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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
SEPTEMBER 12, 2012
7:30 P.M.

MINUTES Consideration for approval of Draft Minutes for July 11, 2012

TIME-EXTENSION

1. 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 October 9, 2012 to and including January 7, 2013 in accordance with §150-13-M of the Code of the Town of Somers. This is the ninth request for a time-extension.

RE-APPROVAL OF CONDITIONAL PRELIMINARY SUBDIVISION APPROVAL

2. 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 Re-Approval of Conditional Preliminary Subdivision Approval. Consideration of a draft Resolution for Re-Approval of Conditional Preliminary Subdivision. Last discussed at the August 8, 2012 Planning Board meeting.

PROJECT REVIEW

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

Application of National Golfworx/Rick Van Benschoten (owner) for a mixed-use development consisting of four 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 August 8, 2012 Planning Board meeting.

4. SOMERS REALTY PLANNED HAMLET PRELIMINARY SUBDIVISION APPROVAL AND LOT LINE CHANGE;

THE MEWS AT BALDWIN PLACE PHASE 2 SITE PLAN APPROVAL, WETLANDS, STEEP SLOPES, TREE PRESERVATION AND STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL PERMITS [TM: 4.20-1-15] AND [4.20-1-18]

Application for Preliminary Subdivision and Lot Line Change for Somers Realty Planned Hamlet. Site Plan Approval, Wetlands, Tree Preservation, Steep Slopes, Stormwater Management and Erosion and Sediment Control Permit for the Mews at Baldwin Place, Phase 2. The property is located on the South side of Route 6 in the Somers Planned Hamlet Zoning District. The Preliminary Subdivision application is for creation of a 7.7 acre lot from prior Lot 2. The Lot Line change is for a minor modification to the lot line of a previously created sewer pump station parcel. The Site Plan application is for the construction of 75 units of senior affordable housing which will be serviced by public water and sewer.

Planning Board's Intent to be Lead Agency
Preliminary timeline for application.

DISCUSSION

5. PROCEDURES FOR TIME-EXTENSIONS OF CONDITIONAL FINAL AND CONDITIONAL PRELIMINARY SUBDIVISION APPROVAL

Review and comment on Town Planner Dym's memo dated August 22, 2012

Next Planning Board Meetings.

Joint Special Meeting with Town Board September 24, 2012

Planning Board Meeting October 10, 2012

Agenda information is also available at www.somersny.com

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2

**SOMERS PLANNING BOARD MINUTES
JULY 11, 2012**

ROLL:

**PLANNING BOARD
MEMBERS PRESENT:**

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

ALSO PRESENT:

Town Planner Syrette Dym
Consulting Town Planner Joanne Meder
Consulting Engineer Joseph Barbagallo
Town Attorney Gerald Reilly
Planning Board Secretary Marilyn Murphy

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

MINUTES

APPROVAL OF MAY 9, 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 May 9, 2012.

1 Chairman Currie asked if there were any comments or questions from
2 members of the Board on the draft minutes of May 9, 2012 and no one
3 replied.

4
5 The Chair asked if there was a motion to approve the May 9, 2012 draft
6 minutes.

7
8 On motion by Ms. Gannon, seconded by Mr. Goldenberg, and unanimously
9 carried, the minutes of May 9, 2012 were approved.

10
11 **TIME-EXTENSION**

12
13 **BARBAGALLO/MEICHNER ROADWAY IMPROVEMENTS**

14
15 Chairman Currie explained that the Board is in receipt of a letter from
16 Timothy S. Allen of Bibbo Associates requesting a one (1) year
17 time-extension to the re-grant of Site Plan Approval for the
18 **Barbagallo/Meichner Roadway Improvements for the Scenic Resource**
19 **Protection Area** known as Smith Lane from September 10, 2012 to and
20 including September 10, 2013. He said that the reason for the time-
21 extension is the current economic conditions and that the Meichner's are
22 re-evaluating how they will proceed.

23
24 Chair Currie asked if the Board members have any questions or comments
25 on the requested time-extension and no one responded.

26
27 Mr. Foley clarified Section 170-114.K. of the Code of the Town of Somers
28 which states that an application for an extension should be made prior to
29 the expiration and one extension of one year may be made for each of the
30 following three reasons: the time to obtain signature of the site plan, the
31 time to obtain permit and the time to complete construction.

32
33 On motion by Mrs. DeLucia, seconded by Ms. Gerbino, and unanimously
34 carried, the Board moved to grant a one (1) year time-extension to the re-
35 grant of Site Plan Approval for the **Barbagallo/Meichner Roadway**
36 **Improvements for the Scenic Resource Protection Area** known as Smith
37 Lane from September 10, 2012 to and including September 10, 2013.

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

Chairman Currie said that this is a discussion on a Notice of Violation issued by Steven Woelfle, principal Engineering Technician, dated May 5, 2012. He noted that the Planning Board in 2006 granted approval to re-subdivide 4 lots with the condition that the 50" diameter White Oak be preserved.

Mrs. DeLucia recused herself as a Planning Board member from the application and sat in the audience as a resident due to the fact that the applicant's arborist was her husband's nephew.

Chairman Currie introduced new Town Planner Syrette Dym and asked her to summarize her memo.

Town Planner Dym noted that she prepared a memorandum to the Planning Board dated July 5, 2012. She said that she reviewed the original subdivision and went out in the field to get a better understanding of the subdivision. She explained that on May 5, 2012 a call was received from a member of the Greenbriar Homeowners Association indicating that the 50" Oak tree had been cut down. Town Planner Dym stressed that the 50" oak tree was noted for preservation on lot 1 of the original subdivision approved as a cluster subdivision in 1983. She said that the developer Milton Shapiro submitted an application for an adjustment of lot lines for lots 1, 2, 3 and 4 of Section 7 in 2004, constituting an application for a re-subdivision of those lots. Town Planner Dym stated that the purpose of the Abbreviated Subdivision application was to permit construction on two of the four lots and maintain the required preservation of the Oak tree.

Town Planner Dym said that the Planning Board in December 2006 granted Conditional Final Re-subdivision Approval with recommendations. She explained that there were discussions on the stress on the tree that would be looked at on a regular basis. Town Planner Dym commented that an evaluation indicated that the tree be monitored twice a year, with reports submitted to the Planning Board. She said that specific action would be taken if there were any safety issues regarding the tree. Town Planner

1 Dym indicated that none of these requirements were followed. She noted
2 that the developer contacted a tree arborist with the request to follow the
3 recommendations but according to feedback from the community were
4 never followed.

5
6 Town Planner Dym said a letter was received from D & D Tree and
7 Landscaping on May 10, 2012 after the tree was cut down indicating that
8 the tree was not healthy. However, a letter was received on May 22, 2012
9 from Jonathan Olsz of Almstead Tree and Shrub Care opining on the tree
10 inspection performed by ISA Certified Arborist Steven DeLucia of D & D
11 Tree and Landscaping. Town Planner Dym indicated that Mr. Olsz
12 indicated that the tree inspection did not provide enough statistical data and
13 deserved a more detailed analysis in keeping with the ISA code of ethics.
14 Mr. Olsz stated that the tree had about 50-75 years of life remaining if it
15 had not been removed.

16
17 Town Planner Dym said that it is up to the Planning Board to decide how it
18 wants to proceed.

19
20 The Chair asked if there were any comments from staff regarding the
21 cutting of the 50" diameter Oak tree at Greenbriar.

22
23 Mr. Goldenberg asked if Mr. Shapiro was notified that this discussion was
24 on the agenda tonight.

25
26 Chair Currie indicated that Mr. Shapiro was notified of the discussion but
27 was not able to attend the meeting this evening.

28
29 Mr. Goldenberg was surprised that the developer was not in attendance and
30 expressed his displeasure that Mr. Shapiro or his representative did not
31 attend the meeting.

32
33 Chair Currie asked Town Attorney Reilly what the options are for the
34 Planning Board.

35
36 Town Attorney Reilly advised that the Notice of Violation has not been
37 followed and the Building Inspector can recommend that the matter be
38 transferred to the Justice Court. He mentioned that the renewal of building
39 permits on Lot 3 and 4 or the issuance of new building permits on Lot 1 and
40 2 not be granted until the Court makes a determination.

1 Mr. Keane stated that the Justice Court can impose a significant fine
2 that will get Mr. Shapiro's attention. He suggested that Mr. Shapiro give up
3 a lot and create a park for the Homeowners Association.

4
5 Town Planner Dym noted that Mr. Shapiro called and asked that the
6 meeting be postponed. She explained that she called Chair Currie and they
7 decided that if Mr. Shapiro could not attend he should send a
8 representative. Town Planner Dym mentioned that Mr. Shapiro late this
9 afternoon sent an e-mail with a letter dated July 9, 2012 from his arborist
10 stating that the tree was hazardous and unhealthy.

11
12 Ms. Gerbino asked if anyone has counted the rings on the dead tree as that
13 would provide the age of the tree.

14
15 Mr. Goldenberg mentioned that a value of \$80,000 has been put on the tree
16 and it might have been nominated as a landmark.

17
18 Chair Curie asked if anyone from the audience would like to speak on the
19 cutting of the 50" diameter Oak tree.

20
21 Joe Romano, President of the Greenbriar Homeowners Association, said
22 that he went out to the site with Principal Engineering Technician Steve
23 Woelfle when he learned that the oak tree had been removed. He indicated
24 that the tree was approximately 100 years old. Mr. Romano opined that the
25 issue is about the two building lots that Mr. Shapiro could not build on while
26 the tree was alive. He stressed that the Town has to be strict with Mr.
27 Shapiro.

28
29 Town Attorney Reilly stated that the residents of Greenbriar will be notified if
30 an application from Greenbriar is submitted to the Planning Board.

31
32 George Semmens, resident of 46 Driftwood Drive, said that he is an
33 architect with professional qualifications. He showed the Board pictures of
34 his wife standing next to the stump of the tree which shows that the tree was
35 50". He mentioned that the picture shows that there is some decay in the
36 center of the tree but the decay does not affect the outer layers of the tree.
37 Mr. Semmens said that the picture shows that the tree is viable and was
38 starting to leaf and bud out. He noted that the developer has worked in
39 Somers for years and understands the permitting process. Mr. Semmens
40 wondered why only the 50" diameter Oak tree was cut and why the tree

1 company did not apply for a permit to cut the tree. He commented that the
2 City of New York has methodology for trees called the Basil Calculation
3 Method. Mr. Semmens explained that a tree the size of the 50" diameter
4 Oak would probably have to be replaced with 125 trees which would cost
5 about \$150,000 to \$200,000 and this does not take into account the
6 historical value. He said the Planning Board should consider additional
7 amenities for Greenbriar or environmental things that the Board can require
8 the developer to do.

9
10 The Chair said that a violation was issued and he asked if this will proceed
11 to the next step.

12
13 Town Attorney Reilly advised that the Building Inspector has the authority to
14 bring the case to court against the owner of Greenbriar. He said that the
15 resolution should be forwarded to the Building Inspector.

16
17 Mr. Foley said that the Planning Board does not have the authority to ask
18 the Town Planner to draft a resolution against the cutting of the Oak tree at
19 Greenbriar. He asked what the basis is that the cutting of the tree was done
20 improperly.

21
22 Town Attorney Reilly explained that it was a condition of the Resolution that
23 no building take place on lots 1 and 2 until the Oak tree is no longer
24 considered worthy of preservation in the opinion of a professional arborist.
25 He noted that taking the tree down without a permit violates the Tree
26 Preservation Ordinance.

27
28 Mr. Foley stated that there is a list of 12 types of trees that can be taken
29 down without a permit, however; nowhere does it say that a tree designated
30 by the Planning Board to stay in place is such a tree.

31
32 Town Attorney Reilly advised that the cutting of the Oak tree at Greenbriar
33 is a violation of the subdivision of lots 1, 2, 3 and 4 in Section 7 of
34 Greenbriar.

35
36 Mr. Foley asked what is the remedy for the cutting of the Oak tree at
37 Greenbriar. He commented that a tree within a wetland or wetland buffer
38 needs a permit before it can be taken down which triggers the Tree
39 Preservation Ordinance. He indicated that there is nothing in the Tree
40 Preservation Ordinance that prevents a homeowner from taking down a

1 healthy 50" diameter tree. Mr. Foley noted that under the Tree Preservation
2 Ordinance a fine can be assessed, imprisonment or a restoration order by
3 the court. He explained that with this procedure no application from the
4 applicant can be addressed by any Board until the violation is cured.

5
6 Mr. Goldenberg said that the resolution states that the Planning Board can
7 stop the issuance of building permits if the tree was removed without the
8 Planning Board's permission. He noted that a contract with the Planning
9 Board Resolution was broken and if Mr. Shapiro wants to build on lots 1 and
10 2 he has to come before the Planning Board.

11
12 Town Attorney Reilly said that the decision if there is a violation is up to the
13 Building Inspector but there is nothing to prevent the Planning Board
14 from suggesting that the Building Inspector look into the issue with a view
15 towards prosecution.

16
17 Mr. Keane explained that there were details on how the tree was to be
18 maintained and reports on the tree that were to be submitted. He noted that
19 the applicant did not follow the provisions that were laid out in the site plan.

20
21 Joe Romano, president of the Greenbriar Homeowners Association, said
22 that the Resolution states that an environmental determination must be
23 conducted by the Department of Planning and Engineering to determine
24 which, if any, environmental permits may be necessary, and if appropriate,
25 such permits may need to be issued by the Somers Planning Board. He
26 said that Mr. Shapiro knew the regulations and that the oak tree had to be
27 maintained. Mr. Romano was concerned that if the violation does not hold
28 up in Court another applicant may do the same thing and disregard a
29 condition in a Resolution.

30
31 Town Attorney Reilly said that the Board can direct the Town Attorney to
32 prepare a memorandum on the Section of the Town Code that was in
33 violation when the tree was not preserved.

34
35 Mr. Foley opined that the Town Attorney should see if there was a violation
36 of the Tree Preservation Ordinance Chapter 156 of the Town Code and that
37 the violation was taken against the expressed terms of Resolution No. 2005-
38 26.

39

1 Ms. Rusinowski, resident of 52 Driftwood Drive, indicated that the tree was
2 assigned historical status and a preserved tree and there should be a law
3 that penalizes someone who cuts down the tree.

4
5 Mr. Semmens said that there are two different issues; one is there a
6 violation of the Tree Preservation Ordinance or two; a Subdivision violation.
7 He said that there are issues related to wetland buffers and wetlands. He
8 commented that someone would have to identify where the lots are located
9 and the relationship of the tree to the wetland and lot lines.

