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5 **SOMERS PLANNING BOARD MEETING**  
6 **SEPTEMBER 22, 2010**  
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8  
9

10 **ROLL:**

11  
12 **PLANNING BOARD**

13 **MEMBERS PRESENT:** Chairman DeLucia, Mr. Keane,  
14 Ms. Gerbino, Mr. Goldenberg, Mr. Foley,  
15 Ms. Gannon, and Mr. Currie  
16

17 **ALSO PRESENT:** Town Planner Charney Hull  
18 Consulting Town Engineer Barbagallo  
19 Town Attorney Joseph Eriole  
20 Planning Board Secretary Murphy  
21

22 The meeting commenced at 7:35 p.m. Planning Board Secretary  
23 Marilyn Murphy called the roll. Chairman DeLucia noted that a  
24 required quorum of four members was present in order to conduct the  
25 business of the Board.  
26

27 Chairman DeLucia noted that Planning Board Secretary Murphy  
28 prepared and submitted for the Board's consideration the approval of  
29 the draft minutes of the August 11, 2010 Planning Board meeting  
30 consisting of thirty (30) pages.  
31

32 The Chair asked if there were any comments or questions from  
33 members of the Board and no one responded.

34 The Chair asked if there was a motion to approve the August 11,  
35 2010 draft minutes.  
36

37 On motion by Mr. Goldenberg, seconded by Ms. Gannon, and  
38 unanimously carried, the minutes of August 11, 2010 were approved.  
39 The Chair noted that the DVD of the August 11, 2010 Planning Board  
40 meeting is made a part of the approved minutes and is available for  
41 public viewing at the Somers Public Library. The text of the approved

1 minutes are also on the Town's website [www.somersny.com](http://www.somersny.com) and is  
2 available for public review at the Planning & Engineering office at the  
3 Town House.

4  
5 **PUBLIC HEARING**

6  
7 **HOMELAND TOWERS, LLC/NEW CINGULAR WIRELESS PCS,**  
8 **LLC, (AT&T) SITE PLAN AND STEEP SLOPES**  
9 **[AMATO PROPERTY] [TM: 38.17-1-5]**  
10 **121 ROUTE 100**

11  
12 Chairman DeLucia noted that this is the Public Hearing for the  
13 application of Homeland Towers, LLC, New Cingular Wireless PCS,  
14 LLC, (AT&T) for Site Plan Approval, Steep Slopes and Stormwater  
15 Management and Erosion and Sediment Control Permits for property  
16 owned by Michael P. Amato and Alice T. Amato located at 121 Route  
17 100 in the R-80 Residential Zoning District and Westchester County  
18 Agricultural District. The Chair mentioned that the Zoning Board of  
19 Appeals (ZBA) is currently reviewing this application for a Special  
20 Exception Use Permit and area variances for the installation of a  
21 wireless communications facility and related equipment on the  
22 premises consisting of a 140' tall monopole. She explained that the  
23 ZBA is Lead Agency under SEQRA in a coordinated review with the  
24 Planning Board. The Chair noted that Manuel Vincente is the  
25 managing member of Homeland Towers, LLC, a New York limited  
26 liability company with a main office located in White Plains, New York  
27 and is represented by Robert D. Gaudio, Esq. of Snyder & Snyder,  
28 LLP and AT &T is represented by Neil J. Alexander, Esq. of Cuddy &  
29 Feder, LLP. Chairman DeLucia noted that this application was last  
30 discussed at the August 25, 2010 Planning Board meeting whereby  
31 the Board scheduled a Public Hearing for Site Plan Approval and  
32 related permits for this evening.

33 The Chair mentioned that the Zoning Board of Appeals (ZBA) held a  
34 meeting on this application on September 21, 2010 and she asked  
35 Town Planner Hull to summarize the discussion that took place at the  
36 ZBA meeting.

37  
38 Town Planner Hull explained that the ZBA discussed the Negative  
39 Declaration and made minor changes. She noted that the applicant  
40 suggested changes regarding the height of the tower reflecting the

1 total height of the tower at 145 feet and the variances associated with  
2 the height of the tower were adjusted. Town Planner Hull said that  
3 the changes were accepted and the ZBA adopted the Negative  
4 Declaration and the Resolution. She mentioned that changes that the  
5 applicant made were in reference to the tree and the maintenance  
6 agreement. Town Planner Hull said that the language in the  
7 Resolution including the aesthetics of the tower and the acceptance  
8 of bi-annual reporting starting in May 2011 and repairs which will be  
9 identified by the Building Inspector were adopted. She said that a  
10 condition of approval is that the applicant obtain Site Plan Approval  
11 from the Planning Board.

12  
13 The Chair acknowledged for the record receipt of the following: a  
14 letter dated and received on September 17, 2010 from Consultant  
15 Town Engineer Joseph C. Barbagallo, P.E., BCEE with comments; a  
16 memo dated September 17, 2010 from Town Planner Sabrina  
17 Charney Hull, AICP, to the Planning Board attaching for informational  
18 purposes a draft Negative Declaration and a draft Resolution for the  
19 ZBA's consideration as Lead Agency; a memo dated September 15,  
20 2010 received September 20, 2010 from the Conservation Board  
21 (CB) with comments and recommendations and in particular item  
22 number 7 stating that "The applicant continues to exhibit a residential  
23 driveway for this facility. The Board strongly recommends that the  
24 applicants install a commercial driveway for this facility as it proposes  
25 a commercial use of the land and will impact traffic control on Route  
26 100"; a letter addressed to the ZBA Chair and members with a copy  
27 to the Planning Board dated September 17, 2010 received  
28 September 20, 2010 from the Board of Fire Commissioners stating  
29 that "...We reached out to Homeland Towers to co-locate on both  
30 sites...The Fire District is in the process of converting its emergency  
31 communications system to a digital system..."

32  
33 The Chair mentioned that a letter of support was received from the  
34 Board of Fire Commissioners and she asked Attorney Gaudioso if  
35 they will co-locate on the towers.

36  
37 Robert Gaudioso, the applicant's attorney, indicated that the Board of  
38 Fire Commissioners expressed interest in co-locating on the towers  
39 although comments were originally made at a ZBA meeting that they  
40 were not interested in co-locating. However, when the Sabre Tree

1 design was chosen the Board of Fire Commissioners felt that design  
2 would be more appropriate for future co-location for emergency  
3 services. Attorney Gaudioso mentioned that there are on-going  
4 discussions on what the Fire District may need. Attorney Gaudioso  
5 said that the Board of Fire Commissioners is not part of the  
6 application now but have expressed interest in the future to place  
7 equipment at the proposed sites.

8  
9 Mr. Goldenberg noted that at the ZBA meeting it was stated that the  
10 emergency services will be connected to the Homeland Towers sites.

