

John Currie, *Chairman*
Jan Corning
Vicky Gannon
Nancy Gerbino
Eugene Goldenberg
Dennis McNamara
Bruce Prince

Town of Somers
WESTCHESTER COUNTY, N.Y.

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SOMERS PLANNING BOARD
AGENDA
JUNE 13, 2018 7:30PM

MINUTES: Consideration for approval of Draft Minutes for March 14, 2018.

TIME EXTENSION:

1. MERRITT PARK ESTATES SUBDIVISION: (TM: 5-20-1-1)

Request for a 90 day time extension of the Amended Conditional Final Subdivision Plan, Tree Preservation, Steep Slopes and Wetland Permits from June 5, 2018 up to and including September 3, 2018 pursuant to Town Law Section 276(7)(c) and Section 150-13.M of the Code of the Town of Somers. This is the eleventh request for an extension. The property is located on the easterly side of Lovell Street with access to the subdivision from a new street off Robert Martin Blvd.

2. TAMARACK & VINE SUBDIVISION: (TM 16.07-1-1)

Request for a 90 day time extension of the Re-Grant of Conditional Final Conservation Subdivision Approval and Stormwater Management and Erosion and Sediment Control, Tree and Steep Slopes Permits, pursuant to Section 150-12.N of the Code of the Town of Somers, effective June 12, 2018 up to and including September 9, 2018. This is the first request for an extension.

3. HIDDEN MEADOW: (TM 15.07-1-6)

Request for a second 90 day time extension of the Re-Grant of Conditional Final Subdivision Approval for Hidden Meadow Subdivision from June 12, 2018 up to and including September 9, 2018 pursuant to Section 150-13.M of the Code of the Town of Somers. The property is located on the south side of Route 6 west of Mahopac Avenue.

INFORMAL APPEARANCE:

4. THE SOMERS GROUP COMMERCIAL BUILDING (TM: 4.20-1-6)

Application for informal appearance for demolition of existing building and construction of a two story mixed use commercial/residential building. The 1.656 acres property is located on the north side of Route 6, east of Mahopac Avenue and is in the NS Neighborhood Shopping District.

2018 CALENDAR

June 13 2018.....7:30pm
June 27, 2018.....7:30pm - If Needed
July 11, 2018.....7:30pm
July 25, 2018.....7:30pm - If Needed
August 8, 2018.....7:30pm
August 22, 2018.....7:30pm - If Needed

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SOMERS PLANNING BOARD MINUTES MARCH 14, 2018

ROLL:

PLANNING BOARD

MEMBERS PRESENT:

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

ABSENT:

Mr. Prince

ALSO PRESENT:

Director of Planning Syrette Dym
Consultant Town Engineer Joseph Barbagallo
Planning Board Attorney Joseph Eriole
Intermediate Clerk Barbara Sherry

The meeting commenced at 7:30pm. Intermediate Clerk Barbara Sherry called the roll and noted that the required quorum of four members is present in order to conduct the business of the Board.

APPROVAL OF DRAFT MINUTES.

Chairman Currie asked if there were any comments or questions from the Board on the draft minutes of November 9, 2017, there were none.

On a motion by Chairman Currie and seconded by Mr. Goldenberg, the minutes of November 9, 2017 were approved with Mr. McNamara abstaining.

Chairman Currie asked if there were any comments or questions from the Board on the draft minutes of December 13, 2018. There were none.

On a motion by Chairman Currie and seconded by Mr. Goldenberg, the December 13, 2017 minutes were approved, as amended.

GRANITE POINT TIME EXTENSION: (TM: 27.05-3-2&5)

Chairman Currie, stated that this is a request for a second 90 day time extension for the re-grant of Conditional Final Subdivision Approval, Wetland, Steep Slopes, Tree Preservation and Stormwater Management and Erosion and Sediment Control from February 5, 2018 up to and including May 5, 2018 under Town Law Section 276(7)(c) Town Code Section 150-13M.

Mr. Tim Allen, Engineer, of Bibbo Associates, stated he was here for a second 90 day time extension. He explained to the Board that the New York State Department of Environmental Conservation (NYSDEC) has still not wrapped up its work on the New York City Department of Environmental Protection (NYCDEP) property. Discussions are ongoing with no determined outcome.

Chairman Currie stated the Board is in receipt of a letter from Director of Planning Dym, January 23, 2018 stating no objection to the granting of this request.

Ms. Gerbino stated she found it very interesting watching a young forest grow there. Engineer Allen stated yes, the forest is coming back.

Consultant Town Engineer Barbagallo asked if the NYCDEP completed the work and are all the certifications in place? He added he sees all the plantings are done and the forest is coming back.

Engineer Allen responded that a conference call was had with NYSDEC about a month ago and they have not vacated the site.

Consultant Town Engineer Barbagallo asked if they had a schedule on that.

Engineer Allen responded, hopefully springtime.

Mr. Goldenberg asked Engineer Allen if they were ready to clean up the property at this time.

Engineer Allen stated, whether we clean up the property or DEC cleans up the property, as discussed in the past, the NYSDEC may actually go in and clean up

the property and then charge it back to his client. One way or another the property will be cleaned up.

On a motion by Chairman Currie, seconded by Ms. Corning, the Board moved to approve a 90 day time extension for the re-grant of Conditional Final Subdivision Approval, Wetland, Steep Slopes, Tree Preservation and Stormwater Management and Erosion and Sediment Control from February 5, 2018 up to and including May 5, 2018 under Town Law Section 276(7)(c) and Town Code Section 150-13M. The motion was unanimously approved.

XENIA STEPHENS SUBDIVISION (TM: 28.07-1-1)

Chairman Currie, stated that this is a request for a second 90 day time extension of Final Subdivision Approval and Stormwater Management and Erosion and Sediment Control Permit from March 14, 2018 up to and including June 12, 2018 pursuant to Town Law 276(7)(c) and Town Code Section 150-13M.

Chairman Currie stated the Board is in receipt of a letter from Director of Planning Dym stating no objection to the granting of this request.

Engineer Allen stated Ms. Stephens has contacted him and that she would like to go forward with the final survey.

Chairman Currie asked if there were any Board member comments. There were none.

On a motion by Chairman Currie, seconded by Ms. Gerbino, the 90 day time extension for the Final Subdivision Approval and Stormwater Management and Erosion and Sediment Control Permit from March 14, 2018 up to and including June 12, 2018 was unanimously approved.

Engineer Allen asked if there was any way the Board could extend the date of the extensions from this meeting to 90 days from now. Director of Planning Dym responded no.

Discussion ensued about the date of the extensions.

Chairman Currie corrected his earlier motion of approval to change the dates to February 5, 2018 up to and including May 5, 2018. The motion was seconded by Mr. McNamara and unanimously approved.

MERRIT PARK ESTATES SUBDIVISION (TM: 5.20-1-1)

Chairman Currie stated this is a request for a 90-day time extension of the Conditional Final Subdivision Plat Approval, Tree Preservation, Steep Slopes and Wetland Permits, from March 6, 2018 up to and including June 4, 2018, pursuant to Town Law 276(7)(c) and Town Code Section 150-13M of the Code of the Town of Somers.

Chairman Currie stated the Board is in receipt of two letters from Director of Planning, Syrette Dym, and from the applicant's Attorney, Geraldine Tortorella. Chairman Currie stated that in Director of Planning Dym's memo, Steven Woelfle, Principal Engineering Technician, continues to look at the project and monitor the work in the field and she has no objection to extending this time extension.

Chairman Currie asked if there were any comments from the Board. There were none.

On a motion by Chairman Currie seconded by Mr. McNamara and unanimously carried, the Board moved to approve the 90-day time extension of the Conditional Final Subdivision Plat Approval, Tree Preservation, Steep Slopes and Wetland Permits, from March 6, 2018 up to and including June 4, 2018.

SOMERS POINTE COUNTRY CLUB (TM 6.17-20-1.27)

Chairman Currie stated this request is for a 1 year extension for the signing of the Site Plan from date of expiration of March 8, 2018 as per Resolution #2017-05 of March 8, 2017 up to and including March 8, 2019, pursuant to Section 170-114.H and K of the Code of the Town of Somers.

Mr. John Petroccione, Engineer for the applicant, approached the Board.

Chairman Currie stated the Board is in receipt of two letters from Engineer Petroccione and Director of Planning Dym. Ms. Dym stated she has no objections to the granting of this request.

Mr. McNamara asked Engineer Petroccione to explain the status of the project.

Engineer Petroccione responded that they have spent quite a bit of time working on the Stormwater Pollution Prevention Plan with Consultant Town Engineer Barbagallo's office. He spent many months working with the New York City Department of Environmental Protection (NYC DEP) and they came back with a

determination that the Stormwater System, as developed in Somers, does not comply with the intent of the New York State Department of Environmental Conservation (NYS DEC) Regulations. Mr. Petroccione then went to the NYS DEC Regional and Albany offices, both of whom have confirmed that the design developed here in town does meet with their intent. He explained that within the next week he intends to make another submission to the NYC DEP along with documentation from the NYSDEC that the design does meet their intent.

Consultant Town Engineer Barbagallo asked what the primary concern of the NYC DEP was, is it about the use of impervious pavement as pretreatment?

Mr. Petroccione stated specifically, NYCDEP did not want impervious pavement, infiltration under pervious pavement, pervious pavement as pretreatment and they objected to the diversion of flow from the condos behind them and NYC DEP wants them to maintain pre-existing hydrology.

Engineer Petroccione added he spent quite a bit of time with Ms. Natalie Brown of NYS DEC and she agreed that the design, as shown, for the porous pavement and the infiltration below is their intent, so he is now going back to NYCDEP with that interpretation.

Mr. McNamara asked which agency has the veto power.

Consultant Town Engineer Barbagallo stated DEP has their own permit to issue.

Engineer Petroccione stated NYSDEC will be issuing the permit.

Ms. Gerbino asked if NYCDEP has control over the NYSDEC.

Consultant Town Engineer Barbagallo stated that the Town acts on behalf of the NYSDEC, and was glad to hear that what we did was approved by the NYSDEC, because we act as an MS4, and I act as the Agent of the NYSDEC on behalf of the Town. That is relative to our permits and the NYSDEC permits, however there is a separate permit required by the NYCDEP.

Mr. Petroccione stated a permit is needed from NYCDEP and their mandate is to enforce the Stormwater Regulations of the NYSDEC, the State agency.

Mr. Goldenberg stated that right now you are before us because you need an extension because you are not able to get the permits at this time.

Chairman Currie stated that the residents along that part of the condo are not going to get these needed improvements.

Consultant Town Engineer Barbagallo stated that he will fight hard on behalf of those residents to show how important what we are doing is. We appreciate what the applicant is doing to help mitigate a situation that exists in that part of our community. That is why I am happy to go to NYCDEP, because it does come together, this is not that much of a diversion out of the overall flow path. We are just preventing the water from going into someone's back yard before it gets to the pipe. We are going to put the water in the same pipe that it goes to, so it is not that big of a diversion; it is an issue that we are responding to the public on. Consultant Town Engineer offered his support to Mr. Petroccione on this matter.

Chairman Currie asked if there were any comments from the Board. There were none.

On a motion by Chairman Currie seconded by Ms. Corning and unanimously carried, the Board moved to approve a 1 year time extension for the signing of the Site Plan from date of expiration of March 8, 2018 as per Resolution #2017-05 of March 8, 2017 up to and including March 8, 2019 pursuant to Section 170-114.H and K of the Code of the Town of Somers

HIDDEN MEADOW SUBDIVISION (TM:15.07-1-6)

Chairman Currie stated this is a request for a 90 day time extension Granting Conditional Final Subdivision Approval from March 14, 2018 up to and including June 11, 2018, pursuant to Section 150-13M of the Code of the Town of Somers. This is the first request for an extension of the Re-Granted Final Approval. The property is located on the south side of Route 6.

Mr. Rich Williams of Insite Engineering approached the Board on behalf of Messrs. Ken and Sean Kearney.

Mr. Williams stated that all of the conditions of the resolution have been addressed in their submission from two weeks ago, however there was not enough time to review those conditions in their submission and have the Plat and Site Plan signed before the approval expired. We are requesting this extension to ensure the approval does not expire while the Town reviews their latest submission.

Chairman Currie asked if there were any comments from Consultant Town Engineer Barbagallo or Director of Planning Dym.

Consultant Town Engineer Barbagallo stated that all the engineering comments have been addressed. It was easements, covenants and that sort of work that has been extensively worked on with Town Attorney Baroni and the applicant's Attorney to finalize.

Consultant Town Engineer Barbagallo added that they are getting ready to proceed on the construction and this project site is part of that construction of the new water main. Bids will be opened in the next few weeks and, once the review is completed, the Plat can be filed and the contract can be awarded.

Ms. Gerbino asked if the gas pipeline going to the north impacts this project in any way.

Engineer Williams stated the gas line is on an adjoining property owner and does not impact this project, adding they will be tying into the gas line on Route 6.

On a motion by Chairman Currie and seconded by Mr. Goldenberg, and unanimously carried, the Board authorized the 90 day time extension Granting Conditional Final Subdivision Approval from March 14, 2018 up to and including June 11, 2018 pursuant to Section 150-13M of the Code of the Town of Somers.