10
11 Town Planner Dym indicated that the Resolution called for an environmental
12 determination after the tree was removed to determine if any environmental
13 permits may be necessary, and if appropriate, permits may need to be
14 issued by the Planning Board. She mentioned that the Resolution states
15 that the filing of the plat does not authorize the issuance of Building Permits
16 for lots 1 and 2.

17
18 Mrs. DeLucia, resident of 15 Dunhill Drive, asked what the arborist's
19 responsibility is. She questioned who was responsible for the cutting of the
20 tree, the developer, the arborist, or both.

21
22 Chair Currie explained that there were two arborist's, one that cut down the
23 tree and the other who was supposed to care for the tree and do inspections
24 on the health of the tree and report to the Planning Board.

25
26 Mr. Foley said that the record owner of the property and the person who
27 takes the tree down are both liable under the Tree Preservation Ordinance.
28 He explained that under the Tree Preservation Ordinance any tree located
29 within five (5) feet of the properly boundary line is regulated and cannot be
30 removed without a permit.

31
32 Mrs. DeLucia said that there were conditions that were required before the
33 signing of the Plat.

34
35 Mr. Keane mentioned that the land owner used the rationale that the tree
36 was not safe and that was the reason for the cutting of the tree.

37
38 On motion by Chair Currie, seconded by Mr. Goldenberg, and unanimously
39 carried, the Board moved to request the Town Attorney to prepare a
40 memorandum addressing precisely the following questions; one is the

1 cutting down of the subject tree a violation of the Town's Tree Preservation
2 Ordinance; two what if any section of the Town's Code or State Ordinance,
3 other than the Tree Preservation Ordinance, was presumably violated by
4 the action in cutting down the tree; three what are the potential penalties,
5 remedies, available to the Justice Court assuming a violation of both one
6 and two, supra; four; to what extent, if any, does the violation of 1 or 2,
7 supra, prevent or otherwise effect the development of the two lots which
8 were effectively straddled by the tree before it was cut.

9
10 Mr. Romano asked who is responsible for the removal of the trunk of the
11 tree.

12
13 Chair Currie said that the trunk of the tree will show how far out the root
14 system goes.

15
16 Ms. Gerbino asked how many homes can be built on the property now that
17 the tree has been removed.

18
19 Town Planner Dym noted that there are four lots.

20
21 Mr. Goldenberg mentioned that the resolution states that a semi-annual
22 report on the condition of the tree was to be provided to the Town and he
23 asked if that has been submitted.

24
25 Town Planner Dym stated that there was no report on the condition of the
26 tree. She noted that there was a notation that a tree service was retained.

27
28 Mr. Foley suggested that a memo be sent to the Town Board asking that
29 they amend the Tree Preservation Ordinance adding an eighth category on
30 the type of tree that cannot be removed without a permit. He said that any
31 tree that was the subject of a Site Plan or Subdivision resolution should be
32 added to the Tree Preservation Ordinance.

33
34 Chair Currie directed that Town Planner Dym prepare a letter to the Town
35 Board requesting the addition of the eighth category to the Tree
36 Preservation Ordinance.

37

38 **PROJECT REVIEW**

39

40 **THE GREEN AT SOMERS AMENDED SITE PLAN**

1 **WETLAND, STEEP SLOPES AND STORMWATER MANAGEMENT**
2 **AND EROSION AND SEDIMENT CONTROL PERMITS**
3 **[TM: 4.20-1-3.1]**

4
5 Chairman Currie noted that the Planning Board will review the application
6 of National Golfworx/Rick Van Benschoten (owner) for a mixed use
7 development consisting of five buildings with a combination of retail and
8 residential use. He mentioned that the site is proposed to be serviced by
9 public sewer and water.

10
11 The Chair mentioned that the Board is in receipt of memoranda from Town
12 Consultants Town Engineer Joseph Barbagallo and Joanne Meder of
13 Frederick P Clark and Associates.

14
15 The Chair asked the applicant's representative to give a brief summary on
16 the changes in the application.

17
18 Linda Whitehead, the applicant's attorney, explained that a significant
19 change is that the stormwater basin has been removed from the wetland
20 buffer. She noted that the applicant's engineer has done preliminary
21 calculations that show that the stormwater can be handled by moving the
22 stormwater basin and still meet the criteria. Attorney Whitehead mentioned
23 that modified architectural drawings have been provided and she showed
24 the Board a modified rendering of the project. She noted that the roofline
25 has been modified to a flat roof with a parapet with some peaks. Attorney
26 Whitehead said that this changes the visual impact. She explained that the
27 applicant will be providing the calculation of height as defined by zoning
28 from the average grade around the building. She indicated that for most of
29 the buildings the grade at the rear is much lower than the grade at the front
30 of the buildings. Attorney Whitehead mentioned that the height and
31 footprint of the restaurant building has been reduced. She noted that
32 additional landscaping has been added in the parking areas as shown on
33 the Landscape Plans.

34
35 Attorney Whitehead noted that the State has confirmed the delineation of
36 the State wetland. She said that there is one change in Wetland "B" and
37 the revised plan will show the modified wetland based upon a site visit by
38 FP Clark's wetland professional and the applicant's wetland consultant.
39 Attorney Whitehead indicated that Wetland "B" is a Town-regulated wetland
40 and a Town wetland permit is needed.

1 Mrs. DeLucia asked for variations of the peaks on the rooftop architecture.

2
3 The Chair asked Consultant Planner Meder to summarize her
4 memorandum dated July 9, 2012.

5
6 Consultant Planner Meder explained that she is new to this project and had
7 to recap where the Board has been and go forward from there. She noted
8 that she was asked to review the submissions for the May, June and July
9 meeting and to review all documents that are part of the Board's record
10 which include the wetland delineation and the wetland impact.

11
12 Consultant Planner Meder mentioned the site inspection with the
13 applicant's wetland consultant and it was determined that the plans be
14 brought up to date and correctly reflect the fact that Wetland "C" is located
15 in an off-site location to the east of the site and is a separate wetland and is
16 Town regulated. She said that the wetland along with its 100' buffer should
17 be dimensioned on all plans. She indicated that there does not seem to be
18 any disturbance to Wetland "C" but that may change as the plans evolve.

19
20 Consultant Planner Meder noted that three of the plans previously prepared
21 by the applicant's engineer were recently updated to correctly show a
22 single wetland area labeled "B" that is partly on the site but mostly on the
23 off-site property to the west of the site. She explained that there are
24 vestiges of prior plan notes indicating that the two previously identified
25 separate wetland areas are unregulated; these notes should be removed
26 because Wetland "B" qualifies as a Town-regulated wetland. Consultant
27 Planner Meder said that on future plan submissions the wetland buffer
28 should be dimensioned at 100'.

29
30 Consultant Planner Meder said that the information presented under the
31 "Required Permitted" column for Maximum FAR describes proposed with
32 conditions rather than the applicable zoning requirements, and should be
33 revised accordingly. She noted that the computation of maximum
34 permitted floor area ratio should be based upon "net buildable area" rather
35 than gross lot area. She explained that the proposed floor area for all uses
36 is likely to exceed the identified 0.25 requirement when the existing
37 calculation is corrected. Consultant Town Planner Meder noted that
38 authorization to increase the normally applicable requirement to a
39 maximum of 0.4 may be granted by the Town Board if certain criteria is
40 met.

1 Consultant Town Planner Meder said that the Zoning Law has a number of
2 supplementary requirements having to do with the landscaping of parking
3 areas. She noted that the Zoning Law has to do with the number of parking
4 spaces that can be adjacent to each other without breaking them up with
5 landscaping planting beds, etc. She mentioned that there are 15 parking
6 bays on site that have six or more parking spaces unbroken by landscape
7 area and she suggested that the Board look at that again as site plan
8 review continues.

9
10 Consultant Planner Meder mentioned another focus was on the parking
11 layout of the under-building garages which have not been dimensioned on
12 a plan. She noted that as scaled off the plan the overall width of the interior
13 space containing two bays of parking spaces with a center aisle appears to
14 be only 53 feet and the center aisle appears to be no more than 18 feet in
15 width. Consultant Town Planner Meder noted that this is a concern
16 because it appears that an overall span of 60 feet is required for a double
17 parking bay layout using perpendicular spaces and the aisle width must be
18 24 feet. She stressed that this should be addressed as quickly as possible
19 providing the dimensions will meet the minimum or making modification so
20 the layout will function properly.

21
22 Consultant Planner Meder said that the applicant is proposing a building
23 height of 38 feet for Building 4 and has indicated that the other three
24 proposed multi-story buildings would have the same height. She indicated
25 that Town Board approval will be needed for the proposed 38-foot high
26 buildings. Consultant Town Planner Meder suggested that the Board
27 obtain confirmation from the Building Department that the measurements of
28 building heights have been interpreted correctly.

29
30 Consultant Planner Meder said that another matter the Town Board will
31 have to approve is the amount of retail floor area proposed for the first
32 floor. She mentioned that retail has been eliminated in two of the four
33 buildings and is further reduced in the remaining two buildings. She noted
34 that in Building 1 and 2 residential units are proposed to be located behind
35 the retail uses so the existence of residential uses on the first floor of those
36 buildings would not be readily apparent from the front facades. She noted
37 that an option that has not been discussed is a zoning text amendment that
38 would modify the existing provisions of Town Code Section 170-20.G to
39 permit residential apartments over any other permitted nonresidential use
40 in the Neighborhood Shipping (NS) District. She indicated that more

1 flexibility could be introduced into the NS District provisions without altering
2 the overall purpose of the NS District. Consultant Town Planner Meder
3 said that another option would be the possibility of seeking Town Board
4 approval of a Zoning Text Amendment that would modify the existing
5 provisions of Town Code Section 170-20.G in a way that would require
6 100% of the first floor area to be occupied by stores. The applicant first
7 submitted draft language for such a text amendment to the Planning Board
8 at its December 14, 2011 meeting. She indicated that the Planning Board
9 determined that any proposed text amendments that might be considered
10 should not contain specific numerical standards, but should instead permit
11 the Board to determine an appropriate mix of residential and nonresidential
12 floor area on the first floor of multi-use buildings in the NS District on a
13 case-by-case basis. Consultant Planner Meder explained that the Planning
14 Board's preference was reflected in the January 2, 2012 memorandum to
15 the Town Board, which was prepared by the former Town Planner at the
16 Planning Board's request. She noted that the applicant could seek a
17 variance from Town Code Section 170-20.G but it is possible that a use
18 variance would be needed rather than an area variance. Consultant Town
19 Planner Meder said that one additional option that may not have been
20 previously discussed is another Zoning Text Amendment that would modify
21 the existing provisions of Town Code Section 170-20.G to permit residential
22 apartments over any other permitted nonresidential use in the NS District.
23 She noted that if there is interest more flexibility could be introduced into
24 the NS District provisions without significantly altering the overall purpose
25 of the NS District. Consultant Town Planner Meder stressed that any
26 proposal to amend the Town Zoning has to be done very carefully because
27 there are many NS Districts in Town and the implications of the Zoning
28 Text Amendment will have far reaching consequences beyond this
29 application.

30
31 Consultant Planner Meder suggested that the applicant provide a narrative
32 summary describing how the proposed site layout and architecture are
33 responsive to the design guidelines of the NS District, as set forth in Town
34 Code Section 170-21.A through Section 170-21.S inclusive.

35
36 Consultant Planner Meder said that the Site Plan should identify the
37 available and required intersection sight distance for exiting movements
38 from the subject property to U.S. Route 6. She noted that the sight line
39 measurements should be based on the 85th percentile speed of motorists
40 traveling on Route 6 and meet all current State standards. She indicated

1 that the area of the first internal intersection, north of the entrance drive
2 from Route 6, the open roundabout layout should be better defined, with a
3 center median or a center area having a different pavement texture/
4 treatment to designate how this area should function for traffic control and
5 vehicular movements. Consultant Planner Meder said that the applicant
6 should demonstrate that the site would be fully accessible to emergency
7 service vehicles and delivery trucks. She indicated this should be done in
8 all critical locations near the site access, along the interior loop roads,
9 within the parking lots, and at the proposed loading space. She stressed
10 that the result of that analysis should be provided with the next submission.

11
12 Consultant Planner Meder noted that appropriate traffic signage should be
13 added to the Site Plan.

14
15 Consultant Planner Meder mentioned said that a Site Plan titled "Entry
16 Gazebo" was prepared by the applicant's architect but it dos not show
17 where the gazebo is proposed. She noted that if the gazebo is part of the
18 proposal it should be shown on the Site Plan. She also said that a
19 submitted floor plan shows an internal area on the garage level that was
20 identified as a garbage storage area. Consultant Town Planner Meder
21 assumed that all four of the buildings and the restaurant will have a similar
22 feature and should be identified on the Site Plan. She also asked that
23 architectural elevations be provided soon.

24
25 Consultant Planner Meder said that the main comments in regard to
26 parking and loading have to do with the need to verify the functionality of
27 the under building parking garage and to look more closely at the loading
28 space. She asked where will the loading for the restaurant take place and
29 can the applicant demonstrate that it will not cause traffic conflicts with
30 normal circulation through the site.

31
32 Consultant Planner Meder indicated that more information on the
33 landscaping and visual buffering has to be provided. She said that
34 additional cross sections be taken throughout the site which show the
35 existing and proposed conditions.

36
37 Consultant Planner Meder said that no surveys were provided on fauna
38 and flora on the site as part of the wetland delineation and she
39 recommends that be provided. She noted that possibly a rare species may
40 be located within a ½ mile to the south of the site and if that species does

1 exist and if it has habitat that is wetland dependent it is important that the
2 Board know this because it will affect the analysis of the features of the site
3 and what type of resources should be protected or preserved as part of the
4 development of a mitigation plan.

5
6 Consultant Planner Meder stated that there are two different sources of
7 data pertaining to the classification of the State Wetland. Consultant
8 Planner Meder said one showed a classification 1 and the other a 2
9 classification and questioned why they are not consistent with each other.
10 She noted that it is important to contact the NYS Department of
11 Environmental Conservation (DEC) to get more information on the origin of
12 the two classifications.

13
14 Consultant Planner Meder said that the preliminary stormwater drainage
15 analysis has been reviewed to help evaluate the relationship between the
16 stormwater and wetland impacts. She indicated that the information
17 received shows that the applicant is designing a system that will have
18 substantial reductions in peak flow for the five storm events that have been
19 studied. Consultant Planner Meder noted that from a wetlands perspective
20 it is not just an issue of reduced peak flows but trying to understand what
21 the total flow is leaving the site. She stated that if the stormwater flows are
22 substantially reduced they can have an adverse impact on the wetlands.

