

Telephone  
(914) 277-5366

FAX  
(914) 277-4093

PLANNING DEPARTMENT

TOWN HOUSE  
335 ROUTE 202  
SOMERS, NY 10589

**Town of Somers**

WESTCHESTER COUNTY, N.Y.



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

**SOMERS PLANNING BOARD  
AGENDA  
JUNE 8, 2016  
7:30 P.M.**

**MINUTES** Consideration for approval of Draft Minutes for April 13, 2016.

**PUBLIC HEARING**

**1. SOMERS CROSSING [17.15-1-15.1]**

Application for Site Plan, Preliminary Subdivision Approval and Steep Slopes Permit for the development of 66 residential condo units accessed from Route 100, recreation building and a 19,000 s.f. grocery store. The property is located at NYS Route 100 and US Route 202.

**PROJECT REVIEW**

**2. SOMERS POINTE COUNTRY CLUB [TM: 6.17-20-1.21]**

Application of Somers Pointe Country Club for a Site Plan for property located on the southeast side of the Somers Pointe Clubhouse at 100 West Hill Drive for the construction of a swimming pool and cabana building and two tennis courts with associated parking lots to provide additional recreation activities.

**3. ANTHONY BONIELLO SUBDIVISION [TM: 47.16-1-31]**

Application for Preliminary Subdivision Approval for property located at Moseman Avenue to subdivide one three acre lot out of an existing 23.5 acre lot.

**PROJECT REVIEW (CONTINUED)**

**4. CROSSROADS AT BALDWIN PLACE [TM: 4.20-1-3.1]**

Application for Site Plan Approval for property located on Route 6. The proposal is for a mixed use development consisting of a two story 24,000 s.f. building with 12,000 s.f. of retail and 12,000 s.f. of professional office and 64 residential units.

**5. NYSMSA LLC D/B/A VERIZON WIRELESS [TM: 17.05-20-2]  
APPLICATION FOR SITE PLAN AND SPECIAL USE PERMIT**

Application for a co-location of public utility wireless telecommunication facility and extension to existing monopole for property located at 250 West Hill Drive, Heritage Hills in the DRD Zoning District.

**6. DEUTSCH WETLAND, STEEP SLOPES, TREE REMOVAL AND  
STORMWATER MANAGEMENT AND EROSION AND SEDIMENT  
CONTROL PERMITS [TM: 48.09-1-24]**

Application for Insite Engineering, applicant, and Joseph Deutsch, owner, for property located on the South side of Hageman Court for a proposed single family residence with onsite wastewater treatment system, well and driveway.

**DISCUSSION**

**7. REFERRAL FROM TOWN BOARD**

Discuss the Bureau of Fire Protection's suggestion that any road servicing three or more houses be assigned a road name by the Town for easily identifiable vehicle access.

**8. DISCUSSION WITH PLANNING BOARD ON PROCEDURES**

Next Planning Board Meeting is Wednesday, July 13, 2016  
Agenda information is also available at [www.somersny.com](http://www.somersny.com)

OPEN SPACE COMMITTEE

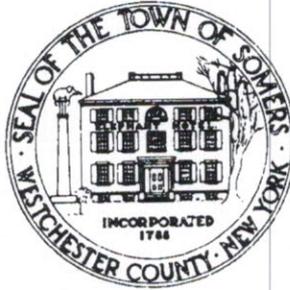
Town of Somers

WESTCHESTER COUNTY, N.Y.

SOMERS TOWN HOUSE  
335 ROUTE 202  
SOMERS, NY 10589

Telephone  
(914) 277-5582  
Fax  
(914) 277-3790

MICHAEL BARNHART  
CHAIRMAN



**MEMO TO:** Planning and Engineering Department

**FROM:** Open Space Committee

**RE:** Somers Crossing

**DATE:** May 16, 2016

At our monthly meeting on May 12, 2016, the Committee reviewed and discussed the Site Plan for Somers Crossing.

We are formally requesting a biodiversity analysis of the entire site. Given the presence of the large, adjacent wetland complex, use of the site's upland areas by listed amphibians and reptiles is extremely likely. Without detailed knowledge of what fauna may aestivate on the site, it will be very hard to determine the overall biological impact of the project.

The Committee is concerned over maintenance of the onsite pocket wetland. Constructed wetlands have a history of poor functionality, often due to a lack of critical maintenance. It is also unclear from the site plan whether such a feature is necessary or is replacing natural wetlands on the site.

The Committee is also concerned that storm water systems associated with an extensive development of this sort will reduce the amount of water ultimately reaching the adjacent wetlands. They can negatively alter the habitat of the marsh behind the project. We request that this possibility be examined in the EIS.

Finally, though not usually the purview of Open Space Committee, we note that the overall traffic pattern is not very clear. It appears that traffic from the grocery store may be routed through the adjacent shopping center and into the townhouse area. Given the heavy traffic flow and limited roadway within the existing shopping center, we question its capacity to safely handle the additional cars.

PLANNING AND ENGINEERING DEPARTMENTS

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

**Town of Somers**  
WESTCHESTER COUNTY, N.Y.

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

Steven Woelfle  
Principal Engineering Technician  
swoelfle@somersny.com



Syrette Dym, AICP  
Town Planner  
sdym@somersny.com

**MEMORANDUM**

**TO:** Open Space Committee  
**FROM:** Syrette Dym, Director of Planning  
**DATE:** May 25, 2016  
**RE:** Open Space Committee Comments of May 16, 2016 on Somers Crossing Regarding Request for a Biodiversity Analysis

We are in receipt of the request by the Open Space Committee for a biodiversity analysis of the Somers Crossing site by its memorandum of May 16, 2016.

Although the Planning Board is now undertaking site plan and subdivision review of this project, it is not doing so in the capacity as lead agency. Since the project requires an amendment to the Zoning Code, the SEQR process began over two years ago with the Town Board as lead agency. That process included a scoping process for the DEIS with input from involved and interested agencies, of which the Open Space Committee was an interested agency. After much comment and input from involved and interested agencies and the public, a scoping document was adopted on February 10, 2014 and that formed the basis of what was to be studied and included in the DEIS.

Town consultants took into consideration relevant environmental concerns that needed to be covered in the DEIS. As a result of that scoping document, the Applicant produced a "Biological Assessment Report for the Somers Crossing Property" of March 2014, prepared by Evans Associates Environmental Consulting, Inc. that was included in the DEIS appendix and which formed the basis of the narrative of the natural and biological features chapters. The DEIS and appendices were available at Town Hall, at the Library and the DEIS was circulated to the Open Space Committee. After several iterations, the DEIS was deemed complete with regard to addressing required items in the Scope and on February 12, 2015, was accepted as complete for public review. No comments on the

Biological Assessment Report were received from the Open Space Committee. Review and analysis continued throughout preparation of the FEIS which was finally accepted by the Town Board on April 7, 2016.

The SEQR process is now heading towards its conclusion with the Town Board having reviewed several drafts of the SEQR Findings Statement and waiting for some additional SWPPP confirmation by the Town Engineer.

Therefore, it is the opinion of the Town consulting engineer and the lead agency that the Applicant prepared an acceptable biodiversity study in accordance with the approved EIS scoping document. Some remaining minor technical comments during review of the FEIS were recommended to be addressed as part of the site plan review process, and will be.

Regarding concerns of the Open Space Committee, recharge of runoff to the wetlands, groundwater resource and maintenance of the pocket wetland have been addressed in the EIS documents. The Applicant recertified the previous hydrogeological assessment prepared by LBJ Associates for the Alexan Somers Woods project. The current stormwater management system relies primarily on infiltration practices that will promote the reintroduction of runoff (after pretreatment) to the groundwater table and local receiving wetlands.

Maintenance of the proposed pocket wetland will be implemented through a legally binding stormwater maintenance agreement. In the event that the Applicant fails to complete required maintenance activities, the Town will be granted easement rights to carry out the required maintenance with costs to be borne by the facility owner.

