

Telephone  
(914) 277-5366

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(914) 277-4093

PLANNING DEPARTMENT

TOWN HOUSE  
335 ROUTE 202  
SOMERS, NY 10589

Town of Somers

WESTCHESTER COUNTY, N.Y.



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

**SOMERS PLANNING BOARD  
AGENDA  
AUGUST 8, 2012  
7:30 P.M.**

**MINUTES** Consideration for approval of Draft Minutes for June 13, 2012

**TIME-EXTENSION**

**1. SUSAN HAFT/RIDGEVIEW DESIGNER BUILDERS, INC.**

**FINAL CONSERVATION SUBDIVISION APPROVAL**

**[TM: 16.12-1-41 & 42]**

Application of Susan Haft and Ridgeview Designer Builders, Inc. for Final Conservation Subdivision Approval, Stormwater Management and Erosion and Sediment Control, Steep Slopes and a Tree Removal Permit. Request for a 90-day time-extension of Final Approval from August 20, 2012 to and including November 19, 2012 in accordance with §150-13-M of the Code of the Town of Somers. This is the seventh request for an extension of Final Subdivision Approval.

**2. MERRITT PARK ESTATES FINAL SUBDIVISION APPROVAL**

**[TM: 5.20-1-1]**

Request for a 90-day time-extension to the period of Final Subdivision Approval from July 9, 2012 to and including October 9, 2012 in accordance with §150-13-M of the Code of the Town of Somers. This is the eighth request for a time-extension.

**3. MITCHELL CONSERVATION SUBDIVISION**

**[TM: 16.09-1-9]**

Application of Gary Mitchell for a four (4) lot Conservation Subdivision on a 7.1 acre property. Request for a 180-day time extension to and including October 23, 2012 in accordance with §150-12.N of the Code of the Town of Somers

This is the first request for a time-extension.

**DECISION**

**4. GREENBRIAR RE- SUBDIVISION OF LOTS 1, 2, 3, 4  
IN SECTION 7  
CUTTING OF 50" OAK TREE.**

Discussion on a Notice of Violation issued by Steven Woelfle, Principal Engineering Technician dated May 5, 2012. The Planning Board in 2006 granted approval to re-subdivide 4 lots with the condition that the 50" white oak be preserved. Last discussed at the Planning Board meeting of July 11, 2012.

**PROJECT REVIEW**

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

Application of National Golfworx/Rick Van Benschoten (owner) for a mixed use development consisting of five buildings with a combination of retail and residential uses. The site is proposed to be serviced by public sewer and water. The application was last discussed at the July 11, 2012 Planning Board meeting.

Next Planning Board Meeting, September 12, 2012  
Agenda information is also available at [www.somersny.com](http://www.somersny.com)

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TOWN HOUSE  
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John Currie, *Chairman*  
Fedora DeLucia  
Christopher Foley  
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Nancy Gerbino  
Eugene Goldenberg  
John Keane



2

SOMERS PLANNING BOARD MINUTES  
JUNE 13, 2012

ROLL:

**PLANNING BOARD**

**MEMBERS PRESENT:**

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

**ALSO PRESENT:**

Town Attorney Joseph Eriole  
Planning Consultant Joanne Meder  
Planning Board Secretary Marilyn Murphy

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

**MINUTES**

**APPROVAL OF APRIL 11, 2012 MINUTES**

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

Chairman Currie asked if there were any comments or questions from  
members of the Board on the draft minutes of April 11, 2012.

1 Mrs. DeLucia requested a change to Page 10, Line 30 that the motion read  
2 that the Board amend Resolution No. 2009-17 Granting of Conditional Site  
3 Plan Approval to Hallic Place Development LLC for Wright's Court *to revise*  
4 *the site plan and a note to extend the proposed walkway to the rear of*  
5 *Building B to the property line be added to the amended site plan.*

6  
7 On motion by Ms. Gannon, seconded by Mr. Goldenberg, and unanimously  
8 carried, the minutes of April 11, 2012, as amended, were approved.

9  
10 **TIME-EXTENSION**

11  
12 **ROUTE 100 REALTY, LLC**  
13 **SUSSMANN MOBIL STATION**  
14 **APPLICATION FOR AMENDED SITE PLAN, WETLAND, STEEP**  
15 **SLOPES AND GROUNDWATER PROTECTION OVERLAY DISTRICT**  
16 **PERMITS [TM: 17.18-1-2]**

17  
18 Chairman Currie noted that Timothy Allen of Bibbo Associates, the  
19 applicant's engineer, provided the Board with a letter asking for  
20 consideration for a first 90-day time-extension for Route 100 Realty, LLC  
21 Amended Site Plan.

