the Blue Book, and "*New York State Stormwater Design Manual*," dated April 2008 (including all updates and/or revisions) are required to be followed to ensure that all disturbed areas are stabilized and revegetated.
5. That all work associated with this subdivision application shall be subject to the approval of the Consulting Town Engineer in accordance with Chapter 93 Stormwater Management and Erosion and Sediment Control, Chapter 150 Subdivision of Land, Chapter 148 Steep Slopes Protection, Chapter 156 Tree Preservation, and Chapter 167 Wetlands and Watercourse Protection of the *Code of the Town of Somers*.

6. That dimensioning for the stormwater basin located on LLPOA property off of Lovell Street is provided on the As-Built drawing.
7. If rock is encountered during construction, removal will first be accomplished by ripping, hammering, or drilling, in accordance with §148-7.B(4)(k) of the Code of the Town of Somers.
8. That construction activity shall be limited from 7:00a.m. to 6:00p.m., and that no construction activity shall occur on Sundays or legal New York State holidays.

BE IT FURTHER RESOLVED that the Planning Board Chairman is authorized to sign the final subdivision plat in accordance with the procedures and requirements specified in §150-14.D of the "Subdivision of Land" regulations of the Code of the Town of Somers, and §276 of Town Law. In accordance with §150-13.M of the Code of the Town of Somers, this conditional approval of the final subdivision plat shall expire on **October 11, 2010**, 180 days from the date of the resolution granting conditional approval, unless the above requirements have been certified as complete by the Planning Board's professional staff, or unless such time limit is extended by the Planning Board in accordance with §150-12.N of the Code of the Town of Somers for no more than two (2) additional periods of 90 days each. The request for time extension shall be made by the Applicant **prior to** expiration of the specific time period.

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

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

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

This resolution shall have an effective date of April 14, 2010.

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

Fedora C. DeLucia
Fedora C. DeLucia, Chairman

Dated: *April 15, 2010*

CERTIFICATION

I hereby certify that this is a true and correct copy of the resolution adopted by the Town of Somers Planning Board granting Conditional Final Subdivision Approval and Tree Preservation, Wetland and Steep Slopes Permits to Mancini Building Corp. for Merritt Park Estates Subdivision at a regular meeting held on April 14, 2010.

Sabrina D. Charney Hull
**Sabrina D. Charney Hull, AICP
Town Planner**

Dated: *April 15, 2010*

**State Environmental Quality Review
NEGATIVE DECLARATION
Notice of Determination of Non-Significance**

Date: June 10, 2015

This notice is issued pursuant to Article 8, "Environmental Quality Review" of the *Environmental Conservation Law*, 6 NYCRR Part 617, and Chapter 92 "Environmental Quality Review", of the *Code of the Town of Somers, New York*.

The Town of Somers Planning Board, acting as Lead Agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement does not have to be prepared.

Name of Action: Merritt Park Estates Subdivision

SEQR Status: Unlisted Action

Description of the Action: Amendment of two conditions of the Resolution of Conditional Final Subdivision Plat, Tree Preservation, Steep Slopes and Wetland Permit Resolution 2010-02 granted April 14, 2010, for the Merritt Park Estates Subdivision to: (1) permit the Recreation Fee to be paid in installments over a three year period following filing of the Subdivision Plat in the Office of the Westchester County Clerk; and (2) permit the issuance of one building permit for a new home on one of the approved lots prior to the Final Plat being filed since the property comprising the Subdivision is an existing lot.

Location: The subject property is located on the easterly side of Lovell Street, and accessible from the end of Robert Martin Boulevard in the "Residence R40" zoning district, and is designated on the Town Tax Map as Sheet 5.20, Block 1, and Lot 1.

Reasons Supporting This Determination:

Based upon a review of the Applicant's submitted Short Environmental Assessment Form Part 1 dated May 18, 2015 and all other application materials that were prepared for this action, the Somers Planning Board has made a determination of significance as follows:

1. Granting of these amendments will not result in any change to the layout of the lots, roads, drainage or other utility infrastructure for the Subdivision, much of which has already been installed by the Sponsor/Owner. The Proposed Action will not have a significant adverse environmental impact as a result of physical change to the project site since all the conditions relative to physical features, natural resources and infrastructure of the prior approval remain unchanged.

2. The home for which a building permit is sought will be developed in a manner consistent with all aspects of the Planning Board's approval. The Proposed Action will not have a significant adverse environmental impact as a result of physical change to the project site since all the conditions relative to physical features, natural resources and infrastructure of the prior approval remain unchanged.
3. Upon referral of the issue regarding payment of recreation fees by the Town Board to the Parks and Recreation Board, the Parks Board in a memorandum of April 23, 2015 to the applicant, indicated that at its meeting of March 25, 2015, the Parks and Recreation Board discussed the Applicant's request to pay their Recreation Fees over a three year period. The memorandum recommended acceptance by the Town Board of the amended fee structure, but only for this development. The Proposed Action will not have a significant adverse environmental impact as a result of changes to the method of payment of the recreation fees.

Lead Agency: Town of Somers Planning Board
Somers Town House
335 Route 202
Somers, NY 10589

For further information:

Contact Person: Syrette Dym, AICP, Director of Planning
Address: Somers Town House
335 Route 202
Somers, NY 10589
Telephone: (914) 277-5366

For Unlisted Actions, a copy of this Notice has been filed with: Lead Agency

PLANNING AND ENGINEERING DEPARTMENTS

Telephone
(914) 277-5366
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Town of Somers
WESTCHESTER COUNTY, N.Y.

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Syrette Dym, AICP
Director of Planning
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Planning Board Meeting Date of June 10, 2015

PLANNING BOARD
TOWN OF SOMERS, WESTCHESTER COUNTY, NEW YORK

Resolution No. 2015-06
*Granting of Amended Conditional Final Subdivision Plat Approval, Tree
Preservation, Steep Slopes and Wetland Permits to
Mancini Building Corp.*
For
MERRITT PARK ESTATES SUBDIVISION
Town Tax Number: Section 5.20, Block 1, Lot 1

WHEREAS, an application for preliminary approval of a subdivision, dated January 31, 1996, was submitted by Mancini Building Corp., Katonah, New York, and said application also consisted of a Full Environmental Assessment Form (EAF) and the "Subdivision Plan with Topography", as prepared by Site Design Consultants; and

WHEREAS, the subject property, which consists of approximately 19.99 acres, is located on the easterly side of Lovell Street, with access to the subdivision from a new street off Robert Martin Boulevard, and is shown on the Town Tax Maps as Sheet 5.20, Block 1, Lot 1; and

WHEREAS, the subject lands are designated "Suburban Density" as indicated in the Planning Board's 1994 Comprehensive Master Plan, which recommends a density of one (1) dwelling per acre; and

WHEREAS, the subject property is classified as “Residence R40 District” as defined by Chapter 170, “Zoning”, of the *Code of the Town of Somers*; and

WHEREAS, the application originally proposed a conventional plan showing 17 one-acre lots with access from a new road off Robert Martin Boulevard; and

WHEREAS, an “Interim Development Law” was enacted by the Town Board on April 6, 1995, in order to establish a six-month moratorium on the acceptance, review, and approval of Preliminary Subdivision Plats, Site Plans, and Special Exception Use Permits in order to accommodate the preparation, study and adoption of amendments to the Town’s zoning, subdivision, site plan and other land use regulations to implement the 1994 Comprehensive Master Plan. This moratorium was extended an additional four months, until February 1996; and

WHEREAS, as a result of the Interim Development Law, the Applicant was required to obtain a determination from the Town Board as to whether or not the subject proposal was in accordance with the Comprehensive Plan before any further review of the plans could occur; and

WHEREAS, in a memo dated January 10, 1996, Frederick P. Clark Associates, Inc., planning consultants to the Town Board, notified the Town Board that the application was consistent with and is not in conflict with the Comprehensive Master Plan, and furthermore, that the application should be exempt from the Interim Development Law; and

WHEREAS, the Town Board determined at a Regular Meeting on January 18, 1996, that the Merritt Park Estates Subdivision application is consistent with and is not in conflict with the Comprehensive Master Plan, and that the application was exempt from the Interim Development Law; and

WHEREAS, the application was initially discussed at the Planning Board’s Work Session on February 14, 1996, where the Board discussed access and stormwater management issues, and alternate plans were requested; and

WHEREAS, site walks were held April 20, 1996 and August 22, 2000; and

WHEREAS, at the August 13, 1997 Work Session, the Planning Board, acting as Lead Agency, classified the proposed development as an Unlisted Action under the New York State Environmental Quality Review Act (SEQR) and Town of Somers Environmental Quality Review regulations as stated in their notice dated August 20, 1997 and conducted a coordinated review; and

WHEREAS, at the September 10, 1997 Work Session, the Board requested an Expanded Environmental Assessment Form (EAF) limited to the effects of the project on Lake Lincolndale, the aquifer, hydrology, and the ability of the soils to accept septic systems; and

WHEREAS, the EAF was revised several times, with the last revision of the EAF on October 31, 2001; and

WHEREAS, in addition to the many plan alternatives and reports reviewed throughout the environmental review process, the following plans and reports were submitted for the Board's consideration:

1. Plan entitled, "Preliminary Subdivision Map — On-Site Detention Alternate," dated March 27, 1999, last revised February 20, 2002, prepared by Site Design Consultants.
2. Plan entitled, "Preliminary Subdivision Map", dated March 27, 1999, last revised February 20, 2002, prepared by Site Design Consultants.
3. Plan entitled, "Road Profiles", dated March 27, 1999, last revised February 20, 2002, prepared by Site Design Consultants.
4. Plan entitled, "Landscape and Erosion Control Plan", dated March 27, 1999, last revised October 30, 2001, prepared by Evans Associates Environmental Consulting, Inc.
5. Plan entitled, "Erosion and Sediment Control Plan Notes", dated March 27, 1999, last revised October 30, 2001, prepared by Evans Associates Environmental Consulting, Inc.
6. Plan entitled, "Construction Details", dated October 30, 2001, prepared by Site Design Consultants.

WHEREAS, the Planning Board held a public hearing on the preliminary subdivision application on December 12, 2001 and was continued to March 6, 2002; and

WHEREAS, two alternative plans were reviewed by the Planning Board at the public hearing, including the subdivision layout of the 19.99 acres of land into 15 single family building lots, with individual wells and septic systems. Stormwater management was originally proposed to be provided in two (2) on-site stormwater detention basins, and two off-site basins providing peak rate attenuation on Lake Lincolndale Property Owners' Association (LLPOA) property; and

WHEREAS, the alternative subdivision layout proposed by the Applicant included 14-lots with all stormwater managed on site; however, the Planning Board has stated that, if this alternative were to proceed, that the size and potential disturbance of construction of the water quality basin along Lovell Street is not to be greater than the same basin in the 15-lot plan; and

WHEREAS, during the Public Hearing written and oral comments were received expressing concern about the potential for soil erosion and water run-off; effect on water quality; existing wells and nearby ponds and streams; increase in traffic on Lovell Street; proximity of proposed stormwater detention areas to perimeter lot lines; health and safety concerns regarding these areas; and the two off-site detention basins on the LLPOA property included in the 15-lot plan;

WHEREAS, the Planning Board determined that the 15-lot alternative is the preferred action since it would provide substantive improvement to Lake Lincolndale's water quality and thereby offer Town-wide benefits, but if the LLPOA will not permit the off-site basins to be constructed and permanently maintained on its property, the 14-lot alternative is also acceptable; and

WHEREAS, the applicant agreed to diligently pursue the 15-lot alternative in order to receive approval from the NYCDEP and LLPOA for the two off-site detention basins, including involving Town Staff in all meetings and forward all correspondence during the approval process; and

WHEREAS, after requiring the above stringent mitigating measures, the Planning Board determined that the proposed subdivision would not result in a significant loss or degradation of steep slopes and would minimize the adverse environmental impacts to the greatest extent practicable; and

WHEREAS, the Stage 1A and IB archaeological reports were included with the Full EAF, which concurred with the conclusions contained in the reports that no further work was recommended, as stated in the Phase IB report dated June 10, 1996; and

WHEREAS, the Planning Board throughout the review process has considered the Conservation Board's comments; and

WHEREAS, the Planning Board throughout the review process has considered the LLPOA comments; and

WHEREAS, the Planning Board has encouraged the Applicant throughout the review process to file a formal application with the NYCDEP so that their comments could be accommodated as best as possible at this stage of the subdivision design, and in this regard the Applicant has indicated that any

changes required to the plan as a result of the NYCDEP's review will require that the Applicant return to the Planning Board for further review and approval; and **WHEREAS**, the Planning Board has considered, in accordance with Town Law §277(4) and §150-24.A of the Town Code, the relationship between the proposed subdivision and the potential recreational needs resulting therefrom; and

WHEREAS, the Planning Board finds that a proper case exists for requiring that a park or parks be suitably located for playgrounds and other recreational facilities within the Town, upon an evaluation of the present and anticipated future needs for park and recreational facilities in the Town based upon the projected population growth to which this particular subdivision will contribute, and that the proposed subdivision plat presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be suitably located on such subdivision plat, after assessing the size and suitability of lands shown on the subdivision plat which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood and the prospective character of the development, therefore, in lieu thereof, a recreation fee shall be paid in the amount determined by the Town Board; and

WHEREAS, the Planning Board adopted a Negative Declaration on March 6, 2002, and determined that the Proposed Action would not be expected to have any adverse environmental effects as proposed; and

WHEREAS, the preliminary subdivision approval of *Resolution #2002-16*, dated May 8, 2002, was extended from time to time; and

WHEREAS, *Resolution #2002-16* stipulates that the Applicant shall make every reasonable effort to obtain the necessary approval for construction of two stormwater treatment basins on property owned by the LLPOA from the Association; and