Cc: Town Board  
Planning Board  
Fred Wells  
Joe Barbagallo  
Rob Wasp  
Roland Baroni  
Gus Boniello  
Bonnie Von Ohlsen

Z:\PE\Town Board\Somers Crossing - Boniello\Site Plan\Open Space committee Comments\OSC Response.doc

PLANNING AND ENGINEERING DEPARTMENTS

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

**Town of Somers**  
WESTCHESTER COUNTY, N.Y.

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

Steven Woelfle  
Principal Engineering Technician  
swoelfle@somersny.com



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

**MEMORANDUM**

**TO:** Town of Somers Planning Board

**FROM:** Syrette Dym, Director of Planning

**DATE:** June 3, 2016

**RE:** Project: Somers Pointe Country Club Amended Site Plan and Zoning Text Amendment  
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: Site Plan Application to Planning Board - Request for Construction of a Swimming Pool, Cabana and Two Tennis Courts

**Submission:**

- Existing Site Location Map dated 05-05-16
- Site Plan dated 05-05-16
- Site Plan/Existing Natural Resources Overlay dated 05-05-16
- Overall Parcel Map dated 05-05-16
- Grading & Erosion Control Plan date 05-05-16
- Utility Plan dated 05-05-16
- Profiles dated 05-05-16
- Site Details dated 05-05-16
- Water & Sewer Details dated 05-05-16
- Drainage & Erosion Control /Details dated 05-05-16
- Erosion Control Details dated 05-05-16
- Landbanked Parking Area Design 05-05-16
- Stormwater Pollution Prevention Plan- Revised May 5, 2016

## **Main Modifications in Plan**

### *Truck Driveway*

The proposed truck driveway has been relocated from in front of the main clubhouse building to its east side along West Hill Road. The pull-off will provide ample room for deliveries by trucks of all sizes and will remove them from the local roads.

### *Berm*

A 6 inch high berm will be installed at the edge of pavement along West Hills Road to direct runoff to a proposed swale.

### *Treatment of Landbanked 30 Space Parking Area*

To address the existing condition of runoff affecting homes in Condo 15, two solutions have been provided. A temporary sediment trap that is not intended to be a permanent feature that is part of the stormwater pollution prevention plan is being proposed to be located in the area of the 30 landbanked parking spaces. It is proposed to be left in place after completion of construction to aid in reduction of runoff toward Condo 15. At any such time that it is determined that the landbanked parking area is needed to meet parking needs; the area could be fully restored for that purpose. In that scenario, other stormwater practices would be built below the parking area to fully contain stormwater generated by the project that would also have a positive benefit on existing downstream runoff.

## **Planning Board Consideration of Key Issues of Public Hearing of April 13, 2016**

The Planning Board needs to determine how it will treat issues of concern raised at the public hearing to determine whether they will be addressed and need mitigation. F these issues are necessary to determine areas of impacts and how they will be addressed as part of a negative declaration.

### *Truck Impacts*

- Pre-designate a construction route for trucks to be agreed upon by the Heritage Hills Society
  - *Applicant needs to identify a proposed route for review by Planning Board*
- Establish construction bond to cover any damage to Heritage Hills roads and underlying infrastructure; one suggestion was for \$2 million
  - *This is typically done only when Town roads are involved. This presents a problem on private roads since there is no knowledge of the underlying infrastructure or its condition. Additionally, there are numerous other vehicles and maintenance and service trucks that travel these private roads that will continue to do so during the construction period. Therefore, it would be difficult or impossible to isolate use by Country club construction vehicles. Who would hold the bond? Construction Period and/or Abandonment*

- Set penalties for any construction that continues beyond one (1) year
  - *It is not clear that there is any precedent to do so or that there is a legal framework for such*
- Concern about financial viability of venture. Establish penalties if construction is begun and abandoned. Establish performance bond to ensure completion.
  - *Performance bonds are regular features of Planning Board conditions of approval*

#### *Steep Slopes, Soil Removal and Erosion Control*

- Impacts to steep slopes during construction
- Where is information regarding structural fill and compacted fill such as what was needed for fixing of existing Heritage Hills complex pool?
- Why is there no reference to retaining walls and are these needed to stabilize slopes.
- There appears to be over a half acre disturbance to slopes over 15%; how are these to be treated?
- Appears to be removal of one to four feet of soil or 1,800 cy of soil; need to truck in same amount of stabilized soil; how secure open area from erosion and dust?
  - *The EAF indicates that there are no slopes over 10%; If this has changed the applicant needs to provide this information*

#### *Blasting*

- If blasting is required, the following steps should be taken if it is to occur within 200 yards of any homes:
  - Pre-blast survey inspection
  - Pre-blast notification
  - Mailing in advance and posting on mailboxes
- *Correspondence of 5-23-16 from applicant indicates that Grading Note #2 on Sheet 5 indicates that based on soils testing that no rock removal is anticipated. If blasting is required, the applicant will have to apply for a blasting permit from the Fire Inspector and the Inspector is responsible for establishing the rules relative to blasting.*

#### *Rats*

- Will there need to be a rat control program prior to and during construction
  - The Town Consulting Engineer will determine if anything is likely to be necessary

#### *Existing Stormwater Run-off*

- Four houses get flooded up to sliding doors
- Condo 15 gets stormwater runoff; need a permanent solution not temporary berms and swales
- Remove natural swales in woods causing water run-off
  - *Both temporary and permanent solutions have been provided by the Applicant as part of the Stormwater Pollution Prevention Plan.*

### *Visual Impacts*

- Want adequate visual buffer from tennis courts; replant arborvitae buffer across from tennis courts and increase visual landscape buffer
  - *Dwarf Alberta Spruce with heights of 36" to 42" are to be planted as the main buffering material*
- Dark sky standard lighting for recreation activities
  - *Drawing S-009.00 shows the Development Area Lighting and indicates zero light spill off site.*
- Need elevation views through the parking lot and cabana; i.e. sections, to show visual impact; show from lower three units
  - *The proposed elevations of the cabana building are shown on Drawings A-500.00 Elevations and A-501-00 Sections and Elevation Door Schedule prepared by Steven Kuo Architect & Associate. These drawings indicate a one story plus attic building of 21'4" in height. While it is possible that this building will be visible from some surrounding homes, the Planning Board has to determine if it deems that this requires elevation section drawings and whether a building of such height and mass of 70 feet by 46 feet constitutes a significant impact.*

### *Existing Conditions*

- Parking area is broken up and unsafe and in poor condition
- Uprooted light pole
- Unkempt garden and grass
- Sand pile in parking lot
  - *All of the above should be improved and details of how and what materials to be used and where should be outlined by applicant as part of conditions of approval*
- Maintenance area is junkyard
  - *Proposal for cleaning up and maintaining maintenance area should be provided to Board*
- Renovate restaurant
  - *Should be discussed by Board; may not be part of this application*
- Should be no refuse outside containers
  - *Board should review current waste disposal area and its adequacy; where will waste from cabana snack bar be stored?*
- Garbage strewn around site; food garbage stored outside; creates raccoon problem
  - *See above*
- Delivery trucks on road
  - *Addressed*

### *Communication Channels*

- Current lack of communication between residents and club
- What is plan to keep communications channels open
- Establish system for receipt of complaints and follow-up

- Residents told to get off golf course and no longer can use trails
  - *For discussion by Planning Board*

*Hours of Operation*

- Need clear delineation of hours of operation and seasonal operation of planned facilities
  - *EAF states hours of operation as 10am to 8pm all seven days*
  - *Pool and cabana season and tennis season should be identified*

*Future Redevelopment*

- Want commitment there will be no future attempt to redevelop golf course(s) with additional condominiums
  - *To be discussed by Planning Board; no proposal at this time*

*Establish a Coordination Committee*

- Discussion ensued about establishing meetings between the society, Town staff and consultants and applicant
- Determine best way to undertake these meetings and facilitate interaction between project representatives, Town and residents.
  - *Any meetings desired by Planning Board can be coordinated by Planning office*

**Issues Raised by Bureau of Fire Prevention and Open Space Committee**

*Bureau of Fire Prevention*

The Bureau of Fire Prevention in its minutes of October 14, 2015 indicated a request for no parking hash marks on the Site Plan. Again, in a memorandum of April 21, 2016, they said that signs indicating “no parking or standing” had to be identified on the Site Plan. The Plans of 05-05-16 do not seem to incorporate these requests and still need to.