11  
12 Attorney Gaudioso advised that there is no agreement in place at this  
13 time but the letter from the Board of Fire Commissioners states that  
14 Homeland Towers was prompt and professional in their response to  
15 their inquiry.

16  
17 The Chair referred to the CB memo and read that *the applicant*  
18 *continues to exhibit a residential driveway for this facility; The Board*  
19 *strongly recommends that the applicants install a commercial*  
20 *driveway for this facility as it proposes a commercial use of the land*  
21 *and will impact traffic control on Route 100.* The Chair opined that  
22 this is Planning and not Conservation.

23  
24 The Chair read from the minutes of the September 9, 2009 Planning  
25 Board meeting which states that the CB only lists the initials of their  
26 members at the bottom on their memos and they still continue to list  
27 their members by initials. She stated that the memos should list full  
28 names and note if there was a quorum for the meeting. The Chair  
29 indicated that the CB should not go beyond their mission by  
30 commenting on planning issues. She said that the Planning Board  
31 welcomes the CB to attend Planning Board meetings to express any  
32 concerns they have.

33 The Chair asked Consulting Town Engineer Barbagallo to summarize  
34 his memo to the Board for the benefit of the public.

35  
36 Consulting Town Engineer Barbagallo said that his memo  
37 incorporated one new comment that was discussed at the last  
38 Planning Board meeting that the applicant shall clarify whether or not  
39 any on-ground transformer will be installed. He said that if one is

1 required the applicant shall provide the appropriate plan, detail, and  
2 screening, and submit revised plans accordingly.

3  
4 Attorney Gaudioso stated that he reached out to NYSEG and they  
5 think the transformer will be a 4 foot by 6 inch diameter transformer  
6 pole mounted on the interior most utility pole which is approximately  
7 40 feet in height and setback from the property line but outside the  
8 wetland buffer.

9  
10 Consulting Town Engineer Barbagallo stated that the rest of his  
11 comments have been addressed. He mentioned discussions on the  
12 request for a Master Plan and that is still an outstanding comment in  
13 his memo. Consulting Town Engineer Barbagallo indicated that if  
14 additional screening is added during site plan review the site plan has  
15 to be updated to accommodate the additional screening. He  
16 mentioned that the grading at the driveway concern has been  
17 addressed.

18  
19 Mr. Keane mentioned that the site which is listed at 14.4 acres shows  
20 the compound at 3,500 SF but the roadway is not part of the  
21 compound and he asked if NYSEG will need an easement to put in  
22 the pole. He indicated that the Landscape Plan sites numerous trees  
23 all around the hill but not within the 3,500 SF compound and not in  
24 the roadway. Mr. Keane asked what the plan is for the site and how  
25 is it defined.

26  
27 Town Attorney Eriole stated that the site is the parcel and the area of  
28 the site that will be developed is the limit of the site plan.

29  
30 Town Attorney Eriole advised that the test is that things the Board is  
31 asking the applicant to do is fair and reasonable.

32  
33 The Chair asked Planning Board Secretary Murphy if prior to this  
34 Public Hearing has the required legal notice been published and the  
35 adjoining property owners notified and has a sign noting the Public  
36 Hearing been posted on the site.

37  
38 Planning Board Secretary Murphy stated that the legal notice was  
39 published in the North County News for their September 8, 2010  
40 issue, the notice of the Public Hearing was mailed to the adjoining

1 property owners on September 10, 2010 and the sign was posted at  
2 the site on September 9, 2010.

3  
4 The Chair commenced with the Public Hearing and asked if there  
5 was anyone present who wished to be heard regarding this  
6 application and no one responded.

7  
8 The Chair said that as no one wished to be heard she asked if there  
9 was a consensus of the Board to close the Public Hearing.

10  
11 On motion by Ms. Gannon, seconded by Mr. Currie, and unanimously  
12 carried, the Board moved to close the Public Hearing.

13  
14 The Chair directed the application to be carried over to the October  
15 13, 2010 Planning Board meeting until fully executed documents from  
16 the ZBA are submitted.

17  
18 Attorney Gaudioso questioned the rationale to carry this application  
19 until the documents are submitted to the Planning Board.

20  
21 Mr. Keane indicated that he never received documentation that  
22 identifies the style and model of the tree pole. He mentioned that he  
23 received one document in reference to the tree pole but the ZBA  
24 never referenced that document and he is not sure which tree pole is  
25 being approved.

26  
27 Attorney Gaudioso noted that a specific document was provided  
28 showing the specifications of the Sabre Tree and it was referenced at  
29 the last ZBA meeting.

30  
31 Mr. Keane said that document does not provide adequate information  
32 and does not state how far down the branches will go.

33 Attorney Gaudioso showed the Board the document and indicated  
34 that it was provided by the antenna manufacturer and shows the  
35 height and elevation of the branches. He mentioned that it was  
36 submitted on July 2, 2010 and is referenced in the Resolution.

37 Attorney Gaudioso asked if there was direction for staff to prepare a  
38 Resolution for the October 13, 2010 Planning Board meeting.

39

1 The Chair directed Town Planner Hull to prepare the Resolution for  
2 the October 13, 2010 meeting.

3

4 **PROJECT REVIEW**

5

6 **HOMELAND TOWERS, LLC/NEW CINGULAT WIRELESS PCS,**  
7 **LLC (AT&T) SITE PLAND AND WETLAND PERMIT**  
8 **[SANTARONI PROPERTY] [TM: 37.13-2-3]**  
9 **2580 ROUTE 35 CARYOVER**

10

11 Chairman DeLucia noted that this is a carryover from the August 25,  
12 2010 agenda on the project review of the application of Homeland  
13 Towers/New Cingular Wireless PCS (AT&T) for Site Plan Approval  
14 and Wetland Permit for property located at 2580 Route 35 owned by  
15 Umberto and Carol Santaroni for the installation of a wireless  
16 telecommunication facility in an R-120 Residential Zoning District.  
17 The Chair said that this application is presently before the ZBA for a  
18 Special Exception Use Permit and area variances. She explained  
19 that the applicants are in the process of substantially revising the Site  
20 Plan and therefore this matter will be carried over to the October 13,  
21 2010 agenda.

22

23 Mr. Keane asked if the Santaroni Homeland Towers application has  
24 been retracted.

25

26 Attorney Gaudioso stated that the Santaroni application has not been  
27 retracted. He noted that the Site Plan will be revised and additional  
28 documentation submitted.

29

30 Mr. Keane said that he does not understand why the ZBA has not  
31 made a Determination of Significance.

32

33 Mr. Keane opined that the original application is insufficient.  
34 Attorney Gaudioso indicated that the applicant is trying to address  
35 concerns of the interested and involved agencies. He opined that the  
36 application is not insufficient. He noted that he appears every month  
37 before the ZBA and gives them an update on the application.  
38 Attorney Gaudioso stated that the applicant is working in good faith.