CONTINUATION OF PUBLIC HEARINGS:

ARTIS SENIOR LIVING: (TM: 6.11-1-77,78)

Chairman Currie stated this is a continuation of the Artis Senior Living Public Hearing Application for Site Plan Approval for the construction of a 72 Bed Assisted Living Facility within the Somers Realty Planned Hamlet. The project site is Lot 6 of the Somers Realty Phase 3 Subdivision.

Mr. Peter Wise, of the firm DelBello, Donnellan, Weingarten, Wise and Wiederkehr approached the Board on behalf of Artis Senior Living of McLean Virginia in connection with this application, to build a 72 bed Assisted Living Memory Care Facility on Lot 6 of the Somers Realty Planned Hamlet. With Attorney Wise is Mr. Max Ferentinos, Vice President of Artis, as well as Mr. Rich Williams of Insite Engineering.

Attorney Wise stated this is a continuation of the January 10, 2018 Public Hearing, stating that they have tried to use the time constructively and work through some of the outstanding Engineering and technical issues. He added Consultant Town Engineer Barbagallo's memo from earlier this afternoon confirms that they have worked through the vast majority of those issues. The plan that is in front of the Board this evening is materially the same as it has been for quite some time now, unless you have any questions for us we respectfully ask that you close the Public Hearing and authorize the preparation of a Resolution for consideration next month.

Chairman Currie asked if there were any comments from Consultant Town Engineer Barbagallo or Director of Planning Dym.

Director of Planning Dym stated that in her memo of February 9, 2018, under Landscape and Visual Impacts, she had a couple of questions that maybe Attorney Wise can answer this evening.

First, the Landscape Plan - the plan does not show treatment for the 20' setback for approximately 190' from Route 6 out to Mahopac Avenue that has been designated for dedication to the Town of Somers for road widening. Could you please tell me how that is being treated?

Secondly, the area that shows up on all the subdivision drawings, which was for road widening, I do not recall ever seeing how this was going to be cleaned up and whether the road widening has been dedicated to the Town, and if it hasn't, how is it all going to happen.

Attorney Wise stated there are two parts to this question. For the first part, today he looked at the filed map that creates that reservation for the road widening. It is part of the Phase II Subdivision. The legal answer is once that offer is made on the subdivision plat, it can be accepted by the Town at any time so the Town is free to accept an offer of dedication if it wishes, and if it doesn't, it stays as an outstanding offer of dedication.

Director of Planning Dym asked which plat that was on.

Engineer Williams stated he believed that was on the Phase II Plat, but he informed the Board that Somers Realty Corp. is in the process of preparing all the documents to make the dedications throughout the entire Somers Realty Planned Hamlet: there is a water tower parcel; there is a widening parcel on Mahopac

Avenue, as well as some others. That offer of dedication will all be done simultaneously with the roads that are being constructed as part of Phase III.

Engineer Williams continued, stating, to answer the first part of your question, one of the things we have updated on our site walk is the landscaping along Mahopac Avenue. Relative to this widening strip, we did not provide any proposed plantings in the widening strip because we are not going to own it and it is there for a future lane widening. However, we did screen from the widening strip into our property and, as discussed at the site walk, mixed in landscaping on that existing vegetative berm to supplement the trees that are already there that are going to be remaining. We also put notes on the drawing regarding the removal of the invasive species, not only along the vegetative berm, but along the entire Route 6 and Mahopac Avenue frontage, which, again, was a comment from the site walk.

Chairman Currie added that the applicant did agree to do that on the site walk.

Ms. Gerbino stated someone who is very involved in gardening and took the latest course from Cornell shared with her what Cornell had produced. What Cornell is emphasizing in this document, is when you are planting as we asked for in the site walk, we should avoid the invasive species and discussed using native items. Cornell, as an example, is suggesting using Dogwoods from Virginia, as they can survive in terms of drought and other items.

Attorney Wise stated they understand that native species are preferred as opposed to non-native species.

Engineer Williams stated he also had a copy of this document and they will review it. Engineer Williams informed the Board of the four registered landscape architects on staff who, when designing landscape plans, reference not only Cornell's published list of native non-invasive but also the Westchester County and the New York State listing of the same.

Ms. Corning asked if there is a generator on this property and is it screened for sound.

Engineer Williams stated it is in an enclosure.

Consultant Town Engineer Barbagallo asked what kind of enclosure it was, is it soundproof or a sound enclosure?

360 Engineer Williams stated he would check the details of the specs to see what the
361 maximum level of sound attenuation was.

362
363 Mr. Ferentinos stated there is a heavy duty muffler there to keep the noise down. It
364 is within the outdoor enclosure as well and sound testing has been done as they do
365 not want to disturb their residents.

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367 Attorney Wise stated all these details will be provided.

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369 Consultant Town Engineer Barbagallo stated that would be a great piece of data for
370 the file.

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372 Chairman Currie asked if there were any other Board member comments. There
373 were none.

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375 Chairman Currie asked if there were any comments from the public. There were
376 none.

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378 On a motion by Chairman Currie, seconded by Ms. Corning and unanimously
379 carried, the Artis Public Hearing was closed.

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381 Chairman Currie asked if Director of Planning Dym and Consultant Town
382 Engineer Barbagallo had any additional comments.

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384 Consultant Town Engineer Barbagallo stated that a lot of nice work has been done
385 between the last meetings, mostly and most importantly on the Stormwater. There
386 are a few outstanding items, but nothing that should prevent the preparation of a
387 resolution and that he is very comfortable with the preparation of a resolution of
388 approval, should Director of Planning Dym be comfortable doing that.

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390 Chairman Currie asked for the Board's views.

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392 Ms. Gannon stated that she and Mr. Prince attended the Friday site walk without
393 the balloons adding that the same issues and suggestions were replicated on
394 Saturday that were discussed on Friday so I think we are all in agreement.
395 On a motion by Chairman Currie, seconded by Ms. Gannon and unanimously
396 carried, the Resolution and Negative Declaration will be prepared for the Board's
397 approval.

398

Ms. Gerbino stated that the Board's approval is very dependent on Hidden Meadows ultimately as it related to the water supply.

Consultant Town Engineer Barbagallo stated that there is sufficient water supply and that the connection will be made.

GREENBRIAR SOMERS CORP. (TM: 6.11-1-77,78)

Chairman Currie stated the next item is the continuation of the Greenbriar Public Hearing.

Mr. John Parker from the Rockland Environmental Group representing Ms. Susan Shapiro, the sponsor and owner of the project, along with Mr. Joseph Buschynski, Engineer with Bibbo Associates.

Mr. Parker stated with respect to the project he believes they have made incredible progress and is prepared to discuss this.

Mr. Parker began commending the Town and the Planning Board should be proud of the Greenbriar Cluster Subdivision which is something that has been in the works for over forty years and is really a standout, both in terms of its foresight and the actual Environmental Protection that has been wrapped up in the project itself.

He also thanked the Planning Board for this interactive process and its staff, also the Homeowners Association as robust public participation produces a better product in the end.

Mr. Parker stated correspondence has been provided to the Board giving a brief history of the project for this single family home to complete Section 6.

Mr. Parker stated of the 300 acre Cluster Subdivision site and Cluster Plat approval that dates back decades, 200 acres are common property; this is a substantial natural element to this project. The applicant thinks that the proposal continues those environmental attributes and builds upon some of the failing infrastructure necessary and vital to the wetlands, both from the New York City water supply perspective, but also for the residents in Greenbriar because the wetlands are actually on the common properties, not on lots 35 or 36.

Mr. Parker further explained, of the hundred acres, there are 237 dwelling units. This proposal will be the final one for the entire project. The areas of the site, lots 35 & 36, have been merged into one lot. As part of the process with both the New York State Department of Environmental Conservation (NYSDEC) and the New York City Department of Environmental Protection (NYCDEP), and conversations and meeting with the Town of Somers Officials, it was concluded to minimize the environmental impact that dropping one of the two units would be a great way to achieve those benefits.

Mr. Parker stated that the site, for at least 30 years, has essentially been a mowed lawn. It has been a "shovel ready" site since at least the mid 80's. At that time it was regraded and contoured; it even has sewer infrastructure installed.

Mr. Parker noted there are environmental concerns, however this might be one of the most environmentally reviewed single family home proposals in some time. As mentioned earlier, the NYSDEC has a permit application for wetlands. The application for wetlands is not on lot 35 or 36 but is part of the common property. The NYSDEC concluded that this was a Type II Action, thereby beginning and ending their review. They do require repairs and maintenance as part of the permit. The NYCDEP has classified this as an F31 Wetland, which is a Class 1 Wetland that feeds Greenbriar Brook then feeds into the NYC water supply. The NYCDEP also conducted an environmental review, cognizant of the on-site inspections that the NYSDEC did, they concluded that this was an Unlisted Action under SEQRA and issued a Negative Declaration. It is very important to note that two very important wetlands minimization repair and maintenance provisions came out of this process. All parties agreed that the failing wetland structure in the common property that has been allowed to fall into disrepair needed to be fixed. Also noted was that 28 linear feet of cultech technology to remove the roof runoff from the new house will be part of the project. There is an individual residential Stormwater Permit that was issued as part of the Negative Declaration review. A permit was required for this installation that will effectively take away the impacts of the impervious surface of the roof and the roof runoff that would otherwise contribute to Greenbriar Brook and by extension the NYC reservoir system.

Mr. Parker stated that was the second environmental review, adding that process produced very positive results for the environment. Both agencies felt that the substandard and failing common property wetland structures needed to be repaired with rip rap and some clearing of debris that has built up. The permits are in place and they are ready to move forward on this.

Mr. Parker added that, in addition, there has been in essence an environmental review at the Town level. Letters have been submitted to the Board and staff indicating that because this project has been here for so long it actually predates Environmental statutes, including environmental review and wetlands. Maintenance of the kind required by the State in the common property wetlands that are in disrepair are exempt from the State SEQRA, and Somers Environmental Review Code that would have applied, but a single family home is a Type 2 Action. Not having to do a Town of Somers Environmental Review, staff requested that a long form Environmental Review Form be submitted and that was done.

Mr. Parker stated, in conclusion, Environmental Review has produced a product that is better and lessens the impact in terms of the construction of the units. It brings Section 6 to a close. Part of a long standing cluster subdivision that provided the right to the applicant to construct this unit, the Plat has been approved for decades and the wetlands that are in the common properties are necessary for the entire community. The applicant stepped up not only to make certain the wetlands function properly, but that all City, State and Local Environmental requirements have been met. Mr. Parker believes with respect to the Wetlands Law, that the wetlands are essentially mowed lawn that is just sitting there, and that they predate the Town of Somers Wetlands Code provisions. As a result the Wetlands Law does not apply. None the less, despite this fact, the wetlands proper area of F31 is not the applicant's property, but it is common property under the purview and obligation of the Homeowners Association. A failing wetland structure is going to be corrected so even though no wetlands are going to be lost, it is going to be restored, maintained and repaired to its original condition as envisioned by the Engineers and your predecessors and interests that made these approvals decades ago. Mr. Parker continued that both he and the applicants believe that this meets any requirement in the spirit and letter of the law with respect to the wetlands code of the Town of Somers, which, they assert again, do not apply because the area of the construction, lots 35 & 36 were graded, contoured and improved and had infrastructure and the sewer installed before the Town of Somers Wetlands Code existed and the applicability of Town Code is clear because it was done before enactment of the code. Therefore it is exempt or grandfathered.

Mr. Parker stated he understands from Mr. Buschynski that the project is on solid footing with respect to the overall Stormwater Pollution Prevention Plan and the Steep Slopes issue has been addressed satisfactorily and we are prepared to ask that the Public Hearing be closed. Based upon their submissions they believe they have

fulfilled all the obligations and the questions that have been asked by staff, both now and in the correspondence before the Board and the Chairman and ask that the Board move to a resolution of the applications and that they be advanced.

Chairman Currie stated they will hear from staff and Board members first and then open the meeting back up to the public hearing.

Director of Planning Dym stated she would like to give an overview of the memo of March 6, 2018 that was prepared for the Board. The Board has been proceeding initially with a variety of permits requested, then moved into a re-subdivision to make the 2 lots into 1. Since that time, the applicant has moved ahead on his own, merged the two lots into one, and provided the paperwork, so the question of a re-subdivision is moot.

Ms. Gerbino asked what the new lot number is. Discussion ensued and Director of Planning Dym confirmed that the new lot number will be on the Resolution.

Director of Planning Dym went over the needed approvals for the applicant. Steep Slopes Permit is still required and that requires a Public Hearing. The Public Hearing that was opened on the Subdivision and the Permits has been continued, so it is valid for the Steep Slope that is still open and that is part of what you are being asked to consider closing this evening.

Director of Planning Dym explained that Consultant Town Engineer Barbagallo will speak to the issue of the Town Wetland Permit. There has been a Wetland Permit by NYS DEC, but, according to the Town's own Wetlands Law and the Consultant Town Engineer, because there will be some additional new disturbance to the wetland, it does require a Town Permit and that Permit does require a Public Hearing. That Public Hearing is the overriding Public Hearing that has been conducted, so the requirement for a Public Hearing is being met and, again the Board is being asked to consider closing it this evening.

Director of Planning Dym stated that a Tree Permit is required for the two trees that need to be removed, because they are within the wetlands. This does not require a Public Hearing but it does require a Tree Permit and that has been part of the application.

Director of Planning Dym noted that a Stormwater Management and Erosion and Sediment Control Permit is required; they have been working with Consultant Town Engineer Barbagallo's Office on that.