*Open Space Committee*

Plan L-001.00 (undated) produced by Steven Kuo Architect & Associate provides the landscape plan that was requested by the Open Space Committee in their memorandum of February 23, 2016. It does provide landscape buffering between the tennis courts and West Hills drive among other locations on the site. However, in the memorandum of March 21, 2016, the Open Space Committee indicated that there were still some non-native species incorporated into the plan. The landscape plan should remove these non-native species and substitute native species for them.

Cc: Joe Barbagallo/Rob Wasp  
 Roland Baroni  
 Christine Leas  
 John Petroccione  
 Steven Kuo  
 Sadie Chen

Z:\PE\Site plan files\Somers Pointe Country Club\Town Comments\TBPlanner's Comments 06-03-16.docx

BUREAU OF FIRE PREVENTION

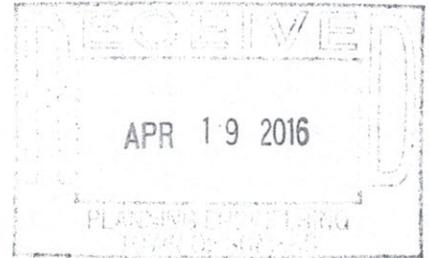
**Town of Somers**

WESTCHESTER COUNTY, N.Y.

SOMERS TOWN HOUSE  
ANNEX  
337 ROUTE 202  
SOMERS, NY 10589

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

EFREM CITARELLA  
CHIEF



996

**MEMO TO:** Planning and Engineering Department

**FROM:** Bureau of Fire Prevention

**RE:** Somers Pointe Country Club

**DATE:** April 21, 2016

At our monthly meeting on April 13, 2016, the Bureau reviewed and discussed the updated site plan provided for the Somers Pointe Country Club. The final site plan must indicate "no parking or standing signs". Additionally, the size of the gate for the pool will be addressed when the building permit is issued for the pool.

PLANNING AND ENGINEERING DEPARTMENTS

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

**Town of Somers**  
WESTCHESTER COUNTY, N.Y.

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

Steven Woelfle  
Principal Engineering Technician  
swoelfle@somersny.com



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

**MEMORANDUM**

**TO:** Town of Somers Planning Board  
**FROM:** Syrette Dym, Director of Planning  
**DATE:** April 18, 2016  
**RE:** Key Issues of Public Hearing on Somers Point Country Club - April 13, 2016

The public hearing on the site plan application for Somers Point Country Club regarding its request for construction of a swimming pool and cabana building and two tennis courts with associated parking lots was held on April 18, 2016. There were a total of fourteen (14) speakers, eight having signed up in advance with submission of their names to the Planning Board office. One comment letter has been received to date during the 10 day comment period that was extended after the hearing was closed that night, until Monday April 25 (12<sup>th</sup> day since 10<sup>th</sup> day falls on a weekend).

There were several large areas of concern expressed repeatedly by many speakers as well as some other areas of particular concern. The following outlines those items of concern that speakers indicated need to be addressed to mitigate any impacts of development of the proposed project.

**Construction Impacts**

*Truck Impacts*

- Pre-designate a construction route for trucks to be agreed upon by the Heritage Hills Society
- Establish construction bond to cover any damage to Heritage Hills roads and underlying infrastructure; one suggestion was for \$2 million

*Construction Period and/or Abandonment*

- Set penalties for any construction that continues beyond one (1) year

- Concern about financial viability of venture. Establish penalties if construction is begun and abandoned. Establish performance bond to ensure completion.

#### *Steep Slopes, Soil Removal and Erosion Control*

- Impacts to steep slopes during construction
- Where is information regarding structural fill and compacted fill such as what was needed for fixing of existing Heritage Hills complex pool?
- Why is there no reference to retaining walls and are these needed to stabilize slopes.
- There appears to be over a half acre disturbance to slopes over 15%; how are these to be treated?
- Appears to be removal of one to four feet of soil or 1,800 cy of soil; need to truck in same amount of stabilized soil; how secure open area from erosion and dust?

#### *Blasting*

- If blasting is required, the following steps should be taken if it is to occur within 200 yards of any homes:
  - Pre-blast survey inspection
  - Pre-blast notification
  - Mailing in advance and posting on mailboxes

#### *Rats*

- Will there need to be a rat control program prior to and during construction

#### **Existing Stormwater Run-off**

- Four houses get flooded up to sliding doors
- Condo 15 gets stormwater runoff; need a permanent solution not temporary berms and swales
- Remove natural swales in woods causing water run-off

#### **Visual Impacts**

- Want adequate visual buffer from tennis courts; replant arborvitae buffer across from tennis courts and increase visual landscape buffer
- Dark sky standard lighting for recreation activities
- Need elevation views through the parking lot and cabana; i.e. sections, to show visual impact; show from lower three units

#### **Existing Conditions**

- Parking area is broken up and unsafe and in poor condition
- Uprooted light pole
- Unkempt garden and grass
- Sand pile in parking lot
- Maintenance area is junkyard
- Renovate restaurant
- Should be no refuse outside containers

- Garbage strewn around site; food garbage stored outside; creates raccoon problem
- Delivery trucks on road

#### **Communication Channels**

- Current lack of communication between residents and club
- What is plan to keep communications channels open
- Establish system for receipt of complaints and follow-up
- Residents told to get off golf course and no longer can use trails

#### **Hours of Operation**

- Need clear delineation of hours of operation and seasonal operation of planned facilities

#### **Future Redevelopment**

- Want commitment there will be no future attempt to redevelop golf course(s) with additional condominiums

#### **Establish a Coordination Committee**

- Discussion ensued about establishing meetings between the society, Town staff and consultants and applicant
- Determine best way to undertake these meetings and facilitate interaction between project representatives, Town and residents.

Cc: Rick Morrissey  
Joe Barbagallo  
Rob Wasp  
Roland Baroni  
Christine Leas  
John Petroccione  
Steven Kuo

Z:\PE\Site plan files\Somers Pointe Country Club\Public Hearing and Public Comments\Public Hearing Key Issues.docx

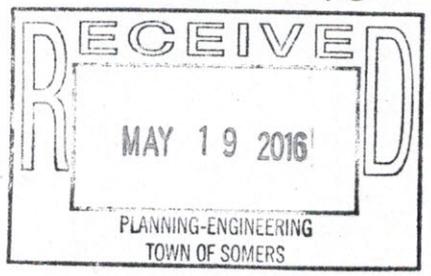
C- PB  
TP  
CTE  
APPL.

# Heritage Hills Society Ltd.

8 Heritage Hill Drive  
Somers, New York 10589  
Web Site: hhsociety.org



Phone: 914-276-2908  
Fax: 914-276-2683  
Email: society@hhsociety.org



May 16, 2016

Mr. John Currie and  
Members of the Town of Somers Planning Board  
335 Route 202  
Somers, NY 10589

Dear Mr. Currie,

The Heritage Hills community would like to reiterate our concerns related to the major issues that were discussed at the Planning Board public hearing on April 13, 2016 regarding the proposed development at the Somers Pointe Country Club. We would ask that the Planning Board consider the following areas of concern and ensure that they are adequately addressed as the Planning Board considers this application:

1. We would ask that a substantial construction bond, in the amount of \$1,000,000, is required in the event of damage occurring to any of the Heritage Hills infrastructure during the course of construction. This infrastructure includes, but is not limited to, roads, the stormwater system which includes catch basins and piping, other utility appurtenances, landscape elements, streetlights and signage. A thorough and thoroughly documented review of the existing condition of these facilities, before construction, should be a condition of site plan approval.
2. A performance bond, in the amount of \$3,000,000, should be required as a condition of site plan approval to ensure substantial completion of the proposed project.
3. Construction vehicle traffic should be strictly limited to roads defined and approved by the Heritage Hills community. Access points into and exiting the construction site should be clearly defined and marked and vehicle tracking pads should be required, as needed, at site exit points.
4. Construction activities should be limited to the hours of 8:00 AM through 6:00 PM, weekdays only.
5. The Town of Somers, as a condition of their site plan approval, should clearly define a regular site inspection process as well as a procedure regarding how concerns should be brought to the attention of the Town of Somers and the developer. Clear points of contact for the developer, the Town of Somers and the Heritage Hills community should be established so that communication before, during and after construction activities is effective and efficient.