39

1 Mr. Keane noted that when Lead Agency is declared and when there  
2 is sufficient information a Determination of Significance should be  
3 made within 20 days.

4  
5 Attorney Gaudioso stated that he just spent a year and a half trying to  
6 satisfy the concerns of all the agencies on the last application and  
7 waited until last night to get a SEQRA determination from the ZBA.  
8 He opined that there have been numerous delays and now Mr. Keane  
9 commented that the ZBA should make a determination within 20  
10 days.

11  
12 Mr. Keane questioned the reason for the ZBA putting this application  
13 on their agenda when this application is not ready to be dealt with.

14  
15 Town Planner Hull said that the ZBA at their last meeting told the  
16 applicant that if there is no new submission for the next meeting the  
17 applicant will request an adjournment. She suggested taking the  
18 application off the Planning Board agenda until there is a revised  
19 submission and the Board agreed.

20  
21 Consulting Town Engineer Barbagallo mentioned that during  
22 discussion on the Amato project the representation was made that  
23 when the Board reviews the Santaroni project that a Master Plan will  
24 be provided. He suggested that the applicant work on the Master  
25 Plan now while waiting for the new documentation.

26  
27 Neil Alexander, representing AT&T, said that when there is a work  
28 session to discuss the Santaroni proposal he will try to work with both  
29 Boards. He noted that there is a lot of acrimony on the tower  
30 proposals and there has to be a dialog to work on the issues. He  
31 said that he did not agree to provide a Master Plan but to explain the  
32 network needs and how it ties into the area. Attorney Alexander  
33 indicated that when the rationale for the Board's request for a Master  
34 Plan is explained the applicant can meet the Board on a middle  
35 ground. He opined that there has to be a better dialog as the rapport  
36 is not helpful.

37  
38 Town Attorney Eriole said that some of the confusion on the type of  
39 tree was the idea that the applicant was flexible on the type of pole

1 that would be used. He indicated that it is a fair question to ask if this  
2 application is complete.

3  
4 Mr. Keane noted that he recommended that there be a pre-  
5 application meeting.

6  
7 Mr. Goldenberg said that he has a problem with something Attorney  
8 Gaudioso said at the ZBA meeting. He indicated that Attorney  
9 Gaudioso mentioned names of Board members that did due diligence  
10 and those that did not do their due diligence on the Homeland Towers  
11 applications.

12  
13 The Chair said that she heard threats from Attorney Gaudioso if the  
14 Board did not do this or that and she was offended. She mentioned  
15 that she said if he wants to sue she will accompany him to court. She  
16 noted that she had a problem when Attorney Gaudioso wanting to  
17 review items that were just submitted that evening. The Chair  
18 explained that she always acknowledges receipt of the  
19 correspondence that has been submitted. She said that Attorney  
20 Gaudioso complained to the ZBA because he was not allowed to  
21 describe his submission and he said that the action was  
22 unconscionable, reprehensible and illegal. The Chair stated that  
23 Attorney Gaudioso does not know the Town Code and what she did  
24 was not illegal.

25  
26 Attorney Gaudioso stated that there was an applicant that received  
27 approval on a plan that was submitted at that meeting.

28  
29 The Chair explained that the Board was reviewing mitigation on that  
30 project. She said that the Planning Board has a super majority vote  
31 that can override a denial by the Conservation Board (CB).

32  
33 Attorney Gaudioso explained that he submitted a plan that was based  
34 on the Consulting Town Engineer's comments. He said that there  
35 was a slight change and that was all that was submitted.

36 The Chair asked Attorney Gaudioso if he is still in the process of  
37 substantially revising the Site Plan.

38

1 Attorney Gaudioso said that he just met with the Department of  
 2 Environmental Protection (DEP). He explained that he met the DEP  
 3 representative in the field to discuss mitigation.

4  
 5 Mr. Keane opined that meeting with the DEP is preemptive of the  
 6 Planning Board's task and for the applicant to be meeting with the  
 7 DEP without the Board's knowledge and input is asking for trouble  
 8 and the applicant will get the very thing they don't want.

9  
 10 Attorney Gaudioso said that what he just heard is a threat about  
 11 repercussions because he met with the DEP to try and get feedback  
 12 from the DEP on the variance that has to be filed with them. He  
 13 noted that the variance is unrelated to the Ste Plan but they will cross  
 14 at some point.

15  
 16 Ms. Gannon asked what the time table is for the submission of a  
 17 complete application and when a work session can be scheduled on  
 18 this application.

19  
 20 Attorney Gaudioso stated that the engineers have been directed to  
 21 complete the plan by the second or third week in October. He noted  
 22 that when the complete application is submitted he hopes to have a  
 23 scoping meeting with members and staff of both Boards.

24  
 25 **PROJECT REVIEW**

26  
 27 **SUSSMANN MOBIL STATION**  
 28 **APPLICATION FOR AMENDED SITE PLAN, WETLAND**  
 29 **AND STEEP SLOPES PERMITS [TM: 17.18-1-2]**

30  
 31 Chairman DeLucia stated that this is the project review of the  
 32 application of Route 100 Realty LLC for amended Site Plan Approval,  
 33 Wetland and Steep Slopes Permits, Groundwater Protection Overlay  
 34 District Special Exception Use Permit and Stormwater Management  
 35 and Erosion and Sediment Control Permit for the proposed  
 36 alterations and additions of an existing 880 square foot convenience  
 37 store, a reconfiguration of the parking area and new stormwater  
 38 management basin. The Chair mentioned that the owners of the  
 39 property are Paul and Juliette Fourgeot Sussmann. She noted that  
 40 the property is located at the Mobil Gasoline Station at 291 NYS

1 Route 100 on .8660 acres in the Neighborhood Shopping (NS)  
2 Zoning District and Groundwater Protection Overlay District. The  
3 Chair mentioned that a significant portion of the site is located within  
4 a 100-foot wetland buffer which includes an adjacent pond and  
5 stream that drains directly into the Muscoot Reservoir. The Chair  
6 noted that the applicants previously submitted three development  
7 schemes illustrating various scenarios with a Traffic and Parking  
8 Evaluation by John Collins Engineers, P.C. She explained that under  
9 Scheme A, the existing 880 square foot convenience store would be  
10 expanded to 3,200 square feet and under Scheme B, the  
11 convenience store would be expanded to 2,660 square feet, and  
12 under Scheme C, it would be expanded to 2,772 square feet. The  
13 Chair stated that the applicant was directed to work with Scheme A  
14 as the worst case scenario regarding circulation, traffic, parking and  
15 safety to present to the Board. She noted that the applicants are  
16 represented by Architect Roy Van Lent of Van Lent Architects and  
17 Engineer Timothy S. Allen of Bibbo Associates, LLP. The Chair  
18 indicated that the application was last discussed at the June 23, 2010  
19 Planning Board meeting whereby the Board determined that the  
20 proposed action is an Unlisted Action under SEQRA, declared its  
21 intent to be Lead Agency and circulated a Notice of Intent to all  
22 involved agencies on May 4, 2010. She explained that the  
23 Westchester County Planning Department and New York City  
24 Department of Environmental Protection had no objection and there  
25 was no response from other involved agencies and 30 days expired  
26 for a response and therefore the Planning Board declared itself as  
27 Lead Agency. The Chair mentioned that after reviewing the  
28 submitted June 8, 2010 revised plans and supporting material, the  
29 Board directed the applicant to respond to the NYCDEP's May 27,  
30 2010 letter, revise the plans and respond to staff's memoranda and  
31 Board's comments.