23
24 Consultant Planner Meder stated that she was not provided with a copy of
25 the Carlin Simpson & Associates geotechnical report; however, she
26 received a copy of the June 4, 2012 letter from the applicant's engineer
27 summarizing the results of the report and the Woodard & Curran
28 memorandum commenting on the results of the geotechnical study. She
29 said that her concern is the possible presence of contaminated soil
30 because of the petroleum based odors from the soil borings and she
31 recommended a Phase I assessment be conducted. Consultant Planner
32 Meder indicated that if the presence of groundwater was encountered in
33 multiple soil boring locations at depths ranging from 4 feet to 7 feet below
34 grade will require that the site be dewatered in order to make it suitable for
35 the proposed development. She indicated that information should be
36 provided explaining the relationship between the groundwater and the
37 wetland levels to the extent groundwater is lowered it can have an adverse
38 effect on the wetlands.

39 Consultant Planner Meder stated that photographs and simulations of
40 views of the site before and after completion of the project should be

1 provided from vantage points along Route 6 going east and west, and
2 looking directly north into the site from Route 6. She indicated that
3 because of the amount of fill that will be brought on site an analysis of the
4 construction traffic impacts should be provided. She also commented that
5 there is very little useable open space for recreational purposes.

6
7 Consultant Planner Meder said that in reference to the SEQRA
8 Determination of Significance and because the proposed action was
9 classified as an Unlisted Action and that the Planning Board initiated a
10 coordinated environmental review process, there are three potential
11 determinations that could be made on the proposed action: (1) adoption of
12 a negative declaration indicating that the proposed action as originally
13 defined would have no significant adverse environmental impacts; (2)
14 adoption of a conditioned Negative Declaration indicating that the proposed
15 action as originally defined might result in one or more significant adverse
16 environmental impacts but the inclusion of mitigation measures required by
17 the Lead Agency would modify the proposed action so that it has no
18 significant adverse environmental impacts; or (3) the adoption of a Positive
19 Declaration indicating that implementation of the action as proposed may
20 have one or more significance adverse environmental impacts and the
21 preparation of an environmental impact statement will be required.
22 She opined that the Board still needs more information before a
23 Determination of Significance can be made. Consultant Planner Meder
24 advised that the Planning Board could adopt a Positive Declaration on the
25 basis of the record as it presently exists and then use the optional scoping
26 process to identify topics that will require additional study and analysis in
27 the DEIS.

28
29 Town Consultant Engineer Barbagallo said that the documents submitted
30 by the Applicant during this review period reflect revised elements of the
31 Site Plan, including reduced maximum height of buildings and a revised
32 layout of the stormwater mitigation system, which removed disturbance
33 from the NYSDEC wetland buffer. He explained that the applicant is
34 seeking preliminary feedback from the Planning Board before further
35 design details will be finalized.

36
37 Town Consultant Engineer Barbagallo said the he would like to focus on
38 the Geotechnical Report. He noted that he had a concern about what the
39 subsurface conditions would be. Town Consultant Engineer Barbagallo
40 mentioned the fear that there could be thick peak deposits that would

1 complicate the construction of the site and have large sediments. He
2 commented that the Geotechnical Report prepared by Carlin, Simpson &
3 Associates indicated that a thick peak layer does not exist in this location.
4 He mentioned that the Report states that strong petroleum odors were
5 encountered during the exploration of Boring B-1. He noted that further
6 understanding of site soils is necessary to determine appropriate measures
7 for soil excavation and handling as well as excavation dewatering. Town
8 Consultant Engineer Barbagallo recommends that the applicant submit an
9 environmental investigation plan that identifies proposed testing locations
10 and intended sampling analysis for site soils.

11
12 Town Consultant Engineer Barbagallo indicated that groundwater was
13 reported to be encountered in 6 of the 7 soil borings at depths ranging from
14 4 to 7 feet below surrounding grade. He explained that shallow
15 groundwater will require dewatering measures to be installed and
16 maintained during excavation of the proposed building foundations. He
17 asked the applicant to prepare and submit a groundwater management plan
18 to describe proposed dewatering activities. Town Consultant Engineer
19 Barbagallo stated that the groundwater management plan shall include
20 dewatering system design calculations based upon site specific hydraulic
21 conductivity and shall identify measure for the discharge of pumped water.

22
23 Town Consultant Engineer Barbagallo noted that the report identifies that an
24 existing layer of fill material was encountered at depths ranging from 1 foot
25 and 6 feet below surrounding grade. He noted that this existing fill is not an
26 acceptable bearing material for the new building foundations and floor slabs.
27 He said that the report recommends that the existing fill layer be completely
28 removed and replaced by acceptable structural fill at all proposed building
29 areas. Town Consultant Engineer Barbagallo said that greater
30 understanding of the limits and characteristics of the existing fill must be
31 provided. He asked the applicant to prepare a supplemental investigation
32 plan which describes additional evaluations of the existing fill. He noted that
33 the supplemental investigation plan should consider the following
34 comments:

- 35
36
- Additional test pits are necessary to further evaluate the extent of the
37 existing fill material stratum around the planned building areas. The
38 report recommends that additional test pits be performed at the time
39 of construction. Greater understanding of the limits of existing fill
40 should be obtained sooner to assess the impact on the site

1 construction activities; therefore, the applicant shall perform test pits
2 as part of the approval process.

- 3
- 4 • Existing fill may not suffice as an acceptable bearing material for
5 proposed utilities on the site. The applicant shall address whether
6 existing fill may remain in place or must be replaced by an acceptable
7 structural fill to control settlement under site utilities. The supplemental
8 investigation plan should consider any testing which may be
9 necessary to determine the suitability of the existing fill soils as utility
10 foundations.
 - 11
 - 12 • The Geotechnical Engineer should also evaluate the impact of
13 lowering groundwater during construction on site settlements in the
14 dewatered areas, and the associated impacts on proposed site
15 construction.
 - 16
 - 17 • Proposed site grading indicated that approximately 10 feet of fill may
18 be placed in certain areas on the property. Two existing stormwater
19 conveyance pipes are located within the site limits. The applicant
20 shall consider how the placement of additional fill will impact the
21 existing stormwater pipes.

22

23 Town Consultant Engineer Barbagallo said that a comment from the April
24 17, 2012 site walk memorandum noted that revised plans indicate that the
25 proposed height of Building 5 has been reduced to 28 feet; however, no
26 specific plans are provided for Building 5. He stated that the Planning
27 Board should continue to review whether or not this approach is
28 acceptable.

29

30 Town Consultant Engineer Barbagallo said that from an engineering
31 perspective, the preliminary drainage analysis describes conceptually
32 acceptable stormwater mitigation measures. He noted that the revised
33 plan removes stormwater practices from the 100 foot NYSDEC wetland
34 buffer and appears to provide sufficient measures for water quality and
35 water quantity attenuation. He said that he looks forward to working with
36 the applicant's engineer as the stormwater system design progresses with
37 the development of a complete Stormwater Pollution Prevention Plan
38 (SWPPP).

39 Attorney Whitehead clarified that she forwarded Town Consultant Engineer

1 Barbagallo's comments on the Geotechnical Report to Carlin, Simpson &
2 Associates. She explained that the area of unacceptable fill mentioned in
3 Town Consultant Engineer Barbagallo's memo is located in a small area in
4 the front of the site. Attorney Whitehead said that on the issue of the
5 petroleum odor and the quality of fill on the site the applicant had a Phase 1
6 Environmental Site Investigation done before he purchased this property.
7 She noted that there is a gas station right next to this property and they
8 recently replaced their gas tanks.

9
10 Town Consultant Engineer Barbagallo stressed that a Phase I is not an
11 investigation but a desk top study. He asked that the petroleum odor be
12 looked at to determine the source.

13
14 Attorney Whitehead said she will look at the impact of the changes in the
15 rate of runoff on the wetland.

16
17 Consultant Planner Meder said that it is important to know the classification
18 of the wetland, the characteristics and functions to know what the impact
19 will be which allow you to develop the mitigation plan.

20
21 Attorney Whitehead said she will be requesting the Town Board to
22 authorize the increased height of the buildings and the Floor Area Ratio
23 (FAR). She indicated that the Town Board adopted these provisions in the
24 Zoning Amendment as an incentive for Affordable Housing. She reminded
25 the Board about the IMA the Town has with the County with respect to the
26 commitment to construct a certain amount of affordable housing within a
27 certain time frame. She noted that this project will be at least 50%
28 affordable with the potential that the entire project could be affordable
29 housing.

30
31 Attorney Whitehead noted that the applicant responded to a request for a
32 meeting with the Bureau of Fire Prevention and hopes to meet with them in
33 August. She mentioned that the applicant will discuss the emergency
34 access and other issues of importance.

35
36 Consultant Planner Meder asked if the Bureau of Fire Protection will also
37 be speaking for the other emergency service providers and Attorney
38 Whitehead replied that she will ask that question.

39

1 Mr. Goldenberg commented that the Town Board will have to allow the
2 zoning change. He said that he is in favor of affordable housing at this
3 location.

4
5 Mr. Keane opined that the SEQRA issue is the height of the buildings that
6 are above what is allowable in the code (30 feet). He stressed that the
7 waiving of the height code is not a right but a privilege that can be granted
8 by the Town Board in relation to affordable housing. Mr. Keane said that it
9 is appropriate for the Board to make a determination of significance under
10 Section 617-7. He reminded the Board that under Section 617.7 A1 there
11 is a low threshold for the requirement of an EIS which is that the action may
12 include the potential for at least one significant adverse environmental
13 impact. He noted that Section 617.7B (4) the Determination of Significance
14 must be in writing and contain a reasoned elaboration and provide
15 references to any supporting documentation. Mr. Keane stated that by
16 recommending to the Town Board that the building height be exceeded to
17 higher than 30 feet will have a significant growth inducing impact on the
18 Somers community especially the school system and its cost of operation
19 and will impair the character of the existing community. He opined that if
20 the Town Board grants the height of the buildings to exceed 30 feet it will
21 open the door to other developers to do the same and will add to the
22 impairment of the character of the community. Mr. Keane stated that he
23 makes these statements from the determination of significance criteria
24 under Section 617.7C (V & X) He noted that V states that the impairment of
25 a character or quality of existing community or neighborhood character and
26 X states the creation of a material demand for other actions that will result
27 in any one of the above consequences, any one of the 9 criteria that is laid
28 out in the regulation. Mr. Keane said that in examining the criteria in the
29 face of the action and considering the low threshold to establish at least
30 one significant adverse environmental impact, the criteria has been met to
31 require an Environmental Impact Statement (EIS) which he recommends.
32 Attorney Whitehead said that a piece is missing in reference to the Growth
33 Inducing Impact and explained that when the Town Board adopted the
34 Zoning Amendment SEQRA was required and a Negative Declaration was
35 made. She stressed that the Growth Inducing Impact was considered.
36 She noted that Mr. Keane's statement that if the Town Board approved the
37 building height over 30 feet that others will follow. She said that if this is the
38 case the Negative Declaration should never have been adopted. Attorney
39 Whitehead said that the applicant has not asked that the Board at this time
40 make a Determination of Significance because more information is needed.

1 She stressed that the cost of a DEIS kills an affordable housing project.

2
3 Mr. Goldenberg mentioned that the Board of Education has stated that
4 there are 20 less students this year than last year. He said that the growth
5 inducing impact is non-existent.

6
7 Attorney Whitehead opined that Mr. Keane's idea of a growth inducing
8 impact is incorrect logic.

9
10 Mr. Keane said that a DEIS does not have to be an expansive document
11 but can be channelized into certain areas. He noted that his concern is that
12 other developers will want to take advantage of being allowed to build three
13 story buildings and that will add to the population in Somers that will require
14 more services.

15
16 Attorney Whitehead asked what the concern is that is not being studied by
17 the applicant and his consultants and can be studied differently in a DEIS.

18
19 Town Consultant Engineer Barbagallo reminded Attorney Whitehead that
20 the Board has asked for alternatives.

21
22 Attorney Whitehead stated that SEQRA requires that alternatives have to
23 meet the applicant's criteria and be feasible for the applicant to pursue.

24
25 Mr. Foley stated that SEQRA is a law and the Board does not have the
26 ability to manipulate the law. He reiterated that SEQRA says that if there is
27 one or more significant environmental impacts a DEIS has to be done.

28
29 Ms. Gannon mentioned that the impact to schools has been mentioned and
30 she said that there are professionals that can determine if there will be an
31 impact on the school district. She said that if a report can be generated
32 that there will not be a significant impact on the school district that issue will
33 be answered.

34
35 Attorney Whitehead noted that this project is mostly one bedroom
36 apartments and that will not lead to a significant adverse impact on the
37 schools.

38
39 Mrs. DeLucia said her concern is the petroleum odor and where that is
40 coming from. She asked if there is an alternative plan for this project.

1 Rick Van Benschoten, applicant, said that when the project first started he
2 asked the Board and the applicant's consultants to work together for the
3 benefit of the project. He noted that originally the height of the buildings
4 were 50'. Mr. Van Benschoten explained that the Planning Board made
5 recommendations to the Town Board but they felt that they needed more
6 information before they could make a decision. He noted that after the
7 Town Board sent him back to the Planning Board for more information the
8 height of the building became a visual impact. Mr. Van Benschoten said
9 that he agreed to reduce the height of the buildings to 45' but that still was
10 a visual impact issue so he again authorized the height of the buildings to
11 be reduced to 34'. He stressed that he is trying to work with the Board and
12 the Town and be a good neighbor. Mr. Van Benschoten stated that even
13 professionals, firemen, policemen and teachers cannot afford to live in
14 Somers and he wants to provide affordable housing to these upstanding
15 citizens. He said that the concern about the number of school children in
16 the housing was never mentioned until tonight but he is willing to address
17 that issue. Mr. Van Benschoten stated that he does not think there will be
18 an impact on the school system as there are 60 single bedroom units. He
19 stressed that if the Board doesn't want affordable housing please tell him.
20 He said that he wants to work with the Board and build a beautiful project.

21
22 Mr. Keane said that this is a process and no one on the Board is an
23 obstructionist with respect to affordable housing or The Green at Somers.
24 He noted that the issue of three story buildings to additional population is a
25 concern and has to be addressed.

26
27 Mr. Foley noted that the Town Board has to weigh in on the project and
28 agree to allow the increased FAR and the height of the buildings.