6. A proposed construction schedule should be submitted to the Heritage Hills community so that our residents are aware of construction activities and their potential impact on their plans and routines. This should include both a starting date for construction to begin and an anticipated completion date.
7. Materials and equipment staging areas should be clearly defined and adequately screened during construction.
8. A comprehensive plan to minimize the negative impacts of construction activities on the surrounding community should be required and specific measures to mitigate the effects of excess dust and noise should be clearly defined. This should also include an action plan to address any unanticipated vermin or insect problems that may be related to construction activities.
9. Blasting, if required, should require adequate notice to surrounding residences and a pre-blast inspection of the interior and exterior of all structures within a certain radius of the intended blast site. All such activities should be held to the strictest standards of safety and should be in accordance with all applicable local, state and federal regulations.
10. Existing surface water runoff from Somers Pointe onto adjoining properties is a continuing problem that has never been adequately addressed despite several inspections by the Somers Town Engineer and Building Inspector. The proposed site plans do not include measures to control such runoff from the steep slopes on the west side of the development property. If such runoff occurs either during or after construction, the developer and/or owner of Somers Pointe should be solely responsible for any and all costs associated with resultant damages, cleanup or other remediation efforts that may be necessary.
11. Since much of the stormwater from the proposed development site will be directed into the existing and aging stormwater piping it should be required that the developer determine not only the cleanliness, but also the condition, of this existing infrastructure and should be responsible for its repair or replacement if found to be deficient in any way.
12. Lack of maintenance and poor refuse management practices are a longstanding problem at the existing Somers Pointe facilities and there is a concern that similar lack of maintenance of the porous pavement proposed for the new parking lots will lead to significant surface water runoff that may not be adequately accommodated by either the existing or the proposed stormwater systems. It is also expected that the Town of Somers will require much improved refuse management practices as there are significant health concerns related to the inadequate storage and handling of garbage.
13. We believe that the proposed landscape buffer around the perimeter of the developed area is in many locations wholly inadequate to provide satisfactory levels of screening as viewed from adjoining properties.
14. We expect assurances from the developers concerning the anticipated hours of operation for the pool and tennis courts, guest policies, light output from proposed site lighting fixtures, frequency of deliveries to the facilities and strategies to handle overflow parking. All of these have the potential to impact greatly on the surrounding community.



In conclusion, while the Heritage Hills community is supportive of the prospect of an improved and properly maintained Country Club facility within our borders, we have significant and serious concerns about the construction process, as outlined above. We fully expect and have every confidence that the Town of Somers will adequately address these concerns during the site plan review process as well as throughout the duration of the construction process.

Sincerely,



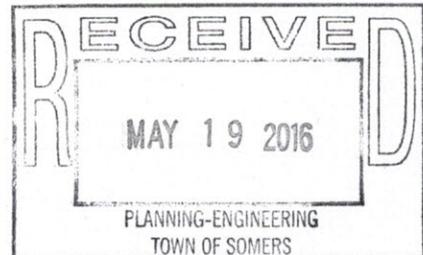
Patricia Ploss, President  
Heritage Hills Society, Ltd.

cc: Society Board Members



C- PB  
CTE  
TP  
Appl.

**Condo 16**  
**P.O. Box 555**  
**Somers, NY 10589**



**May 17, 2016**

**Mr. John Currie and**

**Members of the Town of Somers Planning Board**

**335 Route 202**

**Somers, NY 10589**

**Dear Mr. Currie,**

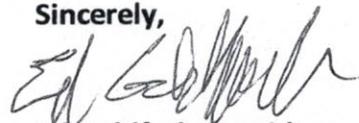
**Heritage Hills Condo 16 is adjoining with the Heritage Hills Society's letter sent to you on May 16, (see attached) regarding the issues that they outlined regarding the Somers Pointe Country Club expansion project.**

**On behalf of Heritage Hills Condo 16, which will be directly affected when the construction of the Somers Pointe swimming pool, cabana and tennis courts begins will be in the line of fire.**

**The beauty and serenity that we have enjoyed for many years will come to an end with the sound of construction apparatus, blasting, dirt, dust and possibly vermin that might be unearthed when this project begins for many of the Condo's residents. In addition, when the project is completed the amount of vehicle traffic which will be increased on our roads leading into the facility will become unbearable.**

**In conclusion, while Condo 16 is supportive of this project we hope that the management of Somers Pointe Country Club will maintain the facility properly and don't allow it to become run down as they have with the Pinnacle restaurant, existing parking lot and golf course. All of this distracts from the beauty that is Heritage Hills.**

**Sincerely,**

  
**Ed Goldfarb, President**

**Heritage Hills Condo 16**

**Cc: Pat Ploss, Heritage Hills Society, Ltd.**

PLANNING AND ENGINEERING DEPARTMENTS

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

**Town of Somers**  
WESTCHESTER COUNTY, N.Y.

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

Steven Woelfle  
Principal Engineering Technician  
swoelfle@somersny.com



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

**MEMORANDUM**

**TO:** Town of Somers Planning Board  
**FROM:** Syrette Dym, Director of Planning  
**DATE:** June 2, 2016  
**RE:** Project: Anthony Boniello Subdivision Preliminary Subdivision Approval  
Applicant: Anthony Boniello  
Location: Moseman Avenue north of Pine Tree Drive (Lot 47.16-1-31)  
Zoning: R120 Residence District  
Actions: Request for a Two Lot Subdivision for Creation of One 2.7588 Acre (120,173 sf) Building Lot and One 20.7358 Acre (903,251 sf) Lot to Remain Undisturbed

**Lead Agency**

The Planning Board is in receipt of: (1) correspondence from the Somers Zoning Board of Appeals by memorandum of May 24, 2016, that the ZBA at its meeting of May 17, 2016 indicated the Planning Board should be lead agency; and, (2) Lead Agency Response Form from the Westchester County Department of Health dated May 31, 2016 that the Planning Board should also act as lead agency. Since these are the only two involved agencies, even though the 30 day response period since declaration of intent to be Lead Agency as made at the Planning Board meeting of May 11, 2016 has not passed, the Planning Board can accept lead agency at its meeting of June 8, 2016.

**Negative Declaration**

The Short Form EAF submitted by the Applicant dated February 22, 2016 completed Part 1 and provided a draft completion of Part 2. Since Part 2 – Impact Assessment is the responsibility of the Lead Agency to complete, the Board needs to consider whether it agrees that there are either no impacts or that impacts of this project are small. If there is agreement that impacts are either none or small, there is no need to complete Part 3.

It would appear given the limited impacts of the project, that there are no moderate to large impacts that are anticipated to occur.

If the Board agrees, it can vote for a Negative Declaration by checking the box on the Short Environmental Assessment form that indicated that based on the information and analysis above, and any supporting documentation that the proposed action will not result in any significant adverse environmental impacts.

#### **Public Hearing and Abbreviated Subdivision Approval.**

Pursuant to Section 150-12L, the Planning Board should schedule a public hearing on the preliminary subdivision approval for the meeting of July 13, 2016. If there are no significant comments, the Planning Board can close the public hearing.

The Planning Board can then act on an abbreviated subdivision approval under Section 150-15.:

- Since the Abbreviated Subdivision regulations for a two lot subdivision can only be utilized in cases where a variance is needed only if that variance is already in place, the ZBA will take its legal action on such variance at its meeting of June 21, 2016 at which time it will rescind its Type II SEQR vote and approve the variance. Therefore, the variance will be in place for the Planning Board to act at its July 13 meeting.
- If the Planning Board wants to grant subdivision approval under the abbreviated regulations at the meeting of July 13, under Section 150-15, pursuant to Section 150-15.I, it must waive final subdivision approval procedures required under Section 150-13 and 150-14, which would include final subdivision public hearing and then grant abbreviated subdivision approval.

#### **Referral to ZBA**

The Planning Board should refer the Negative Declaration to the Zoning Board so the Zoning Board can take the following actions at its meeting of June 21, 2016.