WHEREAS, in a letter dated May 4, 2004, the Applicant, by its attorney, advised the Planning Board that upon application for approval of the subdivision from the Westchester County Department of Health ("WCDOH") for the plan shortly after the Planning Board granted preliminary approval, the Health Department required that the Applicant pursue a connection to the Heritage Hills water and sewer systems instead of providing individual wells and septic systems; and

WHEREAS, with the same May 4, 2004 letter, the Applicant submitted to the Planning Board amended plans titled "Subdivision Plan Prepared for Merritt Park Estates" (Sheets 1-3), prepared by Site Design Consultants, dated March 27, 1999 and last revised April 12, 2004 (hereinafter collectively referred to as the "Amended Preliminary Subdivision Plans") showing the addition of community

water and sewer lines and the elimination of individual septic systems and wells;
and

WHEREAS, with the same May 4, 2004 letter, the Applicant requested that the conditional preliminary subdivision approval granted by *Resolution #2002-16* be amended to permit the installation of community sewer and water lines and the elimination of individual septic systems and wells on each of the lots; and

WHEREAS, *Resolution #2002-16* requires that the Highway Superintendent be satisfied with the location of the proposed stormwater detention basins; and

WHEREAS, at its May 26, 2004 meeting, the Planning Board took no action on the Applicant's request for Amended Preliminary Approval because the Applicant advised the Board that it had not yet received a signed contract for the community water and sewer services from Heritage Hills Sewage Works and Water Works Corporations, but granted the Applicant's request for a time-extension of *Resolution #2002-16* to November 4, 2004; and

WHEREAS, in a June 21, 2004 letter to the Applicant's counsel and a July 16th, 2004 letter to Marc Brassard, Vice President of Heritage Hills Water Works Corporation, the WCDOH confirmed its position that it was important for the Heritage Hills Water Works and Sewage Works Corporations to offer community water and sewer service to the Merritt Park Estates Subdivision and stated that if such services were not available then the Corporations must submit supporting proof of that condition; and

WHEREAS, in an October 22, 2004 letter, the Applicant's counsel advised the Planning Board that the Applicant had entered into contracts with the Heritage Hills Water Works and Sewage Works Corporations and Heritage Hills of Westchester, LLP, for the provision of community water and sewer services to the Merritt Park Estates Subdivision, subject to approval of the extension of the Water and Sewer Districts and service areas by the Somers Town Board and other governmental agencies; and

WHEREAS, in the October 22, 2004 letter, the Applicant's counsel also stated that assuming all approvals necessary to extend the Water and Sewer Districts and service areas were granted, individual on-site septic systems and private wells would not be provided on each lot. Instead, extensions to the Heritage Hills sewer and water mains would be constructed to service this Subdivision; and

WHEREAS, the "Merritt Park Estates Subdivision Plan" prepared by Site Design Consultants dated December 21, 2004 was received by the Planning Department on December 24, 2004, and an Erosion and Sediment Control Plan prepared by Site Design Consultants and dated November 4, 2004 was received by the Somers Planning Department on December 24, 2004; and

WHEREAS, in a memorandum dated January 21, 2005, the Town Engineer requested further revision of the Merritt Park Estates Subdivision Plan, last revised December 21, 2004, to add or modify drainage practices on the lots and within the road, to modify the design of the sewer laterals, and to reconcile discrepancies among the drawings; and

WHEREAS, the Applicant revised its subdivision plan in response to the Town Engineer's January 21, 2005 memorandum and submitted on or about March 4, 2005, revised plans titled "Subdivision Plan", "Grading and Utility Plan", "Profiles", and "Erosion and Sediment Control Plan", prepared by Site Design Consultants, last revised March 4, 2005; and

WHEREAS, a public hearing was opened at the Planning Board Meeting of March 9, 2005 to consider amending *Resolution #2002-16 Granting of Conditional Preliminary Subdivision Plat Approval and Steep Slopes - Merritt Park Estates Subdivision*, at which time public comments were received; and

WHEREAS, the March 9, 2005 public hearing was adjourned to the Planning Board Meeting of April 13, 2005; and

WHEREAS, on April 1, 2005, the Applicant's wetlands and environmental consultant, Evans Associates, submitted a detailed response to the comments received at the March 9, 2005 public hearing and submitted a stormwater management narrative, dated the same date, describing the proposed stormwater management system for the Merritt Park Estates Subdivision; and

WHEREAS, on April 6, 2005, the Applicant's engineer, Joseph Riina, P.E., of Site Design Consultants, submitted revised subdivision plans, last revised April 4, 2005, in response to further comments from the Town Engineer; and

WHEREAS, at the April 13, 2005 public hearing, the Planning Board received extensive comments on the proposed amendment, and adjourned the public hearing to May 25, 2005; and

WHEREAS, on May 26, 2005, the Applicant made a submission responding to written and verbal comments made at or in connection with the April 13, 2005 public hearing and providing evidence of the WCDOH's resolve that a connection to community water and sewer be made. The submission consisted of letters from Evans Associates (dated May 25, 2005), the Applicant's attorney, Hocherman, Tortorella, & Wekstein, LLP (dated May 26, 2005), and revised plans titled, "Subdivision Plan", "Grading and Utility Plan", and "Profiles" (Sheets 1 through 3, respectively), prepared by Site Design Consultants, dated March 27, 1999 and last revised May 26, 2005; and

WHEREAS, at the Applicant's request, the public hearing was further adjourned to June 8, 2005 to afford the Applicant time to complete its responses to the public comments made at the April 13, 2005 public hearing; and

WHEREAS, the June 8, 2005 public hearing was postponed to June 22, 2005 due to an absence of a Planning Board quorum; and

WHEREAS, on June 16, 2005, Evans Associates submitted to the Planning Board a digest of each of the public hearing comments and the pages in the Applicant's May 26, 2005 submission on which responses thereto were contained; and

WHEREAS, on June 17, 2005, the Applicant submitted to the Planning Board a letter from counsel for the Heritage Hills Water and Sewage Works Corporations regarding the scope of his client's rights, pursuant to easements held by them, to extend the water and sewer mains to provide service to properties outside the original district and a map showing the Corporation's water and sewer customers, some of whom are outside the original boundaries of the district; and

WHEREAS, the submitted plans reviewed at the June 22, 2005 public hearing are titled "Subdivision Plan Prepared for Merritt Park Estates" (Sheets 1-3 titled "Subdivision Plan", "Grading and Utility Plan", and "Profiles"), prepared by Site Design Consultants, dated March 27, 1999 and last revised May 26, 2005, along with the "Erosion and Sediment Control" plan, last revised March 4, 2005; and

WHEREAS, at the June 22, 2005 public hearing three major issues were summarized by the Applicant's attorney and commented on by the public and included:

- (1) Lots 14 & 15 stormwater basin impact upon the Richard and Mary O'Reilly ("O'Reilly") property.
- (2) Heritage Hills water and sewer main extensions and the right of the Heritage Hills Water and Sewage Works Corporations to allow the same.
- (3) Approval of Lake Lincolndale Property Owners Association for the installation of stormwater basins on their property west of Lovell Street.

WHEREAS, at the June 22, 2005 public hearing other discussions included the scope of historic easements held by the Heritage Hills Water and Sewage Works Corporations, the capacity of the Heritage Hills water and sewer systems to provide service to the Subdivision, treatment of stormwater flow into Lake Lincolndale, town maintenance of Lovell St. stormwater basins, the provision of a letter from the LLPOA Board of Directors to augment the letter from its president which consented to the construction of stormwater basins on LLPOA property, and the future presentation of alternate plans for the Heritage Hills water and sewer main extensions; and

WHEREAS, at the June 22, 2005 public hearing a plan titled "Utility Alternative Plan", prepared by Joseph Riina, P.E., of Site Design Consultants, showing three alternative locations for the Heritage Hills water and sewer main extensions titled "A", "B", and "C" was presented for the first time and officially submitted to the Planning Board on June 23, 2005; and

WHEREAS, on June 30, 2005, the Applicant's counsel submitted to the Town Attorney copies of the deeds referred to in blanket easements held by the Heritage Hills Water Works and Sewage Works Corporations; and

WHEREAS, during the public hearing, adjacent property owners expressed concern about off site impacts from construction of stormwater basins, due to basins holding water and becoming regulated wetlands potentially impacting existing residences; and

WHEREAS, the Town Engineer's memorandum, dated July 5, 2005, to the Applicant's engineer Joseph Riina, P.E., recommended that: "...the sediment traps should be kept 100 feet from the surrounding potable wells and not increase the level of regulated areas...." of the existing abutting property owners; and

WHEREAS, a letter submitted on July 8, 2005 by attorney Edward Pico, representing Town residents Richard and Mary O'Reilly, raised objections to the placement of a stormwater retention basin adjacent to their rear property line; and

WHEREAS, a Planning Board site walk was scheduled for and held on July 9, 2005; and

WHEREAS, the LLPOA Board of Directors submitted a letter on July 13, 2005 confirming to the Planning Board that the LLPOA Board of Directors agrees to the construction of the basins on its property, that it consents to the Applicant's request to construct them, and that it will cooperate with the Applicant in the construction by providing access to LLPOA property for the work; and

WHEREAS, on July 13, 2005 the public hearing was closed and the Planning Board motioned to have a draft Resolution of Amended Conditional Preliminary Subdivision Approval prepared for the September 7, 2005 meeting; and

WHEREAS, the Planning Board rescheduled the review of a draft resolution of amended preliminary approval to the September 21, 2005 meeting;

WHEREAS, the Applicant's attorney submitted a letter dated September 12, 2005 confirming the agreement to adjourn the Planning Board's time to render a

decision on the application for amended preliminary subdivision approval to and including September 21, 2005; and

WHEREAS, in response to recommendations of the Town Engineer and a field meeting with an abutting property owner, on August 10, 2005, Joseph Riina, P.E., of Site Design Consultants, submitted to the Planning Board a "Utility Alternative Plan 'A1' prepared for Merritt Park Estates", dated August 1, 2005 and letter, dated August 8, 2005, which identifies an area in the rear of the abutting property owner's site (Tax Lot #5.16-2-33) that might be able to be conveyed to the Applicant or to the Heritage Hills Water and Sewage Works Corporations directly in exchange for property on Merritt Park Estates (the "Land Swap") in order to facilitate a shifting of the proposed water and sewer mains even further from Condo 29, as depicted in "Alternative A1"; and

WHEREAS, Joseph Riina, P.E. mailed the "Utility Alternative Plan A1" to the property owner of Tax Lot #5.16-2-33 for consideration of approval; and

WHEREAS, a SEQR short form EAF dated March 2, 2005 was submitted by the Applicant concerning the amendment to the previously granted 2002 Merritt Park Estates Conditional Preliminary Subdivision Plat (*Resolution #2002-16*, dated May 8, 2002) and on September 21, 2005 the Planning Board determined that, under the SEQR law, no significant impact on the environment would result from this Unlisted Action, because the provision of community water and sewer for the proposed residences and the installation of stormwater basins on LLPOA property will decrease potential impacts on the environment; and

WHEREAS, the consideration of wetlands protection was made by the Planning Board, and in accordance with the Town's "Wetland and Watercourse Protection" regulations, Chapter 167 of the Town Code, it was determined that the Property does not contain wetlands. However, off-site wetland and associated 100-ft. regulated wetland buffer areas extend onto the property and the off-site detention basins would be constructed within the 100-ft buffer area to the Lake, and therefore, the application fees for Wetlands and Watercourse Protection are required as a condition of the final subdivision application; and

WHEREAS, the proposed stormwater basin on Lots 14 and 15 is proposed to function as wetland and the improvements on those lots would be located within 100 feet of the edge of the basin; and

WHEREAS, in addition to the on-site stormwater basin of Lots 14 and 15 and the two off-site stormwater treatment basins on property owned by the LLPOA, the Applicant shall also construct the water quality improvement basins and drainage system proposed on the Heritage Hills Condo 29 property below the Robert Martin Boulevard Right Of Way as part of the Town approved stormwater pollution prevention plan for the Merritt Park Estates Subdivision; and

WHEREAS, the consideration of flood damage protection was made by the Planning Board, and it was determined by reference to the Flood Insurance Rate Maps (FIRM) that a floodway or floodplain was not located on the site, and therefore, further consideration of the "Flood Damage Prevention" regulations, Chapter 102 of the Town Code, was not applicable; and

WHEREAS, the consideration of steep slopes protection was made by the Planning Board, and in accordance with the Town's "Steep Slopes Protection" regulations, Chapter 48 of the Town Code, it was determined that the site contains steep slopes which are proposed to be disturbed in construction of the on-site stormwater detention basin along Lovell Street and for regrading purposes on Lots 12 and 13, and therefore, the Steep Slope Protection application fees were required to be submitted by the Applicant for public improvements as a condition of preliminary approval; and

WHEREAS, the Planning Board reiterated its prior finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds and other recreational facilities within the Town, upon an evaluation of the present and anticipated future needs for park and recreational facilities in the Town based upon the projected population growth to which this particular subdivision will contribute, and that the proposed subdivision plat presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be suitably located on such subdivision plat, after assessing the size and suitability of lands shown on the subdivision plat which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood and the prospective character of the development; therefore, in lieu thereof, a recreation fee shall be paid in the amount determined by the Town Board.