22  
23 The Chair asked if there were any comments or questions from members  
24 of the Board regarding the time-extension.

25  
26 Mrs. DeLucia mentioned that the letter from Tim Allen requesting the time-  
27 extension is dated June 12, 2012 and she suggested that letters requesting  
28 time-extensions be submitted 9 days before the meeting like other  
29 submissions. Mrs. DeLucia said that the letter is self-explanatory and she  
30 is in favor of the time-extension.

31  
32 Mr. Keane said that by receiving the request so late it does not give the  
33 Board time to do their homework on the request.

34  
35 Chair Currie explained that the applicant did not realize there was only one  
36 meeting in June and the resolution would expire if the Board did not grant  
37 the time-extension tonight.

38  
39 On motion by Mrs. DeLucia, seconded by Ms. Gannon, and unanimously  
40 carried, the Board moved to grant a 90-day time-extension to Route 100

1 Realty, LLC to the period of Conditional Amended Site Plan, Wetland,  
2 Steep Slopes and Groundwater Protection Overlay District Permits from  
3 June 22, 2012 to and including September 20, 2012.

4  
5 **DISCUSSION**

6  
7 **THE GREEN AT SOMERS AMENDED SITE PLAN,**  
8 **WETLAND, STEEP SLOPES AND STORMWATER MANAGEMENT AND**  
9 **EROSION AND SEDIMENT CONTROL PERMITS**  
10 **[TM: 4.20-1-3.1]**

11  
12 Chairman Currie noted that the Planning Board will be discussing the  
13 modified proposal for professional consulting services by Frederick P. Clark  
14 Associates, Inc on behalf of the Planning Board's review of the application  
15 of The Green at Somers.

16  
17 The Chair asked the Town's Planning consultant to give a brief summary  
18 regarding the modified proposal for professional services.

19  
20 Joanne Meder, the Town's consultant, said that she was present to give an  
21 overview of the modified proposal for professional services. Ms. Meder  
22 mentioned that the first proposal, which was discussed at the May Planning  
23 Board meeting, was narrowly defined because she felt that she had to get  
24 better acquainted with the project. She commented that the Board felt it  
25 would be appropriate to expand the scope of the study to accomplish a  
26 longer time horizon and to get to the point that the Board would be  
27 comfortable making a Determination of Significance under SEQRA.

28 Ms. Meder indicated that the proposal was recently revised to address the  
29 Board's comments. She noted that she met three times with the Town in  
30 order to be brought up to speed on where the process is so far. She said  
31 that the modified proposal is designed to take into account the next two  
32 subsequent review cycles and to pick up where the previous planner left  
33 off. Ms. Meder noted that she will review the application materials  
34 submitted for discussion at the May Planning Board meeting and the next  
35 two Planning Board meetings at which the application is scheduled to be  
36 heard and the preparation of memoranda to the Planning Board.

37  
38 Ms. Meder mentioned that the Town asked that FP Clark be responsible for  
39 the general site plan and environmental review, the traffic related aspects  
40 which include site access and the traffic study. She commented that

1 Michael Galante of FP Clark submitted a preliminary report of the  
2 applicant's traffic analysis. Ms. Meder explained that a second phase of  
3 the review will be submitted as soon as the applicant provides additional  
4 information.

5  
6 Ms. Meder noted that the proposal contemplates two more rounds of  
7 meetings with the preparation of the draft and final Part 2 of the full EAF  
8 and the draft and final Determination of Significance. She said that if the  
9 determination is a Positive Declaration or a narrow Environmental Impact  
10 Study (EIS) is required more meetings will be required. Ms. Meder noted  
11 that if FP Clark is retained they will advise the Board on SEQRA procedural  
12 aspects and whether the application is complete.

13  
14 Ms. Meder explained that the proposal requires the review of background  
15 information on Planning Board review to date and identification of a list of  
16 needed plans and to verify the accuracy of the wetland delineation. She  
17 noted that the review of application materials submitted for discussion at  
18 the May 2012 Planning Board meeting and the next two Planning Board  
19 meetings at which the application is scheduled to be heard and the  
20 preparation of review memoranda to the Planning Board are part of the  
21 proposal, assuming that the Board reaches the point that they are  
22 comfortable making a Determination of Significance and Part 2 of the long  
23 EAF will be done. She noted that she realizes that the process may take  
24 longer than anticipated; therefore, the proposal will be done in phases  
25 under the same rates.

26  
27 The Chair asked if the Board had any questions for Ms. Meder on the  
28 modified proposal for The Green at Somers.