Director of Planning Dym mentioned that a question has come up during this process as to whether a Site Plan approval is needed. According to Section 170-114A (4)(a) – “One single-family detached dwelling is a structure or use excluded from the requirements of Section 170-114 – Site Plan Approval”, therefore no Site Plan approval is required for the proposed single-family home.

Ms. Gerbino stated this single family proposal does not require Site Plan Approval, but we have altered the original Site Plan approval, so aren't we amending the original Site Plan approval by removing whatever was originally planned?

Director of Planning Dym stated what we have in terms of the original, there is nothing that is termed the overall Site Plan, we have different sections of subdivisions and I can only say that this particular single family lot with a single family home does not require a Site Plan approval.

Ms. Gerbino stated if we were doing this today there would be a site plan, this is so old and everybody praises this environmental project that is more than forty years old, but it was the very first one done by this Planning Board a long time ago and they did not utilize the Site Plan; it was called Section 1, Section 2 and so forth.

Director of Planning Dym stated she could not speak to that as she was not here then, but looking back, what we have is a lot of plans that are Subdivision Plans.

Ms. Gerbino stated we would be amending a Site Plan that was worked on by many different Boards and she just wants to be certain that we are doing the correct thing.

The Board then discussed asking Counsel about this issue before proceeding further.

Chairman Currie stated that the two trees that have to be taken down must be done between April 1st and October.

Consultant Town Engineer Barbagallo confirmed Chairman Currie' statement that the tree removal is limited because of the presence of the Northern-eared Indiana Bats.

Consultant Town Engineer Barbagallo stated he would like to speak about the wetlands. He does not disagree that the historic grading actions are grandfathered

in and we do not need to permit for what is already done. But, there is new disturbance, and with new disturbance a permit is needed, and that is being worked on. An interesting issue is we have been talking about a Wetland Buffer Impact Mitigation Plan.

Planning Board Attorney Joseph Eriole arrived at 8:25pm

Consultant Town Engineer Barbagallo explained that we know there are buffer impacts; a lot of the work is being done in the buffer, and that requires a permit. By the Town Code there has to be contemplation of a Wetland Mitigation Plan. The applicant submitted a January 30, 2018 letter that talks about this. Previously, Engineer Buschynski submitted numerous enumerations of the aspects of this project that have been incorporated to mitigate the impact to the wetland buffer. For one house, the Stormwater System goes over and above the requirements, the repair of the outlet structure are all things I have concurred with all along and have been recommending to this Board that it was something that I would have been comfortable with the Board waiving, the preparation of the Mitigation Plan. What is interesting is, now that we are not in the context of a Subdivision or Site Plan, when we are just specifically looking at an Environmental Permit, the Environmental Permit language does not allow for the waiving of the Wetland Mitigation Plan. It is not articulated in that section, even though I will concur that the work on that is part of the application is sufficient to mitigate the impacts to the buffer, I still believe that we will need that written up as a Wetland Mitigation Plan. So that cannot be waived at this time because we are in an Environmental Permit not a Site Plan or Subdivision context.

Consultant Town Engineer Barbagallo explained one other item that we need to make certain is addressed, and that has been discussed with Engineer Buschynski, is whether access is provided to get back to the energy dissipater and outlet structure in the back. As shown on the renderings, it does extend onto the common property. The applicant and developer do have the rights to do that. In the long term, the access needs to be maintained so the Home Owners Association (HOA) can have access to go back there and maintain this newly constructed dissipater. In addition, discussion ensued about the location of the existing easement that would allow the HOA to cross the properties to get back there.

Engineer Buschynski indicated to Consultant Town Engineer Barbagallo that it is right in the area where the neighbor has a lot of plantings, so it's a discussion of providing access through this lot. I think some kind of an easement represented on the plan that is a maintenance access easement is needed that allows the HOA to

traverse this property to get back to clean the energy dissipater should that be required in the future.

Consultant Town Engineer Barbagallo explained that the last item he wished to address was in reference to Engineer Buschynski's November letter. There is a loose end on the post-construction maintenance agreement. We have seen drafts but do not think it was finally approved.

Consultant Town Engineer Barbagallo summed up that all the other issues have been addressed; he is very comfortable with the Stormwater, protection of steep slopes and the limitation of the tree removal for the bats.

Director of Planning Dym asked if Ms. Gerbino would ask her question now that Counsel is present so he is very clear of the issue.

Ms. Gerbino noted that the applicant has merged two lots into one; the first question is her belief that the Board has a right to know what the new tax lot number is, which is not available at the moment, the second real question is this is a single lot, so there is no Site Plan involved, but aren't we amending the original Site Plan and don't we have to amend the single Site Plan to reflect the fact that we have made a change to what was planned?

Town Attorney Eriole asked if the Tax Maps that were merged were part of an approved Site Plan.

Director of Planning stated that is the question, whether or not there was a Site Plan.

Ms. Gerbino added in previous minutes it was referred to as Section 6.

Ms. Gannon further explained that the original plan would not have contemplated a single unattached dwelling, so that is our bump in the road.

Ms. Gerbino further stated that the Board fully understands why these two lots did not get built, because the laws were changed from under their feet.

Town Attorney Eriole stated if there was an approved subdivision plan then it is an amendment, even though it is minor, easy and simple, it is a modification. If there is not an approved plan, and the law changed in the mid 1980's, then it probably

677 does not need that. It will require some research, a title report might provide a
678 significant amount of that information.

679
680 Engineer Joseph Buschynski asked to give a bit of history on how we treated the
681 structures for approval, following the subdivision approval. Every structure
682 attached on Section 6 came to the Town Engineer as a Plot Plan, it showed
683 grading, the building, water and sewer connections, driveways and if that building
684 had constraints with it, the Town Engineer made a determination whether it should
685 be reviewed by the Planning Board. In the instance of lots 35 & 36 we submitted
686 Plot Plans for development of two units and after some comments from the Town
687 Engineer suggesting grading changes to avoid filling in the wetland that we had
688 initially shown, we made revisions and he was satisfied with a Plot Plan and made
689 a recommendation to the Planning Board that he was satisfied with the plan as
690 shown. That was then submitted for the record for two units. So although they
691 were not exactly called site plans, but that is exactly what they were.

692
693 Ms. Gerbino stated it was Section 6.

694
695 Engineer Buschynski added for individual structures, they did not build everything
696 all at once, so when a structure was ready to be built on this street they came
697 before the Town Engineer with a Plot Plan showing how it would be situated.

698
699 Mr. McNamara stated they were individual plot plans.

700
701 Engineer Buschynski responded yes, continuing likewise for every residence in the
702 project, single family residences came before the Town Engineer as a Plot Plan,
703 showing how it was situated on the lot, met setback requirements, grading, water
704 and sewer. These were all individually reviewed. We did not call them Site Plan
705 applications at that time because we were a subdivision.

706
707 Town Attorney Eriole stated it seems to him it would be an amendment to a
708 Subdivision Plan, probably not a Site Plan. He would like to get all the facts
709 together and will speak to the applicant, then get back to the Board.

710
711 Ms. Gerbino asked Town Attorney Eriole if he understood her puzzlement and
712 how we do it today.

713
714 Town Attorney Eriole responded yes, it is different today.

715
716 Ms. Gerbino stated that she would really like to have the new lot tax designation.

717 Director of Planning Dym stated she would get it to her the next day.

718

719 Ms. Gerbino added we are always talking specifically how they are designated, and
720 we are not tonight, we have the documents that they were merged, but we do know
721 its new name and I do not see how you can close a hearing if you do not know the
722 legal name of something. I always thought a Public Hearing gets closed when you
723 have all the factual information.

724

725 Engineer Tim Allen asked Director of Planning Dym if the lot was given a new lot
726 number.

727

728 Director of Planning Dym stated yes, but she does not have it with her.

729

730 Chairman Currie asked if the Board was very uncomfortable until we hear from
731 Counsel about the Site Plan question.

732

733 Ms. Gannon stated she would like to wait until the Board hears from Counsel and
734 would not agree to close the Public Hearing.

735

736 Mr. McNamara asked if they are talking about closing the Public Hearing or
737 amending to the Resolution.

738

739 Chairman Currie asked if the Board is not going to vote to close the Public
740 Hearing, why don't we wait until we have the answer to this from Counsel and we
741 can continue the Public Hearing at the next meeting.

742

743 Town Attorney Eriole stated, you may do as the will of the Board may be. If
744 another process is required, Site Plan, Subdivision, whatever it may be, it might be
745 subject to another Public Hearing anyway. They would not have to be concurrent
746 in any event, so you do not have to keep the Public Hearing open on the Permits
747 just because that answer may change some other part of the process. Had the
748 process been started there, you could have held the hearings concurrently. The
749 Board can wait, and his suggestion is to wait, to make a decision on the permits
750 before you have the answers to all these questions.

751

752 Mr. Robert Gaudio, Partner in the Law Firm of Snyder & Snyder, on behalf of
753 the Greenbriar Homeowners Association (HOA) respectfully stated that he did not
754 believe you could close the Public Hearing. The public has not seen the
755 maintenance agreement, and he is not certain if the HOA is included in that
756 Agreement. As the Town Engineer has indicated you are unable to waive the

Wetlands Mitigation Plan which was in his letter dated November 29, 2017. The Code says the Planning Board shall require one and he has not seen a Wetlands Mitigation Report, you also haven't seen other documents that I will discuss in a moment.

Attorney Gaudioso stated he saw the document relating to the merger of the lots. Originally there was a Conservation Subdivision created, which means there is a Subdivision Plat and the applicant cannot unilaterally change a Subdivision Plat. The Town Code Regulations specifically require under Chapter 150 that you approve the Subdivision, it is defined as a Re-subdivision and it is specifically defined to include items like the merger of lots, it does not necessarily require just new lots. Attorney Gaudioso read from the Code book the definition of subdivision "*The division of a tract or parcel of land into two or more parts or lots for the purpose, whether immediate or future, of transfer of ownership or building development, and including re-subdivision as defined herein*". Next he read the definition of re-subdivision: "*Any change in the subdivision plat which is filed in the office of the County Clerk.*" He explained that the applicant cannot go to the County Clerk's Office to change the Town approved Subdivision Plat, it is right in Chapter 150 under Town regulations. In addition to that, even more importantly, Town Code actually has a provision for an expedited process. The Code, under Chapter 150, has an expedited process for that, which is good planning, and that is in Section 150-15, but there is a problem as that provision does not apply. The applicability of that provision is where an "*applicant proposes an exchange or transfer of land with an adjoining property which does not increase the total number of lots*". But they are not entitled to the expedited process because Section 150-15B states it has to be a "Type II Action" whereas this is a Type I Action. You cannot segregate or segment out the individual permits. The Permit or the Wetlands Application, under Town Code, specifically makes this a Type I Action. You have heard from your Town Planner going back to her November 8, 2017 memo and from your Town Engineer that a Wetlands Permit is required. You have seen on the plans that there is proposed disturbance the entire parcel is in the buffer and all the work on the dissipater is in the Wetlands. A Wetlands Permit is required under the Town Code, which makes this a Type I Action, because it is a Type I Action, under SEQRA and that affects everybody, you, the NYSDEC and NYCDEP, so what was stated before was procedurally incorrect. SEQRA is a procedural statute. If the NYSDEC & NYCDEP who previously, over a year ago consented to this Board Acting as Lead Agency went off on a tangent and issued permits and declared this as an Unlisted Action or a type II Action, they violated SEQRA, and the Town Planner agrees with me on that because on a November 8, memo to you, she specifically says to you the NYSDEC Permit is void. We have

to get back to where we are, all of a sudden, we are rushing into an approval and there are major steps here that have been missed. The applicant cannot go ahead and merge the lots, they need a Re-subdivision from this Board, and under Town Code it has to go through the full Subdivision process. They are not entitled to the expedited relief, because it is not a Type II Action. It is specifically under your Code a Type I Action.

Consultant Town Engineer Barbagallo asked what, in your view, makes this a Type I Action? I do not want to focus on the Subdivision piece, but please reference why you are saying this is a Type I Action.

Attorney Gaudioso stated Chapter 92-6 A. (10) *"Any action which takes place wholly or partially within a freshwater wetland as defined in Article 24 of the Environmental Conservation Law"*

Consultant Town Engineer Barbagallo asked what activity that is in the wetland.

Attorney Gaudioso stated the creation of, as you described a road, behind one of the homeowner's houses.

Consultant Town Engineer Barbagallo stated, not in the wetland.

Attorney Gaudioso pointed out the wetland demarcation on the plan, stating this was all the wetlands.

Consultant Town Engineer Barbagallo stated so you are saying that things that trigger a Type I Action are the activities associated with the energy dissipater and the stabilization of that channel.

Attorney Gaudioso stated correct.

Consultant Town Engineer Barbagallo asked Attorney Gaudioso if there is anything in the Code that would change what he said relative to maintenance or repair of structures. So, in your view, the Code does not allow for maintenance activities or repair activities to happen in a wetland.

Attorney Gaudioso stated you cannot segment out portions of the application to avoid SEQRA. That would be classic segmentation to say that something here, that is part of the plan, the overall plan, gets segmented out, you cannot look at them in segments, you cannot say we are going to build one mile of road and it is

837 not a significant impact and we are going to build a second mile of road and that is
838 not a significant impact, but when you add up the hundred miles of road it was a
839 significant impact.