29
30 Attorney Whitehead mentioned Mr. Keane's concern about the growth
31 inducing issue of allowing the third story and the increases height of the
32 buildings above 30'. She said that she does not know how that can be
33 addressed except to say that approval on this site has nothing to do with an
34 application on another site because each application has to be reviewed on
35 its own. She opined that the basic disagreement with Mr. Keane will not be
36 resolved in an EIS. Attorney Whitehead said that allowing a third story that
37 is permitted as a privilege under Town Code does not mean that it will be
38 granted to another site.

39

1 Mr. Keane asked Attorney Whitehead if she was working toward a Negative
2 Declaration or does she believe the Board will ask for an EIS. He said if
3 the applicant addresses all the questions the Board has accomplished all it
4 wanted to accomplish in order to have a fully justifiable Negative
5 Declaration. He noted that an EIS forces the applicant to legally under the
6 statue get to the same result.

7
8 Consultant Planner Meder suggested that the applicant contemplated
9 submitting an expanded Full EAF with supplementary studies that will be
10 cross referenced. She explained that the Determination of Significance is
11 usually done within 30-days after the Board is designated as Lead Agency.
12 She mentioned that because of the impact issues which originally were
13 likely to have adverse impacts a Conditioned Negative Declaration is more
14 likely because mitigation will be added as it evolves.

15
16 Consultant Planner Meder indicated that she is concerned because Mr.
17 Foley questioned why the proposed action is an Unlisted Action under
18 SEQRA.

19
20 Mr. Foley said that the action has to be reclassified as a Type I Action.
21 He asked what has to be done to reclassify the Action because under
22 Somers Environmental Quality Review Act it is a Type I Action.

23
24 Consultant Planner Meder stated that a Conditioned Negative Declaration
25 option is not available for a Type I Action. She explained that the action can
26 be reclassified under the Determination of Significance.
27 She said that she will research this issue.

28
29 Attorney Whitehead stated that she wants it clarified that the action is a
30 Type I Action under Somers Environmental Quality Review Act but it is not
31 a Type I Action under the State Environmental Quality Review Act
32 (SEQRA). She suggested that a letter noting the classification change be
33 sent to the Involved Agencies.

34
35 Attorney Whitehead noted that the applicant makes modifications to the
36 plan and incorporates them into a revised plan which becomes the action
37 that the Board ultimately uses to make the Determination of Significance.

38
39 Mr. Keane said that his concern is making sure that the Board has
40 addressed all the potential significant issues.

1 Consultant Planner Meder noted that the Board has articulated all their
2 concerns but does not have all the answers to those concerns.

3
4 Attorney Whitehead said that if the Board requires a scope, DEIS, FEIS
5 and a Finding Statement it will take a significant amount of time and cost.

6
7 Consultant Planner Meder mentioned that there are three issues that need
8 Town Board approval. She noted that the applicant assumes the most risk
9 in the process and has a big incentive to be responsive and answer all the
10 Boards concerns.

11
12 Consultant Planner Meder mentioned that she will have to submit an
13 addendum to her escrow proposal. She indicated that she will need
14 information from the applicant on the projected time line so she can
15 understand how many meetings will be necessary.

16
17 Consultant Town Engineer Barbagallo commented that Board members
18 asked to see alternatives. He noted that there are concerns about the
19 buildings being over 30-feet and retail on the first floor. He suggested
20 having residential only buildings and moving the retail closer to Route 6.

21
22 Attorney Whitehead said that she would like to have retail in a separate
23 building but that will make the zoning issue even greater. She noted that
24 will not make the buildings two stories because that will increase the
25 building coverage. Attorney Whitehead explained that the visual impact will
26 be reduced because there will be more buildings in the front which will
27 break up the view into the site.

28
29 Mr. Keane said that during discussions the Board felt that retail will not be
30 viable if it is built according to code. He noted that the Board spoke about
31 separating the retail from the residential and reducing the height of the
32 buildings.

33
34 Attorney Whitehead stated that her concern is that the Town Board at their
35 January meeting said that they do not want to amend zoning. She said that
36 unless the Board and the Town's consultants will support the change she
37 cannot recommend that the applicant consider the change.

38
39 Mrs. DeLucia suggested a joint meeting with the Town Board.

40

1 The Chair noted that it was the consensus of the Board to ask the applicant
2 to pursue the change of separating retail from residential buildings and
3 reduce the height of the buildings and decrease building coverage.

4
5 Attorney Whitehead said that the Town rezoned the Planned Hamlet from
6 general commercial to planned hamlet because there was too much retail
7 on Route 6. She explained that when the Town Board developed the
8 criteria for the Planned Hamlet they restricted the amount of retail. She
9 noted that the site of The Green at Somers is in a Neighborhood Shopping
10 District (NS) Zone which forces the applicant to build retail.

11
12 Mr. Keane opined that retail in this location does not work in today's reality.

13
14 Consultant Planner Meder asked if the Board would look at an alternative
15 concept plan that is very rough and loose and not engineered and the
16 Board felt that would be productive.

17
18 Consultant Town Engineer Barbagallo noted that the Town Code states
19 retail on the first floor of every building.

20
21 Attorney Whitehead explained that the applicant is willing to submit a
22 concept plan with changes that were discussed this evening but she needs
23 assurance that the Town Board will agree to these changes. She
24 explained that the total numbers of buildings will be reduced from five to
25 four and all buildings will now be two stories in height.

26
27 Syrette Dym, the Town Planner, said that the arrangement of the parking
28 probably was done to gain access to retail on the first floor. She suggested
29 a Plan A and Plan B which would move the retail. She mentioned that the
30 site plan can be flipped. Town Planner Dym noted that if the retail is
31 moved the direct access is not necessary in all the buildings. She opined
32 that there are inefficiencies in the site plan in regard to parking in the
33 interior and the exterior loop road uses up a lot of area on the site. She
34 suggested the buildings be moved closer to the wet pond which is a central
35 visual element, add green space and parking can be distributed and
36 circulation combined more to the rear for the residential buildings. Town
37 Planner Dym mentioned that this will create more of a village green
38 environment that will create a cohesive residential development. She
39 commented that if the retail is on the ends of the buildings they could be
40 pushed together to be more related to the front retail. She noted that if a

1 concept Plan A and Plan B is provided that may provide the alternative that
2 would encourage the Town Board to think about modifications to the
3 zoning.

4
5 Attorney Whitehead said that it will not be necessary to provide a Plan A
6 and Plan B. She explained that by moving the retail to the front the parking
7 will have to be reconfigured. She stated that the real driver of the parking
8 number is the retail because the retail parking has a greater parking
9 requirement.

10
11 Ms. Gerbino asked if a market study has been done.

12
13 Attorney Whitehead explained she is waiting to do a market study until it is
14 determined what direction the retail will be going in.

15
16 Chair Currie suggested a joint meeting with the Town Board if the Board
17 likes the alternative concept plan.

18
19 Consultant Planner Meder stated that the applicant should make sure that it
20 has analyzed all the deviations that need approval, area variance, zoning
21 text amendments.

22
23 Ms. Gannon asked how the applicant will respond to the growth inducing
24 aspect proposal.

25
26 Attorney Whitehead said that she knows what Mr. Keane needs to address
27 the growth inducing issue. She noted that Mr. Keane feels that by allowing
28 the third story and the increased floor area ratio (FAR) on this site will lead
29 to allowing this on other NS sites and that will lead to a growth inducing
30 impact.

31
32 There being no further business, on motion by Ms. Gannon. seconded by
33 Mrs. DeLucia, and unanimously carried, the meeting adjourned at 11:20
34 P.M. and the Chair noted that the next Planning Board meeting will be held
35 on Wednesday, August 8, 2012 at 7:30 P. M. at the Somers Town House.

36
37 Respectfully submitted,

38
39 Marilyn Murphy
40 Planning Board Secretary

EPB
TP

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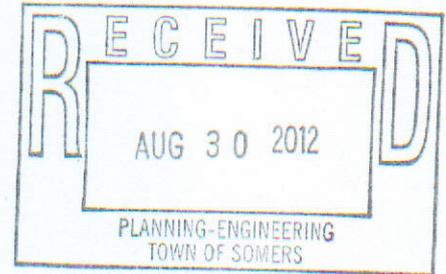
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HENRY M. HOCHERMAN
OF COUNSEL

August 27, 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



348

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

Dear Chairman Currie and Members of the Planning Board:

At its meeting on August 8, 2012, the Board granted an eighth 90-day extension of Mancini Building Corp.'s ("Mancini") Conditional Final Subdivision Approval (the "Final Approval") for the above-referenced subdivision to October 9, 2012. We are writing to request a ninth 90-day extension pursuant to Town Law Section 276(7)(c), to and including January 7, 2013.

Our client is moving ahead with construction of the subdivision road and infrastructure. As of the date of this letter, the road has been staked and our client is waiting for the pre-construction meeting with the New York State Department of Environmental Protection ("DEP") to be scheduled. I understand that Mr. Richard Mancini has been keeping Mr. Steve Woelfle from the Town's Engineering Department apprised of the construction's status. Clearly, there is no way the road and infrastructure will be completed by the October 9th expiration date. We respectfully request that the Board grant an additional 90-day extension of Final Subdivision Approval, to and including January 7, 2013, 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 27, 2012
Page 2

Kindly schedule this matter for the next available Planning Board meeting and let us know if an appearance is required. Thank you for your courtesy.

Respectfully yours,

Hocherman Tortorella & Wekstein, LLP

By: 
Geraldine N. Tortorella

GNT:mev

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

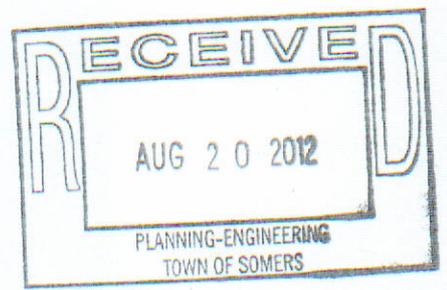
FB
TPO
CITE

BIBBO ASSOCIATES, L.L.P.
Consulting Engineers

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

346

August 16, 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

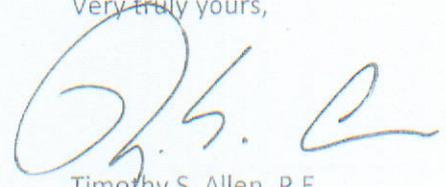
Dear Chairman and Members of the Board:

On behalf of our client we are writing to formally request a re-grant of the conditional preliminary subdivision approval obtained for the above noted subdivision on November 30, 2011 (*Resolution # 2011-08*). Please find attached a new preliminary subdivision application as requested by the board in support of this request.

The subdivision plans have not changed since the previous approval, and this office is currently in the process of obtaining all necessary permits and approvals from outside agencies to satisfy the conditions listed in the above noted resolution. With this letter we are requesting that all previous conditional approvals granted in the above noted resolution, including plans, reports, etc. on file be incorporated into this re approval.

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
cc: G. Mitchell

SOMERS PLANNING BOARD

APPLICATION FOR PRELIMINARY APPROVAL OF SUBDIVISION

Application Processing Affidavit must also be signed. Please click here for form.

I. IDENTIFICATION OF APPLICANT:

A. OWNER: GRAY & ANN MITCHELL SUBDIVIDER: _____
 ADDRESS: PO Box 46 ADDRESS: _____
BALDWIN PLACE, NY 10505
 TELE #: 914-557-9521 TELE #: _____

B. SURVEYOR: DONNELLY TELE #: 962-2215
 ENGINEER: BIBBO ASSOC., LLP TELE #: 277-5805

II. IDENTIFICATION OF PROPERTY:

A. Subdivision identifying Title: MITCHELL SUBDIVISION
 B. Street abutting property: TOMAHAWK ST.
 C. Tax Map Designation: Sheet: 16.09 Block: 1 Lot: 9
 D. Zoning District: R-40
 E. Project (does) ~~(does not)~~ connect directly into (State) ~~(County)~~ highway.
 F. Proposed drainage ~~(does)~~ (does not) connect directly into channel lines established by the County Commission of Public Works.
 G. Project site ~~(is)~~ (is not) within 500 feet of Town boundary.
 H. Affected Wetland Area: 0 Wetland Buffer Area: 0
 I. Affected Steep Slope Areas: 15% - 25%: 10,000 s.f. Over 25%: -
 J. Total area of property in acres: 7.1

III. APPLICABLE FEES PAID: By certified check payable to Town of Somers

Abbreviated Procedure fee of \$250: _____ Date Paid: _____
 Preliminary Subdivision Plat is \$400 per lot
 Number of lots: 4 Date Paid: 6/5/08
 Wetland Permit Fee: \$200 min. fee + \$100 per 5,000 s.f. of regulated area or proposed portions to be disturbed.
 Steep Slope Permit Fee: \$150 min. fee + \$75 per 10,000 s.f. of regulated area or proposed portions to be disturbed.
 Total Fee: \$225 Date Paid: 6/5/08

IV. DOCUMENTS TO BE SUBMITTED WITH THIS APPLICATION

14 copies of all submitted correspondence during review process

- A. X 14 copies of Preliminary Plat
- B. X 14 copies of Preliminary Construction Plans
- C. X 14 copies of Topographic Map
- D. X 2 copies of Affidavit of Ownership & Title Policy
- E. _____ 14 copies of Environmental Assessment Form
- F. X Proof that taxes have been paid

V. ADJOINING PROPERTY OWNERS

A. Identify all adjoining property owners & owners directly across any and all adjoining streets including those in adjoining communities. Submit stamped envelopes addressed as listed.

SHEET	BLOCK	LOT	NAME OF OWNER & MAILING ADDRESS
<u>PREVIOUSLY PROVIDED</u>			

If necessary, continue listing on additional sheet.

By submission of this application, the property owner agrees to permit Town officials and their designated representatives to conduct on-site inspections in connection with the review of the proposal.

Property shall be identified on site as being proposed for subdivision. Center line of proposed roadway(s) shall be staked prior to scheduling of a walk-through by the Planning Board.

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

All revised plans shall be accompanied by a letter indicating what has been changed. All costs incurred by the Town for Professional Services and SEQOR review will be paid by the applicant.

The undersigned applicant hereby requests approval by the Planning Board of the Preliminary Plat and Construction Plans.

Applicant: [Signature] Date: _____
 Property Owner: _____ Date: 8/16/12

TOWN OF SOMERS
WESTCHESTER COUNTY, NEW YORK
APPLICATION FOR ENVIRONMENTAL PERMIT
CHAPTER 148 "STEEP SLOPE PROTECTION"

APPLICATION FEE:

Alteration of Steep Slopes: \$150.00 minimum fee plus \$75.00 per 10,000 S.F. of regulated area or proposed portions thereof to be disturbed.