29  
30 Mrs. DeLucia referred to Page 6, under Miscellaneous, the second  
31 paragraph, *It is also understood that payment to Frederick P. Clark*  
32 *Associates, Inc. for services provided in accordance with this proposal is*  
33 *not contingent on the Town receiving any payment from the Applicant or*  
34 *others who are not parties to this agreement, despite the signature block*  
35 *for the applicant at the bottom of this letter.* She asked how the billing will  
36 be handled.

37  
38 Ms. Meder explained that FP Clark's relationship is with the Town and the  
39 paragraph just read is a standard provision in all their consulting service  
40 agreements. She mentioned that Chapter 133 of the Somers Town Code

1 requires that the applicant and the Planning Board approve the proposal.  
2 Ms Gannon referenced Page 5, the paragraph under the box, *We purpose*  
3 *to invoice our work on the basis of our standard hourly charges plus*  
4 *expenses, in this manner, the Town will only be charged for the time and*  
5 *materials that we actually expend. It is important to note that rates already*  
6 *have built into them the cost of administrative support such as secretarial*  
7 *and clerical staff time. We further propose that any additional work that is*  
8 *outside of the described scope of services...*

9  
10 Mr. Gannon said that there should be a chart showing the standard  
11 schedule of hourly charges. She asked for an example of an additional  
12 expense not included in the billing cost of administrative support and what  
13 is meant by additional work that is outside of the described scope of  
14 services.

15  
16 Ms. Meder mentioned that the Town Board approved their hourly charges  
17 but she will have that included in the proposal. She explained that if she  
18 had to attend more than two Planning Board meetings or additional work  
19 that is not part of this proposal an additional proposal will be submitted.

20  
21 Ms. Meder said that now that the Board is Lead Agency on this project the  
22 Board has to determine if they have enough information to make a  
23 Determination of Significance and if not the Board will ask the applicant to  
24 supply additional information. She noted that the Board can allow  
25 information to be submitted for an indefinite period of time or they can  
26 decide that there are issues important enough to be packaged in a  
27 formalized process such as a scoping session to decide what issues should  
28 be answered in an EIS.

29  
30 Mr. Goldenberg noted that the Town Board at their meeting on May 17,  
31 2012 reviewed the plans for The Green at Somers and Councilman Clinchy  
32 commented that the Planning Board should make sure that they continue to  
33 protect the wetlands. He said that it appears that the Town Board is not  
34 listening to what is happening with discussions at the Planning Board  
35 meetings in reference to The Green at Somers.

36  
37 Attorney Whitehead stated that technically this application is not before the  
38 Town Board at this time and she asked that the Town Board not discuss  
39 this application without notifying the applicant.

40

1 Ms. Meder commented that the proposal has a footnote asking for  
2 additional information that will be needed to bring FP Clark fully up to date  
3 so they can begin their review and also questions arranging a site visit.

4  
5 Ms. Gerbino asked if Planning Board members can go on the site walk with  
6 FP Clark.

7  
8 Ms. Meder said she has no problem with Planning Board members  
9 attending the site walk.

10  
11 Attorney Whitehead said she has no problem with Board members going  
12 on the site walk but it will have to be arranged using an early morning time.

13  
14 Attorney Whitehead said that the stormwater basin has been removed from  
15 the wetland buffer and it is doubtful that a wetland permit will be needed.  
16 She explained that the Department of Environmental Conservation (DEC)  
17 visited the site and confirmed for their purposes the delineation of the State  
18 Wetland and agreed with the applicant's consultant and will be signing the  
19 map shortly. She mentioned that the two small wetlands are off site.

20  
21 Attorney Whitehead said that she is disappointed because the applicant  
22 worked hard to revise the plans to make the deadline for this meeting and  
23 they will not be discussed this evening. She noted that the building height  
24 has been brought down by 12-feet.

25  
26 Attorney Whitehead noted that Chapter 133 of the Town Code states that  
27 when the Planning Board wants to retain a consultant the Planning Board  
28 defines the scope. She clarified that the consultant is not working for the  
29 Town Board but is working for the Planning Board.

30  
31 Mr. Foley noted that this project is different because the applicant has to go  
32 back to the Town Board for certain approvals.

33  
34 Town Attorney Eriole stated that the Planning Board is correct when saying  
35 that this project will have to go back to the Town Board.

36  
37 Attorney Whitehead said that she has a problem with the applicant paying  
38 for a consultant to review background information when the applicant has  
39 already paid for the previous Town Planner's time. She stressed that it is  
40 not the applicant's fault that the Town Planner left. Attorney Whitehead

1 mentioned her concern with overlap and asked that it be watched very  
2 closely. She noted that Woodard & Curran is very familiar with this project  
3 and the main report to be submitted is the Stormwater Pollution Prevention  
4 Plan. She said that the Geotechnical Report has been submitted and the  
5 information states that the location of the buildings will not be changed.

