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PLANNING DEPARTMENT

TOWN HOUSE  
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SOMERS, NY 10589

# Town of Somers

WESTCHESTER COUNTY, N.Y.



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

3

## SOMERS PLANNING BOARD MINUTES FEBRUARY 10, 2016

4

5

6

### ROLL:

8

### PLANNING BOARD

#### MEMBERS PRESENT:

Chairman Currie, Mr. Goldenberg, Ms.  
Gannon, Mr. McNamara and Ms. Corning

12

#### ABSENT:

Director of Planning Syrette Dym  
Consultant Town Engineer Barbagallo  
Ms. Gerbino and Mrs. DeLucia

16

#### ALSO PRESENT:

Planning Board Town Attorney Joseph Eriole  
Planning Board Secretary Marilyn Murphy

19

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.

23

### APPROVAL OF DRAFT MINUTES AND DVD OF THE PLANNING BOARD MEETING HELD ON DECEMBER 9, 2015

26

Chairman Currie noted that Planning Board Secretary Marilyn Murphy  
prepared and submitted for the Board's approval the draft minutes and  
DVD of the Planning Board meeting held on December 9, 2015.

30

The Chair asked if there were any comments or corrections from the Board  
on the draft minutes and DVD and no one replied.

32

1 On motion by Mr. Goldenberg, seconded by Ms. Gannon, (Mr. McNamara  
2 abstained) and carried, the draft minutes and DVD of the December 9,  
3 2015 Planning Board meeting were approved.

4  
5 Chairman Currie stated that the text of the approved minutes is available  
6 on the Town's website [www.somersny.com](http://www.somersny.com) and is also available for public  
7 review at the Planning & Engineering office at the Town House. The  
8 approved DVD is available for public viewing at the Somers Public Library.

9  
10 **TIME EXTENSION**

11  
12 **MERRITT PARK ESTATES AMENDED FINAL SUBDIVISION**  
13 **[TM: 5.20-1-1]**

14  
15 Chairman Currie said that the applicant is requesting a 90-day time  
16 extension for Amended Final Subdivision Plat Approval from March 7, 2016  
17 up to and including June 6, 2016 under Town Law Section 276 (7)  
18 (c). He mentioned that this is the second request for a time extension.

19  
20 Chair Currie acknowledged receipt of a letter dated January 20, 2016 from  
21 Geraldine Tortorella, the applicant's attorney, requesting the time  
22 extension. He also mentioned that Director of Planning Dym provided a  
23 memo dated January 29, 2016 stating that she had no objection to the  
24 extension of the subdivision approval. Chair Currie said that she  
25 mentioned in her memo that Steven Woelfle, Principal Engineering  
26 Technician, confirmed his regular inspections of the site and that there are  
27 no site issues. Chair Currie noted that via e-mail Consulting Town Engineer  
28 Barbagallo also had no issue with the Board granting the requested time  
29 extension.

30  
31 On motion by Chair Currie, seconded by Mr. McNamara, and unanimously  
32 carried, the Board moved to grant the request of Merritt Park Estates for a  
33 90-day time extension to Amended Final Subdivision Plat Approval from  
34 March 7, 2016 up to and including June 6, 2016 pursuant to Town Law  
35 Section 276 (7) ( c ) .

36  
37  
38 *AT THIS POINT MR. GOLDENBERG RECUSED HIMSELF AND DID NOT*  
39 *PARTICIPATE IN THE APPLICATION.*

1 **PROJECT REVIEW**

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

4  
5 Chairman Currie said that this is an application for Site Plan Approval for  
6 property located on the southeast side of the Somers Pointe Clubhouse at  
7 1000 West Hill Drive for the construction of a swimming pool, cabana  
8 building and two tennis courts with associated parking to provide additional  
9 recreation activities.

10  
11 Chairman Currie acknowledged receipt of a memo from Director of  
12 Planning Dym and Consultant Town Engineer Barbagallo dated February  
13 5, 2016.