32

33 The Chair acknowledged for the record receipt of the following: a  
34 memo dated August 21, 2010 received August 23, 2010 from the  
35 Conservation Board commenting that the silt fence should extend on  
36 both sides, north and south and would like to review the revised  
37 planting plan when it becomes available; another memo from the  
38 Conservation Board stating that "it is imperative that the applicant  
39 employ steel stakes with welded wire mesh backing and filter fabric  
40 overlay due to the nature of the disturbance and location of Route

1 100 and the nearby wetlands.”; a letter dated August 25, 2010  
2 received on August 30, 2010 from Edward Burroughs, AICP, Acting  
3 Commissioner of the Westchester County Planning Board  
4 commenting on excessive parking and Croton Watershed protection  
5 and bicycle parking; a letter dated and received on August 16, 2010  
6 from the applicant’s representative, Timothy S. Allen, P. E. of Bibbo  
7 Associates submitting revised project drawings and a revised  
8 Stormwater Pollution Prevention Plan and responses to recent Town  
9 staff memoranda and the Board’s comments; a letter dated August  
10 23, 2010 received on September 14, 2010 from Philip J. Grealy, PhD,  
11 P.E. of John Collins Engineers, P.C., enclosing 17 copies of their  
12 revised truck circulation Drawing No. CP-2R dated August 20, 2010  
13 to reflect the latest site plan for the 3,057 square foot building and  
14 commenting that the fueling vehicle turning radii can be  
15 accommodated without impacting any of the parking spaces; a letter  
16 dated September 13, 2010 received September 15, 2010 from Janet  
17 Swentusky of NYSDEC to Juliette Sussmann with a copy to the  
18 Planning Board responding to a resubmission of site plans for the  
19 DEC Permit Application with a comment that the plans still do not  
20 indicate adequate wetland plantings down slope of the sand filter, or  
21 increased distance between the disturbance and wetland; a memo  
22 dated and received September 14, 2010 from Timothy S. Allen  
23 responding to the NYCDEP’s letter dated May 27, 2010; a letter  
24 dated and received on September 26, 2010 from the Somers Bureau  
25 of Fire Prevention that they reviewed the site plan and have no  
26 objections. The Chair said that the Building Inspector informed her  
27 that he did not receive revised drawing SP-5 Basement Plan for  
28 review and therefore another memo from the Fire Bureau will be sent  
29 to the Planning Board after it receives the revised drawing for  
30 comment. The Chair explained that the Fire Prevention Bureau had a  
31 meeting on September 13, 2010 but did not receive the revised plan  
32 until September 15, 2010. She noted that the Site Plan that was  
33 reviewed at their meeting was not the latest Site Plan; therefore, the  
34 Fire Prevention Bureau will provide a new memo after they review the  
35 revised Site Plan.

36

37 Timothy S. Allen, the applicant’s engineer, said that the Fire  
38 Prevention Bureau looks at the site plan aspects of the application  
39 and the egress and ingress of the basement is a Building Inspector  
40 issue. He stated that if there is not proper egress and ingress a

1 building permit will not be issued. He opined that this should not be  
2 an issue that holds up this application.

3  
4 The Chair continued with the receipt of a memo dated and received  
5 on September 17, 2010 from Consulting Town Engineer Barbagallo  
6 with his project review comments and additional comments based on  
7 a previous meeting with the applicant's engineer; and a memo dated  
8 September 17, 2010 from Town Planner Hull with her project review  
9 and relevant comments, one on which is that a field verification be  
10 made regarding the proper positioning of the parked cars.

11  
12 The Chair asked the applicant's representative to give a brief  
13 presentation regarding the revised submission and related materials.

14  
15 Engineer Allen reviewed plans dated July 28, 2010 with the Board.  
16 He noted that the size of the building, traffic circulation and gas trucks  
17 were causing issues. He mentioned that the turning radius through  
18 the parking area came very close to the building and curbing.

19 Engineer Allen noted that the curbing was cut back on the building  
20 and the building was made smaller at the front by 5 feet. He  
21 explained that this allows more area to pass without being on the  
22 curb. Engineer Allen mentioned that the overhang was not  
23 considered for the curbing and if you park a car by a curb you bring  
24 your wheels up to the edge and you overhang by 1-1/2 feet. He  
25 commented that by making the building smaller this will not happen.  
26 Engineer Allen said that these were the major changes to the plan.

27  
28 The Chair suggested a sign saying "Please Pull Up To The Curb."

29  
30 Engineer Allen stated that he met with Consulting Town Engineer  
31 Barbagallo and he is concerned about the state of the soil on the site  
32 and if the sand filter is considered by the Department of Conservation  
33 (DEC) as a filter practice. He noted that he agreed to put a liner  
34 under the sand filter so there is no interface with the stormwater  
35 vis-à-vis any soil that is on the site. Engineer Allen stressed that for  
36 this project to move forward the DEC has to sign off on the project as  
37 part of the approval process. He explained that the DEC treatment  
38 system has to be decommissioned.

39 Engineer Allen mentioned that he wrote a response to the DEP  
40 memo and provided documentation on the Health Department

1 Approval. He asked the Board to schedule a Public Hearing on this  
2 application.

3

4 The Chair said that the public is entitled to all the information before a  
5 Public Hearing is scheduled.

6

7 Mr. Keane said that when reading the Stormwater Pollution  
8 Prevention Plan (SPPP) and since Section 9 was being used for a  
9 redevelopment project you cannot use the reduced percentages that  
10 you are allowed to employ. He read the paragraph that concerns him  
11 *a redevelopment projects located in critical environmental areas and*  
12 *other sensitive environmental regulated areas* (this is not a critical  
13 environmental area but it is a sensitive environmental area and/or  
14 regulated area because of the stream that discharges directly into a  
15 reservoir); *however, all attempts should be made to seek compliance*  
16 *with the technical standards set elsewhere in this manual* (meaning  
17 that the first thing that has to be done is to see if you can use all the  
18 stormwater management practices to 100%, not 25%, 40% or 50%.  
19 He said that this is not rationalized in the SPPP.