840

841 Consultant Town Engineer Barbagallo stated none of that is maintenance, what
842 you are talking about, by your argument, if the HOA actually was maintaining this
843 they would have required a Type I Action.

844

845 Attorney Gaudioso stated no, because they would not be doing anything else in
846 addition to that. This is connected to a Tree Removal Plan, to what I believe is a
847 Re-Subdivision, to a Wetlands Permit, when you add everything up, you cannot
848 segment it out. If they were only doing the maintenance work, and that was not a
849 required permit under the Code, then it would not be a Type I Action, but that is
850 not how SEQRA works, with SEQRA, you have to look at all the actions together
851 so that you do not have segmentation.

852

853 Town Attorney Eriole asked if Consultant Town Engineer Barbagallo's point is
854 correct, it is a maintenance activity and that would not trigger Type I designation.
855 What is it about all those other things that you say make it self-evidently a Type I
856 Action?

857

858 Attorney Gaudioso stated; First of all I disagree that it is not maintenance. They
859 are doing that because NYSDEC told them they had to do it to account for the
860 additional impervious surface. We do not agree that it is maintenance. We agree if
861 you look at the NYSDEC permit, which is invalid because they did not follow
862 SEQRA, if you look at the NYCDEC Permit it requires that they do that additional
863 work. It is not just being maintained, they are putting in an access drive and they
864 are substantially increasing the size of the thing from what was originally
865 approved. Assuming that was just maintenance and it was arguably exempt, it
866 does not matter because you have to take the whole project together.

867

868 Town Attorney Eriole asked if we took the whole project together, what is it about
869 the whole project that makes this a Type I.

870

871 Attorney Gaudioso stated it requires a Wetlands Permit where there is disturbance
872 within the wetlands.

873

874 Town Attorney Eriole stated that is circular, which is the whole point that
875 Consultant Town Engineer Barbagallo was making.

876

877 Consultant Town Engineer Barbagallo asked what if this applicant chose not to
878 repair that section and go back to the NYSDEC and have their permit modified to
879 eliminate that repair. Would the HOA require any permits to go and repair that
880 and how would they access it to do that?

881
882 Attorney Gaudioso stated he would have to look at it.

883
884 Consultant Town Engineer Barbagallo asked how would they access that, adding
885 that this applicant is going to take care of something that the HOA was supposed to
886 take care of; they are going to provide access so that can continue to be done in the
887 future.

888
889 Attorney Gaudioso stated the point is being missed here. What he is saying is that
890 there is a large HOA that has taken the time at every single meeting, and to hear
891 that this is taking a long time, we were last here 6 months ago, and it was not
892 because of the residents that it took six months to get back. There is a law and a
893 process and SEQRA and your own Code requires a process. Whether the result is
894 good or bad, we do not know until we go through the process, and your process
895 requires under your Town Code a Re-Subdivision that has a process, a Public
896 Hearing Process so that we can vet these issues, a SEQRA process as a Type I
897 Action and a coordinated review. Again the NYSDEC and NYCDEP both
898 consented to this Board acting as Lead Agency, that is extremely relevant, and you
899 have a Wetlands Permit Process and as I said six months ago, you do not have the
900 right to waive the Mitigation Report and we heard tonight that now that is correct.

901
902 Consultant Town Engineer Barbagallo stated when we were in the context of a
903 subdivision the Board does have the right.

904
905 Attorney Gaudioso asked where that is in the Wetlands Regulation.

906
907 Consultant Town Engineer Barbagallo stated it is not in the Wetlands Regulations,
908 it is in the Subdivision Regulations.

909
910 Attorney Gaudioso stated the Mitigation Report is required and we do not have it
911 and we have not had it for a year. He noted more importantly going back to my
912 November 27, 2017 letter, it is detailed in there that the Code specifically requires
913 when there is going to be a Wetlands Permit, which we have here, irrespective of
914 the dissipater because it is in the wetland buffer 100%, the Code requires that they
915 look at alternatives. The code specifically says the alternatives can include offsite
916 alternatives. As we represented multiple times, we met with the applicant over a

year ago, I was at the meeting along with Mr. Semens and Mr. Cohen and the HOA offered alternative property that would give them more lots than they would get here. The applicant's representative testified on the administrative record in this room at the end of the meeting that they would not consider alternatives; that in and of itself is a basis to deny the application.

Town Attorney Eriole stated no it is not. That is not a legally accurate statement. Your arguments are well stated, I understand them and will give you an opinion on all of them.

Attorney Gaudioso read a section from the Code that stated "*for purposes of this chapter, wetland impacts are necessary and unavoidable only if all of the following criteria is satisfied.*" Item C states, "*there is no feasible alternative to the proposed activity on another site available to the applicant that is not a wetland or wetland buffer.*" We are offering an alternative and it has been dismissed even without analyses.

Consultant Town Engineer Barbagallo asked, in your view does the developer have the right to go in and repair that structure right now.

Attorney Gaudioso stated no, because they would need a permit.

Consultant Town Engineer Barbagallo asked why they would need a permit to go in and fix that.

Attorney Gaudioso stated because it is part of another application.

Consultant Town Engineer Barbagallo asked if this application was not in front of us right now, and they wanted to just go in and clean it out, could they just go in and do that without a permit.

Attorney Gaudioso stated yes, but that is different than what they are proposing here. They are not proposing to go in and clean it out, they are proposing to put an access drive and proposing to include additional rip rap. This is not a clean out, this is a rebuild necessary for this by the NYSDEC. It is procedural and your Code is being set aside and it is creating a bad precedent.

Consultant Town Engineer Barbagallo stated he understood what Attorney Gaudioso said procedurally, and our Town Attorney will determine if SEQRA has been satisfied. As an Engineer this is something that the HOA has been obligated

957 to take care of for 40 years and has not. As a result, it has been damaged and this
958 applicant is ready to come in and not only fix it, but provide permanent access so it
959 can continue to be repaired in the future.

960

961 Attorney Gaudioso stated all they have to do is follow the rules and process.
962 Fortunately, it is the Planning Board that makes these decisions. Fortunately, it is
963 the Town Board that writes the ordinances and fortunately, the Planning has to
964 follow the ordinances. All we are saying is follow the procedure. Remember
965 where this got started. The reason they did not build this is not because the
966 regulations changed. When they first submitted the plan, the Town Board actually
967 recommended denial of those plans on this lot. This was not all set in stone. They
968 went through a process and denial was recommended by the Town Board. It is
969 right in the documents that the applicant submitted. It was not like it went to the
970 former Town Engineer and he signed off on it. There is a process here and if you
971 do not follow that process then that creates a very dangerous precedent for future
972 applications. We are not saying that this might ultimately be approved, what we
973 are saying is, this is a Type I Action, they need to do a long EAF, which they did,
974 but they did not do it properly because they did not follow the NYSDEC
975 requirements. There is no EAF mapping information on that EAF, and to make a
976 SEQRA determination, you have to go through the Part II; then the other agencies
977 can take their action. The applicant took the wrong step, they ran to the NYSDEC
978 and NYCDEP, they did not consult with this Board, they went off on a misguided
979 attempt to get permits before coming to this Board. That is what happened and
980 that is what burned them. All we are asking to do is go through the process under
981 the Town Code and part of that process is they have to look at alternatives.

982

983 Chairman Currie stated at this point he is looking for some feedback from the
984 Board. All were in agreement to table this item. He explained to the audience that
985 to table this item means the Public Hearing is still open and if anyone would like to
986 speak tonight they are welcome to but the public will have another chance to speak
987 at the next meeting.

988

989 Mr. George Semmens introduced himself to the Board. He stated he is a resident
990 of 46 Driftwood Drive, and is on the street where the access drive is proposed. He
991 is the Vice President of the HOA and is also a Licensed Landscape Architect in the
992 States of New York, Connecticut, New Jersey and Pennsylvania. The HOA is
993 requesting that the Planning Board deny or disapprove this application. A petition
994 was submitted to this Board about a year ago with over one hundred signatures
995 from members of our neighborhood who were against this application for a variety
996 of reasons. The applicant has spoken about many things this evening including

that their engineer has come up with various Stormwater solutions, one of which will be the responsibility of the HOA. It gets very strange regarding the issue of the subdivision and it is now a separate lot, is it an adjoined lot, but what does that mean? One of those two lots was owned by someone else, the developer then comes back, rebuys it, and merges them in 2017 or 2018. Does that mean that person or applicant now has the same rights as they did when Section 6 was approved. That is something for an Attorney to contemplate.

The proposed application is basically in conflict with our overall community plan. It has already been mentioned that this is going to be a substantially larger lot than anything else on this street, with one individual detached house. This planned community was planned with the idea of attached and detached homes, so now you have a street with all town homes that are attached, with two or three units, and now all of a sudden there is a lot that is twice as large as anybody else's lot with a house sitting by itself, which is only two stories and not three, so therefore it is going to have 35% less square footage; it just does not belong here. If anything, it belongs in the detached section of Greenbriar. We talked about property values at one point. We presented an appraisal from April 11, 2017 that did an analysis and basically came back and said it was their opinion this proposed development would adversely impact the value of the other homes on this street, another reason we feel this should be disapproved. Mr. Gaudioso has gone over all the wetlands issues. This is a thoughtful well planned community that had environmental concerns and now, all of a sudden, we are going to build in the wetlands. This not in keeping with the intent of how this planned community was put together. Mr. Gaudioso also mentioned the idea of alternatives that we offered to the developer. Mr. Semmens provided the Board with sketches that he picked up from the Resource Inventory at Westchester County and were offered on different properties and said they were told no. These are not official documents, but these were just two areas where you certainly could easily put 3, 4, 5 or 6 lots so I think that needs to be considered. Lastly, is the visual impact. Overall this is just not going to be in keeping with the neighborhood or street. It does not belong here. Mr. Parker stated that they welcomed the opportunity to be part of the discussion with respect to the re-subdivision question. The HOA, who is so concerned about the environment, refused for 40 years to maintain a wetland structure that is not on lots 35 and 36. There is a maintenance agreement and Deeds, Covenants and restrictions that govern the Greenbriar Subdivision. Not only do they ignore their responsibility, Mr. Gaudioso's letter that he referred to earlier, refutes the idea that the Town can step in and improve the failing wetlands on the common property that are not on the applicants property. It is an obligation, a maintenance agreement right in the documents. I provided to both the Town, the staff and Mr.

Gaudioso, all the relevant citations in the County Registry of Documents at the County Clerk's Office. The applicant was only fixing a wetland as suggested by NYSDEC. They did not say you cannot build a subdivision or two units or one unit if you did not get a wetland permit to fix the failing structure.

I am a former regional attorney for the NYSDEC, I worked on wetland enforcement for years, including addressing a number of issues in this county and throughout the region. The NYSDEC staff, in this situation, did the right thing. The Wetlands Technician walked through the structure and stated that it was not working and is a mess. This is not that, we are going to build the perfect wetland structure, build a road to it and create something that is new and different- that is not what is going on here. Because no one is taking care of the structure you cannot get a vehicle to it to get out the muck. So what they are going to do is try to get the vehicle through, fix the rip rap and get all the muck out of there and then seed it and leave and never go back again. Why did the applicant decide to do that? We already established, that the HOA refuses to do it. That is necessary for the functioning of the wetland so the New York City drinking supply for some 8 to 10 million people, including a number of people in Westchester County is not impacted. The maintenance agreement filed in the County Clerk's Office says there are three ways common properties can be repaired. Number 1 – the HOA is obligated to do this which they have not done. The second way is the Town can come in and fix it and charge back, which the HOA refused. The third way is for the applicant to do it because the applicant has been here, despite representation to multiple ownership, it is the same applicant, the same companies, they have been here for 40 years and they have the right to step in and do it. So when the NYSDEC came in and said the applicant ought to do it, that is why there is going to be a wetlands repair. It is not construction in the wetlands, it's not impairment, and it is not degradation of the wetlands, it is not loss of the wetland - it is a repair of a failing structure which, under the Town Code is exempt from Environmental Review.

You can call lots 35 & 36 a wetlands all you want; under the Town Code it is not a wetland. Why is that important? Because the Town of Somers Wetland Code does not apply because it predates the Code. It was filled, graded and has installation of utilities and sat there for 30 years as a mowed, shovel ready lot. We can appreciate that people do not want to have something that will decrease values because it does not look like the community. It is going to look exactly like the community, but it is going to be the only building that can be built there. To meet the spirit, the letter and the intent of the Wetlands Code, the Code that does not apply, the applicant had to cut down what they can do under rights given to them 40 years ago. They

are just trying to finish up the last unit, and, in order to get the NYSDEC approval the applicant has agreed to do this work and they have the duly issued permit, and that really is the end. There is no segmentation going on here, and the Wetland Code does not apply to it. Therefore, the NYSDEC Code applies to it and the permit is valid. Maybe the answer is, the Town should step up, and force the HOA to pay for what they have refused to do. Since the HOA will not fix the structure, maybe the Town should do it and we are left with an exempt property that is a Type II Action since a single family construction on an area that is not defined as a wetland under the Town Code is exempt and it is not subject to environmental review. How many Environmental Impact Statements does anybody know about, full blown environmental assessments and a statement that goes for a one lot subdivision that is an as of right approval? With respect to the wetlands mitigation, there is a question of making it conform to the letter and the spirit of the Code and although we believe that we have accomplished it we are happy to make it conform. The idea that a piece of the 200 to 300 acres of common property that has been maintained can somehow be given to the developer for alternative development, we have serious questions about the legality of that. I do not know how you just give away common property land. There are very spelled out ways in the deeds and covenants that it can go to the Town; it could become a Town Park: you cannot just give it away. We are being put in between a rock and a hard place trying to do the right thing. Under a strict reading of the Code we meet all the requirements of the Code, there has been two Environmental Reviews and a Long Form EAF. If there is a question about the Long Form EAF and we have to amend it, let's talk about that. There is nothing in the Long Form EAF that suggests, or that can rewrite the Town Code, that makes this a Type II Action. But in good faith we have done just that to try to get this done and we will continue to do that. Thank you for that opportunity, for Counsel's opportunity to talk about this or maybe provide another letter on the subdivision question and any other issues.