14  
15 The Chair asked the applicant’s representative to update the Board and the  
16 public on the application.

17  
18 John Petroccione, the applicant’s engineer, said that Director of Planning  
19 Dym’s memo referenced seasonal requirements from the Department of  
20 Environmental Conservation (DEC) in reference to tree clearing. He  
21 mentioned that Director of Planning Dym asked for confirmation from the  
22 State Historic Preservation Office (SHPO) that this is not an archaeological  
23 site. Engineer Petroccione said that the engineering is down to technical  
24 issues. He noted that the biggest revision was regarding the stormwater  
25 system proposed below the porous pavement. Engineer Petroccione  
26 commented that the soil results were not as favorable as he hoped so a  
27 bio-filter system will be used.

28  
29 Engineer Petroccione said that he submitted a draft tree application;  
30 however, a decision whether landbanking can be used on a portion of the  
31 property will make a difference on how many trees will be cut down. He  
32 asked that a Public Hearing be set in order to hear the public input.

33  
34 Ms. Corning asked about the number of trees that will be cut in regard to  
35 the landbanked parking.

36  
37 Engineer Petroccione explained that the parking area with 44 parking  
38 spaces will be landbanked and have the most trees that will be cut down.  
39 He said that he will clarify the difference on the revised plan.

1 Chair Currie indicated that the Board will have to do a site walk before  
2 scheduling the Public Hearing.

3  
4 Mr. McNamara said that the plan has to show off street parking showing  
5 trucks making deliveries.

6  
7 Ms. Corning said that the owner has to give direction to the vendors that  
8 function on how the building is designed.

9  
10 Ms. Gannon stressed that the off street parking has been discussed many  
11 times and she was given verbal assurance that the trucks would park on  
12 the property but this has not been happening. She said that the trucks  
13 parking on the street are not safe. Ms. Gannon said that the parking has to  
14 be shown on the Site Plan. She noted that this goes with health, safety  
15 and welfare.

16  
17 Engineer Petroccione said that the request has not been ignored as the  
18 owner has written to all its vendors and established a financial penalty if  
19 they are observed parking on the road. He noted that if this is not working  
20 he will provide a structural change to accommodate the trucks parking on  
21 the site and not the street.

22  
23 Chair Currie said that on the parking the Board has to decide how much  
24 additional parking they want to provide.

25  
26 Engineer Petroccione stated that the Town Code specifies one space per  
27 three persons at the pool. He mentioned that the two proposed parking  
28 areas provide more than what is needed for the pool.

29  
30 Chair Currie directed that the parking and the truck turnaround be  
31 addressed. He mentioned that the Board is not ready to schedule a site  
32 walk at this time.

33  
34 *AT THIS POINT MR. GOLDENBERG RETURNED TO THE MEETING*

35  
36

37 **SOMERS REALTY PHASE 3 [TM: 4.20-1-15]**

38  
39 Chairman Currie noted that this is an application for Final Subdivision  
40 Approval, Wetland, Steep Slopes, Tree Removal and Stormwater

1 Management and Erosion and Sediment Control Permits to create Lots 3a,  
 2 3b, 3c, and 3d relative to the Site Plan application for AvalonBay  
 3 Communities, Inc, and Lot 4 for future commercial and firehouse uses,  
 4 respectively, and Lot 6 to be marketed for an Assisted Living Facility,  
 5 stormwater management improvements, including road right-of-ways as  
 6 part of the Planned Hamlet proposed subdivision.

7  
 8 The Chair asked the applicant’s representative to update the Board and the  
 9 public on the application.