WHEREAS, the Planning Board affirmed that the proposed subdivision and the amendments thereto are Unlisted Actions and its issuance of a Negative Declaration for the project on the grounds that the provision of community water and sewer for the proposed residences and the installation of detention basins on LLPOA property will decrease the potential adverse impacts; and

WHEREAS, on September 21, 2005, the Planning Board approved *Resolution #2005-04* titled *Granting of Amended Conditional Preliminary Subdivision Plat Approval and Steep Slopes, Tree, and Wetland Permits for Merritt Park Estates Subdivision*, amending the Merritt Park Estates Subdivision plan by eliminating private septic systems and wells for the proposed residences, granting approval

for the installation of stormwater basins on the LLPOA property, and permitting the installation of water and sewer main extensions to provide community water and sewer service for the residences, as shown on the plans prepared by Site Design Consultants, titled "Subdivision Plan", "Grading and Utility Plan", and "Profiles" (Sheets 1-3), dated May 27, 1999, last revised May 26, 2005, and "Alternative A" shown on the "Utility Alternative A" prepared by Site Design Consultants, dated June 23, 2005, and the "Erosion and Sediment Control" plan, prepared by Site Design Consultants, last revised March 4, 2005; and

WHEREAS, on September 21, 2005, the Planning Board approved *Resolution #2005-04* titled *Granting of Amended Conditional Preliminary Subdivision Plat Approval and Steep Slopes, Tree, and Wetland Permits for Merritt Park Estates Subdivision*, to approve the installation of community water and sewer main extensions in the location known as "Alternative A", as shown on the "Utility Alternative Plan" prepared by Site Design Consultants; and

WHEREAS, during the NYCDEP's review of the Stormwater Pollution Prevention Plan, it was directed that all attenuation was to occur on property owned by Mancini Building Corp. and as a result of which the stormwater basins located on property owned by the LLPOA were re-designed for stormwater quality and not attenuation purposes (stormwater quantity) and;

WHEREAS, the applicant agreed to continue to pursue the off-site stormwater improvements on the LLPOA property to address stormwater management issues that are having a deleterious effect on Lake Lincolnale, and which are of no relation to the subject subdivision and the Applicant has agreed to expend money to implement these off-site improvements which will save the Town thousands of dollars in relation to its obligation under the Municipal Separate Storm Sewer System (MS4) permit; and

WHEREAS, the amended conditional preliminary subdivision approval of *Resolution #2005-04*, dated September 21, 2005 was extended from time to time; and

WHEREAS, an application for Final Subdivision Approval was received on February 17, 2010 and included the following plans and documents:

1. Cover letter from Hocherman Tortorella & Wekstein, LLP dated February 16, 2010;
2. Letter dated February 10, 2010 from Alan Pilch, Evans Associates Environmental Consulting, Inc. to Joseph Riina, P.E. regarding existing wells in relation to stormwater management basins on west side of Lovell Street.
3. Subdivision Plat, prepared by Donald J. Donnelly, L.S., dated March 6, 2009 and last revised February 12, 2010;

4. Drawing "Title Sheet Merritt Park", prepared by Site Design Consultants, dated February 2010;
5. Drawing "Subdivision Plan (C-101)", prepared by Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010;
6. Drawing "Grading and Utility Plan (C-102)", prepared by Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010;
7. Drawing "Road Profiles Road Details (C-301)", prepared by Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010;
8. Drawing "Utility Profiles (C-302)", prepared by Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010;
9. Drawing "Water Details (C-501)", prepared by Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010;
10. Drawing "Drainage and Sanitary Sewer Details (C-502)", prepared by Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010;
11. Drawing "Details (C-503)", prepared by Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010;
12. Drawing "Notes (C-504)", prepared by Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010;
13. Drawing "Existing Conditions (S-501)", prepared by Site Design Consultants, dated March 27, 1999 and Evans Associates Environmental Consulting, Inc. dated July 28, 2008 and last revised February 10, 2010;
14. Drawing "Erosion and Sediment Control Plan / Phase I Construction Sequence SPPP Plan Notes (S-501.1)", prepared by Evans Associates Environmental Consulting, Inc. and Site Design Consultants, dated May 26, 2006 and last revised February 10, 2010;
15. Drawing "Erosion and Sediment Control Plan / Phase 2 Construction Sequence SPPP Plan Notes (S-501.2)", prepared by Evans Associates Environmental Consulting, Inc. and Site Design Consultants, dated May 26, 2006 and last revised February 10, 2010;
16. Drawing "Erosion and Sediment Control Plan Details / Mitigation Planting Plans (S-501.3)", prepared by Site Design Consultants, dated May 26,

2006 and Evans Associates Environmental Consulting, Inc. dated January 14, 2008 and last revised February 10, 2010;

17. Drawing "Soils Map (S-502)", prepared by Evans Associates Environmental Consulting, Inc. and Site Design Consultants, dated May 26, 2006 and last revised February 10, 2010;
18. Drawing "Constraints Map (S-503)", prepared by Evans Associates Environmental Consulting, Inc. and Site Design Consultants, dated May 26, 2006 and last revised February 10, 2010;
19. Drawing "Existing Conditions Drainage Area Map (S-504)", prepared by Evans Associates Environmental Consulting, Inc. and Site Design Consultants, dated May 26, 2006 and last revised February 10, 2010;
20. Drawing "Future Conditions Drainage Area Map (S-505)", prepared by Site Design Consultants, dated March 27, 1999 and Evans Associates Environmental Consulting, Inc. dated May 26, 2006 and last revised February 10, 2010;
21. Drawing "Stormwater Basins Planting Plan (S-506)", prepared by Evans Associates Environmental Consulting, Inc. and Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010.
22. Subdivision Plat, prepared by Donald J. Donnelly, L.S., dated March 6, 2009 and last revised June 15, 2009 including Westchester County Department of Health Signature dated December 30, 2009;
23. Document titled " Stormwater Pollution Prevention Plan" prepared by Evans Associates Environmental Consulting, Inc., revised March 31, 2009 (Approved by NYCDEP);
24. Copies of letters from Mr. Keith Sorenson, Vice President of the Heritage Hills Waterworks Corporation and the Heritage Hills Sewage-works Corporation, to the Westchester County Department of Health, dated November 2, 2009 confirming that the Corporations will provide water and sewer service to the subdivision;
25. Letter dated May 11, 2009 from Mary Galasso, New York City Department of Environmental Protection, regarding approval of SPPPP from NYCDEP.
26. Subdivision Plat Title Page, prepared by Site Design Consultants, dated August 2009 with Town Engineer signature dated November 19, 2009 approving roads and drainage.

27. Letter dated March 8, 2010 from Lake Lincolndale Property Owners' Association (LLPOA) to the Somers Planning Board, regarding satisfaction that the storm water basin plan reviewed on March 6, 2010 is the same concept as the plan reviewed in June of 2005.

WHEREAS, on April 8, 2010 the Applicant re-submitted the drawing titled "Subdivision Plan (C-101)", prepared by Site Design Consultants, dated March 27, 1999 and last revised April 8, 2010 and Detail R-1 entitled "Detail of Relocated Stonewall"; and

WHEREAS, the final application includes a 15-lot subdivision of 19.99 acres with community sewer and water service, and stormwater runoff controls; and

WHEREAS, the final application was discussed at the Planning Board's Meetings held on March 10, 2010 and April 14, 2010; and

WHEREAS, at the March 10, 2010 Planning Board meeting the Planning Board discussed the changes that have occurred since the amended preliminary subdivision approval which include: reorientation of lots 14 and 15 due to shifting the proposed stormwater basin further from a neighboring property so that the homes now face Adson Way instead of Merritt Court and redesign of the proposed stormwater treatment facility on lands owned by the LLPOA to add a forebay to the small water quality basin; and

WHEREAS, a condition of the amended preliminary subdivision approval was that the Applicant should use reasonable efforts to consummate a land swap with the property owner of Tax Lot 5.16-2-13 and that the property owner has indicated that after much consideration and meetings with the Applicant's representatives that she is not prepared to grant an easement or convey land for the utility mains to be installed across the rear of her property (Tax Lot 5.16-2-13) and as such, the status of the land swap has been decided; and

WHEREAS, at the March 10, 2010 Planning Board meeting there was discussion of relocating the stone walls crossing Lots 1 and 2 of the subject subdivision and the Applicant requested the ability to relocate them to the rear property line of each lot; and

WHEREAS, the Planning Board discussed and considered this request and upon submission of more detailed information, the Planning Board determined that relocation of the stone walls, in such a manner as to maintain their historical integrity, would be allowed provided that approval from the Consulting Town Engineer will be required before any improvement of the area between the original and new wall locations occur; and

WHEREAS, the Applicant has no immediate plans to improve the areas on Lots 1 and 2 between the existing and proposed stonewalls and as such has

proposed to relocate the stonewall without any clearing of the lots in the area between the existing and proposed location on the lots; and

WHEREAS, the applicant acknowledges that if those areas are to be improved in the future, additional stormwater controls may be necessary on those lots and the Applicant has proposed to include a note on the Subdivision Plan (Sheet C101) and the Subdivision Plat which states that "approval from the Consulting Town Engineer will be required before any improvement of the areas on Lots 1 and 2 between the original and new wall locations can occur"; and

WHEREAS, the Planning Board discussed dimensioning the easements as indicated on the Plat and determined that dimensioning the easement on the As-Built drawing for the stormwater basin on the LLPOA property next to Lovell Street should be performed; and

WHEREAS, the Applicant requested that the Planning Board waive the application fees required for wetland disturbance due to the fact that the disturbance occurs in relation to construction of the off-site detention basins located on LLPOA property; and

WHEREAS, the Planning Board made a positive recommendation to the Somers Town Board to consider waiving the required wetland application fee because the improvements in question are not only off-site but are also intended to improve stormwater issues that: (i) are preexisting (meaning "not brought about by the project itself"); and (ii) are having a deleterious effect on Lake Lincolnale. In addition, the Applicant has agreed to expend money to implement these off-site improvements which will save the Town thousands of dollars in relation to its obligation under the Municipal Separate Storm Sewer System (MS4) permit; and

WHEREAS, on April 8, 2010, the Somers Town Board discussed this issue and moved the matter to their consensus agenda on April 15, 2010; and

WHEREAS, in accordance with the provisions of Section 150-13F, the Planning Board, at their March 10, 2010 meeting, deemed the proposed final subdivision to be in substantial conformance with the previously approved amended preliminary subdivision plans, and therefore waived the requirements to hold a public hearing on the final subdivision application; and

WHEREAS, by Resolution No. 2010-02, effective April 14, 2010, the Planning Board granted Conditional Final Subdivision Plat Approval, Tree Preservation, Steep Slopes

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and Wetlands Permits (sometimes the "Conditional Final Approval" or the "Conditional Final Approval Resolution") for the Merritt Park Estates Subdivision, subject to a number of modifications and conditions set forth in such Resolution; and

WHEREAS, the Conditional Final Approval Resolution was extended from time to time and during the pendency of such approval, Mancini Building Corp. has been constructing the Subdivision Road and other on-site and off-site infrastructure improvements; and

WHEREAS, the Conditional Final Approval is currently valid through and including June 29, 2015; and

WHEREAS, among the off-site improvements being made by Mancini Building Corp. are two stormwater basins being constructed on property owned or controlled by the Lake Lindendale Property Owners' Association ("LLPOA"), which basins will address, in part, stormwater runoff that the Town would otherwise have to address pursuant to the Town's obligations under the Municipal Separate Storm Sewer System (MS4) permit at a substantial cost to the Town (i.e. tens of thousands of dollars); and

WHEREAS, Condition 12 of the "Conditions Required Prior to Signing of Plat" requires the payment of a recreation fee prior to the Planning Board signing the Final Subdivision Plat; and

WHEREAS, Mancini Building Corp. consulted with the Town Board about deferring payment of the Recreation Fee until after the Final Subdivision Plat is signed by the Planning Board and filed in the Office of the Westchester County Clerk and phasing the payment to coincide with the issuance of building permits for houses on the lots; and

WHEREAS, at the Town Board Work Session of February 5, 2015, the Town Board, after discussing the extraordinary expenditures Mancini Building Corp. has and will make to construct the basins on the LLPOA property, referred Mancini Building Corp.'s request concerning the recreation fee payment to the Parks and Recreation Board for their recommendation; and

WHEREAS, by Memorandum dated April 23, 2015, the Town of Somers Parks and Recreation Board favorably recommended to the Town Board that it grant Mancini Building Corp. relief on the timing of payment of the recreation fee; and

WHEREAS, another (unnumbered) condition of Conditional Final Approval (on page 19 of the Conditional Final Approval Resolution) provides that "[n]o building permits will be issued on any lot shown on the subdivision plat until the required copies of the [Final Subdivision] plat have been delivered to the Planning Board" after the Plat is filed in the Office of the Westchester County Clerk; and

WHEREAS, Mancini Building Corp. would like to commence construction of a single home on one of the Lots in the Subdivision and, in order to do so, requires minor amendment of such condition; and

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WHEREAS, an application for Amended Final Subdivision Approval was received by the Planning Board on May 19, 2015, together with the following documents:

1. Cover letter from Hocherman Tortorella & Wekstein, L.L.P., Mancini Building Corp.'s counsel, dated May 19, 2015;
2. Application for Amended Final Subdivision Approval, signed May 19, 2015; and
3. Short Environmental Assessment Form, dated and signed May 19, 2015.

WHEREAS, by such application, Mancini Building Corp. requested amendment of the Resolution of Conditional Final Approval: (i) to defer payment of the recreation fee until after the Plat is filed and to permit it to be paid in 14 equal installments (based upon the number of new lots being created as part of the Subdivision) over a three year period beginning on the date the Final Subdivision Plat is filed, with a payment to be made each time a building permit for a residence on a lot is issued; and (ii) to permit the Building Department to issue one building permit for one house to be constructed on a lot prior to the Final Subdivision Plat being filed and the requisite number of copies of the filed Plat being delivered to the Planning Board (collectively, the "Amendments"); and

WHEREAS, the Amendments do not require any changes to the Subdivision Plans approved by the Planning Board as part of the Conditional Final Approval; and

WHEREAS, at the June 10, 2015 Planning Board meeting, the Planning Board considered the application for Amended Conditional Final Approval, adopted a SEQR Negative Declaration, and resolved to waive the public hearing on such application.