20

21 *At this time Chris Foley joined the meeting.*

22

23 Engineer Allen explained that what he did was he took the 25%  
24 increase in the development and designed the sand filter for that and  
25 he used the DEP number based on the increase in perviousness of  
26 the property. Engineer Allen said that he will check the numbers.

27

28 Mr. Keane said that something has to be in the SPPP that shows that  
29 the statement is recognized. He opined that there may be practices  
30 that work 100%. Mr. Keane indicated that a gasoline station is a hot  
31 spot when it comes to stormwater. He mentioned that it is the  
32 percentage of treatment of volume that he is concerned with.

33

34 Engineer Allen explained that the SPPP has the pre-filter. He  
35 mentioned that previously on another project he used catch basin  
36 inserts that trap grease and sediment prior to discharge and this can  
37 be incorporated into this plan. Engineer Allen stated that now there  
38 is no treatment but the treatment will be enhanced.

39 The Chair asked Consulting Town Engineer Barbagallo to summarize  
40 his memo for the benefit of the public.

1 Consulting Town Engineer Barbagallo said that the applicant  
2 addressed most of his comments but he will review the remaining  
3 comments. He noted that relative to existing conditions he requested  
4 that additional detail on the existing groundwater treatment and  
5 monitoring network currently in place and an update on the status of  
6 site remediation activities with the DEC. Consulting Town Engineer  
7 Barbagallo said that the lining of the basin addressed some of these  
8 concerns. He mentioned that reports and maps of the monitoring/  
9 treatment system are in the process of being reviewed by his office.  
10 Consulting Town Engineer Barbagallo noted that the location of the  
11 underground utility service for electric should be clarified and show on  
12 SP-3 what the final conditions will look like. He said that the wetland  
13 verification section shall be signed and certified by the DEC and this  
14 is pending verification.

15  
16 Consulting Town Engineer Barbagallo noted that under *Proposed*  
17 *Stormwater Management and Erosion and Sediment Control* a cross-  
18 section shall be provided for the proposed sand filter and pre-  
19 treatment area. He suggested using what is in the NYS Stormwater  
20 Management Design Manual which requires a berm and piping to be  
21 added to facilitate flow to the treatment area.

22  
23 Mr. Keane stated that his concern is that there is some means of  
24 removing the deposits of pollutants on a regular basis rather than  
25 letting the pollutants get re-suspended and flushed down stream in a  
26 large storm.

27  
28 Engineer Allen stated that he will capture and treat the pollutants  
29 before they discharge to the basin.

30  
31 Consulting Town Engineer Barbagallo said that a note shall be  
32 included on the drawings stating that all exported soil shall be tested,  
33 transported, and disposed of in accordance with local, state and  
34 federal regulations. He requested that a wetland mitigation plan be  
35 provided and he opined that it is up to the Planning Board if additional  
36 mitigation is required.

37  
38 Consulting Town Engineer Barbagallo mentioned that under *septic*  
39 the applicant shall show the proposed area for the additional septic  
40 system required to support the expanded use or provide

1 documentation from the WCDOH approving the use of the existing  
2 septic system to accommodate the proposed building addition.

3  
4 Consulting Town Engineer Barbagallo said that under *Proposed*  
5 *Retaining Wall Design* the drainage shall be provided behind the  
6 proposed retaining wall. He mentioned that given the proximity of the  
7 proposed retaining walls to the wetland he suggested that drainage  
8 and weep holes be provided as an additional protection measure. He  
9 said that grout shall be used on the interior of the wall to create level  
10 surface for stone placement. He noted that this was partially  
11 addressed but the leveling course shall be provided with each course  
12 of grout and only on ground surface. Consulting Town Engineer  
13 Barbagallo said that the QA/QC notes should be added to the  
14 drawings and the cross-section for the retaining wall shown on  
15 profiles provided on Sheet SP-7 shall be revised to reflect the  
16 configuration of the retaining walls represented in the detail on Sheet  
17 SP-8.

18  
19 Consulting Town Engineer Barbagallo said that under *additional*  
20 *comments* the applicant was asked to increase the area between the  
21 gas pump and the rear parking area, three feet to avoid  
22 encroachment. He noted that the loading zone shown on the Site  
23 Plan drawings is for convenience store deliveries. He said that the  
24 drawings should also include a boundary line for the fuel tanker.

25  
26 Consulting Town Engineer Barbagallo commented on Town parking  
27 requirements, 10 parking spaces shall be provided for the gasoline  
28 station, and the retail combined with the office in the basement  
29 requires 17 spaces. He noted that the plan shows 12 spaces  
30 associated with the gas islands and 16 spaces for the parking lot and  
31 based on this, one additional space would be required to account for  
32 the office, however, the Planning Board could consider a waiver in  
33 accordance with Town Code §170-41. He said that an option would  
34 be to reduce the square footage upstairs or show an agreement with  
35 a neighboring property to use employee parking off-site.

36 Town Planner Hull interjected that parking spaces is an issue  
37 in her memo and she said that the plan will need to be revised to  
38 accommodate an additional parking space. She indicated that if an  
39 additional parking space cannot be provided the applicant should  
40 reduce the size of the building or if the Planning Board determines

1 otherwise, they can reduce the required number of parking spaces.  
2 Town Planner Hull suggested that the applicant provide justification  
3 as to why the Planning Board should consider a reduction in parking  
4 spaces as reflected in §170-41 of the Code of the Town of Somers.

5  
6 Engineer Allen mentioned that originally the proposal was for Scheme  
7 A using the largest building and it was determined that the extra  
8 space was not required and now the building is smaller.

9  
10 Town Planner Hull requested that Engineer Allen resubmit those  
11 discussions to the Planning Board.

12  
13 Mr. Goldenberg mentioned that Westchester County Planning Board  
14 suggested reduced parking and to provide a bike rack.

15  
16 Consulting Town Engineer Barbagallo said that the trash enclosure is  
17 proposed across the sidewalk directly adjacent to a ramp and in close  
18 proximity to the building entrance and he suggested that this be  
19 relocated to an area that provides better access for trash disposal  
20 where the truck would not have to traverse the sidewalk and block the  
21 pedestrian entrance during trash removal.

22  
23 The Chair mentioned that the trash enclosure is too close to the  
24 handicap parking.

25  
26 Mr. Keane said that there is nothing on the plan that shows the side  
27 of the hill that goes from the parking lot down to the stream where the  
28 wall will be located. He mentioned the six inch perforated drain to  
29 capture the snow melt. Mr. Keane noted that it will be difficult to plow  
30 all the snow into a six inch column and he is concerned that the snow  
31 melt will go down over the hill.

