

Telephone 1
(914) 277-5366₂

FAX
(914) 277-4093

PLANNING DEPARTMENT

TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589

Town of Somers

WESTCHESTER COUNTY, N.Y.



John Currie, *Chairman*
Fedora DeLucia
Christopher Foley
Vicky Gannon
Nancy Gerbino
Eugene Goldenberg
Dennis McNamara

3

**SOMERS PLANNING BOARD MINUTES
JUNE 10, 2015**

4

5

6

7 **ROLL:**

8

9 **PLANNING BOARD**

10 **MEMBERS PRESENT:**

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

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

ALSO PRESENT:

Consultant Town Engineer Joseph Barbagallo
Director of Planning Syrette Dym
Planning Board Town Attorney Joseph Eriole
Planning Board Secretary Marilyn Murphy

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

PUBLIC HEARING

LORD WETLAND PERMIT [TM: 48.17-1-5]

Chairman Currie noted that this is an application for a wetland permit by
owner Robert Lord for the construction of a detached garage on the east
side of South Lane. He said that this is a Public Hearing on the wetland
permit for Mr. Lord.

1 Chair Currie asked the applicant to give the Board and the public an
2 overview of the project.

3
4 Robert Lord, applicant, showed the Board his plan for the detached garage,
5 with a breezeway attaching the house to the garage. He said that the
6 garage has been moved a foot closer to the house pursuant to the Zoning
7 Board of Appeals (ZBA) request.

8
9 Chair Currie mentioned that the Board received a memo from Woodard &
10 Curran dated June 6, 2015 and the Open Space Committee dated May 29,
11 2015 asking the Board to consider using a rain garden instead of a Cultec
12 recharger to handle the stormwater runoff from the new structure.

13
14 Consultant Town Engineer Barbagallo explained that there are a few minor
15 comments in his memo but none that require any further review of the
16 Board. He noted that the details can be handled as conditions in the
17 Resolution. He mentioned that he has no problem with the comments from
18 the Open Space Committee.

19
20 Chair Currie asked the Planning Board Secretary if the legal notice was
21 published and the adjoining property owners notified.

22
23 Planning Board Secretary Murphy said that the Notice of the Public Hearing
24 was published in the Somers Record on May 28, 2015 and the adjoining
25 property owners were notified via mail on May 29, 2015.

26
27 Chair Currie opened the Public Hearing and asked if anyone from the
28 public would like to be heard. No one responded.

29
30 On motion by Mr. McNamara, seconded by Ms. Gannon, and unanimously
31 carried, the Board moved to close the Public Hearing on the Lord Wetland
32 Permit.

33
34 On motion by Mrs. DeLucia, seconded by Mr. Goldenberg, and
35 unanimously carried, the Board moved to approve the Resolution for the
36 Lord Wetland Permit for the Chairman's signature.

37
38
39
40

1 **PUBLIC HEARING**

2
3 **GREENBRIAR SOMERS CORP. [TM: 6.14-1-28, 29]**

4
5 Chairman Currie explained that this is an application for a Wetland, Steep
6 Slopes, Tree Removal Permit and Stormwater Management and Erosion
7 and Sediment Control Permits for property located on the north side of
8 Greenbriar Drive for the construction of two residential townhouse units
9 with connection to existing utility lines and roadway. He mentioned that the
10 Board will be considering a Draft Resolution of Approval.

11
12 Chair Currie asked the applicant's representative to update the Board and
13 the public on the application.

14
15 Timothy Allen, the applicant's engineer, said that Greenbriar is located just
16 north of Heritage Hills. He said that the proposal is for two townhouse units
17 off of Greenbriar Drive. Engineer Allen mentioned that slope stabilization
18 will take place off the property. He noted that the velocity dissipater will be
19 cleaned out but not maintained by the applicant. Engineer Allen said that
20 Greenbriar Drive is a Town road and has town drainage.

21
22 Engineer Allen noted that the tree that was removed was an issue but that
23 has been adjudicated.

24
25 Chair Currie mentioned that the Board received a memo from the Open
26 Space Committee dated May 29, 2015 and a memo from Woodard &
27 Curran dated June 6, 2015.