6  
7 Attorney Whitehead asked for clarification because the proposal refers to  
8 the May submission and she wants to make sure that the June submission  
9 as well as the next two subsequent Planning Board meetings counts  
10 toward the review for this proposal.

11  
12 Ms. Meder stated that FP Clark will be reviewing everything since the Town  
13 Planner left up to and including the next two subsequent Planning Board  
14 meetings where the substance of this matter will be discussed.

15  
16 Attorney Whitehead asked that the review application materials submitted  
17 for discussion include the May and June Planning Board meetings as well  
18 as the next two subsequent Planning Board meetings at which time this  
19 application is scheduled to be heard.

20  
21 Attorney Whitehead said that she is hopeful that the Board is not working  
22 toward an Environmental Impact Statement (EIS) as this is an affordable  
23 housing project. She noted that she is concerned about statements  
24 requesting additional information and she sees that to be the updated  
25 Stormwater Pollution Prevention Plan.

26  
27 Attorney Whitehead requested that the fee schedule from FP Clark be  
28 included in the modified proposal. She suggested that the Town Planner  
29 review the vouchers from FP Clark and Woodard & Curran. Attorney  
30 Whitehead said that some concerns are the cost of the background review,  
31 questions on the scope, the Geotechnical aspects and an overlap of  
32 services between FP Clark and Woodard & Curran.

33  
34 Ms. Meder explained that FP Clark will not be reviewing site engineering  
35 aspects of the proposal but their review work will include an examination of  
36 the ecological aspects of certain features of the proposed development  
37 including the stormwater management plan. She stated that there is a  
38 definite ecological link between the wetlands and the stormwater  
39 management plan. Ms. Meder said that FP Clark is very careful not to  
40 overlap work with Woodard & Curran.

1 Mr. Keane opined that FP Clark does not have to look at the Stormwater  
2 Report but should look at the stormwater practices as the sheet flow of  
3 water travels across the property in its movement toward the wetland.  
4 He asked who will address the wetland function in relation to the wildlife  
5 habitat.

6  
7 Attorney Whitehead commented that Woodard & Curran should be told not  
8 to look at the movement of the sheet flow of water toward the wetland  
9 because that is usually one of their responsibilities.

10  
11 Nathaniel Holt, the applicant's engineer, explained that due to the new East  
12 of Hudson regulations the amount of water leaving the property has to be  
13 reduced.

14  
15 Mr. Keane said that once the water is in the stormwater management  
16 practice that should be reviewed by Woodard & Curran and FP Clark  
17 should address the hydrogeology of the wetland.

18  
19 Attorney Whitehead reiterated that FP Clark will review the water that  
20 discharges into the wetland and the impact it may have on the wetland.

21  
22 Ms. Meder mentioned that FP Clark will review application materials that  
23 were submitted for discussion at the May 2012 Planning Board meeting  
24 and the next two Planning Board meetings at which the application is  
25 scheduled. She said that the hourly fee schedule will be included in the  
26 proposal and the distinction between Woodard & Curran and FP Clark will  
27 be defined in reference to the ecological aspect of the Stormwater  
28 Management Plan.

29  
30 Attorney Whitehead noted that another concern is paying for a background  
31 review because the applicant already paid the previous Town Planner for  
32 her review. She commented that this was not anticipated in the Town's  
33 professional fee code.

34  
35 Town Attorney Eriole said that the Town anticipates that outside  
36 consultants may have to be hired and they have to be brought up to speed.

37  
38 Attorney Whitehead said that technically it is double billing as the applicant  
39 paid for the previous Town Planner's review.

40

1 Town Attorney Eriole advised that it is not double billing but a reasonable  
2 expense with the consultant being retained after the Town Planner left the  
3 Town's employ. He said that at the Board's request he can provide a  
4 response at the next meeting in regard to the Town reimbursing part of the  
5 fee for the background information review by FP Clark.

6  
7 Mr. Foley said that the Planning Board does not have any options and the  
8 applicant can pay FP Clark for the review of the background information or  
9 walk away from the application.

10  
11 Mr. Goldenberg asked if the applicant and FP Clark can negotiate the fee  
12 and return to the Board for their approval.

13  
14 Attorney Whitehead stated that she does not want to delay this project  
15 another month and the applicant is willing to pay a portion of the fee in  
16 order for FP Clark to be brought up to date on the project.