32  
33 Engineer Allen said that there is a guide rail in that location and that  
34 is the reason he did not want to push the drain back further.

35 Mr. Keane suggested that the side hill be decompacted which will  
36 result in better infiltration and it will help with the salt in the melting  
37 water. He indicated that this will provide mitigation.

38  
39 Engineer Allen stated that the trench is 6 feet wide.  
40

1 The Chair asked Town Planner Hull to share her project review  
2 comments for the benefit of the public.

3

4 Town Planner Hull said that her comment on the turning radius has  
5 been addressed as the Consulting Town Engineer has agreed to  
6 overlay the turning radius to confirm that everything is represented  
7 properly. She mentioned that under *additional comments* that during  
8 the April 14, 2010 Planning Board meeting, the applicant indicated  
9 that she would be able to procure a letter from Mobil Oil regarding the  
10 delivery schedule restrictions that were discussed at the Planning  
11 Board meeting, however, this letter has not yet been furnished.

12

13 Juliette Sussmann, applicant, replied that she has the letter from  
14 Mobil Oil but they listed an incorrect address for her gasoline station  
15 and that has to be corrected.

16

17 Town Planner Hull noted that her last comment is that the applicant  
18 should address concerns as outlined in the NYCDEP letter dated May  
19 27, 2010 but as the letter was written by the applicant's engineer she  
20 feels that confirmation is needed from the DEP that they are satisfied  
21 with the letter.

22

23 Ms. Gannon said that she had a question on the path the truck travels  
24 relative to the cars with the overhang and will the curb be low enough  
25 that cars will pull into the overhang.

26

27 Engineer Allen said that the curb is not high and will not cause a  
28 hindrance.

29

30 The Chair suggested a sign saying, "*Pull Up To The Curb.*"

31

32 Consulting Town Engineer Barbagallo noted that the parking spot  
33 complies with Town Code and it has been demonstrated that the  
34 turning radius does not encroach on that spot.

35 Ms. Gannon asked where the air pump will be located.

36

37 Engineer Allen said that he will find a good location for the air pump.

38

39 Engineer Allen mentioned that Mr. Foley had concerns relating to  
40 retail and Engineer Allen believes the proposal is a retail expansion

1 and not a gasoline expansion. He suggested that Town Attorney  
 2 Eriole provide a full review of the law.

3  
 4 Ms. Gerbino commented that the Town Board in 1983 changed the  
 5 Code so Mr. Fourgeot could have a small convenience store with his  
 6 gas station. She suggested that the Town Attorney check with the  
 7 Town Clerk for details.

8  
 9 Ms. Gannon suggested staff provide an action letter to the applicant  
 10 so this project can move toward a Public Hearing.

11  
 12 The Chair directed that the applicant revise the plans, obtain  
 13 confirmation from the Westchester County Health Department  
 14 regarding concerns in its May 14, 2010 letter, and address  
 15 outstanding comments contained in the staff's memoranda to the  
 16 Board and that an action letter be sent to the applicant.

17  
 18

19 **PROJECT REVIEW**

20

21 **BVS ACQUISITION CO., LLC AMENDED SITE PLAN**  
 22 **STEEP SLOPES, WETLAND AND STORMWATER MANAGEMENT**  
 23 **AND EROSION AND SEDIMENT CONTROL PERMIT**  
 24 **[AKA CHASE BANK] {TM: 4.20-1-p/o11}**

25

26 Chairman DeLucia noted that this is the application of BVS  
 27 Acquisition Co., LLC for amended Site Plan Approval, Steep Slopes,  
 28 Wetland and Stormwater Management and Erosion and Sediment  
 29 Control Permits for a proposed Chase Bank for property located in  
 30 the Somers Commons Shopping Center at 80 Birdsall Road, U.S.  
 31 Route 6, Baldwin Place in the Community Shopping (CS) Zoning  
 32 District. The Chair mentioned that BVS Acquisition Co., LLC, is the  
 33 owner and applicant, received Amended Site Plan Approval to permit  
 34 construction of a Bank of America branch on the property which was  
 35 conditionally granted by the Planning Board by Resolution No. 2008-  
 36 13 on October 15, 2008. She explained that Bank of America did not  
 37 proceed with the construction and on September 2, 2010 BVS  
 38 submitted a new application for an amendment to the approved site  
 39 plan proposing to construct a Chase Bank on the property. She

1 noted that the applicant is represented by Henry Hocherman, Esq., of  
2 Hocherman, Tortorella & Wekstein, LLP and Bohler Engineering.

3  
4 The Chair acknowledged for the record receipt of the following:  
5 a letter dated September 16, 2010 received on September 17, 2010  
6 from attorney Noelle V. Crisalli of Hocherman, Tortorella & Wekstein  
7 enclosing an application for Site Plan Approval, Site Plan Drawings,  
8 Full Environmental Assessment Form, a letter from the Tax Receiver  
9 that there are no outstanding liens or taxes on the property, and other  
10 supporting material; a letter dated September 16, 2010 from the  
11 Bureau of Fire Prevention that they have reviewed the submitted site  
12 plans and have no objections; a memo dated September 17, 2010  
13 from Consulting Town Engineer Barbagallo with discussion  
14 comments; and a memo dated September 20, 2010 from Town  
15 Planner Hull with her project review and recommendations.

16  
17 The Chair stated that Town Planner Hull has determined that this  
18 action falls within the SEQRA thresholds of a Type II Action and has  
19 no objections to the Board declaring this action as a Type II Action.

20  
21 On motion by Mr. Goldenberg, seconded by Ms. Gannon, and  
22 unanimously carried, the Board moved that pursuant to 6 NYCRR  
23 Part 617 regulations pertaining to SEQRA Article 8 of the  
24 Environmental Conservation Law and Chapter 92 of the Code of the  
25 Town of Somers, that the Board determines that the proposed activity  
26 to be a Type II Action and therefore no further environmental review  
27 is necessary.

28  
29 The Chair asked the applicant's representative to give a brief  
30 presentation regarding this new application.

31  
32 Henry Hocherman, the applicant's attorney, explained that this  
33 application was approved once before under Bank of America. He  
34 mentioned that there are minor changes; the size has been increased  
35 by 64 square feet with the setback being decreased by 5 feet. He  
36 noted that the application conforms in terms of floor area and  
37 setbacks and this does not render the application non-conforming.  
38 Attorney Hocherman mentioned that the entrance to the bank has  
39 been changed to the west side of the bank. He indicated that the  
40 Planning Board when reviewing the previous bank was concerned

1 about the ingress and egress on Route 6 and that is not part of this  
2 application.