10  
 11 Linda Whitehead, the applicant’s attorney, noted that an application for  
 12 Final Subdivision Approval has been submitted. She mentioned that the  
 13 Department of Transportation (DOT) has granted approval. She said that  
 14 the Army Corps of Engineers has drafted a permit but the Water Quality  
 15 Certification from the Department of Environmental Conservation (DEC)  
 16 has to be approved before they issue the permit. Attorney Whitehead  
 17 indicated that the Department of Environmental Protection (DEP) is likely to  
 18 be last to issue their approval. She mentioned that the two Stormwater  
 19 Pollution Prevention Plans (SWPPP) from Somers Realty and AvalonBay  
 20 are tied together and should be approved soon. Attorney Whitehead noted  
 21 that the Department of Health (DOH) is ready to grant approval and is just  
 22 waiting for the Town to sign off. She explained that it is not unusual for the  
 23 Planning Board to issue a Final Subdivision Approval subject to waiting for  
 24 one or two agency approvals.

25  
 26 Mr. Goldenberg said that a request was made to issue a Tree Removal  
 27 Permit before Final Subdivision Approval is granted. He asked if this  
 28 request is granted will that effect the (SWPPP) because the trees are  
 29 stopping phosphorous from flowing into certain areas.

30  
 31 Attorney Whitehead explained that the request for a Tree Permit is a joint  
 32 request from Somers Realty as the owner and AvalonBay as the applicant.  
 33 She said that the Army Corps of Engineers requires that there be no tree  
 34 removal from April 1 through October 31 due to the potential presence of  
 35 Indiana Bats and/or Northern Long Ear Bats. She mentioned that this will  
 36 cause a significant construction delay for Avalon. Attorney Whitehead said  
 37 that this comment came from US Fish and Wildlife. She said that in the  
 38 Draft Environmental Impact Statement (DEIS) it was found that there was  
 39 no bat habitat on the Somers Realty site.

40

1 Planning Board Town Attorney Eriole said that even though it is likely that  
2 Final Subdivision Approval will be granted Mr. Goldenberg's question that if  
3 the trees were cleared and the project did not move forward will that impact  
4 the SWPPP has to be addressed.

5  
6 Richard Williams, the applicant's engineer, said that this is not a forested  
7 site but has random trees scattered throughout the site. He explained that  
8 the phosphorous counts have to be modeled as forest or brush and as this  
9 site is brush the phosphorous calculations will not change. He mentioned  
10 that there will be no earth disturbance or grubbing with the tree removal.

11  
12 Mr. Goldenberg asked how many trees will be removed and Engineer  
13 Williams replied that 171 trees will be removed.

14  
15 Chair Currie asked who should the tree permit be issued too.

16  
17 Planning Board Town Attorney Eriole said the Tree Permit should be  
18 issued to Somers Realty for AvalonBay.

19  
20 On motion by Mr. Goldenberg, seconded by Mr. McNamara and  
21 unanimously carried, the Board moved to issue a Tree Permit to Somers  
22 Realty for the cutting of 171 trees on the AvalonBay site.

23  
24 On motion by Chairman Currie, seconded by Ms. Corning and unanimously  
25 carried, the Board moved to waive the Public Hearing on Somers Realty  
26 Final Subdivision Approval because it is fully consistent with Preliminary  
27 Subdivision Approval and authorize the preparation of a Draft Resolution of  
28 Final Subdivision Approval.

29  
30

31 **AVALONBAY SOMERS [TM: 4.20-13, 14, 15, PO 12]**

32  
33 Chairman Currie said that this is an application for Site Plan Approval,  
34 Steep Slopes, Tree Removal and Stormwater Management and Erosion  
35 and Sediment Control Permits for AvalonBay Communities Inc. for the  
36 construction on 45.1 acres of 152 residential units within 17 buildings with  
37 23 affordable units. He noted that a community recreation building, pool  
38 and 324 parking spaces is also proposed. Chair Currie said that the  
39 applicant is requesting a tree removal permit.