28
29 On motion by Chair Currie, seconded by Mr. McNamara, and unanimously
30 carried, the Board moved to close the Public Hearing on the Greenbriar
31 Wetland, Steep Slopes, Tree Removal and Stormwater Management and
32 Erosion and Sediment Control Permits.

33
34 Chair Currie asked the Planning Board Secretary if the legal notice was
35 published and the adjoining property owners notified.

36
37 Planning Board Secretary Murphy said that the Notice of the Public Hearing
38 was published in the Somers Record on May 28, 2015 and the adjoining
39 property owners were notified via mail on May 29, 2015.

1 Chair Currie opened the Public Hearing and asked if anyone from the
2 public would like to be heard. No one responded.

3
4 Mr. Goldenberg asked what was the Town's decision on the violation over
5 the removal of the Oak Tree on the property.

6
7 Consultant Engineer Barbagallo stated that the removal of the Oak Tree
8 was adjudicated and a fine was paid by the applicant.

9
10 Engineer Allen said that the applicant's arborist felt the tree was hollow in
11 the middle and could be removed.

12
13 On motion by Chair Currie, seconded by Mr. McNamara, and unanimously
14 carried, the Board moved to close the Public Hearing on the Greenbriar
15 Wetland, Steep Slopes, Tree Removal and Stormwater Management and
16 Erosion and Sediment Control Permits.

17
18 Chair Currie said that the Board and the applicant will review Draft
19 Conditional Resolution No. 2015-05.

20
21 Ms. Gerbino asked the Board if they are comfortable with the Whereas
22 paragraph that reads *Whereas, at the January 8, 2014 Planning Board*
23 *meeting the applicant's engineer explained that the Oak Tree that was*
24 *removed resulted in a violation proceeding under the Tree Ordinance with a*
25 *settlement made between the Town and the owner; and...*

26
27 Mr. Goldenberg said that he did not find the wording of the Whereas clause
28 to be what happened.

29
30 Engineer Allen said that the settlement closes the court proceeding. He
31 said that the Whereas clause can read "a fine as imposed by the Court".

32
33 Consultant Town Engineer Barbagallo suggested the language read
34 *Whereas, at the January 8, 2014 Planning Board meeting the applicant's*
35 *engineer explained that the Oak Tree that was removed resulted in a*
36 *violation proceeding under the Tree Ordinance. The legal proceedings*
37 *have concluded and remuneration paid to the Town by the owner as*
38 *imposed by the Court.*

39

1 On motion by Chair Currie, seconded by Mrs. DeLucia, and unanimously
 2 carried, the Board moved to Grant Conditional Approval to Greenbriar for
 3 Wetland, Steep Slopes, Tree Removal and Stormwater Management and
 4 Erosion and Sediment Control Permits under Conditional Resolution No.
 5 2015-05, as amended.

6

7 **TIME EXTENSION AND AMENDMENT OF RESOLUTION OF**
 8 **CONDITIONAL FINAL SUDIVISION APPROVAL FOR**
 9 **MERRITT PARK ESTATES FINAL SUBDIVISION**

10

11 Chairman Currie noted that the applicant is requesting an Amendment of
 12 the Resolution of Conditional Final Subdivision Plat Approval, Tree
 13 Preservation, Steep Slopes and Wetland Permit. He said that the applicant
 14 is requesting to defer payment of the recreation fees until after the Plat is
 15 filed, to pay the fees in installments and to link the installments to the
 16 issuance of building permits.

17

18 Chairman Currie explained that the applicant is also requesting a 90-day
 19 time extension for Final Subdivision Plat Approval from June 29, 2015 up to
 20 an including September 28, 2015 under Town Law Section 276 (7) (c). He
 21 mentioned that this is the twentieth request for a time extension.