~~WHEREAS, the above-noted plans submitted with the final application are the subject of this approval decision and will be revised in accordance with this resolution.~~

NOW, THEREFORE, BE IT RESOLVED that the foregoing whereas clauses are incorporated herein by reference and are fully adopted as part of the Amended Conditional Final Subdivision Approval, including the SEQR Negative Declaration referenced therein, and furthermore, that the application of Mancini Building Corp. for Amended Conditional Final Subdivision Approval and Tree Preservation, Wetland and Steep Slope Permits for the Merritt Park Estates Subdivision as shown and described by the materials enumerated herein, **IS HEREBY GRANTED** in accordance with §276 and §278 of Town Law and §150-13.J, "Planning Board Action", of the Code of the Town of Somers, subject to the following modifications and conditions as set forth below:

Conditions Required Prior to Signing of Plat

1. The plat must include NAD 83 Grid coordinates on three corners of the property.
2. A note on the plat must be provided that states "no further subdivision of this property shall occur."
3. A note must be provided on the Subdivision Plan (Sheet C101) and the Subdivision Plat which states that "approval from the Consulting Town Engineer or its designee will be required before any improvement of the areas on Lots 1 and 2 between the original and new wall locations can occur"
4. That information pertaining to the composition, physical condition, and appearance of the stonewall crossing Lots 1 and 2 be provided.
5. That the submitted final plat bears the endorsement of the Westchester County Department of Health.
6. A performance bond/security shall be posted to cover the costs of soil erosion and sedimentation control measures on the site during the course of construction. Said security shall be in an amount recommended by the Consulting Town Engineer and shall be in a form, sufficiency and manner of execution satisfactory to the Town Attorney and approved by the Town Board.
7. A performance bond/security shall be posted to cover the costs of road drainage and other associated public improvements during the course of construction. Said security shall be in an amount recommended by the Consulting Town Engineer and shall be in a form, sufficiency and manner of execution satisfactory to the Town Attorney and approved by the Town Board.
8. An engineering inspection fee for the subdivision shall be paid by certified check to the Town of Somers in accordance with the Fee Schedule adopted by the Town Board. The amount of such fee shall be set after submission by the Applicant of estimated costs for required improvements, as identified by the Consulting Town Engineer, and upon recommendation of the Consulting Town Engineer.
9. The Applicant shall reimburse the Town for any outstanding review fees, as applicable, consistent with §133-1 of the Town Code as well as State and Local Environmental Quality Review laws.

10. The final plat shall reflect the new section, lot and block numbers for each of the 15 lots per the Town Assessor.

11. That the applicant provides the Town Board resolution which states that that the Town Board agrees to waive the wetland application fees for the Merritt Park Estates Subdivision due to the fact that the stormwater improvements are not brought about by the proposed subdivision or that the Applicant submits the required wetland application fees; and

~~12. The Applicant shall pay recreation fees prior to signing of the final subdivision plat for all 14 buildable lots in accordance with the Fee Schedule adopted by the Town Board as of the effective date of this resolution.~~

12. The Applicant shall pay recreation fees in the amount set forth in the Fee Schedule adopted by the Town Board as of the effective date of the Conditional Final Approval Resolution, in 14 equal installments (based upon the number of new lots being created as part of the Subdivision) over a three year period that shall expire on the third anniversary of the date the Final Subdivision Plat is filed in the Office of the Westchester County Clerk. One installment of the recreation fee shall be paid to the Town each time a building permit is issued for a residence on a lot, with any unpaid balance of the recreation fee being paid in full on or before the third anniversary of the filing of the Plat.

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Ongoing Conditions Required After Signing of Plat

1. That all improvements shown on the plans be installed in accordance with the construction standards and specifications of the Town and as detailed on the improvement plans approved by this action.
2. That all work associated with this application shall be subject to the satisfaction of the Consulting Town Engineer.
3. All work shall be performed in accordance with the approved "Stormwater Pollution Prevention Plan" prepared by Evans Associates Environmental Consulting, Inc., revised March 31, 2009 (Approved by NYCDEP);
4. Sedimentation and erosion control measures employing best management practices as outlined in NYS DEC's booklets entitled, "*Reducing the impacts of Stormwater Runoff From New Development*" dated September 2001 (or more recent revisions) and the "*New York State Standards and Specifications for Erosion and Sediment Control*", also known as the Blue Book, and "*New York State Stormwater Design Manual*," dated April 2008 (including all updates and/or revisions) are required to be followed to ensure that all disturbed areas are stabilized and revegetated.

5. That all work associated with this subdivision application shall be subject to the approval of the Consulting Town Engineer in accordance with Chapter 93 Stormwater Management and Erosion and Sediment Control, Chapter 150 Subdivision of Land, Chapter 148 Steep Slopes Protection, Chapter 156 Tree Preservation, and Chapter 167 Wetlands and Watercourse Protection of the *Code of the Town of Somers*.
6. That dimensioning for the stormwater basin located on LLPOA property off of Lovell Street is provided on the As-Built drawing.
7. If rock is encountered during construction, removal will first be accomplished by ripping, hammering, or drilling, in accordance with §148-7.B(4)(k) of the Code of the Town of Somers.
8. That construction activity shall be limited from 7:00a.m. to 6:00p.m., and that no construction activity shall occur on Sundays or legal New York State holidays.

BE IT FURTHER RESOLVED that, except as otherwise provided herein, the Planning Board Chairman is authorized to sign the final subdivision plat in accordance with the procedures and requirements specified in §150-14.D of the "Subdivision of Land" regulations of the Code of the Town of Somers, and §276 of Town Law. In accordance with §150-13.M of the Code of the Town of Somers, this conditional approval of the final subdivision plat shall expire on December 7, 2015~~October 11, 2014~~, 180 days from the date of the resolution granting conditional approval, unless the above requirements have been certified as complete by the Planning Board's professional staff, or unless such time limit is extended by the Planning Board in accordance with §150-12.N of the Code of the Town of Somers for additional period of ninety days each, for no more than two~~(2) additional periods of 90 days each.~~ The request for time extension shall be made by the Applicant prior to expiration of the specific time period.

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

Prior to the Final Subdivision Plat being filed, the Applicant shall be allowed to obtain one (1) building permit for a single-family residence on a lot. Otherwise, no building permits will be issued on any other lots shown on the subdivision plat until the required copies of the plat have been delivered to the

Planning Board in accordance with §150-14.H of the Code of the Town of Somers. Upon completion of all improvements, the Applicant shall submit an as-built plan to the satisfaction of the Consulting Town Engineer and shall prove that the road fronting lots have been improved to the binder layer as required according to §74-1 of the Code of the Town of Somers.

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

This resolution shall have an effective date of June 10, 2015 ~~April 14, 2010~~.

~~BY ORDER OF THE PLANNING BOARD OF THE TOWN OF SOMERS~~

BY ORDER OF THE PLANNING BOARD OF THE TOWN OF SOMERS

Dated: _____

Fedora C. DeLucia,
John Currie

Chairman

CERTIFICATION

I hereby certify that this is a true and correct copy of the resolution adopted by the Town of Somers Planning Board granting Conditional Final Subdivision Approval and Tree Preservation, Wetland and Steep Slopes Permits to Mancini Building Corp. for Merritt Park Estates Subdivision at a regular meeting held on April 14, ~~2010~~ June 10, ~~2010~~ 2015.

Dated: _____

Sabrina D. Charney Hull Synette Dym, **AICP**
Town Planner Director of Planning

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PLANNING AND ENGINEERING DEPARTMENTS

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Syrette Dym, AICP
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Planning Board Meeting Date of June 10, 2015

PLANNING BOARD
TOWN OF SOMERS, WESTCHESTER COUNTY, NEW YORK

Resolution No. 2015-06
*Granting of Amended Conditional Final Subdivision Plat Approval, Tree
Preservation, Steep Slopes and Wetland Permits to*
Mancini Building Corp.

For

MERRITT PARK ESTATES SUBDIVISION
Town Tax Number: Section 5.20, Block 1, Lot 1

WHEREAS, an application for preliminary approval of a subdivision, dated January 31, 1996, was submitted by Mancini Building Corp., Katonah, New York, and said application also consisted of a Full Environmental Assessment Form (EAF) and the "Subdivision Plan with Topography", as prepared by Site Design Consultants; and

WHEREAS, the subject property, which consists of approximately 19.99 acres, is located on the easterly side of Lovell Street, with access to the subdivision from a new street off Robert Martin Boulevard, and is shown on the Town Tax Maps as Sheet 5.20, Block 1, Lot 1; and

WHEREAS, the subject lands are designated "Suburban Density" as indicated in the Planning Board's 1994 Comprehensive Master Plan, which recommends a density of one (1) dwelling per acre; and

WHEREAS, the subject property is classified as "Residence R40 District" as defined by Chapter 170, "Zoning", of the *Code of the Town of Somers*; and

WHEREAS, the application originally proposed a conventional plan showing 17 one-acre lots with access from a new road off Robert Martin Boulevard; and

WHEREAS, an "Interim Development Law" was enacted by the Town Board on April 6, 1995, in order to establish a six-month moratorium on the acceptance, review, and approval of Preliminary Subdivision Plats, Site Plans, and Special Exception Use Permits in order to accommodate the preparation, study and adoption of amendments to the Town's zoning, subdivision, site plan and other land use regulations to implement the 1994 Comprehensive Master Plan. This moratorium was extended an additional four months, until February 1996; and

WHEREAS, as a result of the Interim Development Law, the Applicant was required to obtain a determination from the Town Board as to whether or not the subject proposal was in accordance with the Comprehensive Plan before any further review of the plans could occur; and

WHEREAS, in a memo dated January 10, 1996, Frederick P. Clark Associates, Inc., planning consultants to the Town Board, notified the Town Board that the application was consistent with and is not in conflict with the Comprehensive Master Plan, and furthermore, that the application should be exempt from the Interim Development Law; and

WHEREAS, the Town Board determined at a Regular Meeting on January 18, 1996, that the Merritt Park Estates Subdivision application is consistent with and is not in conflict with the Comprehensive Master Plan, and that the application was exempt from the Interim Development Law; and

WHEREAS, the application was initially discussed at the Planning Board's Work Session on February 14, 1996, where the Board discussed access and stormwater management issues, and alternate plans were requested; and

WHEREAS, site walks were held April 20, 1996 and August 22, 2000; and

WHEREAS, at the August 13, 1997 Work Session, the Planning Board, acting as Lead Agency, classified the proposed development as an Unlisted Action under the New York State Environmental Quality Review Act (SEQR) and Town of Somers Environmental Quality Review regulations as stated in their notice dated August 20, 1997 and conducted a coordinated review; and

WHEREAS, at the September 10, 1997 Work Session, the Board requested an Expanded Environmental Assessment Form (EAF) limited to the effects of the project on Lake Lincolndale, the aquifer, hydrology, and the ability of the soils to accept septic systems; and

WHEREAS, the EAF was revised several times, with the last revision of the EAF on October 31, 2001; and

WHEREAS, in addition to the many plan alternatives and reports reviewed throughout the environmental review process, the following plans and reports were submitted for the Board's consideration:

1. Plan entitled, "Preliminary Subdivision Map — On-Site Detention Alternate," dated March 27, 1999, last revised February 20, 2002, prepared by Site Design Consultants.
2. Plan entitled, "Preliminary Subdivision Map", dated March 27, 1999, last revised February 20, 2002, prepared by Site Design Consultants.
3. Plan entitled, "Road Profiles", dated March 27, 1999, last revised February 20, 2002, prepared by Site Design Consultants.
4. Plan entitled, "Landscape and Erosion Control Plan", dated March 27, 1999, last revised October 30, 2001, prepared by Evans Associates Environmental Consulting, Inc.
5. Plan entitled, "Erosion and Sediment Control Plan Notes", dated March 27, 1999, last revised October 30, 2001, prepared by Evans Associates Environmental Consulting, Inc.
6. Plan entitled, "Construction Details", dated October 30, 2001, prepared by Site Design Consultants.