17  
18 Ms. Meder stressed that she is not in a position to lower FP Clark's fee in  
19 reference to the background review.

20  
21 Mr. Keane noted that under SEQRA the action has to be defined and he  
22 asked if the applicant has defined the action.

23  
24 Attorney Whitehead said that the action has been defined and the updated  
25 Stormwater Pollution Prevention Plan and the revisions to the grading,  
26 utility and site plan have to be provided.

27  
28 Attorney Whitehead reminded the Board that the Town Board changed the  
29 zoning on this parcel to provide a third floor up to 50 feet in height if 50% of  
30 the units were affordable. She stressed that this was an incentive to  
31 develop affordable housing and the recognition that affordable housing  
32 does not work with two stories.

33  
34 Mr. Keane noted that the important word is the Town Board **may** allow a  
35 third floor and this is not a slam dunk that this will happen.

36  
37 On motion by Chair Currie, seconded by Mrs. DeLucia, and unanimously  
38 carried, the Board moved to accept Frederick P. Clark's modified proposal  
39 for the Provision of Professional Services for The Green at Somers

1 Application Review, as amended, pursuant to Chapter 133 of the Somers  
2 Town Code.

3  
4 There being no further business, on motion by Chair Currie, seconded by  
5 Mrs. DeLucia, and unanimously carried, the meeting adjourned at 9:00  
6 P.M. and the Chair noted that the next Planning Board meeting will be held  
7 on Wednesday, July 11, 2012 at 7:30 P. M. at the Somers Town House.

8  
9  
10  
11  
12 Respectfully submitted,

13  
14  
15  
16 Marilyn Murphy  
17 Planning Board Secretary  
18  
19

C-1  
R-30  
TP  
CTE

HOCHERMAN TORTORELLA & WEKSTEIN, LLP  
ATTORNEYS AT LAW

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

GERALDINE N. TORTORELLA  
ADAM L. WEKSTEIN  

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NOELLE CRISALLI WOLFSON

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HENRY M. HOCHERMAN  
OF COUNSEL

August 3, 2012

*Via Electronic Mail*

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



339

*Re: Final Subdivision Plat Approval Issued to  
Susan F. Haft and Ridgeview Designer Builders, Inc.  
Lovell Street, Town of Somers  
Tax Identification Nos.: Section 16.12, Block 1, Lots 41 and 42  
Seventh Request for Extension of Time to November 19, 2012*

Dear Chairman Currie and Members of the Planning Board:

At its meeting on May 9, 2012, the Planning Board granted its sixth extension of Conditional Final Subdivision Approval (the "Final Approval") for the above-referenced subdivision to and including August 20, 2012. We are writing to request an additional 90-day extension of Final Approval to and including November 19, 2012 (the first business day after the ninetieth day, which is November 18, 2012). This is our seventh request for an extension of Final Approval which your Board has the authority to grant under Town Law Section 276(7)(c).

As was explained to your Board when the prior extensions were sought, and granted, there are a few conditions of approval that require the payment of funds and/or posting of security which our clients have not been prepared to undertake given current economic conditions that are outside their control. Notwithstanding that economic conditions have not changed, our clients now anticipate completing the conditions during the next 90 days in which event our clients would be able to file the plat. We will let the Board know if any issues develop that would prevent them from being able to do so.

HOCHERMAN TORTORELLA & WEKSTEIN, LLP

Hon. John Currie, Chairman  
and Members of the Planning Board  
August 3, 2012  
Page 2

Kindly schedule this request for consideration and action at your next available meeting, and let us know if an appearance is required. I will be out of town until August 17, 2012 and would appreciate it if you would contact my partner, Adam Wekstein, Esq., in my absence.

Thank you for your courtesy in this matter.

Respectfully yours,

Hocherman Tortorella & Wekstein, LLP

By:

  
Geraldine N. Tortorella

GNT:mc

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

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

GERALDINE N. TORTORELLA  
ADAM L. WEKSTEIN  

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NOELLE CRISALLI WOLFSON

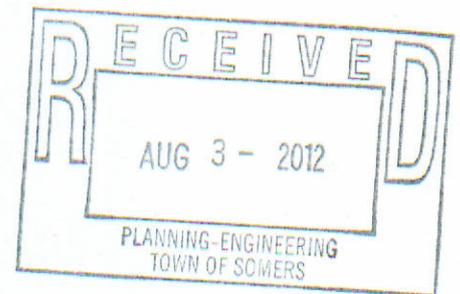
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HENRY M. HOCHERMAN  
OF COUNSEL

August 3, 2012

*Via Electronic Mail*

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



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

340

Dear Chairman Currie and Members of the Planning Board:

At its meeting on March 14, 2012, the Board granted a seventh 90-day extension of Mancini Building Corp.'s ("Mancini") Conditional Final Subdivision Approval (the "Final Approval") for the above-referenced subdivision. We are writing to request an eighth 90-day extension pursuant to Town Law Section 276(7)(c), retroactive to July 9, 2012, to and including October 9, 2012, the first business day after the 90<sup>th</sup> day.