22

23 Chair Currie asked the applicant’s representative to give the Board and the
 24 public an overview of the project.

25

26 Geraldine Tortorella, the applicant’s attorney, explained that the applicant
 27 may not need the time extension if the second request is approved. She
 28 noted that the subdivision was approved in 2010 but the map has not been
 29 filed. She said that in the interim the applicant has moved ahead and
 30 installed the road and the infrastructure and some of the offsite
 31 improvements that were required and approved as part of the subdivision.
 32 She mentioned that the applicant is wrapping up the items of infrastructure
 33 but there are still some outstanding items. Attorney Tortorella mentioned
 34 that some of the work does not benefit the subdivision or is necessary as a
 35 result of the development of the property. She noted that the work was
 36 done as a courtesy to address some of the stormwater conditions and
 37 water quality in Lake Lincolndale. Attorney Tortorella said that the
 38 Stormwater Pollution Prevention Plan (SWPPP) dealt with the stormwater
 39 that was generated by this subdivision and retaining and treating the
 40 stormwater.

1 Attorney Tortorella said the applicant is asking the Board to amend two of
 2 the conditions of subdivision approval. She explained that the first
 3 condition has to do with the timing of the recreation fees. Attorney
 4 Tortorella mentioned that this is a 15 lot subdivision and the rec fees are
 5 required to be paid based on the number of new lots that are created. She
 6 noted that the rec fees are usually paid prior to filing the subdivision plat
 7 but she is asking the Board to allow payment to be made after the
 8 subdivision plat is filed and to allow the payment to be made in 14 equal
 9 installments over a three year period that shall expire on the third
 10 anniversary of the date the Final Subdivision Plat is filed in the Office of the
 11 Westchester County Clerk. She explained that one installment (1/14) of the
 12 recreation fee shall be paid to the Town each time a building permit is
 13 issued for a residence on a lot. Attorney Tortorella noted that Mancini
 14 Building Corp. discussed with the Town Board about deferring payment of
 15 the recreation fee until after the Final Subdivision Plat is signed by the
 16 Chairman of the Planning Board and filed in the Office of the Westchester
 17 County Clerk and phasing the payment to coincide with the issuance of
 18 building permits for houses on the lots but they referred it to the Parks and
 19 Recreation Board. She commented that the Parks and Rec Board sent a
 20 memo saying they had no problem with the deferring of the recreation fees.
 21 Attorney Tortorella said the reason that this request was considered was
 22 the off-site improvements to the two stormwater basins being constructed
 23 on property owned or controlled by the Lake Lincolndale Property Owners'
 24 Association.

25
 26 Attorney Tortorella said that the second condition the applicant is asking to
 27 be amended is the timing that a building permit can be obtained to
 28 commence construction. She noted that the resolution states that “no
 29 building permits can be issued on any lot shown on the subdivision plat
 30 until the required copies of the Final Subdivision Plat have been delivered
 31 to the Planning Board” after the plat is filed in the Office of the Westchester
 32 County Clerk. She said that the applicant is asking that condition be
 33 modified to allow construction of a single home on one of the lots in the
 34 subdivision.

35
 36 Attorney Tortorella explained that if the Board is amenable to adopting the
 37 requested amendments a time extension of Final Subdivision Approval will
 38 not be necessary because the new Resolution will extend the approval.

39
 40 Mrs. DeLucia asked if the Building Inspector is aware of the request.

1 Attorney Tortorella stated that the Mancini's have discussed the request
2 with the Building Inspector, Highway Superintendent and the Principal
3 Engineering Technician.

4
5 Chair Currie asked the Director of Planning to discuss her memo dated
6 June 4, 2015.

7
8 Director of Planning Dym explained that there is a SEQRA requirement
9 because the applicant is seeking an amendment to the Final Subdivision
10 Resolution. She noted that she prepared a Negative Declaration.

11
12 Ms. Gerbino asked if the off-site improvements were required as mitigation.

13
14 Attorney Tortorella said that none of the applicant's stormwater is going to
15 the off-site location. She noted that the applicant's stormwater is dealt with
16 on site.

17
18 Consultant Town Engineer Barbagallo said that the Board can look at it as
19 mitigation for a condition that exists but is not a condition that was created
20 by this subdivision.

21
22 Mrs. DeLucia asked Consultant Town Engineer Barbagallo if he ever saw a
23 request like this before.

24
25 Consultant Town Engineer Barbagallo said that now there is a created lot
26 that exists and the Town issues approvals on individual lots all the time.
27 He said that he is concerned about the mechanism being in place that
28 when building permits are issued that the recreation fees have to be paid.
29 Consultant Town Engineer Barbagallo said that the Building Department
30 has to make sure that all the conditions have been met before issuing a
31 building permit.