OWNER: GARY & ANN MITCHELL Tel. #: 914-557-9521

Mailing Address: PO Box 46 BALDWIN PLACE, NY 10505

APPLICANT: SAME AS OWNER Tel. #: _____

Mailing Address: _____

State authority: _____ If other than owner, authorization must be submitted in writing.

Premises: Sheet: 16.09 Block: 1 Lot: 9

Situated on the W side of TOMAHAWK (Street) 400 feet from the intersection of GREEN TREE ROAD (Street)

Description of Work and Purpose: PROPOSED SUBDIVISION

Estimated Quantity of Excavation: 730 C.Y. 730 CUT AS FILL

Size of Activity Area: 10,000 S.F. +/-

Total Value of Work: \$4,000

Slope Category: 15%<25% X 25%<35% _____ or >35%: _____

Soil Types: CHARLTON-LOAM

Proposed Starting Date: 4/13 Proposed Completion Date: 10/13

Plans Prepared by: BIBBO Dated: 9/21/11

Plans must be submitted with application.

List of Applicable County, State, or Federal Permits:

WLHD SUBDIVISION
NYS DOT, NYLDEP, NYSDEC

List of Property Owners of Record of Lands and Claimants of Water Rights within 100 feet of Subject Property.

NAME	ADDRESS	BLOCK	LOTS
<u>PREVIOUSLY PROVIDED</u>			

Applicant's Signature: [Signature] Date: 8/16/12
Owner's Signature: [Signature] Date: _____

*APPLICATION MUST BE ACCOMPANIED WITH A COMPLETED ENVIRONMENTAL ASSESSMENT FORM, COMPLETE PLANS FOR LOT IMPROVEMENTS, AND LOCATION AND SIZE OF SLOPE CATEGORIES.

.....Office Use Only.....

Administrative Permit: _____
Planning Board Permit: _____

McCULLOUGH, GOLDBERGER & STAUDT, LLP

ATTORNEYS AT LAW

1311 MAMARONECK AVENUE, SUITE 340

WHITE PLAINS, NEW YORK

10605

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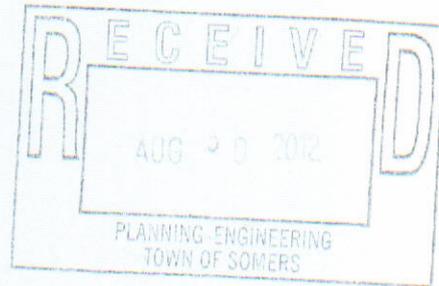
FRANK S. McCULLOUGH, JR.
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PATRICIA W. GURAHIAN
ALICE D. KORNFELD
RUTH F.L. POST

FRANK S. McCULLOUGH (1905-1998)
EVANS V. BREWSTER (1920-2005)

August 29, 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 your August 8, 2012 meeting, we are submitting to you herewith a revised conceptual site plan sketch together with a revised updated conceptual landscape plan. We would like to emphasize that, as requested by the Planning Board, these plans are still at a sketch plan level of detail and therefore do not include all the detail that will ultimately have to be provided. Each of these plans will be further refined as we go forward. As we had previously indicated, we do not want our client spending significant time and money on the plan until we know the concept is acceptable to both your Board and the Town Board, since a zoning text amendment will be required. Additional detail to be provided will include, but not be limited to, grading plans, the final stormwater plan, erosion control plans, and the wetland mitigation plan. Again, we are at this point reviewing and discussing the concept.

Also provided herewith is the letter we previously referenced from Carlin Simpson & Associates addressing the Woodard and Curran comments on their prior report. Finally, we are submitting to you a very preliminary text of a zoning amendment which we would like to review with you prior to submitting to the Town Board in anticipation of the joint meeting to be held on September 24, 2012. Prior to that meeting we anticipate submitting additional information to both Boards relating to the history of the zoning of the site, the purpose of the NS zone, and the proposed amendment, including the information included in our July 27, 2012 letter to your Board.

At your last meeting, it was generally agreed that the latest conceptual plans submitted to you were preferred over the earlier plans under consideration. As a reminder, the latest plan provides for three two story, 10,000 square foot all residential buildings and an 8,000 square foot building with retail space on the first floor and apartments on the second floor along the Route 6 frontage. The

total number of units is 72. The Board and consultants generally thought the plan was a significant improvement, but had some comments and suggestions of ways to improve upon that plan. With these attached plans we have attempted to incorporate as many of those points raised during the meeting as possible at this level of detail. As was discussed at that time, as the plan is still at a sketch level of detail, we have addressed some but not all of the comments in the Frederick P. Clark Associates memo (the "Clark Memo"). Those we have addressed are discussed below.

As the Board will note, perhaps the most significant revision to the site plan is the configuration of the central area of the site and the reconfiguration of the parking both as it relates to the bio retention area and the retail space. More specifically, we have incorporated a one way angled parking pattern around the central green area and have relocated parking spaces closer to the retail building. We are also showing walkway connections through the site and to the retail building. The reconfiguration has increased the size of the central green space so that we now provide both the bio-retention area and additional open green space in this area. In addition to creating more of a park like setting in and around the bio retention area, we are proposing a putting green which will be incorporated into the open green space and will tie to the history of the site. The green space will also include walkways and park benches which will tie everything back to the residences and the retail space. The revised landscape plan includes the planting plan for the bio-retention area to help the Board understand how the area will be utilized. Finally, in addition to the changes to the central area of the site, we have also realigned the outer driveway by separating it from the main traffic patterns.

The following responses address some of the comments in the Clark Memo.

Wetlands Delineation

1. The plans have been revised to only reflect the most recent wetlands delineation of Wetland B. The delineation has been revised by adding flag number w1 b-3A. Note that this change moved the wetland boundary approximately 6 feet at that one point and had virtually no effect on the 100 foot wetland buffer.
2. Wetland C is not shown on the sketch plan at this time. The wetland is entirely offsite and we have confirmed there is no encroachment into the wetland. Because of the scale used for these sketch plans, the wetland is not shown.
3. Comments 1, 2 and 3 of the prior July 9, 2012 Clark memo have been fully addressed.

Zoning Compliance

- 4a. The Zoning Chart has been revised to reflect the 25 foot side yard requirement listed in Section 170-20.3.I.
- 4b. As noted during the last meeting with the Planning Board, the sewage pump station does not include a building. The only portion of the system that will be above ground is the access hatch to the wet well and valve chamber. Therefore, there are no zoning compliance issues.

- 4c. The Maximum FAR line in the Zoning Chart has been revised to reflect the required/permitted requirements.
- 4d. The square footage of the proposed second floor apartments in Building 4 has been incorporated into the FAR calculations. Although we believed it to be understood that the second floor apartments would have the same square footage as the first floor retail space, we have revised the site plan as requested.

There is no 4e.

- 4f. The applicant has indicated that the proposal is to construct a 100% affordable unit project. However, we have indicated we are not requesting to utilize the incentive provisions of Section 170.20.4.B, so there is not reason to add the potential increase in FAR to the chart. The plan complies with the maximum FAR requirements without the increase.
- 5. A Zoning Conformance Chart has been added to the current plan.
- 6a. As noted above, the project is proposed to be a 100% affordable project, therefore there is no need to make any additional notation to that effect in the Parking Table.
- 6b. The Parking Table has been revised to reflect the current plan.
- 6c. The previous plans contained 4 parking spaces above the minimum required which were designated as "guest parking." However, since there is no requirement to provide any additional parking we are now proposing to construct only those spaces required under the Town Code.
- 6d. The Code references are set forth under the term "Required" in the Parking Tables.
- 7. A parking table has been provided for this plan.
- 8. The landscape plan has been updated to provide the required trees. As was discussed during the last meeting, the Code does not state that there can be no more than 6 spaces in a bay, but states that where you have more than 6 spaces there must be a landscape island at the end of the bay. The plan complies with the Code. In addition, parking spaces have been relocated to provide more spaces in proximity to the retail building.
- 9. Based upon the current architectural drawings for the buildings as well as the proposed grading of the site, the height of the three residential buildings has been calculated as set forth in the Town Code, utilizing height from average grade. The calculated heights as defined in the Code are set forth in the Zoning Chart. Each building complies with the Code, with the maximum building height 28.6 feet.

10. See above regarding the height calculation. Elevations will be similar to those previously provided, revised to reflect the reduction in height. Elevations will be provided at a later date as part of a full site plan submission. With respect to the visual impact of the 3 story rear of the buildings, it should be noted that the entire perimeter of the site is surrounded by mature trees with additional landscaping proposed. More importantly, the nearest off-site residence is in excess of 360 feet from the site and the area in between is entirely wooded.
- 11 and 12. We have provided a proposed zoning text amendment to be reviewed with the Planning Board and then submitted for discussion with the Town Board at the joint meeting. As we have discussed, this is a unique site given the size of the site and the small amount of frontage. If retail were required in all buildings, most of it would be not visible from Route 6, and there would be too much retail. For both these reasons it is not economically viable to construct this additional retail. We believe the Planning Board agrees on this matter.

Site Layout

14. As discussed during the last Planning Board meeting, the bio-retention area is not a deep pond with standing water. Therefore walking paths can and will be incorporated into the design to create a passive recreation area. In addition, and as noted above, we have modified the layout and design of the green area and will provide benches and the extended paths to provide a more useful area to the residents.

In addition, the current plan has eliminated most of the parking spaces that previously surrounded the bio retention area. However, under the Town Code, the applicant is required to provide 189 on-site parking spaces. By placing 77 of the parking spaces within the garages or behind the buildings, much of the visual impact associated with parking areas has been mitigated, regardless there is still a requirement to provide 87 spaces to serve the retail building and parking for the residences. To further reduce the amount of impervious area, we have incorporated compact spaces throughout the site as permitted by Code.
15. There are two primary reasons for the driveway loop located around the perimeter of the buildings: the first is to provide access to the 77 parking spaces under the buildings which it serves, and the other is to provide an additional means of access for emergency vehicles around the buildings.
16. The proposed location and orientation of the retail space along Route 6 has been discussed during several Planning Board meetings and it was generally understood that such an orientation was preferred for any number of reasons. It was also discussed that the retail space will be designed with two fronts. A sidewalk has always been proposed along Route 6 since the initial submission to the Planning Board. Because of the need for significant amounts of parking for the retail uses in proximity to the front retail building, it is not possible to move this building closer to the other buildings on the site. Walkway connections have been provided.

17. The revised Site Plan now places all of the required 72 parking spaces for the front building within 175 feet of the building. In addition, 55 of those spaces are within 125 feet of the building. The 72 spaces represents the combined requirement for the retail and residential uses in that building. It is likely that due to different peaks for the two uses there will be some shared parking and the full 72 spaces will not actually be utilized for this building, so we believe there is now sufficient parking in proximity to the building.
18. As we have indicated, the submission is still essentially a sketch, and grading and additional details, including those necessary to address the referenced comments, will be provided at a later time as part of a full submission assuming we are moving forward with this concept. However, it should be noted the gazebo is no longer proposed.
19. Sight distances were provided as part of the prior submission by our traffic engineers. The analysis indicated that all required sight distances are exceeded.
20. The issue of alternate traffic patterns has been discussed above and is reflected on the current site plan. It was also suggested that a passing lane be created if a one way traffic pattern is incorporated into the design. Note that given the limited size of this area, a passing lane would effectively expand the driveway back to approximately 24 feet in width, which would negate the positive changes associated with the one way pattern.
21. Our engineer has reviewed the accessibility for emergency service and delivery vehicles. The turning radii of a SUB 30 (Single Unit Body truck-30 feet long) has been added to the dimensioning plan at key intersections. The SUB 30 was selected as it represents a reasonably sized truck (typical of a package van) with a large turning radii. We also believe that the SUB 30 matches the dimensions of a typical emergency vehicle. Regardless, we will discuss the specifics with the Fire District when we meet with them later in September. Practically, speaking a WB-50 (semi tractor trailer - 50 foot long) would not be making deliveries to the site on a daily basis and therefore was not studied to any great length. However, it is recognized that the occasional moving van may need to access the site. In that instance, the route would be along the driveway loop which circles the buildings.
22. The plan is still at a sketch level. Signage will be addressed at a later time as we move forward with detailed site plans.
23. Grading plans were submitted as part of earlier submissions for the prior plan. As indicated, grading plans for the current plan will be provided as we move forward with more detailed site plans. Although the building design and orientation has changed, the likelihood for a significant change in the proposed grading is slight. It is important to understand that the final grading of the property is principally based upon the existing grade at the one hundred foot setback from the NYSDEC designated wetlands to avoid any grading in the buffer.

The lowest elevation in this area is the 523 contour (the lowest floor elevation established was 524). After allowing a distance of approximately 10.5 feet between the garage level and that of the first floor the elevation is 534.5. Although slightly lower than the existing grade

on Route 6 (contour 536) from an engineering perspective, this is a reasonable relationship to the roadway.

It is being suggested that the grading plans should be revised to reduce the amount of fill on the site. There are a number of engineering-based reasons as to why the grading plans cannot (or should not) be adjusted simply to reduce the amount of fill. Some of those include:

- a. Lowering the first floor elevations would require that the basement levels be constructed at a grade lower than the existing ground at the back of the buildings. Given that there is a shallow depth to ground water in this area, it would be necessary to construct permanent pumps within the garage to maintain a constant water level. In addition, it would be necessary to incorporate stand-by generators to ensure that the pumps will operate in a power outage. Needless to say, the constant pumping of groundwater is likely to have an impact on the wetlands.
 - b. If the garage(s) were to be eliminated in one or more of the buildings, then the displaced parking would need to be relocated elsewhere on the site; unnecessarily increasing the amount of impervious surfaces on the property.
 - c. Ultimately, reducing the amount of fill would result in finished floor elevations considerably lower than that of Route 6-essentially, placing the homes in a hole. This concept would also create a condition whereby stormwater runoff is directed towards the homes; which increases the potential for flooding.
24. As was previously discussed with the Planning Board, there is no view into the site from Route 6 going east or west due to the elevation changes and existing buildings and landscaping. The only direct view into the site from Route 6 is from directly in front of the site. From this location, only two stories will be visible. The rear of the buildings will not be visible looking directly into the site except for potentially a small area on the side of building 1 or 3, which will be screened by both landscaping and the front building. As stated above, the closest adjacent residence is over 360 feet away in a heavily wooded area.
 25. While we believe some of the comments are addressed by the revised plans or have been otherwise addressed, all will be addressed if we move forward with detailed site plans.
 26. The Full EAF was revised to address the former Town Planner's comments to her satisfaction prior to its circulation.