3  
4 Kristin DeLuca, the applicant's engineer, said that the major change  
5 from the previous application is that the building has been rotated  
6 west and the 30 parking spaces remain the same as the previous  
7 application. She explained that the ingress and egress will be located  
8 along the entrance road to the Shopping Center. She noted that  
9 most of the pedestrian activity will be on the west side of the building.  
10 Engineer DeLuca said that there are two lane egress, one right turn  
11 only and one lane ingress. She commented that the landscaping will  
12 be the same as the previous application and the stormwater design  
13 will remain the same using the rain garden and the stormwater pre-  
14 treatment. Engineer DeLuca said that the steep slopes are within the  
15 landscape area within the north and west sides of the property.  
16 She said that the two lane drive thru with the four-car stacking for  
17 each lane in the drive thru is the same as the previous application.  
18 Engineer DeLuca stated that the previous variance is being  
19 maintained for the setback to the landscape buffer. She noted that  
20 the bicycle rack location will be changed due to the rotation of the  
21 building.

22  
23 Mr. Keane asked about the location of the bus stop.

24  
25 Engineer DeLuca explained that at meetings with the DOT it was  
26 determined that there are two other bus stops in the Shopping Center  
27 and they agreed to use the other bus location and enhance that  
28 location.

29  
30 Town Planner Hull said that she received a letter today stating that  
31 the bus stop is not needed.

32 Attorney Hocherman stated that the October 8, 2008 Resolution has  
33 language in reference to the bus stop.

34  
35 Attorney Hocherman asked the Board to schedule a Public Hearing  
36 on this application.

37  
38 The Chair asked Consulting Town Engineer Barbagallo to review his  
39 memo for the benefit of the public.

40

1 Consulting Town Engineer Barbagallo referenced his memo dated  
2 September 17, 2010. He said that his office was not involved in the  
3 original application and that prior to issuing detailed engineering  
4 comments he will complete a review of the project file to understand  
5 the Planning Board perspective in order to verify compliance with  
6 Town requirements. He noted that he will focus on the regulatory  
7 changes by the NYC Department of Environmental Protection (DEP)  
8 and the Department of Environmental Conservation (DEC) for  
9 stormwater, and as such the applicant shall comply with the new  
10 requirements. Consulting Town Engineer Barbagallo noted that the  
11 traffic flow has been reconfigured and he will review the traffic flow to  
12 make sure that the concerns raised on the previous application are  
13 addressed.

14  
15 Mr. Keane mentioned Section 9 of the Stormwater Manual and as  
16 part of the demonstration the applicant should provide the reasons  
17 that the full measure of stormwater practices that are outlined in the  
18 Manual are not used. He said that because this is a re-development  
19 project that gives the applicant beneficial leeway to deal with  
20 stormwater.

21  
22 The Chair asked Town Planner Hull to summarize her memo for the  
23 benefit of the public.

24  
25 Town Planner Hull referenced her memo dated September 20, 2010  
26 and said that this plan is similar to the previous application with some  
27 changes. She mentioned that the applicant has agreed to provide the  
28 bike rack and we should receive a letter from the Westchester  
29 Planning Board requesting the bike rack. She mentioned that the  
30 applicant should demonstrate incorporation of parking islands and  
31 landscaping for every 6 parking spaces and the plans should be  
32 revised to reflect such. She said that she wants the Board to be  
33 aware that this has not been provided. Town Planner Hull noted that  
34 the variance granted by the Somers ZBA Resolution #BZ04B/08 was  
35 granted to BVS Acquisition for development on this commercial  
36 property and therefore the variance is still in effect for this application.  
37 She mentioned that the sign/elevation package has been forwarded  
38 to the ARB for their review and approval and the applicant should  
39 confirm scheduling on their agenda.  
40

1 Town Planner Hull said that her concern is the moving of the front  
2 door from the north elevation facing Route 6 to the west elevation.  
3 She indicated that original discussion was with the front door  
4 on the north side of the building and there was concern about the  
5 two-way traffic and having people cross the two-way traffic isle. She  
6 noted that the previous approval depicted a right turn egress only.  
7 Town Planner Hull commented that the new plan shows the front  
8 door shifted in a westerly direction and she noted that this may be a  
9 safety concern. Town Planner Hull said that the Consulting Town  
10 Engineer will review the traffic flow.

11  
12 Attorney Hocherman said that the concern on the previous  
13 application was the door and the cars coming from the North and that  
14 was the reason for the right turn out setup. He mentioned that the  
15 new plan does not have cars coming in from Route 6. He opined that  
16 the Ordinance does not refer to small parking areas like this one. He  
17 stated that he will submit in writing something that addresses the  
18 concerns.

19  
20 Ms. Gerbino mentioned that housing is being constructed to the west  
21 of the bank and will promote pedestrian traffic and that is the reason  
22 for her concern about sidewalks. She asked how a pedestrian gets  
23 safely into the banking area from inside the shopping center.

24  
25 Engineer DeLuca said the pedestrian access now is to walk into the  
26 driveway entrance onto the sidewalk to the front door of the bank.

27  
28 Mr. Foley mentioned his concern with the parking spot at the extreme  
29 northeast and said that if you are backing out of that space you can  
30 be clipped by a car coming in through the egress.

31  
32 Town Planner Hull said that the ingress at the traffic light should be  
33 shown on the plan.

34  
35 Mr. Keane said that if you remove the ingress from the northeast at  
36 the triangle separator that will force cars to come in through the  
37 shopping center and go through the drive-thru line from one position  
38 and that will cut down the amount of circulation traffic within.

39

1 Engineer DeLuca said that she is concerned about closing the  
2 ingress and making it an egress only. She opined by rotating the  
3 building it allows two-way circulation which will lessen the conflict  
4 points.

5

6 Mr. Keane said that Chase Bank should have numbers on how many  
7 people use the drive-thru or park their car and walk to the bank. He  
8 said that this information is beneficial to demonstrate the efficacy of  
9 the ingress or not.

10

11 Ms. Gerbino said the only people that can use the proposed  
12 entrance are those travelling east. She opined that the entrance is  
13 not needed and probably would only be used if you miss the traffic  
14 light.

15

16 Attorney Hocherman stated that he will address all the concerns. He  
17 said that there is a requirement for the number of parking spaces  
18 based on the number of tellers and that number is 30 parking spaces.  
19 He advised that this application is the same application as the  
20 previous application and if there were no changes all that would have  
21 to be done is a building permit. Attorney Hocherman reminded the  
22 Board that this is a very constrained site and the bank is a very good  
23 use for the site.

24

25 Mr. Keane asked if there is consideration for sidewalks for safe  
26 pedestrian access internal to the bank site. He said that to  
27 accomplish this some of the vegetation will have to be removed from  
28 the site.

29

30 The Chair directed that the applicant submit revised plans in  
31 accordance with comments made by Town Planner Hull, Consulting  
32 Town Engineer Barbagallo and the Board.