- Rescind Type II action vote taken at meeting of April 19, 2016
- Rescind variance vote taken at meeting of April 19, 2016
- Accept Negative Declaration from Planning Board
- Re-vote to grant variance and refer to Planning Board

Cc: Denise Schirmer  
Zoning Board of Appeals  
Joe Barbagallo  
Rob Wasp  
Roland Baroni  
Gus Boniello  
Anthony Boniello

Z:\PE\Subdivision files\Anthony Boniello\Planner Comments 06-02-16.docx

**STATE ENVIRONMENTAL QUALITY REVIEW  
LEAD AGENCY RESPONSE FORM**

Response Deadline: June 10, 2016

TO: Town of Somers – Planning Board  
Attn: Syrette Dym, AICP, Director of Planning  
Town House  
335 Route 202  
Somers, New York 10589

**RE: Establishment of Lead Agency – ANTHONY BONIELLO REQUEST FOR TWO LOT SUBDIVISION FOR CREATION OF ONE 2.7588 ACRE LOT AND ONE 20.7358 ACRE LOT TO REMAIN UNDISTURBED IN AN R120 ZONE (TAX LOT 47.16-1-31) LOCATED ON MOSEMAN ROAD NORTH OF PINE TREE DRIVE.**

Please be advised that the Westchester County Department of Health  
(Name of Agency)

as an involved agency under SEQRA concurs with the designation of the Somers Planning Board as Lead Agency for the above-captioned project.

*Comments, if any, on approval(s) under our jurisdiction and/or issues to be examined as part of environmental review under SEQRA:*

Signature:  Date: 5/31/16

Print Name and Title: Udoming Sripornlai, Assoc. Eng.

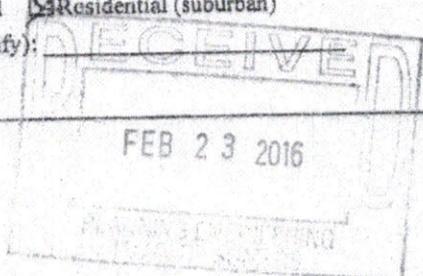
617.20  
Appendix B  
Short Environmental Assessment Form

**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.

<b>Part 1 - Project and Sponsor Information</b>			
Name of Action or Project: <b>Anthony Boniello</b>			
Project Location (describe, and attach a location map): <b>43 MOSEMAN AVE.</b>			
Brief Description of Proposed Action: <b>Subdivide (1) 3 Ac Lot out of existing 23.5 Ac Lot</b>			
Name of Applicant or Sponsor: <b>ANTHONY BONIELLO</b>		Telephone: <b>245 3052</b>	
		E-Mail: <b>AJB1960@AOL.COM</b>	
Address: <b>49 MOSEMAN AVE.</b>			
City/PO: <b>KATONAH NY 10526</b>		State: <b>NY</b>	Zip Code: <b>10530</b>
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 YES <input checked="" type="checkbox"/> <input 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:			NO YES <input checked="" type="checkbox"/> <input type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		<b>23.45</b> acres	
b. Total acreage to be physically disturbed?		<b>5</b> acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		<b>23.45</b> 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			



5. Is the proposed action, a. A permitted use under the zoning regulations?	NO	YES	N/A
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?  b. Are public transportation service(s) available at or near the site of the proposed action?  c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?  If No, describe method for providing potable water: <u>WELL</u>	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?  If No, describe method for providing wastewater treatment: <u>SEPTIC</u>	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?  b. Is the proposed action located in an archeological sensitive area?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?  b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input checked="" type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
16. Is the project site located in the 100 year flood plain?	NO	YES	
<input checked="" type="checkbox"/>	<input type="checkbox"/>		
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES  b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	

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)? If Yes, explain purpose and size: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b>		
Applicant/sponsor name: <u>ANTHONY BONACCIO</u>		Date: <u>2/22/10</u>
Signature: <u>[Signature]</u>		

**Part 2 - Impact Assessment.** The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input type="checkbox"/>	<input type="checkbox"/>

**Part 3 - Determination of significance.** The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
_____	_____
Name of Lead Agency	Date
_____	_____
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
_____	_____
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

**PRINT**

Telephone  
(914) 277-5582

FAX  
(914) 277-3790

## ZONING BOARD OF APPEALS

# Town of Somers

WESTCHESTER COUNTY, N.Y.

TOWN HOUSE  
ANNEX  
337 ROUTE 202  
SOMERS, NY 10589

Victor Cannistra,  
Chairman



**MEMO TO:** Somers Planning Board

**FROM:** Somers Zoning Board of Appeals

**RE:** Anthony Boniello Subdivision

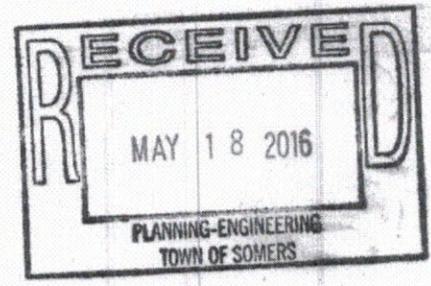
**DATE:** May 24, 2016

A hard copy of a memo dated May 13, 2016 from the Somers Planning Board to the Somers Planning Board was received on May 18, 2016. Evidently it was intended for the Somers Zoning Board of Appeals. Since it was inadvertently addressed incorrectly, we never got it.

Anthony Boniello did appear before us at our monthly meeting on May 17, 2016. Mr. Boniello notified the Board that the Planning Board would like lead agency status for this subdivision project. Mr. Harden made a motion to give the Planning Board lead agency status for this subdivision project. Mr. Carpaneto seconded the motion. All were in favor except for Mr. Santaroni who recused himself.

C- PB CT/PL APPL. TOUCH TR

Dennis P. Persico  
266 Mahopac Avenue  
Yorktown Heights, NY 10598



May 18, 2016

Town of Somers  
Planning Board  
335 US-202  
Somers, NY 10589

Attn: John Currie, Chairman, and the members of the Town of Somers Planning Board

RE: **Proposed Project – “The Crossroads at Baldwin Place”**

SUB: SEQRA process and applicants request to reaffirm previous Negative Declaration

Dear Planning Board Members,

In an April 4, 2016 letter from the applicants Attorney, and during the May 11, 2016 Planning Board meeting, the applicant of the above referenced Project requested that the Town Planning Board (TPB) reaffirm a three year old Negative Declaration (Neg Dec) that was given for another Project on the same site. This letter will serve public input for the record to document opposition to the reaffirming of the previous Neg Dec. In fact, it is requested that the TPB rescind the February 13, 2013 Neg Dec for “The Green at Somers” project as mandated by 6 NYCRR Part 617.7(f). Should the applicant wish to proceed, he should properly start the State Environmental Quality Review Act (SEQRA) process for the proposed “Crossroads at Baldwin Place” project from Step #1.

The reasons for this position are as follows:

- 1.) **The previous Neg Dec is not associated with the presently proposed project nor the current applicant.** In the April 4, 2016 letter referenced above, the applicants Attorney, Mr. Charles V. Martabano seeks to convince the TPB that it would be “appropriate” to simply reaffirm the 2013 Neg Dec for “The Green at Somers” Project. To strengthen this position, Mr. Martabano presents a case in which the Commissioner of the NYSDEC made a decision in a dispute between two parties in where each wanted to be the lead agency for the SEQRA process for a project in Dutchess County. Noteworthy is that there is no dispute about who will be the lead agency surrounding the proposed project called “The Crossroads at Baldwin Place”. Furthermore, in the case Mr. Martabano cites, both the project and the applicant remained unchanged. In this case now being brought forth to the Somers TPB, the Neg Dec that is being asked to be reaffirmed is for a different project and for a different applicant.
- 2.) **The previous Neg Dec did not address the presence of contaminated soil on the site.** The applicant of the proposed project has identified that there is contaminated soil on the

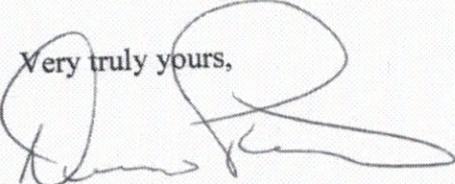
site that will be removed. This is new information. The previous Neg Dec did not mention the presence or disturbance of contaminated soil. Therefore the impact of the contaminated soil to the environment has not been considered. This issue is significant and will require additional study. The Watershed Investigator General is aware of this issue.