Chairman and Members of the Board
August 29, 2012
Page 7

Thank you for your continued cooperation in this matter and we look forward to discussing the revised plans with you at your September 12, 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



CARLIN • SIMPSON & ASSOCIATES

Consulting Geotechnical and Environmental Engineers

61 Main Street, Sayreville, New Jersey 08872
Tel. (732) 432-5757
Fax. (732) 432-5717

Principal:
Robert B. Simpson, P.E.
Associates:
Robert H. Barnes, P.E.
Meredith R. Anke, P.E.
Kurt W. Anke
Eric J. Shaw

30 July 2012

Holt Engineering & Consulting, PA
540 NW University Blvd., Suite 105
Port St. Lucie, Florida 34986

Attn: Mr. Nathaniel J. Hole, PE

Re: Proposed Development – Response to Town Engineer's Comments
The Green at Somers
US Highway Route 6
Somers, NY (12-70)

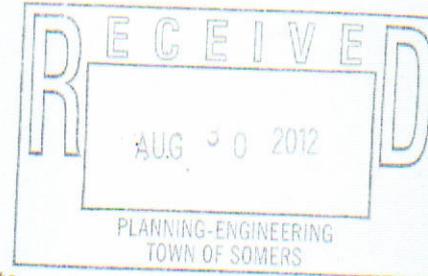
Dear Mr. Holt:

In accordance with your request, we have prepared the following responses to the geotechnical comments from the Somers town-engineer, Mr. Joseph Barbagallo, P.E., BCEE dated 6 July 2012.

RESPONSES TO COMMENTS:

Comment #1 – Based on a report by Atlantic Environmental Solutions, Inc. dated 14 December 1998; an environmental investigation was performed at the referenced site including 8 borings and analytical soil tests.

The report concluded "*Soil sampling in the areas of the former UST excavation and the former pump island on the subject site. Although soil contamination is limited to the surficial soils in the former pump island area, groundwater quality may have been impacted in the area of the former UST excavation. This contamination should be localized due to the negligible concentrations of contaminants in downgradient soil samples. AESI recommends that contaminated soils be removed from the subject property and confirmatory sampling be conducted to ensure that all contaminated soils have been removed. Furthermore, at the time of excavation, groundwater samples*



should be collected for analysis to determine the presence of soluble contaminants in the groundwater."

Carlin-Simpson & Associates will prepare a scope of environmental services to test the soil and groundwater in this area to determine if there will be any impact on the proposed development.

Comment #2 – The expected dewatering during construction will be minimal, involving localized sumps and pumps. Carlin-Simpson & Associates included a detailed description of the expected dewatering on page 7 of our report. The need for a "dewatering system design with calculations" is not applicable to localized sumps and pumps.

Comment #3 – The recommendations for supplemental test pits for the existing fill on page 5 of our report is recommended just prior to construction. This is common practice just before construction so that the limits can be specifically determined. There is no need to further evaluate the limits of the fill at this time.

With respect to the existing fill under "new utilities", Carlin-Simpson & Associates evaluated this condition and provided recommendations on page 12 of our report. Further investigations and analyses are not needed at this time.

With respect to the "lowering the groundwater during construction", the type of dewatering expected will be localized and minimal. There will not be any impact to the site and site settlement.

Thank you for letting us assist you on this project. If you have any questions, please contact our office.

Very truly yours,

CARLIN-SIMPSON & ASSOCIATES

Robert B. Simpson

ROBERT B. SIMPSON, P.E.

RBS;jw

§ 170-20.4. Affordable dwelling units.

Add new subsection C. as follows:

C. On any property zoned NS which contains more than eight (8) acres with road frontage of less than 500 feet, for a project which is proposed to be at least 50% affordable, and which project will not require the application of the modifications provided for in §170-20.4.B above, the Planning Board shall have the discretion, upon making a finding that retail in the rear portions of the site will not be marketable, to allow apartments on the first floor of any building which is setback more than 100 feet from the road frontage without any stores being required in such building, provided there will be at least one building along the road frontage which will contain first floor retail uses.

Renumber existing subsection C. as follows:

CD. All other standards as discussed in Article XIA, Affordable Housing, shall apply.

McCULLOUGH, GOLDBERGER & STAUDT, LLP

ATTORNEYS AT LAW

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FRANK S. McCULLOUGH (1905-1996)
EVANS V. BREWSTER (1920-2005)

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PATRICIA W. GURAHIAN
ALICE D. KORNFELD
RUTH F.-L. POST

August 31, 2012

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

Re: Somers Realty Planned Hamlet Master Plan
Preliminary Subdivision Application #2
The Mews at Baldwin Place Phase 2

Dear Chairman Currie and Members of the Board:

As you will recall, in February 2009 the Planning Board approved the Somers Realty Planned Hamlet Master Plan (the "Master Plan") for the property owned by Somers Realty Corp. located on Route 6 and Mahopac Avenue (the "Property") and adopted a SEQRA Findings Statement. Thereafter, and based upon the Master Plan, you approved a subdivision of the Property to create a lot of approximately 5.776 acres which was conveyed for the development of The Mews at Baldwin Place ("The Mews" or "the Mews Property"). As part of the subdivision, we also created the sewer pump station lot and the future potential water tank lot, as well as a portion of the right of way for Clayton Boulevard and road widening strips on Route 6 and Mahopac Avenue. A reduced copy of the filed subdivision map is provided herewith for your reference.

We are now submitting a preliminary subdivision application for a further subdivision of the large lot 2 as shown on the subdivision map to create an approximately 7.7 acre lot adjacent to the Mews Property on which is proposed to be developed The Mews Phase 2, an additional 75 units of senior affordable housing similar to The Mews ("The Mews 2"), a 62.317 acre lot comprising the balance of the Property, and an additional .6821 acre right of way extension of Clayton Boulevard. No development is proposed at this time on the 62.317 acre lot. A site plan application is being separately submitted for the development of The Mews 2. In addition to subdividing lot 2 into these 2 lots, we are proposing a minor modification to the lot line of the previously created Sewer Pump Station Parcel which is necessitated by the road configuration for the balance of Clayton Boulevard. The modification reduces the parcel by .002 acres, having no substantive impact. We ask that again, as with the prior

applications, the subdivision and site plan applications be reviewed by the Planning Board simultaneously.

As you can see on the preliminary subdivision plan and improvement plans provided herewith, Somers Realty is proposing an extension of Clayton Boulevard to serve the new lot, together with the necessary sewer, water and stormwater infrastructure. All of these improvements are in accordance with the Master Plan. The sewer pump station will have to be constructed to serve the new development and the temporary sewer pump station utilized for The Mews will be abandoned and connection made to the new pump station. Upon completion, the Sewer Pump Station Parcel and the pump station will be dedicated to the Town.

You will recall that the Master Plan approval provided that the stormwater runoff from much of what is now known as Clayton Boulevard as well as the Village Green and some of the surrounding areas would be directed to and treated in a portion of the proposed lot 2. The total impervious area and overall development intensity in this portion of the Property will be significantly less than anticipated in the Master Plan. This allows for additional area to be available and provided for stormwater management for those areas which had always been planned to drain to this area. The area provided is designated as "Stormwater Management Easement" on the preliminary subdivision plan. By providing for greater area, we are able to meet the requirements of the regulations which have been revised since the Master Plan was approved to treat the same area always anticipated. The stormwater from The Mews 2 will be accommodated entirely on other portions of the new proposed lot, and will not be integrated into the larger stormwater management plan. The same was the case for The Mews. You may also recall that when the initial portion of Clayton Boulevard was constructed the runoff was directed to the basin constructed as shown on the subdivision map. It was always anticipated that this was temporary and when the additional portion of the road was constructed, the stormwater would be directed as is now proposed and as anticipated in the Master Plan approval. By removing the runoff from the existing road from this existing basin, the basin becomes available to be utilized as part of the stormwater management plan for The Mews 2 development.

In conjunction with the proposed subdivision improvements we are also providing a Tree Removal Permit Application, Stormwater Management and Erosion and Sediment Control Application, and a Wetland Permit Application. The Wetland Permit is necessary only for the construction of the sewer pump station and related infrastructure as always anticipated, and for a small area of grading for the stormwater basins and outlet pipe. All of this is consistent with the Master Plan, the SEQRA Findings Statements, and the prior subdivision approval.

As with the prior subdivision application, we have reviewed the additional Planning Board submission requirements as they would apply to this application. It must be noted that this is a unique situation in that the subdivision and related applications before you are a follow up to a full SEQRA process and Master Plan approval. In addition, other than the portion of road and utility improvements discussed above, no construction is proposed as part of this application. The environmental constraints and potential environmental impacts that you would normally need as the additional submission materials to review in conjunction with a subdivision application have already been provided and reviewed as part of the EIS process. Provided the application is consistent with what was previously

presented and reviewed as part of the SEQRA process, which it is except for the lessened intensity of the use as discussed below, a negative declaration of environmental significance should be issued as the application does not result in any new potential significant environmental impacts not already reviewed and mitigated. We are submitting an EAF to you for procedural purposes, but the relevant information here is the comparison to your prior SEQRA review. In many cases, the EAF refers you to the prior EIS for information already provided.

Please note that the Environmental Constraints Map (showing wetlands and steep slopes) can be found at Figure 5 of the Master Plan, and the Soils Data Map can be found at Figure 3.3-2 of the DEIS. The EIS contains significant additional discussion of wetlands, steep slopes and soils. In addition, the proposed subdivision will not impact any Town regulated steep slope areas. Therefore, any additional mapping and data which the Planning Board would need to review this subdivision has already been submitted and reviewed. It would seem redundant and inconsistent with the SEQRA process to have to resubmit this information now.

You will recall that the Master Plan approval resolution listed a number of conditions required prior to subdivision approval. Many of these related to the sewer and water district approvals and were completed prior to the first subdivision being completed. Condition #5 required the submission of "such easements, deeds, agreements or restrictions required in relation to the long-term operation and maintenance of the proposed circulation features, stormwater system, and other utility systems, as necessary in relation to the lots being subdivided." With the first subdivision application it was determined none were necessary, except for the easements provided for the stormwater management basins and temporary cul-de-sacs, both of which will be terminated with this application and new replacement easements provided. Since Clayton Boulevard is, and the extension will be, a public road, no access easements are required. An access easement to the Town for the sewer pump station will be provided. Also as with the prior subdivision and site plan, no landbanked parking is being proposed, and therefore no agreement regarding the landbanked parking is required at this time. Again, because the only road being constructed will be a public road, there is no need for an agreement between property owners regarding maintenance. The stormwater system for The Mews 2, as with The Mews, is not part of the integrated system but the runoff is accommodated completely within the property. Therefore, no agreement with other property owners is required for maintenance of this system. The conditions required for site plan approval as set forth in the Master Plan approval resolution will be satisfied with the site plan application being submitted separately.

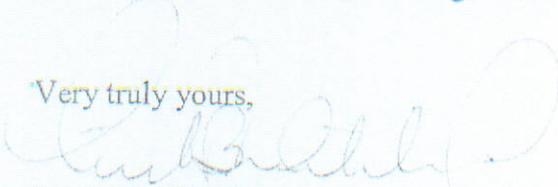
In addition to the applications referenced above, we are also requesting a modification of the Master Plan with respect only to the proposed uses in this portion of the Property. The Zoning Code requires that the Planning Board review and approve a site master plan for the entire PH property. This plan is intended to "present a generalized land use, access and traffic circulation plan as well as a conceptual statement describing the design and development concept, the intended manner of provision of utility services and other such relevant information, which statement may be in written and/or graphic form." Somers Code Section 170-23.3. This section further states that the site master plan may be modified with the approval of the Planning Board (although no procedure for such a modification is set forth). The "access and traffic circulation plan as well as a conceptual statement describing the design and development concept, the intended manner of provision of utility services"

are not changing. The only modification is in the proposed land use for this approximately 7.7 acre parcel.

You will recall that the land uses for the area now proposed for The Mews 2 were an 80 unit 80,000 square foot assisted living facility, and approximately 30,000 square feet of retail/office, on two separate lots with a total of 173 parking spaces (39 of which were to be landbanked). The proposed modification will provide for one lot with 75 units of senior affordable housing in two buildings totaling 88,364 square feet with 75 parking spaces, with significantly less total square footage and impervious surface than provided in the Master Plan. As was discussed in the Master Plan and SEQRA review when the senior affordable housing alternative was chosen for lot 1, the senior affordable housing generates less traffic and has a lower parking requirement than the retail/office use. The parking requirement is also significantly less than the requirement for the assisted living facility. The proposed modification will clearly result in a less dense and less intense development of this portion of the site in all aspects including impervious surface, traffic, parking requirements, and sewage and water flows. As with the prior application, the plans will contain a table indicating the total parking required and the total to be provided for the remaining uses.¹ We believe that the proposed modification to the site master plan relating to the use of this area is consistent with the intent of the Master Plan and the Code, is a minor modification, and will not result in any new potential impacts. It will not change the general layout, access and traffic circulation, the design and development concept, or the intended manner and provision of utility services. It will also not impact on land uses on the remainder of the Property. We therefore request that the Planning Board approve the modification to the Somers Realty Planned Hamlet Master Plan with respect to the land uses for the proposed lot 2.

We look forward to reviewing these applications with you. We would appreciate if you could place this matter on your September 12, 2012 agenda for discussion together with the site plan application being submitted.

Very truly yours,



Linda B. Whitehead

Enclosures

cc: Seth Capozza, Somers Realty
Peter Gregory, KCG Engineers, P.C.
Rosemarie Noonan
Ken Kearney
Rich Williams, Insite Engineering

¹ While the table is on the plans being submitted, it requires further revision to reflect the reduction in office and retail space which will be built. This modification will be provided in our next submission.

SOMERS PLANNING BOARD

APPLICATION FOR PRELIMINARY APPROVAL OF SUBDIVISION

Application Processing Affidavit must also be signed. Please click here for for

I. IDENTIFICATION OF APPLICANT:

A. OWNER: Somers Realty Corporation SUBDIVIDER: Somers Realty Corporation

ADDRESS: C/O Seth Capozza ADDRESS: Same as Owner

15 Charles Street, Apt. 12G, New York, NY 10014

TELE #: (917) 584-6527 TELE #: Same as Owner

B. SURVEYOR: Donnelly Land Surveying, P.C. TELE #: 914.962.2215

ENGINEER: KCG Engineers, P.C. TELE #: 914.241.2235

II. IDENTIFICATION OF PROPERTY:

A. Subdivision identifying Title: Somers Realty Section 2 - PH Zone

B. Street abutting property: US Route 6 & Mahopac Avenue

C. Tax Map Designation: Sheet: 4.20 Block: 1 Lot: 15

D. Zoning District: PH

E. Project (does) (~~does not~~) connect directly into (State) (~~County~~) highway.

F. Proposed drainage (does) (~~does not~~) connect directly into channel lines established by the County Commission of Public Works.