33 *At this point Mr. Barbagallo recused himself and did not participate in*  
34 *the next agenda item.*

35

## 36 **DECISION**

37

## 38 **BARBAGALLO/MEICHNER ROADWAY IMPROVEMENTS**

39

1 Chairman DeLucia said that this a decision by the Planning Board for  
2 a re-grant of Resolution No. 2008-08 of Site Plan Approval for  
3 Barbagallo/Meichner Roadway Improvements for the Scenic  
4 Resource Protection area known as Smith Lane. She explained that  
5 a letter was received dated September 1, 2010 from Timothy S. Allen,  
6 P.E. of Bibbo Associates stating that his office had mistakenly  
7 assumed the Site Plan ran concurrent and perpetual to the filing of  
8 the subdivision plat, which was signed and filed. The Chair noted that  
9 due to the economy the Meichner's chose not to proceed but are now  
10 actively seeking to go forward with the project. She explained that  
11 Engineer Allen is requesting a re-grant of the Resolution.

12  
13 The Chair asked if there were any comments or questions from the  
14 Board and no one responded.

15  
16 On motion by Ms. Gerbino, seconded by Mr. Keane, and  
17 unanimously carried, the Board moved to re-grant the  
18 Barbagallo/Meichner Roadway Improvements for the Scenic  
19 Resource Protection Area known as Smith Lane per Resolution No.  
20 2008-08 covering the period from September 10, 2009 to September  
21 10, 2011.

22  
23 *At this time Mr. Barbagallo returned to the meeting.*

## 24 25 **TIME-EXTENSION**

### 26 27 **GRANITE POINTE SUBDIVISION**

28 **[TM: 27.05-3-2 AND 5]**

29  
30 Chairman DeLucia noted that this is a request by letter dated and  
31 received on September 8, 2010 from Attorney Adam L. Wekstein  
32 of Hocherman, Tortorella and Wekstein for a three-month time-  
33 extension from September 10, 2010 to December 10, 2010 for the  
34 Granite Pointe Subdivision regarding preparation of the draft  
35 Supplemental Final Environmental Impact Statement (SFEIS). The  
36 Chair mentioned that this is the ninth time-extension. She said that  
37 the letter states that "The applicant is still in the process of putting the  
38 finishing touches on the draft of the SFEIS which will ultimately be  
39 reviewed and modified by the Board before it becomes the Lead  
40 Agency's document."

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

3

4 Ms. Gannon said she questions if three months is long enough to  
5 complete the SFEIS.

6

7 Timothy Allen, the applicant's engineer, said that there are a few  
8 issues that have to be worked out with the Department of  
9 Environmental Protection (DEP).

10

11 The Chair asked if the Board wished to grant a one-year time-  
12 extension.

13

14 On motion by Ms. Gerbino, seconded by Mr. Currie, and unanimously  
15 carried, the Board moved to grant the Granite Pointe Subdivision a  
16 one-year time-extension from September 10, 2010 to September 10,  
17 2011 to compete and submit to the Board the draft SFEIS.

18

## 19 **TIME-EXTENSION**

20

### 21 **MERRITT PARK ESTATES SUBDIVISION**

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

23

24 Chairman DeLucia said that this is a request by letter dated  
25 September 17, 2010 received on September 20, 2010 from  
26 applicant's Attorney Geraldine N. Tortorella of Hoeherman, Tortorella  
27 & Wekstein, LLP, for a 90-day extension of the Conditional Final  
28 Subdivision Approval to Mancini Building Corp. for Merritt Park  
29 Estates from October 11, 2010 to and including January 10, 2011.

30 The Chair noted that this is a first request for an extension and  
31 according to the letter; the applicant does not anticipate that the  
32 conditions of Final Approval can be certified as complete by that date.

33 The Chair asked if there were any comments or questions from the  
34 Board and no one replied.

35

36 The Chair said that it was the consensus of the Board to grant the  
37 applicant a one-year time-extension.

38

1 Ms. Gannon reminded the Board that the applicant requested a 90-  
2 day extension but she questioned if that is long enough to complete  
3 the outstanding issues.

4  
5 Town Planner Hull said that the Town Code allows extensions in  
6 three month increments but in the past this Board has granted more  
7 than three months because of the time that the process takes.

8  
9 On motion by Ms. Gannon, seconded by Mr. Currie, and unanimously  
10 carried, the Board moved to grant a one-year time-extension to  
11 Mancini Building Corp. for Merritt Park Estates Subdivision from  
12 October 11, 2010 to October 11, 2011.

13  
14 **SCHEDULE PUBLIC HEARING**

15  
16 **WINDSOR FARMS SUBDIVISION**  
17 **AKA MEADOW RIDGE HOMES, INC.**  
18 **REDUCTION OF PERFORMANCE BOND**

19  
20 Chairman DeLucia said that this request is to schedule a Public  
21 Hearing to consider the request by letter dated August 2, 2010 from  
22 Jim Zappi, P.E., for reduction of the Performance Bond for the  
23 Windsor Farms Subdivision. The Chair mentioned that the  
24 subdivision is also known as Meadow Ridge Homes, Inc., in  
25 accordance with Chapter 150-16 of the Code of the Town of Somers.  
26 She noted that the property is located on Windsor Road. The Chair  
27 explained that on September 13, 2010 the Board received a memo  
28 from Steven Woelfle, Principal Engineering Technician, with a  
29 request to schedule the Public Hearing and attaching a cost estimate  
30 chart. She said that the original bond amount was \$1,327,961 and  
31 the bond reduction amount is \$47,912 reducing the bond balance to  
32 \$173,104 which reflects the asphalt top course of \$52,380 for work  
33 not completed plus the 10% contingency of \$120,724.

34  
35 The Chair acknowledged that the Board is also in receipt of a memo  
36 from Consulting Town Engineer Barbagallo verifying that there was  
37 an appropriate level of oversight from a Professional Engineer to  
38 support the bond reduction recommended by Steven Woelfle.

39

1 The Chair asked if there were any comments or questions from  
2 members of the Board and no one responded.

3

4 On motion by Mr. Keane, seconded by Mr. Goldenberg, and  
5 unanimously carried, the Board moved to schedule a Public Hearing  
6 to consider the reduction of the Windsor Farms Subdivision also  
7 known as Meadow Ridge Homes, Inc. performance bond to \$173,104  
8 for Wednesday, October 13, 2010 at 7:30 P.M. at the Somers Town  
9 House.

10

11 There being no further business, on motion by Mr. Currie,  
12 seconded by Ms. Gannon, and unanimously carried, the meeting  
13 adjourned at 10:30 P.M. Chairman DeLucia noted that the next  
14 meeting of the Planning Board will be held on Wednesday,  
15 October 13, 2010 at 7:30 P. M. at the Somers Town House.

16

17

18

19

Respectfully submitted,

20

21

Marilyn Murphy  
Planning Board Secretary

22

23

24

25