Mr. Parker stated he has conferred with the applicant, and they think it is not a bad idea to create a way to treat the wetlands that does not impact neighbor's trees. It is about making the wetlands function, and as both the Town and NYCDEP requires.

Consultant Town Engineer Barbagallo stated he has one question, a question that he also asked Mr. Gaudio; Mr. Parker referenced, on more than one occasion that the Wetland Code does not apply. He asked why? What he is suggesting is that yes, if there was filling of the wetlands that was done a long time ago, that is

not subject to review. What I am saying is we are not asking for a wetland permit to fill a wetland that was filled four years ago.

Mr. Parker stated absolutely.

Consultant Town Engineer Barbagallo continued, stating what he wants to make certain is that they agree that the Code does apply in the context of the proposed buffer disturbances that are being proposed for construction and that those are not historic. The entire project is essentially in the wetland buffer, and the Code has some requirements if you are doing work in the buffer. It is only the buffer provisions that provide that. So the Code applies in this instance as a function of the impacts to the buffer zone that are part of this project, not because of the impacts to the wetland that are a function of the maintenance activity. This is my interpretation and opinion on this, you cannot grandfather in something that has yet to be done.

Mr. Parker restated what Consultant Town Engineer Barbagallo stated in that the site itself under the Code has been graded, contoured and utilities placed.

Consultant Town Engineer Barbagallo stated that none of that is subject to the Wetland Code.

Mr. Parker continued saying, it sits there as it is and that makes it not a wetland under the Town Code.

Consultant Town Engineer Barbagallo agreed it is not a wetland.

Mr. Parker added that for that reason, the rest of the Town Code does not apply.

Consultant Town Engineer Barbagallo asked about the buffer, there is an offsite wetland that the 100 foot wetland buffer extends onto the property.

Mr. Parker stated there is a reason that we are going to have to go into these areas - it is for mitigation.

Consultant Town Engineer Barbagallo approached the drawing, showing Mr. Parker the 100 foot buffer line, adding that all the work is inside the 100 foot buffer line and our Town Code requires a permit to work in the buffer.

Mr. Parker stated he thinks the answer is because it is not defined, the general applicability of the section of the Town Code that applies here in its own expressed terms excludes this lot.

1156

1157 Consultant Town Engineer Barbagallo stated that Mr. Parker should take a look at
1158 the Code, just to make certain we are all on the same page with what he is
1159 suggesting, and that is that the grandfathered activities are not subject to wetlands
1160 regulation, but there is a wetland offsite that the 100 foot buffer does extend onto
1161 this project and this Board routinely would require any new disturbance that would
1162 occur within that buffer zone to be subject to the permit as contemplated in the
1163 requirements of the Code; that is something to take a look at and that is my
1164 interpretation.

1165

1166 Mr. Parker asked if this is in the building of the unit.

1167

1168 Mr. Goldenberg stated that this matter is going on and on, Mr. Gaudioso stated the
1169 facts of what he believes is the rule of law, why can't our Attorney take a look and
1170 see what is happening and then get back to us, rather than coming back and forth
1171 and spending hours here.

1172

1173 Town Attorney Eriole stated because it is a Public Hearing and Chairman Currie
1174 has mentioned people will get another chance to speak, but I do not think we
1175 disagree and we should talk about this. Chairman Currie opened the meeting for
1176 public comments. Chairman Currie stated he would like everybody, including this
1177 Board to talk about this with more information at the next meeting.

1178

1179 Chairman Currie asked if the Board was in agreement with this. All agreed.

1180

1181 Amy Horowitz, 59 Driftwood Drive, just wanted to understand, in a written
1182 statement perhaps, the legality of having an offering plan, with plot plans, that then
1183 twenty years later are summarily changed by a lot merger. So the plot plan for
1184 Section 6, each lot was supposed to have a single family home on it that is
1185 attached, and now at the nth hour, in order to monetize what is left of these two
1186 lots, the applicant has determined that it is within her right to merge these two lots.
1187 She continued saying she has a title issue which she is not getting into. However,
1188 she asked what you can do to an offering plan filed with the State post building.
1189 She thinks that the applicant is a little mean spirited, when she vilifies the HOA for
1190 not maintaining the flux capacitor. It is not like she is swooping in to create this,
1191 because for twenty years no one maintained those two lots, except the residents on
1192 that street, because no one could bear to look at the disrepair, the non-mowing, and
1193 everything else of these lots. There is a better alternative, and I think it behooves
1194 us to look at alternatives because of the environmental impact on the street and the
1195 impact to the neighbors on the street. The abutting neighbor has never been

approached by the applicant as to what is going to be between these two lots and also I am not sure who is going to buy this house. This house is going to be built, no one is going to buy it, there are currently two very lovely units for sale on our street, that are larger, have more amenities than this proposed unit is going to have and they are having trouble selling those units. Ms. Horowitz opined that this is not under this Board's purview, but it is something that they, as a street, think about.

Chairman Currie asked if anyone would like to speak, he suggested that they wait until the next meeting when they have more information, but if anyone would like to speak this evening please do so. No one wished to speak.

Mr. Gaudioso asked if they could be part of the conversations they said they would be happy to have regarding the subdivision and transparency.

Town Attorney Eriole stated they will reach out to both parties.

WRIGHTS COURT (TM 17.11-1-18) SITE A

Chairman Currie stated this is a request for Waiver of Site Plan application procedures pursuant to Section 170-114F of the Code of the Town of Somers relative to modifications to an approved Site Plan for Site A of November 18, 2009 by Resolution 2009-17 as compared with Preliminary As-Built Plan dated December 22, 2017.

Consultant Town Engineer Barbagallo stated, at the request of the Board, he has walked the site, and of the three items that were discussed, looked at, two in the back and one in the front. The ones in the back had to do with the shed, which he believes is in a perfect location and is perfectly acceptable from his perspective and the second item was relative to the addition of impervious areas and there was a question if the Stormwater System was capable of handling the additional impervious areas.

Consultant Town Engineer Barbagallo spoke with Mr. Steven Woelfle about the additional impervious surface and he had the applicant's Engineer take a look at it and he has confirmed to Consultant Town Engineer Barbagallo that it has been represented as having sufficient capacity. Consultant Town Engineer Barbagallo stated he is fine with the additional impervious area as well.

1235 Consultant Town Engineer Barbagallo continued saying that they placed rocks in
1236 the area in front to close off the driveway. He was a bit concerned about the close
1237 proximity of the curb at the intersection, relative to safety. Also, this Board and
1238 the applicant did a really nice job to build something that fits into the character of
1239 the area, where all the cars are hidden in the back, the landscaping is beautiful, and
1240 having the cars in the front would degrade the view that was approved as part of
1241 the Site Plan. He appreciates that the applicant placed the rocks there. He opined
1242 that this was the right way to go, and to approve the two items in the back and it
1243 seems like the applicant is in the process of changing the front.

1244
1245 Mr. Rick DiNardo, applicant, stated that as soon as the weather warms up when he
1246 will we finish the landscaping we are going to soften up the corner with greenery
1247 and shrubs and plantings.

1248
1249 Chairman Currie stated he felt just the opposite at the last meeting that deviating
1250 from the plans was not a good idea, but when walking by, he saw that it was not
1251 much of a problem to get out of there onto the road but will go along with the
1252 majority of the Board.

1253
1254 Director of Planning Dym stated what the Board is being asked to do is to waive
1255 Site Plan Application procedures. We have all the applications and we now have
1256 Consultant Town Engineer Barbagallo's opinion of the original three items. You
1257 talked about being in favor of two and the third one was still open for discussion,
1258 so the Board simply needs to determine if they agree with Consultant Town
1259 Engineer Barbagallo and whether we are absolutely certain, because the
1260 application when it was revised did not include that parking lot, it only included
1261 the additional spaces.

1262
1263 Ms. Gerbino wanted to know the new number of additional spaces, and we asked
1264 the applicant to submit and found out there were ten plus additional spaces.

1265
1266 After Board discussion Director of Planning Dym stated there are fifty two total
1267 parking spaces.

1268
1269 Director of Planning Dym stated if the Board is interested in proceeding, the Part 2
1270 EAF has to be completed, then make a determination of no significant impacts, do
1271 a Negative Declaration and then vote on the resolution.

1272
1273 Director of Planning Dym stated on page 2 of the EAF, she identified that for the
1274 11 items that had no or small impacts and that leads us to be able to identify that,

based on this analysis and other documentation, there will be no significant adverse impact on the environment, therefore a Negative Declaration has been prepared. She suggests that the Board vote to approve the Negative Declaration and Short Form EAF Part 2.

On a motion by Ms. Gerbino seconded by Mr. McNamara unanimously carried the Board moved to adopt a Negative Declaration as amended as an unlisted action Pursuant to Article 8 (SEQRA) of the NYS Environmental Conservation Law and Chapter 92 of the Code of the Town of Somers due to a determination that the project will not have any significant adverse impacts upon the environment

Director of Planning Dym and the Board went over the resolution to read as follows:

“Whereas after further discussion regarding the pre-existing gravel parking area and curb cut off Scott Drive, the Planning Board determined the area should become lawn area and the curb cut removed as originally approved.

Director of Planning Dym stated this will be Resolution # 2018-01.

Board discussion ensued regarding amendments to the Resolution.

On a motion by Chairman Currie, seconded by Mr. McNamara and unanimously carried, the Board moved too adopt Resolution 2018-01 as Amended for Southeast Realty Group Wright’s Court Site A, TM: 17.11-1-18.

PROJECT REVIEW:

ALSPACH Wetland Application (TM: 6.10-1-6)

Chairman Currie stated that this is an application for a wetland permit by Robert Roselli, PE, for applicant Robert Alspach for property located on the west side of 105 Warren Street for the construction of a 22’ x 20’ addition to the existing principal building. The property is located in an R-80 Zoning District.

Consultant Town Engineer Barbagallo stated he would like to disclose that he lives across the street from this application and that he knows the Alspach’s.

Mr. Robert Roselli approached the Board stating he is representing Mr. Alspach, the owner. Mr. Roselli stated this is a relatively minor addition to an existing

house. There is an intermittent stream about 45' away. When he was there back in the fall, the stream was full of leaves', in his opinion the stream has not seen flow in months if not years. There are ponds on either side of the stream and he would imagine, in large storms it may get some flow, but other than that there is no signs of wetlands, anywhere near this proposed addition.

Consultant Town Engineer Barbagallo stated though this is pretty much tucked away in the back, there is a stream, and whether it has seen water in years, the reality is this application is within the limiting distance of the stream which does require a permit. The way it is tucked in the back it is immaterial. As a matter of course, a Public Hearing must be held because is a wetland permit. He would recommend that the Board set the date for the Public Hearing, and given we have three Planning Board Wetland Applications, we might want to take a look at all three.

Consultant Town Engineer Barbagallo told the Board of his meeting with Principal Engineering Technician, Steven Woelfle, where Mr. Woelfle stated the same thing concerning the location of the project being tucked away in the back, and that he did not see this as a big issue.

Chairman Currie asked Consultant Town Engineer Barbagallo if he was leaning to three site walks.

Ms. Gerbino asked if they could do all three in one day.

Consultant Town Engineer Barbagallo stated there are three wetland applications, three Public Hearings and he does not expect anyone to come out for any of these applications. He added the Public Hearings have to be set anyway and he is comfortable with the Board not having to go look at these.

Chairman Currie stated he was fine with not doing a site walk as was Mr. McNamara and Ms. Corning.

Mr. Goldenberg added that there is a statement from the Open Space Committee about Stormwater coming off the garage and showed a bit of concern for that.

Consultant Town Engineer Barbagallo asked if that was the garage in the rear.

Ms. Gerbino read the February 26, 2018 memo from the Open Space Committee that stated their concern about the pitched roof over the new structure generating

greater amounts of storm water due to its larger surface area and their preference of a “green infrastructure” such as a rain garden.

Consultant Town Engineer Barbagallo explained that those are the kind of things that are looked at on any wetland permit application, adding that a rain garden makes sense. He will look at that as part of his review, to see if it makes sense to put in a rain garden or not; there is impervious surface but that will not be increased.

Mr. Roselli asked if they were talking about the back of the property and not the proposed structure.

Consultant Town Engineer Barbagallo stated there is a bit of confusion here as this application is not for a garage.

Ms. Gannon opined that the Open Space Committee’s (OSC) memo makes it sound like this is to be a garage that has a roof larger than the garage pad and she is trying to figure out how you build a garage that is bigger than the driveway.

Consultant Town Engineer Barbagallo asked Mr. Roselli to please review again what is being planned here.

Mr. Roselli stated the proposed structure is what he terms a recreation room; it is not a garage.