G. Project site (is) (~~is not~~) within 500 feet of Town boundary.

H. Affected Wetland Area: 1,595 sf Wetland Buffer Area: 35,075 sf

I. Affected Steep Slope Areas: 15% - 25%: 15,500 sf Over 25%: 3,100 sf (*)

J. Total area of property in acres: 70.7108

III. APPLICABLE FEES PAID: By certified check payable to Town of Somers

Abbreviated Procedure fee of \$250: N/A Date Paid: N/A

Preliminary Subdivision Plat is \$400 per lot

Number of lots: 2

Date Paid: _____

Wetland Permit Fee: \$200 min. fee + \$100 per 5,000 s.f. of regulated area or proposed portions to be disturbed.

Steep Slope Permit Fee: \$150 min. fee + \$75 per 10,000 s.f. of regulated area or proposed portions to be disturbed.

Total Fee: \$800 Subd., \$1,000 Wetland Date Paid: 09/04/2012

IV. DOCUMENTS TO BE SUBMITTED WITH THIS APPLICATION

14 copies of all submitted correspondence during review process

A. X 14 copies of Preliminary Plat

B. X 14 copies of Preliminary Construction Plans

C. See prior EIS 14 copies of Topographic Map

D. X 2 copies of Affidavit of Ownership & ~~Title~~ Policy Deed

E. X 14 copies of Environmental Assessment Form

F. X Proof that taxes have been paid

V. ADJOINING PROPERTY OWNERS

A. Identify all adjoining property owners & owners directly across any and all adjoining streets including those in adjoining communities. Submit stamped envelopes addressed as listed.

SHEET BLOCK LOT

NAME OF OWNER & MAILING ADDRESS

Please see attached list

If necessary, continue listing on additional sheet.

By submission of this application, the property owner agrees to permit Town officials and their designated representatives to conduct on-site inspections in connection with the review of the proposal.

Property shall be identified on site as being proposed for subdivision. Center line of proposed roadway(s) shall be staked prior to scheduling of a walk-through by the Planning Board.

It is the responsibility of the applicant to be knowledgeable of the law. The following...

7/02

TOWN OF SOMERS
WESTCHESTER COUNTY, NEW YORK
APPLICATION FOR ENVIRONMENTAL PERMIT
CHAPTER 167 "WETLAND AND WATER COURSE PROTECTION"

APPLICATION FEE:

Alteration of Wetlands: \$200 minimum fee plus \$100 per 5,000 S.F. of regulated area or proposed portions thereof to be disturbed.

Annual Maintenance Permit Renewal Fee: Administrative Permit: \$25.00, Planning Board Permit: \$75.00

OWNER: Somers Realty Corporation Tel.#: 917.584.6527

Mailing Address: C/O Seth Capozza, 15 Charles Street, Apt. 12G, New York, NY 10014

APPLICANT: Same as Owner Tel. #: _____

Mailing Address: _____

State authority: _____ If other than owner, authorization must be submitted in writing.

PREMISES: Sheet: 4.20 Block: 1 Lot: 15

Situated on the South side of Route 6 (Street), _____ feet from the intersection of US Route 6 and Mahopac Avenue (Street)

DESCRIPTION OF WORK AND PURPOSE: Construction of a sewer pump station, sanitary sewer collection system, maintenance access road, and stormwater basin discharge for the proposed 2 lot subdivision.

SIZE OF ACTIVITY AREA: 36,010 sf

Is work proposed in Wetland: Yes or Wetland Control Area: Yes

Is there an existing house located on the site: No

Is pond, lake or detention basin proposed to be cleaned: No

Functions provided by Wetland: See attached description of functions.

Wetland Expert delineating Wetland: _____

ESTIMATED QUANTITY OF EXCAVATION: _____ C.Y. 700 CUT 5cy FILL

ESTIMATED TOTAL VALUE OF WORK: \$750,000.00

PROPOSED STARTING DATE: 4/13 PROPOSED COMPLETION DATE: _____

PLANS PREPARED BY: KCG Engineers PC DATED: 9/4/12

****Plans must be submitted with application.****

LIST OF APPLICABLE COUNTY, STATE, OR FEDERAL PERMITS: _____

Westchester County Department of Health, NYC DEP

LIST OF PROPERTY OWNERS OF RECORD OF LANDS AND CLAIMANTS OF WATER RIGHTS WITHIN 100 FEET OF SUBJECT PROPERTY

NAME	ADDRESS	BLOCK	LOTS
Please see attached list.			

Somers Realty Corporation

APPLICANT'S SIGNATURE: By [Signature] DATE: 9/4/12

OWNER'S SIGNATURE: [Signature] DATE: 9/4/12

Linda B. Whitehead, Attorney for Applicant and Owner

*APPLICATION MUST BE ACCOMPANIED WITH A COMPLETED ENVIRONMENTAL ASSESSMENT FORM, COMPLETE PLANS FOR LOT IMPROVEMENTS, AND LOCATION MAP OF WETLANDS AS THEY EXIST IN THE FIELD OR AS SHOWN ON SOMERS ENVIRONMENTAL MAPS.

11/08

TOWN OF SOMERS
WESTCHESTER COUNTY, NEW YORK
APPLICATION FOR ENVIRONMENTAL PERMIT
CHAPTER 93 "STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL"

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

APPLICATION FEE: \$100 for disturbances of five thousand (5,000) square feet and/or for the placement or removal of 50 cubic yards of soil, plus \$500 for each additional acre of disturbance.

OWNER: Somers Realty Corporation Tel.#: 917.584.6527
Mailing Address: C/O Seth Capozza, 15 Charles Street, Apt. 12G, New York, NY 10014
APPLICANT: Same as Owner Tel. #: _____
Mailing Address: _____
Date authority: If other than owner, authorization must be submitted in writing

REMISES: Sheet: 4.20 Block: 1 Lot: 15

DESCRIPTION OF WORK AND PURPOSE: Please see attached description.

SIZE OF ACTIVITY AREA: 195,289.28 sf = 4.4832 acres
feet by _____ feet
(include all construction activity area)

VOLUME OF EXCAVATED MATERIAL: _____
(leave blank if not known)

IN CONJUNCTION WITH: _____
Wetland Permit: Steep Slopes Permit: _____ Tree Preservation Permit:
Site Plan: _____ Subdivision:

PROPOSED STARTING DATE: 4/13 PROPOSED COMPLETION DATE: _____
PLANS PREPARED BY: KCG Engineers PC DATED: 9/4/12

*Plans and copy of Stormwater Pollution Prevention Plan must be submitted with application.***

LIST OF APPLICABLE COUNTY, STATE, OR FEDERAL PERMITS: _____
NYS DEC Stormwater Permit, NYC DEP, Westchester County Department of Health

LIST OF PROPERTY OWNERS OF RECORD OF LANDS AND CLAIMANTS OF WATER RIGHTS WITHIN 100 FEET OF SUBJECT PROPERTY

NAME ADDRESS BLOCK/LOT
Please see list attached

APPLICANT'S SIGNATURE: By: [Signature] DATE: 9/4/12
OWNER'S SIGNATURE: [Signature] DATE: 9/4/12
Linda B. Whitehead, Attorney for Applicant and Owner

APPLICATION MUST BE ACCOMPANIED WITH A COMPLETED ENVIRONMENTAL ASSESSMENT FORM, A VICINITY MAP, A DEVELOPMENT PLAN, EROSION AND SEDIMENT CONTROL PLAN, AND THE PROPOSED PHASING OF DEVELOPMENT OF THE SITE.

DESCRIPTION OF WORK AND PURPOSE (Stormwater Management & Erosion and Sediment Control):

The project proposes to extend the existing Clayton Boulevard approximately 550 feet in order to provide access to Lot 2 of the Somers Realty Section 1 - PH Zone Phase II Subdivision. The project includes the construction of 550 feet of new asphalt roadway with a temporary hammer head turn around, utilities (water and sanitary sewer), sidewalks, landscaping, and drainage improvements to mitigate the impacts associated with the creation of new impervious surfaces.

5/9/2012

**TREE REMOVAL PERMIT APPLICATION
SECTION 156, TREE PRESERVATION**

SUBMIT TO: Town of Somers, Engineering Department
335 Route 202, Somers, New York 10589

DATE: September 4, 2012

1. APPLICATION FEE:

Tree Removal - \$50.00 for the first five (5) trees to be removed, \$15.00 for each additional tree to be removed.

2. IDENTIFICATION OF APPLICANT:

OWNER: Somers Realty Corporation

Tel.#: 917.584-6527

Mailing Address: C/O Seth Capozza, 15 Charles Street, Apt. 12G, New York, NY 10014

APPLICANT: (if other than Owner)

Same as Owner

Tel. #:

Mailing Address:

Professional preparing site plan:

State authority: If other than owner, authorization must be submitted in writing.

3. IDENTIFICATION OF SUBJECT PROPERTY

Address: 50 Route 6

PREMISES: Sheet: 4.20

Block: 1

Lot: 15

4. NUMBER OF TREES TO BE REMOVED (12-INCHES OR GREATER)

Zoning District: R10

R40

R80

R120

Other

(Circle)

4 Quantity of trees to be removed (Must be tagged/identified to evaluate permit requirements)

5. PURPOSE FOR TREE REMOVAL

Construction of road, utility, stormwater basins, and sewer pump station



September 4, 2012

Town of Somers Planning Board
335 Route 202
Somers, N.Y. 10589

RE: The Mews at Baldwin Place – Phase 2
Senior Affordable Housing Component of Somers Realty Planned Hamlet
Clayton Boulevard & U. S. Route 6

Dear Chairman Currie and Members of the Board:

Enclosed please find fourteen (14) copies of the following in support of a Site Plan Application, Steep Slopes Permit, and Erosion and Sediment Control Permit for The Mews at Baldwin Place:

- Application for Site Plan Approval dated August 27, 2012.
- Application Processing Restrictive Law Certification dated August 27, 2012.
- Applicant Acknowledgement dated August 27, 2012.
- Affidavit to be completed by Owner September 4, 2012.
- Steep Slope Protection Application, dated August 27, 2012.
- Stormwater Management and Erosion and Sediment Control Application dated August 27, 2012.
- Tree Removal Permit Application dated August 27, 2012.
- Full Environmental Assessment Form – Part 1, dated September 4, 2012.
- Summary of Proposed Action's Compliance with Master Plan, dated September 4, 2012
- List of Applicable County, State or Federal Permits/Approvals dated September 4, 2012.
- Letter from Receiver of Taxes dated August 21, 2012.
- Site Plan Set (8 sheets), dated September 4, 2012.
- Architectural Drawings (4 sheets), dated August 30, 2012.

Also enclosed are the following certified checks:

- Site Plan and Steep Slopes Application Fees in the amount of **\$11,400.00** based on the following:
 - Site Plan: 176,000 s.f. of disturbance @ \$50/1000 s.f. plus \$500 plus 75 parking spaces @ \$25/space (\$11,175.00).
 - Steep Slopes: 7,700 s.f. of steep slope disturbance @ \$75/10,000 s.f. plus \$150 (\$225.00).
- Erosion and Sediment Control Application Fee in the amount of **\$2,100.00** (4.04 acres of disturbance @ \$100/1st 5,000 s.f. plus \$500/each additional acre).
- Tree Removal Permit Application Fee in the amount of **\$350.00** (25 trees to be removed @ \$50/1st 5 trees plus \$15/each additional tree).

The List of Property Owners Within 100 Feet will be provided by Somers Realty Corp. under separate cover.

The Mews at Baldwin Place – Phase 2 consists of 75 units of senior affordable housing to be serviced by a 75-space parking lot, public water, and public sewer. The Mews at Baldwin Place – Phase 2 Site Plan has been designed in accordance with the PH Zoning Requirements established during the creation of the Somers Realty Planned Hamlet Zone. A summary of the proposed action's compliance with the FEIS has been attached to the Full EAF to facilitate your review.

It is our understanding a subdivision application on behalf of Somers Realty is currently pending before the Planning Board. Somers Realty Corporation is the current Record Owner of the Parcel. The Housing Action Council, Inc., and the Kearney Realty and Development Group, Inc. are the Applicants for this Application, and are the contract vendees for what will be Lot 2 of the Somers Realty Subdivision. The subdivision application, which is being prepared by others, establishes the lot lines illustrated on the attached Site Plan Drawings. It should also be noted, the subdivision application will address the construction of the Town Road and appurtenances necessary to provide access for this Application.

It should also be noted the Survey Map for this Parcel has not been created because the lot does not yet exist, and the subdivision application is currently pending before the Planning Board. The Subdivision Plat provided with the Subdivision Application by Somers Realty Corp. will serve as the survey map for this application.

We trust you will find the enclosed information in order, and respectfully request this item be placed on the September 12, 2012 agenda for discussion with the Board.

If you have any questions or comments regarding this information, please do not hesitate to contact our office.

Very truly yours,

INSITE ENGINEERING, SURVEYING & LANDSCAPE ARCHITECTURE, P.C.