WHEREAS, the Planning Board held a public hearing on the preliminary subdivision application on December 12, 2001 and was continued to March 6, 2002; and

WHEREAS, two alternative plans were reviewed by the Planning Board at the public hearing, including the subdivision layout of the 19.99 acres of land into 15 single family building lots, with individual wells and septic systems. Stormwater management was originally proposed to be provided in two (2) on-site stormwater detention basins, and two off-site basins providing peak rate attenuation on Lake Lincolndale Property Owners' Association (LLPOA) property; and

WHEREAS, the alternative subdivision layout proposed by the Applicant included 14-lots with all stormwater managed on site; however, the Planning Board has stated that, if this alternative were to proceed, that the size and potential disturbance of construction of the water quality basin along Lovell Street is not to be greater than the same basin in the 15-lot plan; and

WHEREAS, during the Public Hearing written and oral comments were received expressing concern about the potential for soil erosion and water run-off; effect

on water quality; existing wells and nearby ponds and streams; increase in traffic on Lovell Street; proximity of proposed stormwater detention areas to perimeter lot lines; health and safety concerns regarding these areas; and the two off-site detention basins on the LLPOA property included in the 15-lot plan;

WHEREAS, the Planning Board determined that the 15-lot alternative is the preferred action since it would provide substantive improvement to Lake Lincolndale's water quality and thereby offer Town-wide benefits, but if the LLPOA will not permit the off-site basins to be constructed and permanently maintained on its property, the 14-lot alternative is also acceptable; and

WHEREAS, the applicant agreed to diligently pursue the 15-lot alternative in order to receive approval from the NYCDEP and LLPOA for the two off-site detention basins, including involving Town Staff in all meetings and forward all correspondence during the approval process; and

WHEREAS, after requiring the above stringent mitigating measures, the Planning Board determined that the proposed subdivision would not result in a significant loss or degradation of steep slopes and would minimize the adverse environmental impacts to the greatest extent practicable; and

WHEREAS, the Stage 1A and IB archaeological reports were included with the Full EAF, which concurred with the conclusions contained in the reports that no further work was recommended, as stated in the Phase IB report dated June 10, 1996; and

WHEREAS, the Planning Board throughout the review process has considered the Conservation Board's comments; and

WHEREAS, the Planning Board throughout the review process has considered the LLPOA comments; and

WHEREAS, the Planning Board has encouraged the Applicant throughout the review process to file a formal application with the NYCDEP so that their comments could be accommodated as best as possible at this stage of the subdivision design, and in this regard the Applicant has indicated that any changes required to the plan as a result of the NYCDEP's review will require that the Applicant return to the Planning Board for further review and approval; and

WHEREAS, the Planning Board has considered, in accordance with Town Law §277(4) and §150-24.A of the Town Code, the relationship between the proposed subdivision and the potential recreational needs resulting therefrom; and

WHEREAS, the Planning Board finds that a proper case exists for requiring that a park or parks be suitably located for playgrounds and other recreational

facilities within the Town, upon an evaluation of the present and anticipated future needs for park and recreational facilities in the Town based upon the projected population growth to which this particular subdivision will contribute, and that the proposed subdivision plat presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be suitably located on such subdivision plat, after assessing the size and suitability of lands shown on the subdivision plat which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood and the prospective character of the development, therefore, in lieu thereof, a recreation fee shall be paid in the amount determined by the Town Board; and

WHEREAS, the Planning Board adopted a Negative Declaration on March 6, 2002, and determined that the Proposed Action would not be expected to have any adverse environmental effects as proposed; and

WHEREAS, the preliminary subdivision approval of *Resolution #2002-16*, dated May 8, 2002, was extended from time to time; and

WHEREAS, *Resolution #2002-16* stipulates that the Applicant shall make every reasonable effort to obtain the necessary approval for construction of two stormwater treatment basins on property owned by the LLPOA from the Association; and

WHEREAS, in a letter dated May 4, 2004, the Applicant, by its attorney, advised the Planning Board that upon application for approval of the subdivision from the Westchester County Department of Health ("WCDOH") for the plan shortly after the Planning Board granted preliminary approval, the Health Department required that the Applicant pursue a connection to the Heritage Hills water and sewer systems instead of providing individual wells and septic systems; and

WHEREAS, with the same May 4, 2004 letter, the Applicant submitted to the Planning Board amended plans titled "Subdivision Plan Prepared for Merritt Park Estates" (Sheets 1-3), prepared by Site Design Consultants, dated March 27, 1999 and last revised April 12, 2004 (hereinafter collectively referred to as the "Amended Preliminary Subdivision Plans") showing the addition of community water and sewer lines and the elimination of individual septic systems and wells; and

WHEREAS, with the same May 4, 2004 letter, the Applicant requested that the conditional preliminary subdivision approval granted by *Resolution #2002-16* be amended to permit the installation of community sewer and water lines and the elimination of individual septic systems and wells on each of the lots; and

WHEREAS, Resolution #2002-16 requires that the Highway Superintendent be satisfied with the location of the proposed stormwater detention basins; and

WHEREAS, at its May 26, 2004 meeting, the Planning Board took no action on the Applicant's request for Amended Preliminary Approval because the Applicant advised the Board that it had not yet received a signed contract for the community water and sewer services from Heritage Hills Sewage Works and Water Works Corporations, but granted the Applicant's request for a time-extension of *Resolution #2002-16* to November 4, 2004; and

WHEREAS, in a June 21, 2004 letter to the Applicant's counsel and a July 16th, 2004 letter to Marc Brassard, Vice President of Heritage Hills Water Works Corporation, the WCDOH confirmed its position that it was important for the Heritage Hills Water Works and Sewage Works Corporations to offer community water and sewer service to the Merritt Park Estates Subdivision and stated that if such services were not available then the Corporations must submit supporting proof of that condition; and

WHEREAS, in an October 22, 2004 letter, the Applicant's counsel advised the Planning Board that the Applicant had entered into contracts with the Heritage Hills Water Works and Sewage Works Corporations and Heritage Hills of Westchester, LLP, for the provision of community water and sewer services to the Merritt Park Estates Subdivision, subject to approval of the extension of the Water and Sewer Districts and service areas by the Somers Town Board and other governmental agencies; and

WHEREAS, in the October 22, 2004 letter, the Applicant's counsel also stated that assuming all approvals necessary to extend the Water and Sewer Districts and service areas were granted, individual on-site septic systems and private wells would not be provided on each lot. Instead, extensions to the Heritage Hills sewer and water mains would be constructed to service this Subdivision; and

WHEREAS, the "Merritt Park Estates Subdivision Plan" prepared by Site Design Consultants dated December 21, 2004 was received by the Planning Department on December 24, 2004, and an Erosion and Sediment Control Plan prepared by Site Design Consultants and dated November 4, 2004 was received by the Somers Planning Department on December 24, 2004; and

WHEREAS, in a memorandum dated January 21, 2005, the Town Engineer requested further revision of the Merritt Park Estates Subdivision Plan, last revised December 21, 2004, to add or modify drainage practices on the lots and within the road, to modify the design of the sewer laterals, and to reconcile discrepancies among the drawings; and

WHEREAS, the Applicant revised its subdivision plan in response to the Town Engineer's January 21, 2005 memorandum and submitted on or about March 4,

2005, revised plans titled "Subdivision Plan", "Grading and Utility Plan", "Profiles", and "Erosion and Sediment Control Plan", prepared by Site Design Consultants, last revised March 4, 2005; and

WHEREAS, a public hearing was opened at the Planning Board Meeting of March 9, 2005 to consider amending *Resolution #2002-16 Granting of Conditional Preliminary Subdivision Plat Approval and Steep Slopes - Merritt Park Estates Subdivision*, at which time public comments were received; and

WHEREAS, the March 9, 2005 public hearing was adjourned to the Planning Board Meeting of April 13, 2005; and

WHEREAS, on April 1, 2005, the Applicant's wetlands and environmental consultant, Evans Associates, submitted a detailed response to the comments received at the March 9, 2005 public hearing and submitted a stormwater management narrative, dated the same date, describing the proposed stormwater management system for the Merritt Park Estates Subdivision; and

WHEREAS, on April 6, 2005, the Applicant's engineer, Joseph Riina, P.E., of Site Design Consultants, submitted revised subdivision plans, last revised April 4, 2005, in response to further comments from the Town Engineer; and

WHEREAS, at the April 13, 2005 public hearing, the Planning Board received extensive comments on the proposed amendment, and adjourned the public hearing to May 25, 2005; and

WHEREAS, on May 26, 2005, the Applicant made a submission responding to written and verbal comments made at or in connection with the April 13, 2005 public hearing and providing evidence of the WCDOH's resolve that a connection to community water and sewer be made. The submission consisted of letters from Evans Associates (dated May 25, 2005), the Applicant's attorney, Hocherman, Tortorella, & Wekstein, LLP (dated May 26, 2005), and revised plans titled, "Subdivision Plan", "Grading and Utility Plan", and "Profiles" (Sheets 1 through 3, respectively), prepared by Site Design Consultants, dated March 27, 1999 and last revised May 26, 2005; and

WHEREAS, at the Applicant's request, the public hearing was further adjourned to June 8, 2005 to afford the Applicant time to complete its responses to the public comments made at the April 13, 2005 public hearing; and

WHEREAS, the June 8, 2005 public hearing was postponed to June 22, 2005 due to an absence of a Planning Board quorum; and

WHEREAS, on June 16, 2005, Evans Associates submitted to the Planning Board a digest of each of the public hearing comments and the pages in the

Applicant's May 26, 2005 submission on which responses thereto were contained; and

WHEREAS, on June 17, 2005, the Applicant submitted to the Planning Board a letter from counsel for the Heritage Hills Water and Sewage Works Corporations regarding the scope of his client's rights, pursuant to easements held by them, to extend the water and sewer mains to provide service to properties outside the original district and a map showing the Corporation's water and sewer customers, some of whom are outside the original boundaries of the district; and

WHEREAS, the submitted plans reviewed at the June 22, 2005 public hearing are titled "Subdivision Plan Prepared for Merritt Park Estates" (Sheets 1-3 titled "Subdivision Plan", "Grading and Utility Plan", and "Profiles"), prepared by Site Design Consultants, dated March 27, 1999 and last revised May 26, 2005, along with the "Erosion and Sediment Control" plan, last revised March 4, 2005; and

WHEREAS, at the June 22, 2005 public hearing three major issues were summarized by the Applicant's attorney and commented on by the public and included:

- (1) Lots 14 & 15 stormwater basin impact upon the Richard and Mary O'Reilly ("O'Reilly") property.
- (2) Heritage Hills water and sewer main extensions and the right of the Heritage Hills Water and Sewage Works Corporations to allow the same.
- (3) Approval of Lake Lincolndale Property Owners Association for the installation of stormwater basins on their property west of Lovell Street.

WHEREAS, at the June 22, 2005 public hearing other discussions included the scope of historic easements held by the Heritage Hills Water and Sewage Works Corporations, the capacity of the Heritage Hills water and sewer systems to provide service to the Subdivision, treatment of stormwater flow into Lake Lincolndale, town maintenance of Lovell St. stormwater basins, the provision of a letter from the LLPOA Board of Directors to augment the letter from its president which consented to the construction of stormwater basins on LLPOA property, and the future presentation of alternate plans for the Heritage Hills water and sewer main extensions; and

WHEREAS, at the June 22, 2005 public hearing a plan titled "Utility Alternative Plan", prepared by Joseph Riina, P.E., of Site Design Consultants, showing three alternative locations for the Heritage Hills water and sewer main extensions titled "A", "B", and "C" was presented for the first time and officially submitted to the Planning Board on June 23, 2005; and

WHEREAS, on June 30, 2005, the Applicant's counsel submitted to the Town Attorney copies of the deeds referred to in blanket easements held by the Heritage Hills Water Works and Sewage Works Corporations; and

WHEREAS, during the public hearing, adjacent property owners expressed concern about off-site impacts from construction of stormwater basins, due to basins holding water and becoming regulated wetlands potentially impacting existing residences; and

WHEREAS, the Town Engineer's memorandum, dated July 5, 2005, to the Applicant's engineer Joseph Riina, P.E., recommended that: "...the sediment traps should be kept 100 feet from the surrounding potable wells and not increase the level of regulated areas..." of the existing abutting property owners; and

WHEREAS, a letter submitted on July 8, 2005 by attorney Edward Pico, representing Town residents Richard and Mary O'Reilly, raised objections to the placement of a stormwater retention basin adjacent to their rear property line; and

WHEREAS, a Planning Board site walk was scheduled for and held on July 9, 2005; and

WHEREAS, the LLPOA Board of Directors submitted a letter on July 13, 2005 confirming to the Planning Board that the LLPOA Board of Directors agrees to the construction of the basins on its property, that it consents to the Applicant's request to construct them, and that it will cooperate with the Applicant in the construction by providing access to LLPOA property for the work; and

WHEREAS, on July 13, 2005 the public hearing was closed and the Planning Board motioned to have a draft Resolution of Amended Conditional Preliminary Subdivision Approval prepared for the September 7, 2005 meeting; and

WHEREAS, the Planning Board rescheduled the review of a draft resolution of amended preliminary approval to the September 21, 2005 meeting;

WHEREAS, the Applicant's attorney submitted a letter dated September 12, 2005 confirming the agreement to adjourn the Planning Board's time to render a decision on the application for amended preliminary subdivision approval to and including September 21, 2005; and

WHEREAS, in response to recommendations of the Town Engineer and a field meeting with an abutting property owner, on August 10, 2005, Joseph Riina, P.E., of Site Design Consultants, submitted to the Planning Board a "Utility Alternative Plan 'A1' prepared for Merritt Park Estates", dated August 1, 2005 and letter, dated August 8, 2005, which identifies an area in the rear of the abutting property owner's site (Tax Lot #5.16-2-33) that might be able to be conveyed to the Applicant or to the Heritage Hills Water and Sewage Works Corporations directly in exchange for property on Merritt Park Estates (the "Land

Swap”) in order to facilitate a shifting of the proposed water and sewer mains even further from Condo 29, as depicted in “Alternative A1”; and

WHEREAS, Joseph Riina, P.E. mailed the “Utility Alternative Plan A1” to the property owner of Tax Lot #5.16-2-33 for consideration of approval; and

WHEREAS, a SEQR short form EAF dated March 2, 2005 was submitted by the Applicant concerning the amendment to the previously granted 2002 Merritt Park Estates Conditional Preliminary Subdivision Plat (*Resolution #2002-16*, dated May 8, 2002) and on September 21, 2005 the Planning Board determined that, under the SEQR law, no significant impact on the environment would result from this Unlisted Action, because the provision of community water and sewer for the proposed residences and the installation of stormwater basins on LLPOA property will decrease potential impacts on the environment; and

WHEREAS, the consideration of wetlands protection was made by the Planning Board, and in accordance with the Town’s “Wetland and Watercourse Protection” regulations, Chapter 167 of the Town Code, it was determined that the Property does not contain wetlands. However, off-site wetland and associated 100-ft. regulated wetland buffer areas extend onto the property and the off-site detention basins would be constructed within the 100-ft buffer area to the Lake, and therefore, the application fees for Wetlands and Watercourse Protection are required as a condition of the final subdivision application; and

WHEREAS, the proposed stormwater basin on Lots 14 and 15 is proposed to function as wetland and the improvements on those lots would be located within 100 feet of the edge of the basin; and

WHEREAS, in addition to the on-site stormwater basin of Lots 14 and 15 and the two off-site stormwater treatment basins on property owned by the LLPOA, the Applicant shall also construct the water quality improvement basins and drainage system proposed on the Heritage Hills Condo 29 property below the Robert Martin Boulevard Right Of Way as part of the Town approved stormwater pollution prevention plan for the Merritt Park Estates Subdivision; and

WHEREAS, the consideration of flood damage protection was made by the Planning Board, and it was determined by reference to the Flood Insurance Rate Maps (FIRM) that a floodway or floodplain was not located on the site, and therefore, further consideration of the “Flood Damage Prevention” regulations, Chapter 102 of the Town Code, was not applicable; and

WHEREAS, the consideration of steep slopes protection was made by the Planning Board, and in accordance with the Town’s “Steep Slopes Protection” regulations, Chapter 48 of the Town Code, it was determined that the site contains steep slopes which are proposed to be disturbed in construction of the on-site stormwater detention basin along Lovell Street and for regrading

purposes on Lots 12 and 13, and therefore, the Steep Slope Protection application fees were required to be submitted by the Applicant for public improvements as a condition of preliminary approval; and

WHEREAS, the Planning Board reiterated its prior finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds and other recreational facilities within the Town, upon an evaluation of the present and anticipated future needs for park and recreational facilities in the Town based upon the projected population growth to which this particular subdivision will contribute, and that the proposed subdivision plat presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be suitably located on such subdivision plat, after assessing the size and suitability of lands shown on the subdivision plat which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood and the prospective character of the development; therefore, in lieu thereof, a recreation fee shall be paid in the amount determined by the Town Board.