Consultant Town Engineer Barbagallo also stated that this is not a garage, and he added he is assuming that the OSC are not commenting on the existing garage that is in the back of the property and they are commenting on the proposed structure and suggesting that they do a rain garden, which is very common mitigation that we might do.

Mr. McNamara stated or because it is 22’ x 20’ they assumed it is a garage.

Consultant Town Engineer Barbagallo stated he did not believe the OSC was talking about the garage, but this structure. He added that, as they do with every wetland permit they look to provide mitigation. He said the reason the Board does not have to go out and look at this is because it is a stream in a very well defined channel and this is tucked around the back side and does not believe it will have an impact on the stream. Given its location, we should be dealing with the Stormwater, but I do not see this as a big deal.

1395 Chairman Currie asked if the Board was comfortable with setting the Public
1396 Hearing date this evening. All responded yes.
1397 Consultant Town Engineer Barbagallo suggested to Mr. Roselli that they speak
1398 prior to the Public Hearing so that they can talk about where to place a rain garden
1399 and what it might look like and how to size that, so that you can walk out of here
1400 with an approval next meeting.

1401

1402 On a motion by Chairman Currie, seconded by Mr. Goldenberg, and unanimously
1403 carried, the Board moved to schedule a Public Hearing for the Alspach Wetland
1404 Application for Wednesday, April 11, 2018 at 7:30pm at the Somers Town House.

1405

1406 **SULLIVAN Wetland Application TM: 27.05-1-19**

1407

1408 Chairman Currie stated this is an application for an alteration of the Wetland by
1409 Robert Roselli, PE for applicant David Sullivan for property located on the east
1410 side of Anita Road for the construction of a new garage and addition to principal
1411 house. The property is located in a R-40 Zoning District.

1412

1413 Mr. Robert Roselli, PE approached the Board stating he is representing Mr.
1414 Sullivan. Mr. Roselli stated that Mr. Sullivan is proposing a new garage over an
1415 existing asphalt driveway and a new addition on the opposite side of the house, that
1416 would be a bedroom and would involve the relocation of a couple of the septic
1417 system trenches. Mr. Roselli stated he has already been in touch with the
1418 Westchester County Health Department (WCHD) regarding this. The wetlands
1419 were flagged by Paul Jennings, Wetland Consultant and also the 100 foot offset is
1420 marked from that line. Within the 100 foot wetland buffer, the argument can be
1421 made by going with a roof vs. an asphalt surface, they would be slightly improving
1422 the water quality in the wetland buffer. Of course they would accommodate any
1423 requests for mitigation that the Board may have.

1424

1425 Chairman Currie asked if this requires a site walk.

1426

1427 Consultant Town Engineer Barbagallo stated yes definitely and the Board should
1428 do a site walk for the next application also. This is all about Stormwater control as
1429 referenced here, we are adding impervious surfaces and the fact that it is being
1430 captured off the roof gives opportunities to do something.

1431

1432 Consultant Town Engineer Barbagallo asked where Mr. Roselli is with the WCHD.

1433

1434 Mr. Roselli stated he has already been in contact with the WCHD and has spoken
1435 to Tony Kunny, the plans have been sent to him and Mr. Kunny's response has
1436 been to relocate the affected trenches in kind. Mr. Roselli has not submitted a
1437 formal plan for approval and was holding off until he has direction from the Town.

1438
1439 Consultant Town Engineer Barbagallo asked Mr. Roselli, based on your
1440 conversations to date Mr. Kunny is not going to have you bring the septic up to
1441 current code. He is going to say...you are impacting X linear feet just provide X
1442 linear feet somewhere else.

1443
1444 Mr. Roselli stated yes.

1445
1446 Consultant Town Engineer Barbagallo asked if Mr. Kunny discussed the 100 foot
1447 reserve areas. Consultant Town Engineer Barbagallo stated we should know
1448 where the septic is going to be relocated and where the reserve areas are going to
1449 be. Because we will be doing some Stormwater mitigation, we have to make
1450 certain this is done in concert, in the right way with all the appropriate setbacks to
1451 the septic.

1452
1453 Mr. McNamara suggested a curtain drain around it from the roof.

1454
1455 Ms. Gerbino added that the parcel is small.

1456
1457 Consultant Town Engineer Barbagallo stated yes, this is a small piece of property,
1458 adding what he does not want to happen is that he and Mr. Roselli work through,
1459 address the Stormwater with this Board and we are comfortable with treating the
1460 Stormwater with the appropriate mitigation to the buffer impacts, then you go back
1461 to the WCHD, and you wind up where you do not have the area for a 100% reserve
1462 area, if Mr. Kunny requires that. I am trying to avoid you being caught in a loop.

1463
1464 Mr. Roselli stated he had a preliminary conversation with Mr. Kunny and all he is
1465 requiring is a replacement in kind; that is his criteria. There are a myriad of options
1466 numerically that I can go with. My personal inclination is to take the one trench
1467 and extend the trenches on the other side and replace the one trench.

1468
1469 Consultant Town Engineer Barbagallo stated he does not review and approve
1470 septic; that is the WCHD. I am going to take care of the Stormwater and I just want
1471 to make sure that our work is coordinated with the WCHD.

1472

Mr. Roselli stated that he understands that and that is why I chose to start with this Board, to see what is required and work around that, as I have a little bit of flexibility with how I can adjust with the septic system.

Consultant Town Engineer Barbagallo stated to the Board that he would recommend a site walk for this site and to set the Public Hearing for next month.

Ms. Gerbino read the February 26, 2018 memo from the Open Space Committee (OSC) wherein they stated they "...prefer a "green infrastructure" measure versus a catch basin for managing the flow of the water."

After a brief discussion, the Board scheduled March 24, 2018 for a site walk beginning at 9:00am.

On a motion by Chairman Currie, seconded by Ms. Gerbino, and unanimously carried, the Board moved to schedule a Public Hearing for the Sullivan Wetland Application for Wednesday, April 11, 2018 at 7:30pm at the Somers Town House.

IMMEDIATO Wetland Permit TM: 16.06-3-30

Chairman Currie stated this is an application for a Wetland Permit by Stephen Ferreira, PE for owner James Immediato for property located on the east side of Forest Lane for the installation of a drain pipe within an open channel. The property is located in an R-10 Zoning District.

Mr. Stephen Ferreira, PE of SJF Engineering Services approached the Board on Mr. Immediato's behalf. Mr. Ferreira stated this is a straight forward application. They are looking to install a new 15 inch diameter drainage pipe from a point where a pipe outlets onto his property to a new basin that crosses the road and it is piped on the lower end of the drainage system. This all comes from a set of catch basins and drainage from the north end of the complex in Shenorock. Preliminary soil testing was done and it appears we will get a feasible septic system on the lot, but if you look at the rear of the property, it just makes sense to pipe this, as the appearance of the rear of the property drops off in that area, leaves are collecting there and it is just not going to look nice to put a home there. We are looking for a wetland permit to install this pipe. Additionally, in conjunction with this, the applicant would like to place a curtain drain along the north side of the property line and feed that into the new pipe.

Chairman Currie asked Consultant Town Engineer Barbagallo if he is familiar with this site.

1513 Consultant Town Engineer Barbagallo stated he has not been to the site, but has
1514 had discussions with Steven Woelfle, Principal Engineering Technician. They
1515 looked at this plan, and have already started sharing some thoughts with the
1516 applicant's Engineer. Some of the things they have discussed are the curtain drains
1517 need to be on the property not in the Towns' Right-of-Way. Consultant Town
1518 Engineer Barbagallo believes they should be a certain distance into the property
1519 because it is very difficult to build something directly on the property line. An
1520 agreement needs to be reached on where the curtain drains should be. As for
1521 piping this out, and remember I have not been out to the site - conceptionally
1522 looking at it, it makes perfect sense. This is piped out everywhere else. If you go
1523 upstream it is piped out, if you go downstream it is piped out, so I do not
1524 necessarily think that there are any environmental challenges associated with
1525 piping this out. I assume you will need a permit from the New York City
1526 Department of Environmental Protection (NYCDEP) as well.

1527

1528 Mr. Ferreira responded possibly.

1529

1530 Consultant Town Engineer Barbagallo added that maybe there will be some other
1531 outside agency approvals that may be required. He believes there will be a permit
1532 requirement from NYCDEP and the only other thing he wants to make certain of is
1533 once this is piped, that any surface drainage is controlled on site. By piping this
1534 out, it does not create surface water that is going to run on a neighbor's property.
1535 This would be an important issue to look at during the site walk, to look at the
1536 grading to understand how the water flows. Knowing it is a pretty flat site, we
1537 have to understand that if we pipe this out, do we need to put something on the
1538 surface like a little depression to keep the water? We talked about maybe doing
1539 additional curtain drains. It is all about controlling the surface water from the
1540 impervious surfaces of the house. There will be some mitigation on the
1541 Stormwater side for those activities, and we will have to make certain everything
1542 fits; it is Shenorock and the lots are tight.

1543

1544 Discussion ensued amongst the Board about the order of the three site walks.

1545

1546 Consultant Town Engineer Barbagallo said to Mr. Ferreira that between now and
1547 then we should work out a lot of the details; the mitigation, where the Stormwater
1548 will be placed, what it is going to look like and items of this nature. This way,
1549 when you return at the next meeting on April 11, 2018, the Board will have a full
1550 picture of what the project will look like.

1551

On a motion by Chairman Currie, seconded by Mr. McNamara and unanimously approved, the Board moved to schedule a Public Hearing for the Immediate Wetland Permit Application for Wednesday, April 11, 2018 at 7:30pm at the Somers Town House.

**FRANK & ROSEMARIE DiSIENA APPLICATION FOR FINAL
SUBDIVISION APPROVAL TM: 27.08-2-1 & 2.1**

Chairman Currie stated this application is for final Conservation Subdivision Approval, Stormwater Management and Erosion and Sediment Control, Steep Slopes and Tree Preservation Permits for property located at Primrose Steer (Route 139) for the subdivision of two existing lots into four new lots with two proposed conservations lots.

Mr. Tim Allen, Engineer from Bibbo Assoc., approached the Board and introduced Mr. Chris Foley, the applicant's Attorney and Mr. Frank DiSiena.

Engineer Allen stated that the last time Mr. DiSiena was before the Board they received Preliminary approval. Since that time, a one time-extension was requested and granted and now the final plat is ready for the Board's review. Essentially we are looking for Final Subdivision Approval for this application. Since the last meeting we attended, an adjustment to the lot line on Lot 2 was made so that Mr. DiSiena could take control of whole street corridor as part of the legal agreements that are before the Board. Other than that, the subdivision remains the same. It has been before the Board of Health and they are waiting for the final plat. A new survey is ready and the Final Plat is before you now. We are now asking for final subdivision approval. Not a lot has changed; we have responded to a lot of the comments. One question Consultant Town Engineer Barbagallo had was related to the legal documents reflecting the road name which is on the plat and was discussed with the Bureau of Fire Prevention.

Chairman Currie asked about the access agreement.

Engineer Allen stated that is all complete and opined they are in good shape to move forward with this application subject to a resolution. He asked that the Board consider a resolution for the Chairman's signature considering the last time this application was before the Board discussions were held about the locations of the lot lines, but believed the last resolution before the Board was for Preliminary and Final Approval and are now asking for a resolution for the Chairman's signature based on that condition.

1592 Chairman Currie asked if Director of Planning Dym or Consultant Town Engineer
1593 Barbagallo had any questions.

1594

1595 Director of Planning Dym said she had one question that she has spoken to
1596 Consultant Town Engineer Barbagallo about that is written in her memorandum.
1597 There are three pieces of paper that were sent to the Board; we had a Declaration of
1598 Restrictive Covenants, a Declarations of Easements and Maintenance and the
1599 Stormwater Control Facilities Maintenance and Access Agreements. The first two
1600 were developed by Attorney Foley and they made sense. The third agreement
1601 seemed to cover similar territory as the first two. I was not certain if the applicant
1602 was asking approval of all three, two or one and would like clarification on that.
1603 As of the end of last week, I had asked Town Attorney Baroni if he has had an
1604 opportunity to review any of these and he had not. Director of Planning Dym asked
1605 Mr. Foley if he would like to clarify this.

1606

1607 Attorney Foley approached the Board stating that yes he did prepare the first and
1608 second documents, the Declarations of Easements and Maintenance and
1609 Declaration of Restrictive Covenants. With respect to the third documents the
1610 Stormwater Control Facilities Maintenance and Access Agreements, which came
1611 from Engineer Allen's office, he asked Engineer Allen if he would speak to this
1612 document. Engineer Allen stated that he believes that Director of Planning Dym is
1613 correct in that this is redundant compared to what Attorney Foley has already
1614 prepared so this will be corrected.

1615 Director of Planning Dym asked which documents to use or will you let us know.

1616

1617 Attorney Foley stated they would use the two that he drafted.

1618

1619 Engineer Allen stated he believes the intention of the last document was to be a
1620 Schedule A to one of Attorney Foley's documents, whether it was the Maintenance
1621 Agreement that was part of the Stormwater, if he recalled correctly.

1622

1623 Attorney Foley stated that this will have to be clarified. He added that his
1624 document addresses Stormwater Maintenance. This is a preexisting document that
1625 was represented as part of the Stormwater Pollution Prevention Plan (SWPPP).

1626

1627 Engineer Allen stated that this is standard for the SWPPP, which is the Stormwater
1628 and Access Agreement, so this will be clarified.