While the legal instruments for the off-site stormwater improvements on the properties of LLPOA and the Heritage Hills Condo 29 were approved by the Town Board in March, they were only recently executed by the Supervisor (a couple of open questions were being addressed) and returned to our client. Our client is now making plans to proceed with the installation of as much of the approved infrastructure as practical before filing the plat. We respectfully request that the Board grant an additional 90-day extension of Final Subdivision Approval, to and including October 9, 2012, at which time we will report on the status of the work.

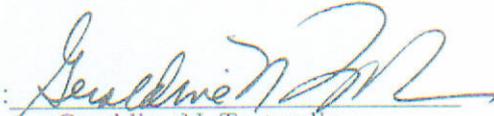
HOCHERMAN TORTORELLA & WEKSTEIN, LLP

Hon. John Currie, Chairman  
and Members of the Planning Board  
August 3, 2012  
Page 2

Kindly schedule this matter for the next available Planning Board meeting and let us know if an appearance is required. I will be out of town until August 17, 2012 so please contact my partner, Adam Wekstein, Esq., in my absence. Thank you for your courtesy.

Respectfully yours,

Hocherman Tortorella & Wekstein, LLP

By:   
Geraldine N. Tortorella

GNT:mcv

cc: *(via electronic mail)*  
Roland Baroni, Esq.  
Joseph P. Eriole, Esq.  
Mr. Richard Mancini  
Mr. John Mancini  
Joseph Riina, P.E.  
Adam L. Wekstein, Esq.

C  
P  
T  
CTE

# **BIBBO ASSOCIATES, L.L.P.**

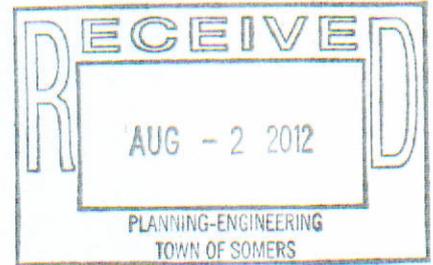
*Consulting Engineers*

Joseph J. Buschynski, P.E.  
Timothy S. Allen, P.E.  
Sabri Barisser, P.E.

August 2, 2012

Somers Planning Board  
335 Route 202  
Somers, NY 10589-3206

ATTN: Mr. John Currie, Chairman



RE: Gary & Ann Mitchell  
4-Lot Conservation Subdivision  
Tomahawk Street

338

Dear Chairman and Members of the Board:

On behalf of our client we are writing to formally request a 180 day extension of the conditional preliminary subdivision approval obtained for the above noted subdivision on November 30, 2011 (Resolution # 2011-08).

The subdivision plans have not changed since the previous approval. This office is currently in the process of obtaining all necessary approvals from outside agencies, and assembling the required documents necessary to satisfy the conditions of approval listed in the above noted resolution

As always feel free to contact us with any questions you may have regarding this matter. We respectfully request this matter be placed on your next available agenda for consideration.

Very truly yours,

Timothy S. Allen, P.E.

MG/mg  
Enclosures

*Site Design ♦ Environmental*

McCULLOUGH, GOLDBERGER & STAUDT, LLP

ATTORNEYS AT LAW

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RUTH F.-L. POST

July 27, 2012



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

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

Dear Chairman Currie and Members of the Planning Board:

Following up on the discussion at the end of your July 11, 2012 meeting, we are submitting to you herewith two alternative revised site plans for the project which we believe represent improved plans. In addition to the revision discussed at the meeting to place the retail component all along the Route 6 frontage, we have been able to make other modifications which result in one fewer building overall, and each building containing only two stories. The total unit count has been reduced to 72 units. The footprints for each building are slightly larger but still will not exceed the 10,000 square foot maximum. The front retail building will have a second floor with residential units in keeping with the zoning code requirement. Each of these plans complies with the standard height and FAR requirements without need for Town Board approval for an increase, and each moves all buildings out of the wetland buffer and reduces the total amount of disturbance in the wetland buffer.