WHEREAS, the Planning Board affirmed that the proposed subdivision and the amendments thereto are Unlisted Actions and its issuance of a Negative Declaration for the project on the grounds that the provision of community water and sewer for the proposed residences and the installation of detention basins on LLPOA property will decrease the potential adverse impacts; and

WHEREAS, on September 21, 2005, the Planning Board approved *Resolution #2005-04* titled *Granting of Amended Conditional Preliminary Subdivision Plat Approval and Steep Slopes, Tree, and Wetland Permits for Merritt Park Estates Subdivision*, amending the Merritt Park Estates Subdivision plan by eliminating private septic systems and wells for the proposed residences, granting approval for the installation of stormwater basins on the LLPOA property, and permitting the installation of water and sewer main extensions to provide community water and sewer service for the residences, as shown on the plans prepared by Site Design Consultants, titled "Subdivision Plan", "Grading and Utility Plan", and "Profiles" (Sheets 1-3), dated May 27, 1999, last revised May 26, 2005, and "Alternative A" shown on the "Utility Alternative A" prepared by Site Design Consultants, dated June 23, 2005, and the "Erosion and Sediment Control" plan, prepared by Site Design Consultants, last revised March 4, 2005; and

WHEREAS, on September 21, 2005, the Planning Board approved *Resolution #2005-04* titled *Granting of Amended Conditional Preliminary Subdivision Plat Approval and Steep Slopes, Tree, and Wetland Permits for Merritt Park Estates Subdivision*, to approve the installation of community water and sewer main extensions in the location known as "Alternative A", as shown on the "Utility Alternative Plan" prepared by Site Design Consultants; and

WHEREAS, during the NYCDEP's review of the Stormwater Pollution Prevention Plan, it was directed that all attenuation was to occur on property owned by Mancini Building Corp. and as a result of which the stormwater basins located on property owned by the LLPOA were re-designed for stormwater quality and not attenuation purposes (stormwater quantity) and;

WHEREAS, the applicant agreed to continue to pursue the off-site stormwater improvements on the LLPOA property to address stormwater management issues that are having a deleterious effect on Lake Lincolnale, and which are of no relation to the subject subdivision and the Applicant has agreed to expend money to implement these off-site improvements which will save the Town thousands of dollars in relation to its obligation under the Municipal Separate Storm Sewer System (MS4) permit; and

WHEREAS, the amended conditional preliminary subdivision approval of *Resolution #2005-04*, dated September 21, 2005 was extended from time to time; and

WHEREAS, an application for Final Subdivision Approval was received on February 17, 2010 and included the following plans and documents:

1. Cover letter from Hocherman Tortorella & Wekstein, LLP dated February 16, 2010;
2. Letter dated February 10, 2010 from Alan Pilch, Evans Associates Environmental Consulting, Inc. to Joseph Riina, P.E. regarding existing wells in relation to stormwater management basins on west side of Lovell Street.
3. Subdivision Plat, prepared by Donald J. Donnelly, L.S., dated March 6, 2009 and last revised February 12, 2010;
4. Drawing "Title Sheet Merritt Park", prepared by Site Design Consultants, dated February 2010;
5. Drawing "Subdivision Plan (C-101)", prepared by Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010;
6. Drawing "Grading and Utility Plan (C-102)", prepared by Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010;
7. Drawing "Road Profiles Road Details (C-301)", prepared by Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010;
8. Drawing "Utility Profiles (C-302)", prepared by Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010;

9. Drawing "Water Details (C-501)", prepared by Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010;
10. Drawing "Drainage and Sanitary Sewer Details (C-502)", prepared by Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010;
11. Drawing "Details (C-503)", prepared by Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010;
12. Drawing "Notes (C-504)", prepared by Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010;
13. Drawing "Existing Conditions (S-501)", prepared by Site Design Consultants, dated March 27, 1999 and Evans Associates Environmental Consulting, Inc. dated July 28, 2008 and last revised February 10, 2010;
14. Drawing "Erosion and Sediment Control Plan / Phase I Construction Sequence SPPP Plan Notes (S-501.1)", prepared by Evans Associates Environmental Consulting, Inc. and Site Design Consultants, dated May 26, 2006 and last revised February 10, 2010;
15. Drawing "Erosion and Sediment Control Plan / Phase 2 Construction Sequence SPPP Plan Notes (S-501.2)", prepared by Evans Associates Environmental Consulting, Inc. and Site Design Consultants, dated May 26, 2006 and last revised February 10, 2010;
16. Drawing "Erosion and Sediment Control Plan Details / Mitigation Planting Plans (S-501.3)", prepared by Site Design Consultants, dated May 26, 2006 and Evans Associates Environmental Consulting, Inc. dated January 14, 2008 and last revised February 10, 2010;
17. Drawing "Soils Map (S-502)", prepared by Evans Associates Environmental Consulting, Inc. and Site Design Consultants, dated May 26, 2006 and last revised February 10, 2010;
18. Drawing "Constraints Map (S-503)", prepared by Evans Associates Environmental Consulting, Inc. and Site Design Consultants, dated May 26, 2006 and last revised February 10, 2010;
19. Drawing "Existing Conditions Drainage Area Map (S-504)", prepared by Evans Associates Environmental Consulting, Inc. and Site Design Consultants, dated May 26, 2006 and last revised February 10, 2010;

20. Drawing "Future Conditions Drainage Area Map (S-505)", prepared by Site Design Consultants, dated March 27, 1999 and Evans Associates Environmental Consulting, Inc. dated May 26, 2006 and last revised February 10, 2010;
21. Drawing "Stormwater Basins Planting Plan (S-506)", prepared by Evans Associates Environmental Consulting, Inc. and Site Design Consultants, dated March 27, 1999 and last revised February 10, 2010.
22. Subdivision Plat, prepared by Donald J. Donnelly, L.S., dated March 6, 2009 and last revised June 15, 2009 including Westchester County Department of Health Signature dated December 30, 2009;
23. Document titled " Stormwater Pollution Prevention Plan" prepared by Evans Associates Environmental Consulting, Inc., revised March 31, 2009 (Approved by NYCDEP);
24. Copies of letters from Mr. Keith Sorenson, Vice President of the Heritage Hills Waterworks Corporation and the Heritage Hills Sewage-works Corporation, to the Westchester County Department of Health, dated November 2, 2009 confirming that the Corporations will provide water and sewer service to the subdivision;
25. Letter dated May 11, 2009 from Mary Galasso, New York City Department of Environmental Protection, regarding approval of SPPPP from NYCDEP.
26. Subdivision Plat Title Page, prepared by Site Design Consultants, dated August 2009 with Town Engineer signature dated November 19, 2009 approving roads and drainage.
27. Letter dated March 8, 2010 from Lake Lincolndale Property Owners' Association (LLPOA) to the Somers Planning Board, regarding satisfaction that the storm water basin plan reviewed on March 6, 2010 is the same concept as the plan reviewed in June of 2005.

WHEREAS, on April 8, 2010 the Applicant re-submitted the drawing titled "Subdivision Plan (C-101)", prepared by Site Design Consultants, dated March 27, 1999 and last revised April 8, 2010 and Detail R-1 entitled "Detail of Relocated Stonewall"; and

WHEREAS, the final application includes a 15-lot subdivision of 19.99 acres with community sewer and water service, and stormwater runoff controls; and

WHEREAS, the final application was discussed at the Planning Board's Meetings held on March 10, 2010 and April 14, 2010; and

WHEREAS, at the March 10, 2010 Planning Board meeting the Planning Board discussed the changes that have occurred since the amended preliminary

subdivision approval which include: reorientation of lots 14 and 15 due to shifting the proposed stormwater basin further from a neighboring property so that the homes now face Adson Way instead of Merritt Court and redesign of the proposed stormwater treatment facility on lands owned by the LLPOA to add a forebay to the small water quality basin; and

WHEREAS, a condition of the amended preliminary subdivision approval was that the Applicant should use reasonable efforts to consummate a land swap with the property owner of Tax Lot 5.16-2-13 and that the property owner has indicated that after much consideration and meetings with the Applicant's representatives that she is not prepared to grant an easement or convey land for the utility mains to be installed across the rear of her property (Tax Lot 5.16-2-13) and as such, the status of the land swap has been decided; and

WHEREAS, at the March 10, 2010 Planning Board meeting there was discussion of relocating the stone walls crossing Lots 1 and 2 of the subject subdivision and the Applicant requested the ability to relocate them to the rear property line of each lot; and

WHEREAS, the Planning Board discussed and considered this request and upon submission of more detailed information, the Planning Board determined that relocation of the stone walls, in such a manner as to maintain their historical integrity, would be allowed provided that approval from the Consulting Town Engineer will be required before any improvement of the area between the original and new wall locations occur; and

WHEREAS, the Applicant has no immediate plans to improve the areas on Lots 1 and 2 between the existing and proposed stonewalls and as such has proposed to relocate the stonewall without any clearing of the lots in the area between the existing and proposed location on the lots; and

WHEREAS, the applicant acknowledges that if those areas are to be improved in the future, additional stormwater controls may be necessary on those lots and the Applicant has proposed to include a note on the Subdivision Plan (Sheet C101) and the Subdivision Plat which states that "approval from the Consulting Town Engineer will be required before any improvement of the areas on Lots 1 and 2 between the original and new wall locations can occur"; and

WHEREAS, the Planning Board discussed dimensioning the easements as indicated on the Plat and determined that dimensioning the easement on the As-Built drawing for the stormwater basin on the LLPOA property next to Lovell Street should be performed; and

WHEREAS, the Applicant requested that the Planning Board waive the application fees required for wetland disturbance due to the fact that the disturbance occurs in relation to construction of the off-site detention basins located on LLPOA property; and

WHEREAS, the Planning Board made a positive recommendation to the Somers Town Board to consider waiving the required wetland application fee because the improvements in question are not only off-site but are also intended to improve stormwater issues that: (i) are preexisting (meaning “not brought about by the project itself”); and (ii) are having a deleterious effect on Lake Lincolndale. In addition, the Applicant has agreed to expend money to implement these off-site improvements which will save the Town thousands of dollars in relation to its obligation under the Municipal Separate Storm Sewer System (MS4) permit; and

WHEREAS, on April 8, 2010, the Somers Town Board discussed this issue and moved the matter to their consensus agenda on April 15, 2010; and

WHEREAS, in accordance with the provisions of Section 150-13F, the Planning Board, at their March 10, 2010 meeting, deemed the proposed final subdivision to be in substantial conformance with the previously approved amended preliminary subdivision plans, and therefore waived the requirements to hold a public hearing on the final subdivision application; and

WHEREAS, by Resolution No. 2010-02, effective April 14, 2010, the Planning Board granted Conditional Final Subdivision Plat Approval, Tree Preservation, Steep Slopes and Wetlands Permits (sometimes the “Conditional Final Approval” or the “Conditional Final Approval Resolution”) for the Merritt Park Estates Subdivision, subject to a number of modifications and conditions set forth in such Resolution; and

WHEREAS, the Conditional Final Approval Resolution was extended from time to time and during the pendency of such approval, Mancini Building Corp. has been constructing the Subdivision Road and other on-site and off-site infrastructure improvements; and

WHEREAS, the Conditional Final Approval is currently valid through and including June 29, 2015; and

WHEREAS, among the off-site improvements being made by Mancini Building Corp. are two stormwater basins being constructed on property owned or controlled by the Lake Lincolndale Property Owners’ Association (“LLPOA”), which basins will address, in part, stormwater runoff that the Town would otherwise have to address pursuant to the Town’s obligations under the Municipal Separate Storm Sewer System (MS4) permit at a substantial cost to the Town (i.e. tens of thousands of dollars); and

WHEREAS, Condition 12 of the “Conditions Required Prior to Signing of Plat” requires the payment of a recreation fee prior to the Planning Board signing the Final Subdivision Plat; and

WHEREAS, Mancini Building Corp. consulted with the Town Board about deferring payment of the Recreation Fee until after the Final Subdivision Plat is

signed by the Planning Board and filed in the Office of the Westchester County Clerk and phasing the payment to coincide with the issuance of building permits for houses on the lots; and

WHEREAS, at the Town Board Work Session of February 5, 2015, the Town Board, after discussing the extraordinary expenditures Mancini Building Corp. has and will make to construct the basins on the LLPOA property, referred Mancini Building Corp.'s request concerning the recreation fee payment to the Parks and Recreation Board for their recommendation; and

WHEREAS, by Memorandum dated April 23, 2015, the Town of Somers Parks and Recreation Board favorably recommended to the Town Board that it grant Mancini Building Corp. relief on the timing of payment of the recreation fee; and

WHEREAS, another (unnumbered) condition of Conditional Final Approval (on page 19 of the Conditional Final Approval Resolution) provides that "[n]o building permits will be issued on any lot shown on the subdivision plat until the required copies of the [Final Subdivision] plat have been delivered to the Planning Board" after the Plat is filed in the Office of the Westchester County Clerk; and

WHEREAS, Mancini Building Corp. would like to commence construction of a single home on one of the Lots in the Subdivision and, in order to do so, requires minor amendment of such condition; and

WHEREAS, an application for Amended Final Subdivision Approval was received by the Planning Board on May 19, 2015, together with the following documents:

1. Cover letter from Hocherman Tortorella & Wekstein, LLP, Mancini Building Corp.'s counsel, dated May 19, 2015;
2. Application for Amended Final Subdivision Approval, signed May 19, 2015; and
3. Short Environmental Assessment Form, dated and signed May 19, 2015.