40

1 The Chair asked the applicant’s representative to update the Board and the  
2 public on the application.

3  
4 Todd Nicotra, representative of AvalonBay, thanked the Board for  
5 understanding the importance of granting the tree removal permit. He  
6 requested that the Board consider a resolution for Site Plan Approval at the  
7 March meeting.

8  
9 Mr. McNamara asked if AvalonBay has reconsidered his request for two  
10 hour fire walls. He opined that AvalonBay as a public corporation has the  
11 responsibility to do it right.

12  
13 Mr. Nicotra said that AvalonBay has not reconsidered the request for two  
14 hour fire walls. He noted that his understanding is that the pink board  
15 would be used if this were a building that has fire separation based on the  
16 size of the building. He explained that to have a two hour wall running  
17 through the entire building would not work as the building has draft  
18 stopping in the attic. Mr. Nicotra stated that he will discuss the two hour fire  
19 wall with his architect and will have a better answer for the meeting next  
20 month.

21  
22 On motion by Chair Currie, seconded by Mr. Goldenberg, and  
23 unanimously carried, the Board moved to authorize the consideration of a  
24 draft Resolution of Site Plan Approval for AvalonBay at Somers.

25  
26

27 **RENEWAL OF SPECIAL USE PERMIT**

28

29 **NEW CINGULAR WIRELESS PCS, LLC (AT&T) [TM: 28.10-1-6.1]**  
30 **RENEWAL OF SPECIAL USE PERMIT**

31

32 Chairman Currie noted that this is the application of New Cingular Wireless  
33 for renewal of a Special Use Permit for an existing approved AT&T tower  
34 and related wireless facility located at Route 100, Majestech Corporation  
35 property.

36

37 The Chair asked the applicant’s representative to update the Board and the  
38 public on the application.

39

1 Daniel Laub, the applicant's attorney, said that he received staff's  
2 comments. He mentioned that one of the issues was backup power. He  
3 explained that the compound is very small and AT&T has a port for  
4 portable diesel generators and has its own fuel trucks to service the  
5 generators in case of a power outage.

6  
7 Chair Currie asked if the applicant is willing to go along with Consultant  
8 Town Engineer Barbagallo's recommendation of a shortened term of  
9 renewal to 2018, or five years from the 2013 approval.

10  
11 Attorney Laub said that the applicant is agreeable to the shortened term of  
12 renewal to 2018.

13  
14 Mr. Goldenberg asked why an engineer has not climbed the tower for  
15 structural purposes and given his professional opinion. He noted that this  
16 is a condition of renewing the permit.

17  
18 Attorney Laub noted that there is a requirement that the tower be inspected  
19 every few years for structural purposes. He felt that the inspection would  
20 probably be done this year. Attorney Laub explained that inspections take  
21 place once a month to check that cables are in place and that the  
22 compound is in good condition.

23  
24 Ms. Corning said that the structural inspection should take place within four  
25 months of renewal as a condition of approval.

26  
27 On motion by Chair Currie, seconded by Mr. Goldenberg and unanimously  
28 carried, the Board moved that New Cingular Wireless PCS, LLC (AT&T)  
29 located at Route 100, Majestech Corporation property, renew the Special  
30 Use Permit up to and including December 31, 2018 with the condition that  
31 a structural inspection take place within four months of the date of  
32 approval.

33  
34

35 **DISIENA SITE WALK**

36  
37 Chairman Currie said it was the consensus of the Board to reschedule a  
38 site walk for the DiSiena Subdivision for Saturday, February 20, 2016 at  
39 9:00 A.M.

40

1 There being no further business, on motion by Chairman Currie, seconded  
2 by Ms. Gannon, and unanimously carried, the meeting adjourned at 8:30  
3 P.M. The Chair announced that the next Planning Board meeting will be  
4 held on Wednesday, March 9, 2016 at 7:30 P.M. at the Somers Town  
5 House.

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13  
14  
15

Respectfully submitted,

Marilyn Murphy  
Planning Board Secretary