- 3.) **The previous Neg Dec provided for the creation of 30% less impervious surface.** Given the proposed project would generate significantly more impervious surfaces, additional studies would need to be undertaken to determine the impact on the environment. The Watershed Investigator General is aware of this issue.
- 4.) **The previous Neg Dec provided for two existing drainage pipes that were discharging into the 100 foot wetland buffer to be removed from the buffer. The proposed plan has a new and larger pipe terminating within the 100 foot wetland buffer.** This is a significant change which will require further study. The Watershed Investigator General is aware of this issue.
- 5.) **The previous Neg Dec did not properly address the concerns of the adjacent property owners.** The record will show that there was public opposition to "The Green at Somers" project and in particular it required that a change to the existing zoning policies be made. Similar to 2013, a petition opposing the zoning change with over seventy (70) signatures will be submitted to the Board shortly. It is respectfully requested that the TPB take seriously the objections of the adjacent property owners.
- 6.) **The previous Neg Dec does not address that the project is located in an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory.** The SHPO is aware of this issue and they are looking forward to being contacted about the same.

Given the above, it is being requested that the TPB deny the applicants request to have the Neg Dec for "The Green at Somers" project be reaffirmed and made to be applicable to "The Crossroads at Baldwin Place" project. It is also requested that the previous Neg Dec for "The Green at Somers" project be rescinded as mandated by 6 NYCRR Part 617.7(f). Furthermore I respectfully ask that the content of this letter be part of the agenda in the next TPB meeting. Kindly confirm the next meeting will be on June 8, 2016.

Should you have any questions or require any additional information on this matter, please do not hesitate to contact me at (201) 580-7758.

Very truly yours,



Dennis P. Persico

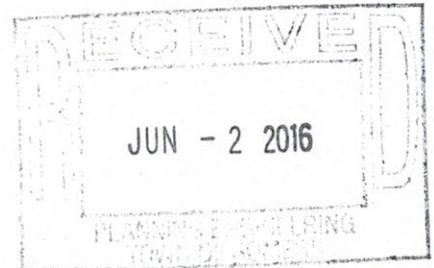
C  
PB-TP-CTE-

**CHARLES V. MARTABANO**  
Attorney at Law

9 Mekeel Street  
Katonah, New York 10536  
cmartabano@gmail.com  
(914) 242-6200 Telephone  
(914) 242-3291 Facsimile  
(914) 760-9241 Cell

May 31, 2016

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



Re: The Crossroads at Baldwin Place  
57 US Route 6  
Tax Map #4.20-1-3.1

33

Dear Chairman Currie and Members of the Planning Board:

I am in receipt of a copy of a letter to your Board dated May 18, 2016 from Mr. Dennis P. Persico. A copy of Mr. Persico's letter is attached hereto. In such letter Mr. Persico takes issue with the content of my letter to your Board dated April 4, 2016 which, insofar as relates to the SEQRA process applicable to the above-referenced project, stated in pertinent part as follows:

"Specifically, it is the intent of the Applicant to demonstrate to the satisfaction of your Board that an analysis of the comparison between the Project and its impacts and proposed mitigation to the prior iteration thereof and the SEQRA analysis upon which the prior negative declaration was based should result in a determination on the part of your Board to adhere to and reaffirm the previously issued negative declaration, modified as appropriate to reflect the current project parameters and the impacts and mitigation associated therewith."

As also set forth in my letter, the propriety of the procedure requested by the Applicant was predicated upon a July 2012 determination by the Commissioner of NYSDEC (hereinafter "Commissioner's Determination") involving a dispute between the respective planning boards of the Village and Town of Red Hook, New York, and a copy of such decision was also attached to my correspondence.

As can be seen from the content of his letter, Mr. Persico seeks to cause your Board to ignore the binding effect of the Commissioner's Determination by reason of: (1) the fact that

there is no lead agency dispute in connection with the application pending before your Board; and (2) because he asserts that “in the case Mr. Martabano cites, *both the project and the applicant remained unchanged*” (emphasis and italics added). With all due respect to Mr. Persico, his first basis for objection is irrelevant and his second basis for objection is completely factually inaccurate.

The mere fact that the Commissioner’s Determination was issued in connection with a lead agency dispute (whereas there exists no lead agency dispute in connection with this matter) does not in any way detract from that portion of the Commissioner’s Determination based upon the applicable SEQRA regulations as same pertains to the ability of a lead agency to reaffirm a previously issued negative declaration despite changes to the project and changes to the sponsor. At issue in the Red Hook matter was whether, where there were changes to the project and the project sponsor, it was appropriate for the Village of Red Hook Planning Board to reaffirm a negative declaration issued in connection with a prior iteration of a project proposed by a different sponsor with a revised or updated negative declaration as this Applicant is requesting of your Board. The Town of Red Hook Planning Board sought the intervention of the Commissioner of NYSDEC because the Town Planning Board believed that under the circumstances applicable to the *modified* project under consideration, it was inappropriate for the Village Planning Board to reaffirm its prior (2006) negative declaration issued in connection with a previously approved project. While Mr. Persico asserts that in the Red Hook matter the Commissioner was dealing with an “unchanged project”, it is imperative in this regard to note instead that the Town Planning Board felt that the proposed modifications to the project were so significant as to cause it to be classified as a new project requiring an entirely new SEQRA process. It is because of this belief that the mechanism through which the Town Planning Board invoked the jurisdiction of the Commissioner of NYSDEC was through a purported lead agency challenge despite the fact that the Village Planning Board had previously been selected as lead agency for the earlier iteration of the project. Because the Commissioner of NYSDEC determined that the actions of the Village Planning Board were appropriate under SEQRA, the lead agency dispute was dismissed. Accordingly, the fact that the Commissioner’s Determination was issued in connection with a purported lead agency dispute is completely immaterial. What is material is that, in direct contravention of Mr. Persico’s contentions, the Commissioner determined that *neither the changes to the project nor the change of the sponsor prevented the lead agency ability from reaffirming a negative declaration with a revised or updated negative declaration.*

In asserting that in connection with the Commissioner’s Red Hook Determination, NYSDEC was dealing with a situation where “both the project and the applicant remained unchanged”, Mr. Persico’s letter further ignores the content of my letter which, when referring to such Determination, stated in pertinent part as follows:

“As can be seen from the content thereof, said dispute related to the propriety of actions taken by the VPB as lead agency pursuant to SEQRA when a project

which was the subject of a prior negative declaration and approvals by the VBP: (1) went dormant for six (6) years following issuance of the negative declaration with all approvals expiring; (2) *was thereafter sold to a new applicant*; (3) *was modified and resubmitted for approval based upon the negative declaration issued six(6) years previously*; and (4) was the subject of changes to the zoning code and subdivision regulations applicable to the Town of Red Hook.”

(emphasis and italics added)

My letter further stated:

“As set forth in the NYSDEC Determination, the Commissioner dismissed the lead agency challenge and, in so doing, concluded that the SEQRA regulations precluded any need or legal ability on the part of the TPB as an involved agency to attempt to cause the SEQRA process to be “restarted” despite:

- a. the passage of seven (7) years from the date of determination of the lead agency for coordinated review;
- b. the passage of six (6) years from the date of the approvals of the earlier iteration of the project;
- c. the lapsing of all prior approvals;
- d. proposed changes to the project;
- e. changes of ownership and Applicant;
- f. changes of zoning regulations and subdivision regulations for the Town of Red Hook.

Similarly, the Determination itself repeatedly made references to the change in ownership and the modifications made to the project. Accordingly, in the Red Hook matter, in contrast to Mr. Persico’s assertion, the relevant lead agency for SEQRA purposes was indeed dealing with a different applicant/sponsor and a modified project. Notwithstanding the foregoing, the Commissioner’s Determination dismissing the lead agency challenge verified the propriety, under such circumstances, of the lead agency reaffirming a prior negative declaration with a revised or updated negative declaration, precisely the procedure this Applicant is requesting be utilized by your Board.

Mr. Persico’s second assertion is that the previous negative declaration did not address the presence of contaminated soil on the site. It is respectfully submitted that a review of the administrative record and understanding of the regulatory process pertaining to contamination reveals that Mr. Persico’s comment is irrelevant insofar as it relates to whether this Board can “adhere to and reaffirm the previously issued negative declaration, modified as appropriate to reflect the current project parameters and the impacts and mitigation associated therewith”. As this Board is aware, the issue of potential contamination *was in fact raised during the prior review of the earlier iteration of this project prior to issuance of the negative declaration*. In this regard I respectfully refer you to the memorandum issued by Carlin Simpson & Associates dated

May 31, 2012 which raises the potential existence of contaminated soils on pages 13 and 14 thereof, indicating that “[p]roper disposal of all contaminated soil must be in accordance with federal and state regulations”. I am advised by prior counsel that further discussions were conducted with this Board whereby the then applicant stated its intention to properly dispose of any contaminated soils following testing and during the construction process.