WHEREAS, by such application, Mancini Building Corp. requested amendment of the Resolution of Conditional Final Approval: (i) to defer payment of the recreation fee until after the Plat is filed and to permit it to be paid in 14 equal installments (based upon the number of new lots being created as part of the Subdivision) over a three year period beginning on the date the Final Subdivision Plat is filed, with a payment to be made each time a building permit for a residence on a lot is issued; and (ii) to permit the Building Department to issue one building permit for one house to be constructed on a lot prior to the Final Subdivision Plat being filed and the requisite number of copies of the filed Plat being delivered to the Planning Board (collectively, the "Amendments"); and

WHEREAS, the Amendments do not require any changes to the Subdivision Plans approved by the Planning Board as part of the Conditional Final Approval; and

WHEREAS, at the June 10, 2015 Planning Board meeting, the Planning Board considered the application for Amended Conditional Final Approval, adopted a SEQR Negative Declaration, and resolved to waive the public hearing on such application.

NOW, THEREFORE, BE IT RESOLVED that the foregoing whereas clauses are incorporated herein by reference and are fully adopted as part of the Amended Conditional Final Subdivision Approval, including the SEQR Negative Declaration referenced therein, and furthermore, that the application of Mancini Building Corp. for Amended Conditional Final Subdivision Approval and Tree Preservation, Wetland and Steep Slope Permits for the **Merritt Park Estates Subdivision** as shown and described by the materials enumerated herein, **IS HEREBY GRANTED** in accordance with §276 and §278 of Town Law and §150-13.J, "Planning Board Action", of the Code of the Town of Somers, subject to the following modifications and conditions as set forth below:

Conditions Required Prior to Signing of Plat

1. The plat must include NAD 83 Grid coordinates on three corners of the property.
2. A note on the plat must be provided that states "no further subdivision of this property shall occur."
3. A note must be provided on the Subdivision Plan (Sheet C101) and the Subdivision Plat which states that "approval from the Consulting Town Engineer or its designee will be required before any improvement of the areas on Lots 1 and 2 between the original and new wall locations can occur"
4. That information pertaining to the composition, physical condition, and appearance of the stonewall crossing Lots 1 and 2 be provided.
5. That the submitted final plat bears the endorsement of the Westchester County Department of Health.
6. A performance bond/security shall be posted to cover the costs of soil erosion and sedimentation control measures on the site during the course of construction. Said security shall be in an amount recommended by the Consulting Town Engineer and shall be in a form, sufficiency and manner of execution satisfactory to the Town Attorney and approved by the Town Board.

7. A performance bond/security shall be posted to cover the costs of road drainage and other associated public improvements during the course of construction. Said security shall be in an amount recommended by the Consulting Town Engineer and shall be in a form, sufficiency and manner of execution satisfactory to the Town Attorney and approved by the Town Board.
8. An engineering inspection fee for the subdivision shall be paid by certified check to the Town of Somers in accordance with the Fee Schedule adopted by the Town Board. The amount of such fee shall be set after submission by the Applicant of estimated costs for required improvements, as identified by the Consulting Town Engineer, and upon recommendation of the Consulting Town Engineer.
9. The Applicant shall reimburse the Town for any outstanding review fees, as applicable, consistent with §133-1 of the Town Code as well as State and Local Environmental Quality Review laws.
10. The final plat shall reflect the new section, lot and block numbers for each of the 15 lots per the Town Assessor.
11. That the applicant provides the Town Board resolution which states that that the Town Board agrees to waive the wetland application fees for the Merritt Park Estates Subdivision due to the fact that the stormwater improvements are not brought about by the proposed subdivision or that the Applicant submits the required wetland application fees; and
12. The Applicant shall pay recreation fees in the amount set forth in the Fee Schedule adopted by the Town Board as of the effective date of the Conditional Final Approval Resolution, in 14 equal installments (based upon the number of new lots being created as part of the Subdivision) over a three year period that shall expire on the third anniversary of the date the Final Subdivision Plat is filed in the Office of the Westchester County Clerk. One installment of the recreation fee shall be paid to the Town each time a building permit is issued for a residence on a lot, with any unpaid balance of the recreation fee being paid in full on or before the third anniversary of the filing of the Plat.

Ongoing Conditions Required After Signing of Plat

1. That all improvements shown on the plans be installed in accordance with the construction standards and specifications of the Town and as detailed on the improvement plans approved by this action.
2. That all work associated with this application shall be subject to the satisfaction of the Consulting Town Engineer.

3. All work shall be performed in accordance with the approved "Stormwater Pollution Prevention Plan" prepared by Evans Associates Environmental Consulting, Inc., revised March 31, 2009 (Approved by NYCDEP);
4. Sedimentation and erosion control measures employing best management practices as outlined in NYS DEC's booklets entitled, "*Reducing the impacts of Stormwater Runoff From New Development*" dated September 2001 (or more recent revisions) and the "*New York State Standards and Specifications for Erosion and Sediment Control*", also known as the Blue Book, and "*New York State Stormwater Design Manual*," dated April 2008 (including all updates and/or revisions) are required to be followed to ensure that all disturbed areas are stabilized and revegetated.
5. That all work associated with this subdivision application shall be subject to the approval of the Consulting Town Engineer in accordance with Chapter 93 Stormwater Management and Erosion and Sediment Control, Chapter 150 Subdivision of Land, Chapter 148 Steep Slopes Protection, Chapter 156 Tree Preservation, and Chapter 167 Wetlands and Watercourse Protection of the *Code of the Town of Somers*.
6. That dimensioning for the stormwater basin located on LLPOA property off of Lovell Street is provided on the As-Built drawing.
7. If rock is encountered during construction, removal will first be accomplished by ripping, hammering, or drilling, in accordance with §148-7.B(4)(k) of the Code of the Town of Somers.
8. That construction activity shall be limited from 7:00a.m. to 6:00p.m., and that no construction activity shall occur on **Sundays** or legal New York State holidays.

BE IT FURTHER RESOLVED that, except as otherwise provided herein, the Planning Board Chairman is authorized to sign the final subdivision plat in accordance with the procedures and requirements specified in §150-14.D of the "Subdivision of Land" regulations of the Code of the Town of Somers, and §276 of Town Law. In accordance with §150-13.M of the Code of the Town of Somers, this conditional approval of the final subdivision plat shall expire on December 7, 2015, 180 days from the date of the resolution granting conditional approval, unless the above requirements have been certified as complete by the Planning Board's professional staff, or unless such time limit is extended by the Planning Board in accordance with §150-12.N of the Code of the Town of Somers for additional period of ninety days each. The request for time extension shall be made by the Applicant **prior** to expiration of the specific time period.

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

Prior to the Final Subdivision Plat being filed, the Applicant shall be allowed to obtain one (1) building permit for a single-family residence on a lot. Otherwise, no building permits will be issued on any other lots shown on the subdivision plat until the required copies of the plat have been delivered to the Planning Board in accordance with §150-14.H of the *Code of the Town of Somers*. Upon completion of all improvements, the Applicant shall submit an as-built plan to the satisfaction of the Consulting Town Engineer and shall prove that the road fronting lots have been improved to the binder layer as required according to §74-1 of the *Code of the Town of Somers*.

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

This resolution shall have an effective date of June 10, 2015.

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

John Currie

Dated: _____

CERTIFICATION

I hereby certify that this is a true and correct copy of the resolution adopted by the Town of Somers Planning Board granting Conditional Final Subdivision Approval and Tree Preservation, Wetland and Steep Slopes Permits to Mancini Building Corp. for Merritt Park Estates Subdivision at a regular meeting held on June 10, 2015.

**Syrette Dym, AICP
Director of Planning**

Dated: _____

PLANNING AND ENGINEERING DEPARTMENTS

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(914) 277-4093

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

DATE: June 4, 2015

TO: Planning Board

FROM: Syrette Dym, AICP
Town Director of Planning

RE: Merritt Park Estate Subdivision 20th Time-Extension and Request for Amendment of the Resolution of Conditional Final Subdivision Plat Approval, Tree Preservation, Steep Slopes and Wetland Permits

Time Extension

On May 20, 2015, a request for a twentieth 90-day time extension of Conditional Final Subdivision Approval was received in relation to the above referenced project. On March 11, 2015, the Planning Board granted a 19th time extension for the final subdivision approval up to and including June 29, 2015. The current requested time extension would extend approval through September 28, 2015 (the first business day after the ninetieth day, which is a Sunday). The request for extension was received within the 90 day period.

As stated in the letter of May 20, 2015, the applicant has been installing cul-tech units, continuing work on the Lovell Street stormwater basin and discussing the Lake Court basin work with Steve Woelfle and representatives of the Lake Lincolndale Property Owner's Association.

Steve Woelfle continues to monitor ongoing work at the site. I have no objections to extension of the subdivision approval.

Recreation Fee Payment Method Modification

The Applicant proposes to amend two provisions of the Conditional Final Subdivision Resolution No 2010-02 granted April 14, 2010. The first revision relates to payment of the recreation fees. The Applicant appeared before the Parks & Recreation Board at its meeting of March 25, 2015. The request is to pay their recreation fees over a three year period in three equal installments rather than prior to signing of the final plat, each installment to be paid at the time a building permit is issued. The Parks Board voted to approve this request and sent a memorandum dated April 23, 2015, relating such decision

to the Town Board. Condition #12 on page 18 would need to be amended in line with this recommendation.

Issuance of Building Permit Prior to Filing of Final Plat

The second request is to amend the last paragraph on page 19 of the resolution which states “[no building permits will be issued on any lot shown on the subdivision plat until the required copies of the plat have been delivered to the Planning Board in accordance with Section 150-14.H of the Code of the Town of Somers.” The applicant would like to amend the resolution to permit him to pull a building permit for one house so he can start construction before he files the Plat, since the property as existing is one single lot on which significant infrastructure improvement have been made.

cc: Geraldine Tortorella, Esq.
Richard Mancini
John Mancini
Roland Baroni
Steve Woefle
Joe Barbagallo

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OPEN SPACE COMMITTEE

Town of Somers

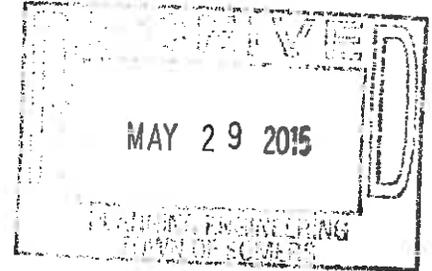
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MICHAEL BARNHART
CHAIRMAN

*C-1
PB
TPE
CTE
MPL*



MEMO TO: Planning and Engineering Department

FROM: Open Space Committee

RE: Somers Pointe Country Club

DATE: May 29, 2015

The Open Space Committee, at their monthly meeting on May 21, 2015, reviewed and discussed the Site Plans for the Somers Pointe Country Club. The Committee would like the developer to consider planting native shrubs and other vegetation such as spice bush to prevent the establishment of invasives such as Japanese barberry. We also recommend construction of a walking path around the perimeter of the non-golf course portion of the site to provide a passive recreation opportunity for the residents of Heritage Hills. We would like to see dark sky compatible lighting around the pool and parking lot.

On page 12 of the Full Environmental Assessment Form, letter O asks "Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species?" and letter P, "Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern?". The answer to both questions on the form is "no." The Committee questions this response given no evidence of a proper biodiversity assessment.

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

MEMORANDUM

TO: Town of Somers Planning Board

FROM: Syrette Dym, Director of Planning

DATE: **June 5, 2015**

RE: Project: Somers Pointe Country Club Amended Site Plan
Applicant: Somers Pointe Country Club, LLC
Location: 1000 West Hills Drive (Section 6.17 Block 20 Lot 1.21)
Zoning: DRD Designed Residential Development Overlay District
Actions: Request for Construction of a Swimming pool, Cabana and Two Tennis Courts – Site Plan Application

Application Request:

By original; application dated April 22, 2015 Somers Pointe Country Club, LLC submitted an application to construct a swimming pool and cabana and two tennis courts, with associated parking. The application was for Site Plan Approval, Stormwater Management and Erosion and Sediment Control Permit and Steep Slope Protection Permit.

After review of the submission and associated documents by letter of May 4, 2015, Syrette Dym, Director of Planning, indicated to the applicant that the application was incomplete due to six items and needed to be resubmitted.

By letter of May 20, 2015, from John Petroccione, P.E., representative for the applicant, a resubmission was made addressing the items that had previously been deemed incomplete.

Prior to addressing substantive issues of the application, I will address the resubmission and its completeness.