1629

1630 Director of Planning Dym stated the other question related to the second of
1631 Attorney Foley's documents. It talked about the timeframe for maintenance, and

1632 Consultant Town Engineer Barbagallo and I discussed that and I will let him
1633 speak, but he seemed to be fine with what you were recommending or suggesting
1634 in your second document.

1635 Attorney Foley asked if this is in terms of the frequency of inspecting it.

1636
1637 Consultant Town Engineer Barbagallo stated yes.

1638
1639 Attorney Foley stated it wasn't by accident. I think those figures were derived
1640 from the Tamarack and Vine Subdivision or some portion of it is where I got them
1641 from.

1642
1643 Director of Planning Dym asked Attorney Foley to submit the clarification in
1644 writing to her and Town Attorney Roland Baroni, so the resolution can be written.
1645 Consultant Town Engineer Barbagallo asked the applicant to put up a sign. The
1646 only item that needs to be addressed is the comment about Lot 4 driveway
1647 concerning headlights going into Lot 3 and we talked about putting some screening
1648 there and we have not seen it yet.

1649
1650 Ms. Gerbino stated that the screening for headlights is not found in anything.

1651
1652 Consultant Town Engineer Barbagallo asked if there will be screening there, or is
1653 it something we should talk about that you do not want to put the screening. I do
1654 not know if that is an issue.

1655
1656 Engineer Allen stated if it becomes an issue Mr. DiSiena will take care of it in a
1657 heartbeat, adding that he did not believe the Board had to worry about this.

1658
1659 Consultant Town Engineer Barbagallo stated that is an item that is up to the Board
1660 and does the Board want to worry about it now; this is the reason I wanted to bring
1661 this up now. It does not affect the Resolution for signature because it could be
1662 addressed at comments. In Consultant Town Engineer Barbagallo's opinion that is
1663 the only technical issue that he would reference.

1664
1665 After discussion about the screening, Ms. Gerbino stated the Board never made
1666 this a requirement and is puzzled why this would end up in a resolution.

1667
1668 Consultant Town Engineer Barbagallo stated this was a comment of his and at
1669 times the resolutions will say to address my comments. This is at the discretion of
1670 the Board. There is nothing in the Code that would require them to do this. It
1671 would be a Site Plan issue that if the Board felt that it was really important that we

1672 should put it in the Resolution. Knowing of the extenuating circumstance of this
1673 subdivision, I do not know how hard of a line the Board would like to take on this
1674 matter as they work through the conditions.

1675 Mr. McNamara stated he believes the applicant will do the correct thing, with Ms.
1676 Corning and Ms. Gerbino in agreement.

1677
1678 Discussion ensued regarding the issuance of a Negative Declaration and it was
1679 determined that that was done during the preliminary stages of the application;
1680 reference is made about the Negative Declaration in granting of Preliminary
1681 Approval.

1682
1683 On a motion by Chairman Currie, seconded by Ms. Corning and unanimously
1684 carried, the Board moved to waive the Public Hearing for Final Subdivision
1685 approval.

1686
1687 On a motion by Chairman Currie, seconded by Ms. Corning and unanimously
1688 carried the Board moved to instruct staff to prepare a resolution for Chairman's
1689 signature,

1690

1691 **GARY & ANN MITCHELL 4 LOT CONSERVATION EASEMENT (TM:**
1692 **16.09-1-9) APPLICATION OF RE-GRANT OF FINAL SUBDIVISION**
1693 **APPROVAL**

1694

1695 Chairman Currie stated this is an Application for a Re-Grant of Final Subdivision
1696 for a four (4) lot Conservation Subdivision, three (3) of which are new building
1697 lots and one (1) existing lot on a 7.1 acre parcel. Each lot is to be served by
1698 individual wells and septic systems. The owner is Gary and Ann Mitchell. The
1699 subject property is located on Tomahawk Street, Route 118 in a residential R-40
1700 Zoning District.

1701

1702 Engineer Tim Allen, Bibbo Associates stated this is Final Approval as previously
1703 approved, plans had been submitted to resolve some of the Resolution items, and I
1704 believe the resolution stayed the same as previously approved for Final Approval.

1705

1706 Director of Planning Dym stated yes, adding what the Board has to do is waive the
1707 Public Hearing for Final Approval and then make a motion to approve.

1708

1709 Chairman Currie asked if there was any changes.

1710

1711 Director of Planning Dym stated no.

1712
1713 On a motion by Chairman Currie, seconded by Mr. McNamara and unanimously
1714 carried, the Board moved to waive the Public Hearing on re-granting of
1715 subdivision plat approval pursuant to Section 150-3.F (2) of the Code of the Town
1716 of Somers.

1717
1718 Chairman Currie asked Director of Planning Dym and Consultant Town Engineer
1719 Joseph Barbagallo if they had any comments. There were none.

1720
1721 On a motion by Chairman Currie, seconded by Ms. Gerbino and unanimously
1722 carried, the Board moved to approve the re-granting of Conditional Final
1723 Conservation Subdivision Approval for the Mitchell Conservation Subdivision
1724 pursuant to NYS Town Law Section 276 & 278 and Chapter 150-13J of the Code
1725 of the Town of Somers

1726
1727 **McKENNA SUBDIVISION: (TM: 37.15-1-22)**

1728
1729 Chairman Currie stated this is an Application for Final Subdivision, Steep Slopes,
1730 Tree Preservation and Stormwater Management and Erosion and Sediment Control
1731 Permits for property located at 2652 NYS Route 35 (Amawalk Road) to subdivide
1732 the existing property creating a lot for the existing house and one new residential
1733 building lot. Consideration of a draft Preliminary Subdivision Resolution.

1734
1735 Engineer Rich Williams, Insite Engineering approached the Board and stated that
1736 Mr. McKenna is unable to attend this evening. He added that the Final
1737 Subdivision Application has been submitted, all the outstanding comments from
1738 the Westchester County Department of Health have been resolved and are awaiting
1739 Engineer Williams' preparation of the Mylar of the Plat. Mr. Williams stated he
1740 has not printed the Mylar as he was waiting for Final Subdivision submission to
1741 make certain the Town had no more comments before printing.

1742
1743 Engineer Williams also added he has gone to the New York State Department of
1744 Transportation and has received their final comments, which are being addressed
1745 and will be resubmitted this week.

1746
1747 Engineering Williams stated he is requesting waiving of the Final Public Hearing
1748 as there has not been any substantial changes to the subdivision plat since
1749 Preliminary Approval.

1751 Director of Planning Dym stated the Board is in receipt of the Final Draft
1752 Resolution. It is straight forward but wanted to point out that if the Board is
1753 willing to consider it this evening, on page 6-11 starting on line 14 through 23,
1754 there are two redundant paragraphs and would like to eliminate lines 19 through
1755 23, which are the same as lines 14 – 18.

1756

1757 On a motion by Chairman Currie, seconded by Ms. Corning and unanimously
1758 carried, the Board moved to waive the Public Hearing on granting of Final
1759 Subdivision Plat dated February 28, 2018 pursuant to Section 150-3.F (2) of the
1760 Code of the Town of Somers.

1761

1762 On a motion by Chairman Currie, seconded by Ms. Corning and unanimously
1763 carried, the Board moved to approve Resolution #2018-02 for the Application
1764 Conditional Final Subdivision, Steep Slopes, Tree Preservation and Stormwater
1765 Management and Erosion and Sediment Control Permits for property located at
1766 2652 NYS Route 35 (Amawalk Road) to subdivide the existing property creating a
1767 lot for the existing house and one new residential building lot, as amended.

1768

1769 Consultant Town Engineer Joseph Barbagallo added how much he appreciated
1770 getting to this stage and being able to have a memo where every comment has been
1771 addressed other than those of outside agencies and thanked Engineer Rich
1772 Williams for his attention to detail and for getting a relatively clean resolution.

1773

1774 Chairman Currie also added a special thanks to staff for all their work this week
1775 and during the past few weeks with the snow storms.

1776

1777 There being no further business, on motion by Chairman Currie, seconded by Mr.
1778 Goldenberg, and unanimously carried, the meeting adjourned at 10:15pm. The
1779 Chairman announced that the next Planning Board meeting will be held on
1780 Wednesday April 11, 2018 at 7:30pm at the Somers Town House.

1781

1782

Respectfully Submitted,

1783

1784

1785

Barbara J. Sherry
Intermediate Clerk
Planning Board

1786

1787

1788

1789 Z:\PE\Planning Board meetings\Minutes\2018\March 14, 2018 5.15.2018.docx
1790 6/5/2018 8:52 AM

C 9 PB

H T W
HOCHERMAN TORTORELLA & WEKSTEIN, LLP
CLIENT-CENTERED • SOLUTION-ORIENTED

One North Broadway, Suite 701
White Plains, New York 10601-2319
P: (914) 421-1800 F: (914) 421-1856
www.htwlegal.com

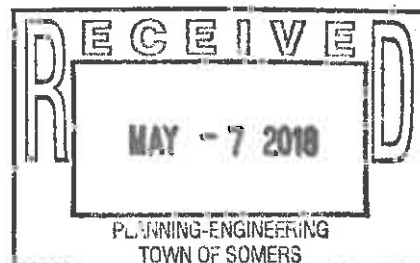
Geraldine N. Tortorella
Adam L. Wekstein

Noelle C. Wolfson
Henry M. Hocherman, Retired

May 4, 2018

Via Electronic and First Class Mail

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



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

Dear Chairman Currie and Members of the Planning Board:

As you may recall, by Resolution dated June 10, 2015, your Board granted Amended Conditional Final Subdivision Plat Approval, Tree Preservation, Steep Slopes and Wetland Permits Approval (the "Final Approval") for the Merritt Park Estates Subdivision to modify two conditions of the original Resolution of Approval. At the Board's March 14, 2018 meeting, the Board extended the Final Approval to and including June 4, 2018. We are still waiting for the legal descriptions for the legal instruments that have to be filed to be completed by the new surveyor, after which the legal instruments will need to be re-executed by the parties, which include the Heritage Hills Condo 29, Lake Lincolndale Property Owner's Association and the Town.

I do not anticipate that the remaining steps can be completed by the June 4th expiration date and, therefore, we are writing to request an additional 90-day extension of Final Approval to and including September 3, 2018 (which is the first business day after the ninetieth day which is a Sunday). This is our eleventh request for an extension of Final Approval which your Board has the authority to grant under Town Law Section 276(7)(c).

I understand that the site is fully stabilized and there have been no issues with the construction.

Kindly schedule this matter for consideration at the Planning Board's next available meeting. A representative of Mancini Building Corp. will attend the meeting to address any questions you may have. Thank you for your courtesy.

Respectfully yours,

Hocherman Tortorella & Wekstein, LLP

By: 
Geraldine N. Tortorella

Hon. John Currie, Chairman
and Members of the Planning Board

May 4, 2018

Page 2

GNT:hc

cc: *(via electronic mail)*
Syrette Dym, AICP
Roland Baroni, Esq.
Joseph P. Eriole, Esq.
Mr. Steve Woelfle
Joseph Barbagallo, P.E.
Mr. Richard Mancini
Mr. John Mancini
Joseph Riina, P.E.

PLANNING AND ENGINEERING DEPARTMENTS

Telephone
(914) 277-
5366
Fax

Town of Somers
WESTCHESTER COUNTY, N.Y.

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

Steven Woelfle
Principal Engineering
Technician
swoelfle@somersny.com



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

DATE: May 31, 2018

TO: Planning Board

FROM: Syrette Dym, AICP
Director of Planning

RE: Merritt Park Estate Amended Final Subdivision Approval – Eleventh
Ninety-Day Extension Request

The Planning Board granted Amended Conditional Final Subdivision Plat Approval, Tree Preservation, Steep Slopes and Wetland Permits Approval on June 10, 2015 for Merritt Park Estates Subdivision to modify two conditions of the original Resolution of Approval and a first 90-day extension was granted at the Planning Board meeting of November 10, 2015. Several additional extensions have been granted including a tenth extension granted to run from March 5, 2018 until June 4, 2018. The current request is for an eleventh 90-day extension up to and including September 3, 2018 as permitted by Town Law Section 276 (7)(c). The request was submitted on May 4, 2018, prior to the June 4, 2018 expiration.

Since submission of the last memorandum by the applicant providing a more detailed narrative of the project background and status and, more importantly, a series of pictures identifying field conditions, work has continued to progress. As confirmed by Steve Woelfle, installation of planting in the stormwater basins has occurred since the last extension was granted. The Applicant is still waiting for the legal descriptions for the legal instruments that need to be filed. Then the legal instruments will need to be re-executed by the parties including Heritage Hills Condo 29, Lake Lincolndale Property Owner's Association and the Town

Steve Woelfle continues to monitor work in the field. I have no problem with extension of this approval.