Because of the significant revisions to the plans, we are not providing responses to all the comments at this time. Many of these comments will no longer apply, or will change based upon the changes to the plan. Some requested items, such as the wetland mitigation plan and planting plans, will follow when the plan layout is determined. Some responses are provided in the letter from Dan Holt provided herewith. These responses relate to comments which will apply to any plan. In addition, our traffic engineers have provided a response to the earlier traffic comment memo directly to Frederick P. Clark Associates ("FPCA"). We are providing a copy of their cover memo only to you herewith. The attachments comprise approximately 200 pages. Therefore, we have provided a full copy with the attachments for the Planning Board files, and of course all attachments were provided to FPCA. Again, because the amount of retail and now also residential have been reduced, the traffic study which was provided presents an extremely conservative analysis.

The first plan provided herewith is titled "Revised 2 Story Site Plan Alternate." Two sheets are provided and a zoning chart is also included to show the zoning compliance. The plan provides for three buildings with footprints of approximately 10,000 square feet. Each of these buildings will be two stories and contain only residential units. The fourth building closest to Route 6 is approximately 8000 square feet and will be all retail on the first floor with residential units above. This building is configured in an "L" shape. In this plan, a small portion of the entry road and a portion of the "ring road" will be within the buffer to Wetland B. As can be seen the parking layout has been modified to provide bays of no more than 7 spaces, and fewer in most locations.

The second plan provides an alternative layout for the front retail building. The three residential buildings and layout for the rear of the site are the same in both plans. The "L" shape is eliminated and the building is still 8000 square feet but is now linear. The parking and circulation are modified. We believe this plan provides better orientation of the retail to Route 6 while also improving the parking layout and internal circulation. However, this plan pushes the main entry road and the stormwater mitigation area further over and therefore increases the disturbance in the wetland buffer. The buffer disturbance is still relatively small.

We are also providing a sketch prepared by our architect showing a conceptual design for the front building. The rear buildings will be similar in design.

While neither of these plans require Town Board approval for increased height or FAR, we will still require either a zoning amendment or variance for the elimination of the first floor retail in the rear buildings. As has been discussed, our research and discussions with brokers and developers has indicated little or no demand for the retail, especially in the rear buildings which will have very limited visibility from Route 6. In addition, as you will recall, approximately 30,000 square feet of retail and restaurant space were approved in the Somers Realty Planned Hamlet across Route 6. This space has been marketed for two years with no interest. We are very concerned that if retail was required to occupy the first floor of all buildings, it would be empty retail space. At the same time, the buildings would have to again become three story buildings to accommodate the residential units. As discussed, we hope that the Planning Board and the consultants will support a needed amendment or variance.

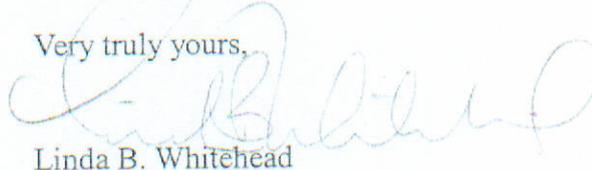
We have undertaken some review of the history of the zoning in this area and the NS zone which helps support the argument for a reduction in the extent of retail. We will provide additional information on this at a later date, but to summarize, this property was previously zoned GB, General Business. In the 1980's the Town undertook a Business District Review which concluded there was more than sufficient land zoned for commercial use in the Town, and that much of it was still vacant. It also found there was limited demand for large scale retail development. In the 1990's the Town adopted a new Master Plan which made several recommendations for the commercial districts based upon similar findings. This resulted in the rezoning from GB to NS of this property, thereby reducing the commercial potential. In addition, the Town adopted several revisions to the requirements of the

Chairman and Members of the Board  
July 27, 2012  
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NS zone, including the building footprint limitation, and also providing for the addition of residential uses in the NS, all again as a result of the findings of decreased demand for retail. This also resulted in the rezoning of the Planned Hamlet property from GB to PH, which only a very limited amount of retail permitted and only in smaller stores. We also believe that this particular NS property is unique in that it is located across the street from a major retail center, and most of the property is not located close enough to the road to be readily visible. These factors further reduce the demand for retail on this particular NS property. These conditions do not apply to most other NS properties. We can and will provide further information on these items in a subsequent submission.

Thank you for your continued cooperation in this matter and we look forward to discussing the alternate plans with you at your August 8, 2012 meeting.