By: 
Jeffrey J. Contelmo, P.E.
President / Principal Engineer

SWB/rdw/jas

cc: K. Kearney, The Kearney Realty and Development Group, Inc., w/enclosures
R. Noonan, Housing Action Council, Inc., w/enclosures
L. Whitehead, w/enclosures
P. Gregory, w/enclosures

Insite File No. 12171.100

TOWN OF SOMERS
PLANNING BOARD

APPLICATION FOR SITE PLAN APPROVAL

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

- I. IDENTIFICATION OF APPLICANT:
- A. Owner: SOMERS REALTY CORP. Applicant: HOUSING ACTION COUNCIL, INC. & THE KEARNEY REALTY AND DEVELOPMENT GROUP, INC.
 Address: 450 BAIT BRIDGE UNIT 4402 Address: 1777 ROUTE 6, CARMEL, NY 10512
 Tele #: _____ Tele #: 845-300-7705
- B. Architect: COPPOLA ASSOCIATES Engineer: UNITE ENGINEERING, CONVEYING & LANDSCAPE ARCHITECTURE, P.C.
 Address: 3 WASHINGTON CENTER, 4TH FLOOR Address: 3 GARRETT PLACE, CARMEL, NY 10512
 Tele #: 845-501-3559 Tele #: 845-225-9690
- C. Surveyor: CANNELLY LAND SURVEYING Tele #: 914-962-2215
 Address: 1929 COMMERCE STREET, YORKTOWN HEIGHTS, NY 10598

- II. IDENTIFICATION OF PROPERTY:
- A. Identifying Title: THE MEANS AT BALDWIN PLACE - PHASE 2
 B. Tax Map Design: Sheet: 4.20 Block: 1 Lot(s): 15
 C. Zoning District: PH-PLANNED HAMLET
 D. Street which property abuts: CANTAL BOULEVARD & U.S. ROUTE 6
 E. Does property connect directly into State or County highway? NO
 F. Is site within 500 feet of Town Boundary? YES
 G. Total area of site: 7.71 AC. Area of site activity: 4.5 AC.
 H. Site coverage: 25% % Building coverage: 1.2% %
 I. Affected Wetland Area 0 Wetland Buffer Area 0
 J. Affected Steep Slope Area: 15%-25% 6,210 S.F. Over 25%: 18,600 S.F.
 K. Existing building size: 0 New/additional building size: 200,000 S.F. TOTAL = 38,870 S.F.
 L. Existing parking spaces: 0 New parking spaces: 75

III. APPLICATION FEE:

\$500 base fee plus \$50 per 1,000 sq.ft or part thereof plus \$25 per parking space to be paid by certified check to the Town of Somers. = \$ 11,175.00
 Wetland Permit Fee: \$200 min. fee + \$100 per 5,000 sf. of regulated area or proposed area to be disturbed.
 Steep Slope Fee: \$150 min. fee + \$75 per 10,000 s.f. of regulated area or proposed area to be disturbed. = \$ 225.00
 Total Fee: \$ 11,400 Date Paid: _____
EROSION & SEDIMENT CONTROL FEE = \$ 2,100.00

- IV. DOCUMENTS TO BE SUBMITTED WITH THIS APPLICATION:
- Submit 14 copies of all correspondence and plans to the Planning Board.
- A. 14 copies of Site Plan with north arrow and location map drawn to scale of 1" = 1,000'.
 B. Survey Map defining precise boundaries of property.
 C. Copies of all existing and proposed deed restrictions or covenants applying to the property, including covenants and agreements restricting use, and establishing future ownership and maintenance responsibilities for all private roads, recreation and open space areas.
 D. Preliminary Architectural Drawings to be submitted to Planning Board prior to public hearing for referral to Building Inspector and Architectural Advisory Review Board.
 E. Environmental Assessment Form.
 F. Proof that taxes have been paid.

It is the responsibility of the applicant to be knowledgeable of the law. The following are available at the Town Clerks Office: Master Plan, Zoning Ordinance, Site Plan Regulations, State Environmental Quality Review (SEQR) and Environmental Quality Review, Wetland and Steep Slope Ordinances of the Town of Somers.
 All revised plans shall be accompanied by a letter indicating what changes were made. All costs incurred by the Town for professional services and SEQR review will be paid by the applicant.
 By submission of this application, the property owner agrees to permit Town Officials and their designated representatives to conduct on-site inspections in connection with the review of the proposal. The property shall be identified on site as being proposed for site plan approval.

Signature of Applicant: Rosemarie Noonan Date: 8-27-12
 Signature of Owner: [Signature] Date: 8-27-12

7/02

TOWN OF SOMERS
WESTCHESTER COUNTY, NEW YORK
APPLICATION FOR ENVIRONMENTAL PERMIT
CHAPTER 148 "STEEP SLOPE PROTECTION"

APPLICATION FEE:

Alteration of Steep Slopes: \$150.00 minimum fee plus \$75.00 per 10,000 S.F. of regulated area or proposed portions thereof to be disturbed.

OWNER: SOMERS REALTY CORPORATION Tel. #: _____

Mailing Address: 450 BAYFRONT PLACE, UNIT 4402, NAPLES, FL. 34102

APPLICANT: HOUSING SECTION COUNCIL INC. THE KEARNEY REALTY AND DEVELOPMENT Tel. #: 845-306-7705

Mailing Address: 1777 ROUTE 6, CARMEL, NY 10512

State authority: CONTRACT VENDOR If other than owner, authorization must be submitted in writing.

Premises: Sheet: 4.20 Block: 1 Lot: 15

Situated on the south side of U.S. ROUTE 6 (Street) 0 feet from the intersection of SOMERS COMMONS (Street) EASTERN ENTRANCE OF

Description of Work and Purpose: PROPOSED 75 UNITS OF SENIOR AFFORDABLE HOUSING

Estimated Quantity of Excavation: 16,000 C.Y. 27,000 CUT 8,000 FILL (TOTAL SITE)

Size of Activity Area: < 5 AC.

Total Value of Work: \$1,500,000.00

Slope Category: 15% < 25% ^{0.01 AC} LESS THAN 25% < 35% ^{0.01 AC} LESS THAN or > 35% ^{0.01 AC} LESS THAN

Soil Types: U6 - UCRTHENTS

Proposed Starting Date: 1-1-2013 Proposed Completion Date: 1-1-2014

Plans Prepared by: INSITE ENGINEERING & ARCHITECTURE P.C. Dated: 9-4-12

Plans must be submitted with application.

List of Applicable County, State, or Federal Permits:

SEE ATTACHED LIST

List of Property Owners of Record of Lands and Claimants of Water Rights within 100 feet of Subject Property.

NAME	ADDRESS	BLOCK	LOTS
------	---------	-------	------

SEE ATTACHED LIST

Applicant's Signature: [Signature] Date: 8-27-12

Owner's Signature: [Signature] Date: 8-27-12

*APPLICATION MUST BE ACCOMPANIED WITH A COMPLETED ENVIRONMENTAL ASSESSMENT FORM, COMPLETE PLANS FOR LOT IMPROVEMENTS, AND LOCATION AND SIZE OF SLOPE CATEGORIES.

Office Use Only.....

Administrative Permit: _____

Planning Board Permit: _____

11/08

TOWN OF SOMERS
WESTCHESTER COUNTY, NEW YORK
APPLICATION FOR ENVIRONMENTAL PERMIT
CHAPTER 93 "STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL"

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

APPLICATION FEE: \$100 for disturbances of five thousand (5,000) square feet and/or for the placement or removal of 50 cubic yards of soil, plus \$500 for each additional acre of disturbance.

OWNER: SOMERS REALTY CORPORATION
450 BAYFRONT PLACE, UNIT 402 Tel.#: _____
Mailing Address: NAPLES, FL 34102
APPLICANT: HOUSING ACTION COUNCIL INC & THE Tel.#: 845-200-7705
KEARNEY REALTY AND DEVELOPMENT GROUP
Mailing Address: 1717 RODIE G. CARMEL NY 10512
State authority: If other than owner, authorization must be submitted in writing

PREMISES: Sheet: 420 Block: 1 Lot: 15

DESCRIPTION OF WORK AND PURPOSE: PROPOSED 75 UNITS OF SENIOR AFFORDABLE HOUSING

SIZE OF ACTIVITY AREA: 5 AC. feet by _____ feet
(include all construction activity area)

VOLUME OF EXCAVATED MATERIAL: 16,000 cy net excavation.
(leave blank if not known)

IN CONJUNCTION WITH:
Wetland Permit: _____ Steep Slopes Permit: Tree Preservation Permit:
Site Plan: Subdivision: _____

PROPOSED STARTING DATE: 1-1-12 PROPOSED COMPLETION DATE: 1-1-12
PLANS PREPARED BY: INSITE ENGINEERING, SURVEYING & LANDSCAPE ARCHITECTURE P.C. DATED: 9-4-12
Plans and copy of Stormwater Pollution Prevention Plan must be submitted with application.

LIST OF APPLICABLE COUNTY, STATE, OR FEDERAL PERMITS:
SEE ATTACHED LIST

LIST OF PROPERTY OWNERS OF RECORD OF LANDS AND CLAIMANTS OF WATER RIGHTS WITHIN 100 FEET OF SUBJECT PROPERTY
NAME ADDRESS BLOCK/LOT
SEE ATTACHED LIST

APPLICANT'S SIGNATURE: [Signature] DATE: 8-27-12
OWNER'S SIGNATURE: [Signature] DATE: 9-27-12

*APPLICATION MUST BE ACCOMPANIED WITH A COMPLETED ENVIRONMENTAL ASSESSMENT FORM, A VICINITY MAP, A DEVELOPMENT PLAN, EROSION AND SEDIMENT CONTROL PLAN, AND THE PROPOSED PHASING OF DEVELOPMENT OF THE SITE.

.....Office Use Only.....
Administrative Permit: _____
Planning Board Permit: _____

5/9/2012

TREE REMOVAL PERMIT APPLICATION
SECTION 156, TREE PRESERVATION

SUBMIT TO: Town of Somers, Engineering Department
335 Route 202, Somers, New York 10589

DATE: 8/27/12

1. APPLICATION FEE:

Tree Removal - \$50.00 for the first five (5) trees to be removed, \$15.00 for each additional tree to be removed.

2. IDENTIFICATION OF APPLICANT:

OWNER: SOMERS REALTY CORPORATION Tel.#: (917) 584-6527
Mailing Address: 15 CHARLES STREET RPT 12G New York New York 10014

APPLICANT: (if other than Owner)
HOUSING ACTION COUNCIL, INC & THE KEARNEY REALTY AND DEVELOPMENT GROUP INC. Tel.#: 845-306-7705
Mailing Address: 177 ROUTE 6, CARMEL, NY 10512

Professional preparing site plan: INSITE ENGINEERING, SURVEYING & LANDSCAPE ARCHITECTURE, P.C.
State authority: AGENT FOR APPLICANT If other than owner, authorization must be submitted in writing.

3. IDENTIFICATION OF SUBJECT PROPERTY

Address CLAYTON BOULEVARD & U.S. ROUTE 6
PREMISES: Sheet: 4.20 Block: 1 Lot: 15

4. NUMBER OF TREES TO BE REMOVED (12-INCHES OR GREATER)

Zoning District: R10 R40 R80 R120 Other (Circle)
PA - PLANNED HAMLET

26 Quantity of trees to be removed (Must be tagged/identified to evaluate permit requirements)

5. PURPOSE FOR TREE REMOVAL

PROPOSED 75 UNITS OF SENIOR AFFORDABLE HOUSING

PLANNING AND ENGINEERING DEPARTMENTS

Telephone
(914) 277-5366
Fax
(914) 277-4098

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: Applicants to Town of Somers Planning Board
FROM: Syrette Dym, Town Planner
DATE: August 22, 2012
RE: Procedures for Time Extension of Conditional Final Subdivision Approval and Conditional Preliminary Subdivision Approval

It has come to the attention of the Somers Planning Board that requests for preliminary and final subdivision time extensions are often made after expiration of the prior approved extension, creating timing and consistency issues for Planning Department staff and Planning Board members.

To remedy this situation, the Planning Board is restating its existing procedures and is directing the Town Planner to enforce them.

As established by the Planning Board at its meeting of December, 2011, the dates for Planning Board meetings for the remainder of 2012 are established and posted in the Planning Department. Associated with those meeting dates are the Applicant's Submission Cut-Off Dates, which are established as nine days prior to each Planning Board meeting. See attached schedule. A schedule for the remainder of 2012 is attached.

Applicants and their representatives seeking time extensions should, therefore, submit the extension requests within the above time frames or they will not be placed on the subject Planning Board agenda. If their application lapses, they will be required to apply for reapproval, although they may request the incorporation of all prior procedures and approvals as part of their reapproval application.

Enforcement of these procedures will take effect immediately.

Cc: Members of Planning Board
Attach.

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PLANNING AND ENGINEERING DEPARTMENTS

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

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Steven Woelfle
Principal Engineering Technician
swoeffle@somersny.com



Syrette Dym, AICP
Town Planner
sdym@somersny.com

MEMORANDUM

TO: Town of Somers Planning Board
FROM: Syrette Dym, Town Planner
DATE: August 22, 2012
RE: Procedures for Consideration of Time Extension of Conditional Final Subdivision Approval and Conditional Preliminary Subdivision Approval

At its meeting of August 8, 2012, the Planning Board was asked to consider three time extensions. One was for a 90-day time extension of Conditional Final Subdivision Approval that would expire on August 20, 2012 (12 days after the Planning Board grant of extension), one was for a 90-day time extension of Conditional Final Subdivision Approval that had expired on July 9, 2012 (30 days prior to the Planning Board requested vote), and the last was for a 180-day time extension of conditional preliminary subdivision approval that had expired April 27, 2012 (75 days prior to the Planning Board requested vote).

The first two requests for extension of Conditional Final Subdivision Approval were granted based on the provisions of Section 150-13M. Expiration of Conditional Approval of the Town Code that permits extension of time of submittal of the final plat for signature for periods of 90 days each after expiration of 180 days after the granting of resolution of conditional final approval. This was based on changes to Town Law 276(7)(c) providing for planning board discretion to extend conditional final plat approval for additional ninety (90) day periods, with no limitation on the number of periods available, if circumstances warrant it in the Board's opinion.

The second request for extension of conditional preliminary subdivision approval was denied based on Section 150-12N of the Town Code. Although that section provides for extensions for submittal of final subdivision plat approval, the Board considered the 75 day lapse too extensive a time lapse for granting of an extension. Instead, it required the

applicant to reapply to the Planning Board for reapproval of conditional preliminary subdivision approval and request the incorporation of all prior procedures and approvals as part of its reapproval application. I am assuming that there will be no additional application fee, and that when the Board considers the application and grants reapproval that a new 180 day period will begin from the date of reapproval.

Because there was some concern by the Board that there were inconsistencies in how the requests for time extensions were being handled, the Board asked the Town Planner to review procedures and make recommendations to the Board regarding how these requests should be handled and enforced going forward.

After discussion with Planning Department staff, it is my understanding that the Board establishes annual meeting dates and submission cut off dates each December. These dates are posted in the Planning Department offices and available from staff.

My recommendation is that the Board direct the Town Planner to send a letter on the Board's behalf to all pending applicants restating the existing procedures and emphasizing that they will be enforced.

The attached memorandum is proposed to be sent to all pending applicable applicants/representative that can be identified by the Department.

I request that the Board review the memorandum, make comments, and then authorize me as Town Planner to send the letter and enforce the procedures.

Attach.

Cc: Mary Beth Murphy, Supervisor
Steve Wolefle

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