With respect to the current application, in depth investigation occurring as part of the current Applicant’s due diligence provided details regarding the existence of contamination in a very limited area of the site. A spill number has been filed with NYSDEC and remediation will take place to address this issue. NYSDEC has jurisdiction over remediation associated with the spill number and the requirements for remediation mandate that proper disposal of all contaminated soil will be undertaken in accordance with all applicable federal and state regulations. As set forth above, jurisdiction over the remediation is within the province of NYSDEC and remediation will be governed by NYSDEC regulations. Accordingly, the future investigations that were referenced in the report by Carlin Simpson & Associates (and actually referenced in Mr. Persico’s letter as necessary to be undertaken) have already been undertaken and remediation will be effectuated and completed prior to the construction of the project. There is therefore no basis to utilize the issue of contamination as a means to attempt to prevent the Planning Board from moving forward to reaffirm the previously issued negative declaration with a revised or updated negative declaration.

Mr. Persico’s third assertion is that the prior negative declaration “provided for the creation of 30% less impervious surfaces” and he thereafter opined that as “the proposed project would generate significantly more impervious surfaces, additional studies would need to be undertaken to determine the impact on the environment”. Once again, Mr. Persico’s assertions are factually inaccurate. The current project is proposing a total of 3 acres of impervious surfaces. In comparison, the previous project proposed a total of 2.8 acres of impervious surfaces. This is a 7% increase not 30%. The breakdown of the impervious surfaces for the proposed project is 2.2 acres of new impervious surfaces; 0.1 acres of permeable pavement and 0.7 acres of existing impervious surfaces being redeveloped. The breakdown of impervious surfaces for the previous project was 1.7 acres of new impervious surfaces; 0.4 acres of permeable pavement and 0.7 acres of existing impervious surfaces to be redeveloped. The SWPPP prepared for the proposed project will be designed in accordance with the latest edition of the Design Manual, and will be designed to capture and treat the proposed impervious surfaces. In addition, the proposed project will also capture and treat existing pavement associated with US Route 6 previously not considered. Similar to the previous project the proposed project will provide a wide range of SMPs including vegetated swales, water quality swales (NYSDEC Design O-1), porous pavement, a surface sand filter (NYSDEC Design F-1), and a Pocket Wetland (NYSDEC Design W-4). Based on the above referenced measures the proposed project will result in an improvement to the quality of stormwater when compared to the previous project.

Mr. Persico's fourth assertion is that there exists "a significant change which will require further study" by reason of the proposed replacement of pre-existing drainage pipes. However, a true understanding of the proposed modifications relating to these drainage pipes reveal that the only "significant change" is a *beneficial* change occurring as a consequence of the proposed work. The proposed project shows the replacement of the existing drainage line that runs through the center of the property. This drainage line currently receives runoff from the culvert underneath US Route 6 and is *undersized* thereby limiting the capacity of the NYSDOT drainage system. The NYSDOT has indicated that this project will be responsible for upgrading the size of the pipe to accommodate the NYSDOT design flows. In the current condition the existing parking lot and portions of US Route 6 discharge *untreated stormwater into this pipe which is conveyed directly into the wetland*. The proposed project will capture the runoff from the redeveloped parking lot and US Route 6 and pass it through a stormwater treatment system consisting of a vegetated swale, sand filter and pocket wetland. *Thus as a result of this project the capacity of the NYSDOT drainage system will be increased to meet the NYSDOT design requirements and currently untreated stormwater runoff discharging directly to the wetland will receive three levels of stormwater treatment.*

With respect to the pipe that runs along the western edge of the property, no part of the site is tributary to the pipe. As such the proposed project does not have an impact associated with the water discharging from this pipe. Shortening the pipe will result in the creation of a non-complying regulated activity under the NYCDEP Rules and Regulations for the Protection from Contamination, Degradation and Pollution of the New York City Water Supply and its Sources. This would create an unnecessary permitting hardship. Also due to the slope, shortening the pipe will result in the edge of the wetland/natural water level extending to the end of the new shortened pipe. This will result in the same condition as currently exists whereby runoff exiting the upstream wetland will still discharge directly into the downstream wetland. Thus, there is limited, if any benefit, to shortening the pipe. Since shortening the pipe will not have any benefit, but will create a noncomplying regulated activity, the pipe is not proposed to be shortened.

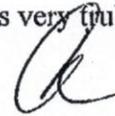
Mr. Persico's final assertion is that the previous negative declaration did not address that the project is located in an area designated as sensitive for archaeological sites on the New York State Historic Preservation Office. He then emphasizes that "[t]he SHPO is aware of this issue and they are looking forward to being contacted about the same". For the reason set forth below, I did not examine the prior administrative record so as to determine whether this issue was considered in the earlier process and to do so at this juncture is simply unnecessary. I make this statement because this Applicant *did* specifically request the comments of the New York State Office of Parks, Recreation and Historic Preservation and, as shown below, received a definitive response. Attached hereto and made part hereof is a copy of a letter dated May 31, 2016 from Ruth L. Pierpont, Deputy Commissioner for Historic Preservation of the New York State Office of Parks, Recreation and Historic Preservation. The letter states, in pertinent part, as follows:

“Based upon this review, it is the New York State Office of Parks, Recreation and Historic Preservation’s opinion that your project will have no impact on archaeological and/or historic resources listed in or eligible for the New York State and National Registers of Historic Places.”

Accordingly, Mr. Persico’s comments regarding the alleged failure to address this issue are now moot.

I would hope that your Board determines that the information set forth above responds to each and every issue set forth in Mr. Persico’s letter and therefore it is appropriate for your Board to make a determination to adhere to and reaffirm the previously issued negative declaration, modified as appropriate to reflect the current project parameters and the impacts and mitigation associated therewith as requested by the applicant. If any member of your Board has any further questions or concerns regarding any aspect of Mr. Persico’s letter, please feel free to contact me.

Yours very truly,



Charles V. Martabano

cc: Director of Planning Syrette Dym  
Town Consultant Planner Sarah Brown  
Town Attorney Roland Baroni, Esq.  
Kearney Realty & Development Group, Inc.  
Insite Engineering, Surveying & Landscape Architecture, P.C



# Parks, Recreation, and Historic Preservation

ANDREW M. CUOMO  
Governor

ROSE HARVEY  
Commissioner

May 31, 2016

Mr. Richard Williams Jr., P.E.  
Sr. Project Engineer  
Insite Engineering  
3 Garrett Place  
Carmel, NY 10512

Re: DEC  
Crossroads at Baldwin Place, 57 Birdsall Road  
Town of Carmel, Putnam County & Town of Somers, Westcheser County, NY  
16PR03700

Dear Mr. Williams Jr., P.E.:

Thank you for requesting the comments of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the project in accordance with the New York State Historic Preservation Act of 1980 (Section 14.09 of the New York Parks, Recreation and Historic Preservation Law). These comments are those of the OPRHP and relate only to Historic/Cultural resources. They do not include potential environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to the State Environmental Quality Review Act (New York Environmental Conservation Law Article 8) and its implementing regulations (6 NYCRR Part 617).

Based upon this review, it is the New York State Office of Parks, Recreation and Historic Preservation's opinion that your project will have no impact on archaeological and/or historic resources listed in or eligible for the New York State and National Registers of Historic Places.

If further correspondence is required regarding this project, please be sure to refer to the OPRHP Project Review (PR) number noted above.