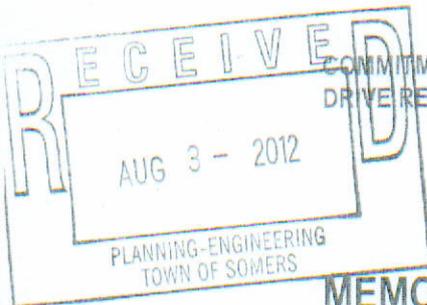
Very truly yours,



Linda B. Whitehead

enclosures

cc: Rick VanBenschoten  
Bryan McClure  
Nathaniel J. Holt, PE  
Carol Kurth  
Joanne Meder, F. P. Clark Associates



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## MEMORANDUM

**TO:** Town of Somers Planning Board  
**FROM:** Robert Wasp, EIT on behalf of Joseph C. Barbagallo, P.E., BCEE  
**DATE:** August 3, 2012  
**RE:** The Green at Somers  
Site Plan Application, Wetlands Activity Permit, Stormwater Erosion & Sediment Control Permit and Steep Slopes Permit  
57 Route 6, TM: 4.20-1-3.1, NS (Neighborhood Shopping)  
Owned by National Golfworx

### GENERAL

The proposed application is a mixed-use development consisting of both retail and residential spaces. An Application had formerly been reviewed by the Planning Board for this property under the name "The North End at Somers". The development proposes the creation of four buildings which will feature 72 housing units as well as retail space and exterior parking. The site will be serviced by public sewer and water and will be connected to existing mains within Route 6. There is a DEC regulated wetland located on the northern portion of the property and Town local regulated wetlands located at the southwest and eastern property limits.

### DOCUMENTS RECEIVED

- Letter to Town of Somers Planning Board, by McCullough, Goldberger & Staudt, LLP, dated July 27, 2012.
- Letter, by Nathaniel J. Holt, P.E., dated July 24, 2012.
- Memorandum, by John Collins Engineers, P.C., dated July 20, 2012.
- Memorandum, by Town Clerks Office, Town of Somers, NY, dated June 29, 2012.
- "Referral Review", by Westchester County Planning Board, dated June 18, 2012.
- Figure: "Retail with Apartments Above", by Carol Kurth Architecture, P.C.
- "Revised Two Story Site Plan Alternative", Drawing Sheets: "1 of 2" & "2 of 2", by Nathaniel J. Holt, P.E., dated July 22, 2011, revised July 29, 2012.
- "Retail Alternative Site Plan", Drawing Sheets: "1 of 2" & "2 of 2", by Nathaniel J. Holt, P.E., dated July 22, 2011, revised July 29, 2012.

### PERMITS AND APPROVALS REQUIRED

- Westchester County Department of Environmental Facilities: Sewer Extension Approval.
- Westchester County Department of Health: Approval of the Sewer Extension
- Westchester County Board of Legislators and Town of Somers: Sanitary Sewer Connection Approval
- Westchester County Peekskill Sanitary Sewer District: Sanitary Sewer Service Extension Approval



- New York City Department of Environmental Protection: Stormwater Pollution Prevention Plan Approval.
- New York City Department of Environmental Protection: Sewer Connection Approval
- Shenorock/Amawalk Water District: Water Connection Approval.
- New York State Department of Environmental Conservation - Freshwater Wetlands Permit
- New York State Department of Environmental Conservation General Permit No. GP-0-10-001.
- New York State Department of Transportation: Permit and Approval for work within the Route 6 right of way (ROW).
- Water Superintendent and the Bureau of Fire Prevention: Review and Approval of Hydrant Locations.
- Town of Somers: Site Plan Approval
- Town of Somers: Stormwater Management and Erosion & Sediment Control Permit
- Town of Somers: Steep Slopes Protection Permit
- Town of Somers: Wetlands Activity Permit

## DISCUSSION

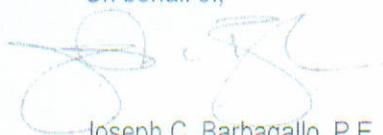
The purpose of this memorandum is to acknowledge the alternative site plans provided by the Applicant during this review period. The provided plans represent significant modifications from previously reviewed plans for the property. The total number of proposed buildings has been reduced from five to four and all buildings are now limited to only two stories in height. At this time, the Applicant is seeking preliminary feedback from the Planning Board on the revised conceptual site layout and intends to address previously identified engineering comments after preliminary feedback is received.

From an engineering perspective, we believe that the provided Alternative Site Plans represent an improvement over previously presented plans. We look forward to the Applicant's presentation at the upcoming Planning Board meeting. The status of all previously issued engineering comments will be assessed upon receipt of further information describing the revised site layout, structures and drainage system.

Please feel free to call me at anytime at 914-448-2266 with any questions.

Sincerely,

  
Robert P. Wasp, EIT  
Assistant Consulting Town Engineer

On behalf of,  
  
Joseph C. Barbagallo, P.E., BCEE  
Consulting Town Engineer