Cc: Geraldine Tortorella, Esq.
Richard Mancini
John Mancini
Steve Woelfle

Z:\PE\Subdivision files\Merritt Park\Final Subdivision\Modification to Final Subdivision
Resolution\Extensions\Eleventh Extension of Amended Final Subdivision Approval.doc



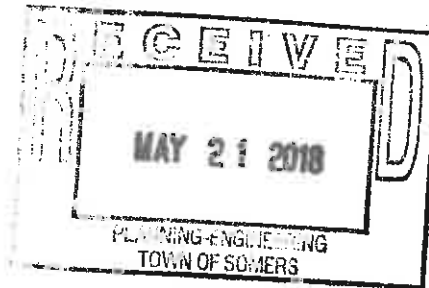
**ZARIN &
STEINMETZ**

EC: PB
TP
CTE

May 18, 2018

Via Overnight Mail

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



David J. Cooper
Jody T. Cross •
Katelyn E. Ciolino •
Michael J. Cunningham •
Marsha Rubin Goldstein
Helen Collier Mauch •
Zachary R. Mintz •
Daniel M. Richmond
Kate Roberts
Brad K. Schwartz
Lisa F. Smith •
David S. Steinmetz •
Edward P. Teyber
Michael D. Zarin

• Also admitted in D.C.
• Also admitted in CT
• Also admitted in NJ

Re: *Tamarack & Vine Subdivision*
80 Route 6, Somers, NY
Tax Lot: 16.07-1-1
Subdivision Approval Extension

Dear Chairman Currie and Members of the Planning Board:

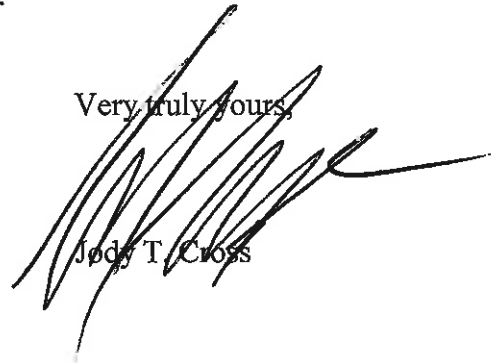
As you know, we represent Tamarack & Vine ("T&V") in connection with the above-referenced property. By Resolution, effective December, 13, 2017, your Board re-granted the necessary approvals in connection with T&V's Subdivision Application (the "Re-Grant Resolution"). Pursuant to the Re-Grant Resolution, the approvals expire on June 11, 2018.

T&V has been working diligently to satisfy the conditions of the Re-Grant Resolution. However, in accordance with Section 150-12.N of the Code of the Town of Somers, and in order to ensure that the approvals do not lapse in the interim, T&V respectfully requests to be placed on your Board's June 13, 2018 Agenda for a 90 day extension. This is T&V's first request for such an extension.

We are also enclosing herewith a check in the amount of \$3,100.00 for outstanding escrow fees.

Please let us know if you have any questions, or require any additional information. Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jody T. Cross". The signature is stylized with multiple overlapping loops and a long horizontal stroke extending to the right.

Jody T. Cross

Encls.

cc: (via email)
Mr. Barry Perlow
Mr. Michael Gyory
Joseph Zarecki, P.E.
Joel Chase, P.E.

PLANNING AND ENGINEERING DEPARTMENTS

Telephone
(914) 277-5366
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Town of Somers
WESTCHESTER COUNTY, N.Y.

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

Steven Woelfle
Principal Engineering Technician
swoelfle@somersny.com



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

MEMORANDUM

TO: Town of Somers Planning Board

FROM: Syrette Dym, Director of Planning

DATE: May 31, 2018

RE: Tamarack and Vine Final Re-Grant Subdivision Approval – First Ninety-Day Extension Request

By letter dated May 18, 2018, received by the Planning Board office May 21, 2018, the applicant's representative requested a first 90-day extension to the final Re-Grant subdivision approval of Resolution 2017-21 granted December 13, 2017 which expires on June 11, 2018. The requested extension is from June 12, 2018 up to and including September 10, 2018 pursuant to Town Law Section 276(7)(c) and Town Code Section 150-13M. There have been no changes to the plan. The applicant is working to satisfy the conditions of the Re-Grant Resolution.

I have no objections to granting of an extension to this approval.

Cc: Joe Barbagallo
Alvaro Alfonzo-Larrain
Roland Baroni
Jody Cross

Z:\PE\Subdivision files\Tamarack& Vine\Preliminary Subdivision Application 2016-Re-Grant\Resolutions\Re-Grant\Extensions\First Extension 05-31-18.docx

June Agenda
EC-PB TA
TCE 6/5/18 bjp



Town of Somers Planning Board
335 Route 202
Somers, New York 10589



RE: Hidden Meadow at Somers
16 U.S. Route 6
Tax Map # 15.07-1-6

Dear Chairman Currie and Members of the Board:

By way of this letter, a 90-day time extension is requested for the Hidden Meadows at Somers Subdivision Approval. The Final Subdivision Approval was granted a 90-day extension on March 14, 2018 and is set to expire June 11th, 2018. The Site Plan Approval does not expire until September 24, 2018.

It is our understanding all conditions of the Resolution of Approval have been addressed and all that remains is posting of the fees and bonds which is imminent.

Please place this matter on your June 13th 2018 Planning Board agenda for consideration of the 90-day time extension.

If you have any questions or comments regarding this information, please feel free contact our office.

Very truly yours,

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

By:


Richard D. Williams Jr., PE
Principal Engineer

RDW

cc: K. Kearney

—C. Martabano

—J. Barbagallo, P.E.

—A. Alfonzo-Larrain

—S. Dym

Insite File No. 13155.100

PLANNING AND ENGINEERING DEPARTMENTS

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

Town of Somers
WESTCHESTER COUNTY, N.Y.

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

Steven Woelfle
Principal Engineering Technician
swoelfle@somersny.com



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

DATE: June 5, 2018
TO: Planning Board
FROM: Syrette Dym, AICP
Director of Planning
RE: Hidden Meadow Subdivision – 2nd Re-Grant Time Extension for
Subdivision

On September 14, 2017, by Resolution #2017-20, the Planning Board re-granted Final conditional subdivision approval that was set to expire March 13, 2018. A first 90-day time extension in accordance with Chapter 150-13.M of the Code of the Town of Somers was granted on March 14, 2018 and is set to expire June 11, 2018.

A request for a second extension was received June 5, 2018 and requests a second 90-day time extension from June 12, 2018 up to and including September 9, 2018 for consideration at the Planning Board meeting of June 13, 2018.

The associated Site Plan Approval does not expire until September 24, 2018.

The applicant has met all conditions of approval and only the posting of fees and bonds remains which is anticipated shortly.

This office does not have any objections to the granting of the requested time extension.

Cc: Joe Barbagallo
Alvaro Alfonzon-Larrain
Roland Baroni
Rich Williams
Ken Kearney

Z:\PE\Subdivision files\Hidden Meadow\Re-Grant\Extensions\2nd Re-Grant Subdivision time extension.doc

June
Agenda
2c-ale
6/6/18
bys



113 SMITH AVENUE
MOUNT KISCO, NY 10549
T: (914) 241-2235
F: (914) 241-6787

May 31, 2018

Ms. Syrette Dym
Director of Planning
335 Route 202
Somers, New York 10589

**Regarding: The Somers Group, LLC
Request for Conceptual Site Plan Review
71 NYS Route 6
Somers, New York
4.20-1-6**

Dear Ms. Dym:

Thank you so much for taking the time to meet with us this past week, our office would like to submit, on behalf of The Somers Group, LLC, a conceptual site plan application in support the application for the construction of a mixed use commercial/residential building at the above referenced property.

Located on the north side of Route 6, the subject property currently consists of a commercial building, the Grand Central Market, with an associated asphalt and gravel parking area. The property is 1.656 acres in size and located within the Neighborhood Shopping NS District. The owner is considering demolishing the existing building and constructing a new 2 story building with mixed use consisting of 6500 square feet of commercial/retail space on the main level and 6 residential apartments on the second level. The lower basement level will provide indoor parking spaces for the residential units.

A wetland delineation was conducted in September 2017 and the property was determined to be subject to New York State DEC and locally regulated wetlands.

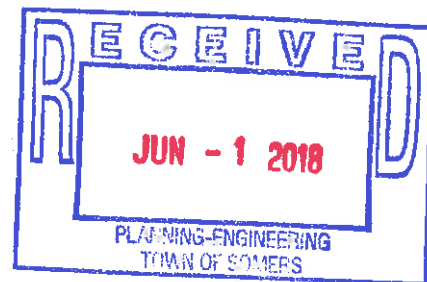
Attached please find the following material to assist in your review:

1. Conceptual Site Plan application form
2. Short EAF form
3. Existing Survey with wetland delineation
4. Conceptual Site Plan

We respectfully request that this plan be considered for a Conceptual review by the Town Planning Board for discussion Should you have any questions or require additional information, please feel free to contact me. Thank you again.

Very truly yours,

Peter J. Gregory, P.E.



7/05

**TOWN OF SOMERS PLANNING BOARD
REQUEST FOR INFORMAL APPEARANCE BEFORE PLANNING BOARD**

FEE: \$150 WITHOUT CONCEPTUAL PLAN \$300 WITH SKETCH PLAN REVIEW
Erosion and Sediment Control Application fee: \$100 for disturbances of at least one acre or for the placement or removal of 20 cubic yards of soil, plus \$500 for each additional acre of disturbance.
FEE PAID: _____ DATE PAID: _____

I. IDENTIFICATION OF APPLICANT:

A. OWNER: The Somers Group, LLC
ADDRESS: 71 NYS Route 6
Somers, NY 10589

SUBDIVIDER: _____

ADDRESS: _____

TELE #: (914) 755-5147

TELE #: _____

B. SURVEYOR: H. Stanley Johnson Co.

TELE #: (914) 241-3872

ENGINEER: Peter J. Gregory, P.E.

TELE #: (914) 241-2235

II. IDENTIFICATION OF PROPERTY:

A. Project Name: The Somers Group Commerical Building

B. Street abutting property: New York State route 6

C. Tax Map Design: Sheet: 4.20 Block: 1 Lot: 6

Zoning District: Neighborhood Shopping NS District

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. Proof that taxes have been paid. _____

III. BRIEF DESCRIPTION OF PROJECT PROPOSAL:

The project involves demolition of existing commercial market/deli and construction of new mixed use commercial/residential building.

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, Subdivision Regulations, Road Specifications, State Environmental Quality Review Act, Wetland and Steep Slope Ordinances, as applicable.

The comprehensiveness of the material submitted will determine the extent of comments that the Planning Board can make on a sketch plan. No materials received after the submission date of this application will be considered by the Board.

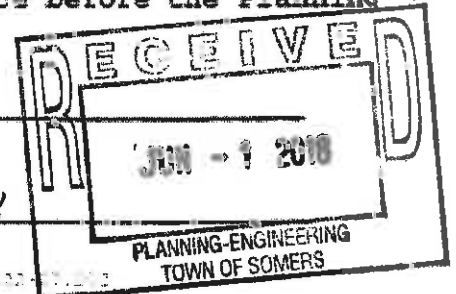
Ten (10) copies of all plans and written reports are requested.

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 undersigned hereby requests an informal appearance before the Planning Board to discuss the proposed project.

Applicant

Date: _____



Owner

Date: 06/01/18

617.20
Appendix B
Short Environmental Assessment Form

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information							
Name of Action or Project: The Somers Group, LLC							
Project Location (describe, and attach a location map): 71 NYS Route 6							
Brief Description of Proposed Action: The project involves the demolition of an existing commercial deli/market building and associated driveway and parking area and the construction of a new 13,000 square foot mixed use commercial/residential building with its associated access and parking area. The proposed building will connect to Town Water and Sewer Systems. Stormwater collection and treatment system proposed to mitigate runoff from increase in stormwater runoff associated with new impervious surface.							
Name of Applicant or Sponsor: The Somers Group, LLC		Telephone: 914-755-5147					
		E-Mail: isialbanese7@gmail.com					
Address: 71 NYS Route 6							
City/PO: Somers		State: NY	Zip Code: 10589				
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">NO</td> <td style="text-align: center;">YES</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	NO	YES	<input checked="" type="checkbox"/>	<input type="checkbox"/>
NO	YES						
<input checked="" type="checkbox"/>	<input type="checkbox"/>						
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: Town of Somers - Planning Board Site Plan, Architectural Review Board, Stormwater, Building Permit			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">NO</td> <td style="text-align: center;">YES</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </table>	NO	YES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
NO	YES						
<input type="checkbox"/>	<input checked="" type="checkbox"/>						
3.a. Total acreage of the site of the proposed action?		1.656 acres					
b. Total acreage to be physically disturbed?		1.125 acres					
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		1.656 acres					
4. Check all land uses that occur on, adjoining and near the proposed action. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____ <input type="checkbox"/> Parkland							

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

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: The use of a stormwater retention pond may be utilized as mitigation	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <u>Isi Albanese</u> Date: <u>6/5/18</u> Signature: <u>[Signature]</u>		

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

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

WESTCHESTER COUNTY, NEW YORK
CHAPTER 67 "APPLICATION PROCESSING RESTRICTIVE LAW"

CERTIFICATION

I hereby certify that to the best of my knowledge no outstanding fees are due and owing to the Town of Somers for the following property:

Section 4.20 Block 1 Lot 6

Property Address 71 NYS Route 6

Permit Applying For Planning Board Site Plan Approval

Furthermore, I hereby certify that to the best of my knowledge no outstanding violation (as that term is defined for the purposes of the Application Processing Restrictive Law, Paragraph 4D) of local laws or ordinances of the Town of Somers exist with respect to the above cited property or any structure or use existing thereon.

Signed  Signed _____
(Owner of Record) (Applicant for Permit)

(Print Name)

(Print Name)

Date 6/5/18

Date _____

CONFIRMATIONS

Zoning Enforcement Officer Date: _____

Director of Finance for Fees Date: _____

Engineering Department Date: _____

Receiver of Taxes Date: _____