Sincerely,

Ruth L. Pierpont

Deputy Commissioner for Historic Preservation

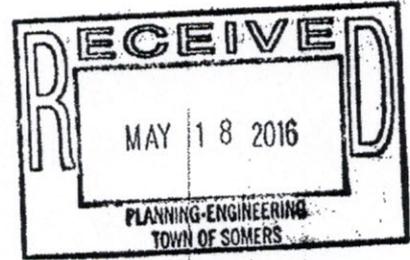
---

Division for Historic Preservation

P.O. Box 189, Waterford, New York 12188-0189 • (518) 237-8643 • [www.nysparks.com](http://www.nysparks.com)

C- PB  
STEP  
APPL.  
T.C.U.  
TA

Dennis P. Persico  
266 Mahopac Avenue  
Yorktown Heights, NY 10598



May 18, 2016

Town of Somers  
Planning Board  
335 US-202  
Somers, NY 10589

Attn: John Currie, Chairman, and the members of the Town of Somers Planning Board

RE: **Proposed Project – “The Crossroads at Baldwin Place”**

SUB: SEQRA process and applicants request to reaffirm previous Negative Declaration

Dear Planning Board Members,

In an April 4, 2016 letter from the applicants Attorney, and during the May 11, 2016 Planning Board meeting, the applicant of the above referenced Project requested that the Town Planning Board (TPB) reaffirm a three year old Negative Declaration (Neg Dec) that was given for another Project on the same site. This letter will serve public input for the record to document opposition to the reaffirming of the previous Neg Dec. In fact, it is requested that the TPB rescind the February 13, 2013 Neg Dec for “The Green at Somers” project as mandated by 6 NYCRR Part 617.7(f). Should the applicant wish to proceed, he should properly start the State Environmental Quality Review Act (SEQRA) process for the proposed “Crossroads at Baldwin Place” project from Step #1.

The reasons for this position are as follows:

- 1.) **The previous Neg Dec is not associated with the presently proposed project nor the current applicant.** In the April 4, 2016 letter referenced above, the applicants Attorney, Mr. Charles V. Martabano seeks to convince the TPB that it would be “appropriate” to simply reaffirm the 2013 Neg Dec for “The Green at Somers” Project. To strengthen this position, Mr. Martabano presents a case in which the Commissioner of the NYSDEC made a decision in a dispute between two parties in where each wanted to be the lead agency for the SEQRA process for a project in Dutchess County. Noteworthy is that there is no dispute about who will be the lead agency surrounding the proposed project called “The Crossroads at Baldwin Place”. Furthermore, in the case Mr. Martabano cites, both the project and the applicant remained unchanged. In this case now being brought forth to the Somers TPB, the Neg Dec that is being asked to be reaffirmed is for a different project and for a different applicant.
- 2.) **The previous Neg Dec did not address the presence of contaminated soil on the site.** The applicant of the proposed project has identified that there is contaminated soil on the

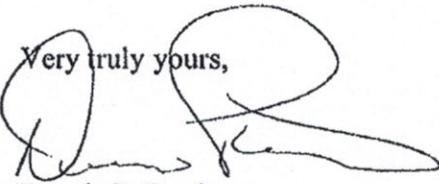
site that will be removed. This is new information. The previous Neg Dec did not mention the presence or disturbance of contaminated soil. Therefore the impact of the contaminated soil to the environment has not been considered. This issue is significant and will require additional study. The Watershed Investigator General is aware of this issue.

- 3.) **The previous Neg Dec provided for the creation of 30% less impervious surface.** Given the proposed project would generate significantly more impervious surfaces, additional studies would need to be undertaken to determine the impact on the environment. The Watershed Investigator General is aware of this issue.
- 4.) **The previous Neg Dec provided for two existing drainage pipes that were discharging into the 100 foot wetland buffer to be removed from the buffer. The proposed plan has a new and larger pipe terminating within the 100 foot wetland buffer.** This is a significant change which will require further study. The Watershed Investigator General is aware of this issue.
- 5.) **The previous Neg Dec did not properly address the concerns of the adjacent property owners.** The record will show that there was public opposition to "The Green at Somers" project and in particular it required that a change to the existing zoning policies be made. Similar to 2013, a petition opposing the zoning change with over seventy (70) signatures will be submitted to the Board shortly. It is respectfully requested that the TPB take seriously the objections of the adjacent property owners.
- 6.) **The previous Neg Dec does not address that the project is located in an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory.** The SHPO is aware of this issue and they are looking forward to being contacted about the same.

Given the above, it is being requested that the TPB deny the applicants request to have the Neg Dec for "The Green at Somers" project be reaffirmed and made to be applicable to "The Crossroads at Baldwin Place" project. It is also requested that the previous Neg Dec for "The Green at Somers" project be rescinded as mandated by 6 NYCRR Part 617.7(f). Furthermore I respectfully ask that the content of this letter be part of the agenda in the next TPB meeting. Kindly confirm the next meeting will be on June 8, 2016.

Should you have any questions or require any additional information on this matter, please do not hesitate to contact me at (201) 580-7758.

Very truly yours,



Dennis P. Persico

PLANNING AND ENGINEERING DEPARTMENTS

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

**Town of Somers**

WESTCHESTER COUNTY, N.Y.

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

Steven Woelfle  
Principal Engineering Technician  
swoelfle@somersny.com



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

**MEMORANDUM**

**TO:** Town of Somers Planning Board

**FROM:** Syrette Dym, Director of Planning

**DATE:** June 3, 2016

**RE:** Project: NY-Heritage Hills, New York SMSA Limited Partnership  
d/b/a Verizon Wireless - Special Permit and Site Plan for Co-location of  
Additional Antennas on an Extension to the Existing Monopole  
Applicant: New York SMSA Limited Partnership d/b/a Verizon  
Wireless  
Location: 250 West Hills Drive, Heritage Hills of Westchester Water  
Works (Tax Lot 17.5-20-2)  
Zoning: DRD Designed Residential Development Overlay District  
Actions: Special Permit and Site Plan for Co-location of Additional  
Antennas on an Extension to the Existing Monopole

**Application Submission**

- Cover Letter from Snyder & Snyder, LLP of May 26, 2016
- ETS Special Inspection Condition Assessment dated May 26, 2016
- Structural Modification Report dated January 15, 2015 by John W. Kelly III, P.E.  
Engineering, DPC

**Cover Letter Comments**

My comment letter of May 4, 2016 indicated that the tower on which the extension was requested had not had a renewed permit and that, in accordance with Section 170-129.6G of the Town Code, it needed one and that submissions were required to be provided to the Planning Board.

The Snyder & Snyder letter indicates that a renewal permit is not required to be provided by the tower owner, who is different than Verizon Wireless, because the tower was approved in 1993 by site plan approval (Res. #93-24) prior to any Town requirements for a special permit or renewal thereof. Such interpretation of the tower being pre-existing non-conforming has been made with the Town Attorney by phone call on June 3, 2016. Therefore, my requests for information required for such permit renewal are not necessary.

Notwithstanding this lack of requirement for the special permit renewal, the applicant has provided the Planning Board with an engineering report of January 15, 2016 prepared for Crown Castle, the owner of the pole. That report was prepared to indicate that the existing pole was structurally adequate to accept the pole extension requested by Verizon. The report determined there was sufficient capacity on the existing pole to accept the proposed modification.

Additionally, a "Special Inspection Condition Assessment" was undertaken by ETS on May 25<sup>th</sup>, 2016. As indicated in correspondence of May 26, 2016, there was a personal on-site inspection conducted to determine if the tower had any structural deficiencies. ETS determined that the tower has no significant maintenance issues that would affect the structural capacity of the tower. Additionally they performed light maintenance to repair any minor deficiencies that they did find.

#### **Compliance with Regulations of Section 170-129.6 F & G of the Town Code**

As per Section 170-129.6 F, the Planning Board needs to determine if it deems the change or modification being proposed is minor or not. If it is deemed minor, the Planning Board could determine to waive the special permit public hearing for the new application.

#### **Site Plan Approval**

Although the Applicant has submitted an application for site plan approval, it has indicated that it requests a waiver of such approval from the Planning Board. As per Section 170-129.9 B and C, the Planning Board is permitted to waive site plan review and approval for a site plan modification if it finds the modification is minor or for a new application subject to provisions of Section 170-114F. The relevant portion of Section 170-114 F is (d) which states the following: "Amendment of a special exception use permit that does not affect the characteristics of the site in terms of traffic, access, parking, loading, circulation, hours of operation, drainage, utilities, lighting, security or other Town services". The Planning Board still needs to make such determinations.

Cc: Joe Barbagallo  
Rob Wasp  
Roland Baroni  
Leslie J. Snyder

Z:\PE\Site plan files\Heritage Hills Verizon Wireless\Town comments\Planner's Comments06-03-16.docx