- (1) First and foremost, there is no narrative accompanying the Full Environmental Assessment Form Part 1 Item F. Additional Information. A narrative should accompany the submission that details the following:
 - a. Date of original approval and explanation of whether the original approval of the club was a subdivision and/or site plan. If a site plan, identify and provide a copy of such plan and date of approval indicating whether the parking layout was part of that approval. **Provided**
 - b. Description of existing club membership including what constitutes a member, i.e. is it an individual, couple, family? Are all current memberships only golf memberships and are all such memberships equal in terms of rights and privileges? How many current “members” of what class are there currently at the golf club and what number/per cent of those are Heritage Hills residents versus the number/per cent of non- residents. **Partially complete. More information will be requested, but enough has been provided to begin preliminary review with regard to zoning compliance.**
 - c. What are the membership categories contemplated for the proposed club with its new facilities? Will there be just golf memberships, just pool/tennis memberships, or some other combination of these? Again, what will constitute a membership in terms of numbers of people? This explanation is critical particularly since the parking calculations provided on the site plan refer to “members” of the golf course and “persons” for the swimming pool with no explanation of the distinction or why the differing parking categories utilized were selected. The technical review of how the zoning applies to your application will be made once you provide the information necessary to assess the application. **Partially complete. More information will be requested, but enough has been provided to begin preliminary review with regard to zoning compliance.**
- (2) Long Form EAF Item D.2 j. - The Long Form EAF identifies that there will be no substantial increase in traffic above present levels. However, without the information regarding the memberships and anticipated change in peak seasonal trips to and from the site, there is no way to assess the conclusion. A narrative explanation tied to the NYS DEC threshold for what is considered a significant impact needs to be provided. **Provided. More Information may be requested.**
- (3) Long Form EAF Item D.2.n. – The Long Form EAF indicates there will be outdoor lighting and describes this lighting. To determine whether or not this lighting will negatively impact surrounding residential uses, a light spill

diagram/plan needs to be provided as part of the site plan application. **Still to be provided.**

- (4) Long Form EAF Item E1. B. The calculation of Current Acreage, Acreage After Project Completion and Change, appears to reflect the project as proposed with landbanked parking. For each column under each category, an additional worst case scenario needs to be provided that reflects acreage with all landbanked parking actually being provided. **Provided. Analysis to follow.**
- (5) Long Form EAF Item E3.b. – No item is checked and needs to be. **Provided.**
- (6) Long Form EAF Item E.3.h. – Please indicate whether this question was answered “no”, based on information provided by DEC’s environmental mapper. **Provided.**

Analysis of Issues

Compliance with Zoning

Need for Special Exception Use Permit

A major threshold issue is to determine whether the application complies with zoning. Section 170-12 Designed Residential Development (DRD) C. identifies the principal permitted uses in the DRD district. It lists the uses and also states: “Separate special exception use permits are not required for any permitted use within a designed residential development if such use was shown on the approved general land use and development plan for the entire development; provided, however, that site development plan approval shall still be required. Then it goes on to list the uses permitted and includes and states the following:

“(5) Golf courses, swimming pools, tennis courts, riding stables and general recreational and athletic facilities **intended primarily for the use of the residents of the designed residential development.**” (Bold added)

First, it needs to be established that the original plan showed these uses and, if such is the case, they can be covered by the original special exception use permit. It is known that a 1986 plan was processed only for site plan approval, although that approval lapsed. More importantly, a Resolution of the Town of Somers Zoning Board of Appeals dated January 17, 1961 granting a Special Exception Use Permit for the operation of a golf course of 18 holes to be known as Somers Country Club was granted and stated the following:

“...that a Special Exception Use Permit is hereby granted with respect to the property covered by this application for the establishment of a golf course consisting of eighteen (18) holes on the east and west side of Route 100 following generally the pattern and layout of such holes as they were formerly operated except so as to permit the operators to modify the extreme slopes of the course, and in connection with such operation to

construct and maintain additional appurtenant buildings and structures including a restaurant, locker buildings, recreation buildings, Pro shop, swimming pool, tennis courts, badminton courts, putting greens, driving range, parking lots and a bridge across the road, snack bar and showers at the pool as required by law and filer plants.”

Based on the above, only site plan approval will be required.

Compliance with Requirement of Permitted Use

In order to be in compliance with zoning, the golf course, tennis courts, swimming pool and cabana uses will have to be found to be available primarily for the use of the residents of the designed residential development. Therefore, even though it is acknowledged to be a privately owned course, it still would appear to have to primarily serve Heritage Hills residents. The phrase “intended primary for Heritage Hills residents’, however, is not defined. Therefore, it is important to understand what the original, existing and proposed conditions are with regard to memberships to provide some way to assess this requirement.

It is important to note that both golf courses in the DRD district are privately owned and are part of the Somers Pointe Country Club. There is no principal use of “private golf and country club” listed as part of the principal permitted uses in Section 170-12C. However, Section 170-12D.(5) lists two separate uses with different parking requirements, i.e., “Private golf and country club” and “Swimming pools, tennis and other general recreation and athletic facilities”. So it appears that there was a separation of the golf course/country club concept in the DRD from other recreational facilities, at least with regard to parking requirement.

In a letter of September 26, 1990 from Taylor, McCullough, Goldberger & Geoghegan, attorneys for Heritage Golf Course relative to a subdivision application, to Jean Sherlock, the then Planning Board Chairman, it was indicated that the golf course was always in private ownership. The letter indicated that: “Approximately 84% of the Club members are Heritage Hills residents, and non-residents must pay a higher membership fee.”

The narrative submitted with the May 20, 2015 submission indicated a current golf membership of 189 memberships of which 159 are single person membership and 30 are family memberships. An average family size was indicated as four people for a total of approximately 280 people/members. It was indicated that about 75% or 142 memberships were Heritage Hills residents, so 25% or 47 are non-residents. No breakdown of how many of the 142 or 47 was single or family memberships. To obtain such information, I contacted the project engineer, who responded by telephone on June 3, 2015 with the following information. Of the 159 single person golf memberships, 65 are Heritage Hills residents and 94 are non-residents. Of the 30 family memberships with an average of four persons per family, 27 or 108 person (27 X 4 avg. persons/membership) and 3 family (12 person) are non-Heritage Hills residents. So under existing conditions, there are a total of 279 person/members of which 173 (65

+108) are Heritage residents and 106 (94 and 12) are non-residents for a ratio of 65% to 38% of residents versus non-residents. .

- The narrative indicates that only 190 golf memberships are available, so presumably, only one new golf membership could presently be sold. In a telephone conversation with John Petroccione on Friday, May 29, 2015, he indicated that 190 golf memberships is the maximum that is intended because with this number of members, the golf course is at capacity. Further explanation of this may be required to indicate if this is due to member play only or a liberal guest play policy or whether each family in fact has four players.

The narrative indicates that 100-106 pool memberships will be made available on an individual basis. What it does not provide is an understanding of how they intend to package these for families or couples and if there will be only pricing per person or per group category. It is anticipated that a high percentage of these pool members will be part of couples or families.

However, even without this information from the applicant, the projected parking calculation gives us some information of how this might happen. The Town Code specifies one parking space required per three people in Section 170-12 (D)(5). This would be based on an assumption that an average group/family coming to swim could, on average, consist of three persons. Using this measure there could be an average of 36 new group pool memberships ranging to as high as an unlikely 106 unrelated individual memberships.

If we assume that the current golf memberships remain constant at 189 memberships and assume a scenario where there are 106 new pool person/memberships and one new golf person membership, total person/members would be 385 plus one golf member for a total of 386 person/members. To make person/members at least 50% Heritage Hill residents, there would have to be a minimum of 193 persons/members who are residents or 20 of the new pool or new golf members would have to be existing H.H. golf person/members. If the threshold was 60% versus 40% Heritage Hill residents to non-residents, there would have to be 59 ($386 \times .60 = 232$; $232 - 173 = 59$) new members who are Heritage Hills residents, and so on.

Even assuming something close to this ratio, a determination has to be made regarding what constitutes "primarily serving Heritage Hills residents" and whether there is a distinction between the "private "golf and country club" use and the principal permitted grouping list of "golf courses, swimming pools, tennis courts, riding stables and general recreation and athletic facilities". Since the Building Official is the interpreter of the zoning, I recommend that the Planning Board refer this issue to the Building Inspector for his interpretation, once all information is gathered from the applicant. Should the applicant disagree with the Building Inspector's interpretation, it could seek further relief from the Zoning Board of Appeals.

Parking Compliance

The plan, (Drawing S-002.00) identifies the following as the parking required and the sections of the code used to calculate it:

<u>Use</u>	<u>Required Spaces</u>
Golf Course [Section 170-40-(A)]	
1 space/3members and 1 space/2 employees	189 members/3 = 63 spaces 20employees/2 = 10 spaces
Restaurant [Section 170-40 (B)]	
1 space/2 seats	175 seats/2 = 87.5 spaces
Swimming Pool [Section 170-12 (D) (5)]	
1 space/3 persons	<u>106 persons/3 = 35.3 spaces</u>
	Total 195.8 = 196 spaces

An alternative means for calculating parking would be to use the DRD standard of Section 170-12 (D) (5) for Private golf and country club which requires 10 spaces per hole, or 180 spaces. Since the original approval was for a club that included all these uses as per the resolution of January 17, 1961 described above, the total original parking requirement would have been 180 spaces. Since there are 111 existing spaces, it is clear that this parking standard was not adhered to for the original approval. Therefore, the parking requirement as calculated is the one that should be met with one exception. . It would appear that additional employees would be needed for pool, tennis and cabana maintenance. The applicant needs to provide information regarding anticipated employment needs for these additional facilities, and this needs to be provided by the applicant. Also, guest parking would increase the parking need so the applicant needs to describe the policy for numbers of guests permitted at the pool, tennis courts and golf club.

The applicant is proposing a total space provision of 199 spaces of which 111 are existing, 38 new would be constructed and 50 spaces would be landbanked, or 47 spaces that are required would be landbanked. Since the applicant is requesting landbanking of 59% of the required parking, the Planning Board should require the Applicant to undertake a parking utilization study. The methodology should include counting of spaces used every half hour from opening to closing of the facility including the restaurant, over a three week period. This period should include Father's Day and the July 4th weekend. Use of lawn area for overflow parking should be noted and cars utilizing those spaces should be counted and noted. Usage by the club now or in the future of valet parking should be identified. The parking utilization study results will provide the information that the Planning Board needs to determine whether all, some or none of the spaces should be landbanked, proposed landbanked parking areas should be

prepared to be used only as overflow parking during peak periods and whether valet parking is something that should be considered to make this operationally effective. Should there be times when different parts of the facility will be operating and others won't, such as the pool versus restaurant, the applicant should consider whether a case for shared parking spaces should be made as per Seciton170-33 which states: "The joint use of parking by uses which are anticipated to require parking at different hours of the day or on different days of the week may be permitted if approved by the Planning Board". The applicant should make it clear that the stormwater calculations are considering the potential full build-out of all spaces required, whether built or landbanked.

In accordance with Seciton170-34 of the Code of the Town of Somers, the proposed parking areas, proposed to be constructed or landbanked, do not include the required landscaping elements. Section C requires at least one shade tree of not less than four inches caliper for each six parking spaces in addition to appropriate shrubbery and ground cover. Raised planting islands should be located at the ends of each parking bay of six or more spaces.

Other Zoning Compliance Issues

The site plan drawings do not provide dimensions of any of the proposed facilities including the cabana building, the pool/deck and tennis courts and proposed walkways and needs to.

The Bulk Requirements Table needs to be more specific and identify which structures it refers to and needs to show the dimensions to what perimeter it refers on the site plan. The same is true for distance between buildings which needs to be shown on the site plan. The maximum height in the table indicates a height of two stories but does not indicate this for which buildings, existing/proposed? Identify height of proposed cabana building.

Overall Visual Design and Landscaping

Architecture elevations and a floor plan of the proposed cabana building needs to be provided. Enclosures around tennis courts need to be detailed and described.

A landscaping plan for the proposed development needs to be prepared and submitted. Reference to the concerns of the Open Space Committee regarding inclusion of native shrubs and other vegetation should be addressed as part of the landscape plan.

Tree Removal

Drawing S-003.00 includes a tree removal table, however, there was no tree removal permit application included as part of the application package. A permit form should be

filled out identifying the number of trees to be removed and the appropriate fee paid with submittal.

It would be helpful if those trees identified to be removed were shown with an "X" on the drawing as well as in the table.

Steep Slopes

Drawing S-003.00 identifies the steep slopes on the site and their categories. In accordance with Section 148-8, a proposed clearing and grading limit line needs to be established for the project so in accordance with D.(5) (c), the location and size of the slope category to be disturbed can be established.

While the EAF item E.2.a indicates the average depth to bedrock as being greater than eight feet, the site plan indicates that areas of steep slopes will be disturbed in order to construct the project. Will blasting be required? If rock removal is required and no blasting is to be used, what is the method proposed and the estimated time of removal?

A soil stockpile area is shown on the site plan. What is the total amount of soil to be excavated and how much, if any, is anticipated to be reused on site?

Issues Raised by Open Space Committee

In a memorandum of May 29, 2015, the Open Space Committee raised several issues. These are the following:

- Planting of native shrubs and other vegetation
- Construction of a walking path around perimeter of non-golf course portion of site to provide a passive recreation opportunity for residents of Heritage Hills
- Dark Sky compatible lighting around the pool and parking lot
- Questions related to responses concerning endangered and threatened species and habitat and rare or endangered plant or animals listed by NYS

The applicant needs to respond to these issues and the Planning Board needs to provide their position on several of these suggestions.

Cc: Joe Barbagallo/Rob Wasp
Roland Baroni
John Petroccione
Steven Koo
Spruce Wang