32
33 Planning Board Attorney Eriole said that another concern is what will
34 happen when the three year period following filing of the Subdivision Plat is
35 up and all the recreation fees have not been paid.

36
37 Attorney Tortorella said that the Town can place a lien on the property if the
38 recreation fees are not paid after three years.

39

1 Ms. Gannon reminded the Board that the recreation fees are under the
2 jurisdiction of the Town Board.

3
4 Director of Planning Dym suggested changing the language in the Draft
5 Resolution to read *the final acceptance of the proposed changes in timing*
6 *of payment of the recreation fees is subject to approval by the Town Board*
7 *prior to the issuance of any building permit.*

8
9 Director of Planning Dym advised the applicant to request the change in
10 the payment of the recreation fees at the July 9, 2015 Town Board meeting.

11
12 On motion by Chair Currie, seconded by Mr. Goldenberg, and unanimously
13 carried, the Board moved to issue a Negative Declaration pursuant to 6
14 NYCRR Part 617 State Environmental Quality Review Act of the
15 Environmental Conservation Law and Chapter 92 Environmental Quality
16 Review of the Code of the Town of Somers such that the Planning Board
17 determines that the Proposed Unlisted Action which consists of
18 amendment of two conditions of the Resolution of Conditional Final
19 Subdivision Plat, Tree Preservation, Steep Slopes and Wetland Permits
20 Resolution 2010-02 granted April 14, 2010, for the Merritt Park Estates
21 Subdivision, as it will not have a significant adverse effect on the
22 environment.

23
24 On motion by Chair Currie, seconded by Mr. McNamara, and unanimously
25 carried, the Board moved to waive the Public Hearing on Amended
26 Conditional Final Subdivision Approval for Merritt Park Subdivision, since
27 there have been no changes to the prior approved Conditional Final
28 Subdivision Plat, as permitted by Section 150-13F (2).

29
30 On motion by Ms. Gannon, seconded by Mr. Goldenberg, and unanimously
31 carried, the Board moved to grant an Amended Conditional Final
32 Subdivision Plat Approval, Tree Preservation, Steep Slopes and Wetland
33 Permits to Mancini Building Corp for the Merritt Park Estates Subdivision,
34 by Resolution 2015-06 for the Merritt Park Estates Subdivision, a 15 lot
35 subdivision,, located on a 19.99 acre Tax Parcel Section 5, 26. Block 1, Lot
36 1, pursuant to Section 150-13 of the Code of the Town of Somers, as
37 amended.

38
39
40

1 **PUBLIC HEARING**

2
3 **GRANITE POINTE FINAL SUBDIVISION [TM: 27.05-3-2, 5]**

4
5 Chairman Currie noted that this is a Public Hearing on the application for
6 Final Subdivision Approval, Wetland, Steep Slopes and Stormwater
7 Management and Erosion and Sediment Control Permits for the Granite
8 Pointe Subdivision.

9
10 Chair Currie asked the applicant’s representative to give a brief overview of
11 the project for the Board and the public.

12
13 Timothy Allen, the applicant’s engineer, said that the proposal is for 23 lots
14 on 29 acres. He noted that this subdivision has been before the Board for
15 a long time. Engineer Allen mentioned that the property is located east of
16 Tomahawk Street and east of the Amawalk Reservoir. He explained that
17 there will be 23 single family lots in a one acre zone with individual septic
18 systems and a proposed water system that services each lot. Engineer
19 Allen said that the lots are in compliance and are set back 300 feet from the
20 reservoir. He mentioned that this project has been through the SEQRA
21 process on two occasions as the applicant was required to file a
22 Supplemental Environmental Impact Statement (SEIS) as it was
23 determined that lead was on the property. Engineer Allen noted that this
24 project has been approved for the Brownfield Program. He said that there
25 was Department of Environmental Protection (DEP) approval on the project
26 and he is in the process of having it reapproved by the DEP. Engineer Allen
27 explained that the Health Department was at the site yesterday as the
28 applicant needs the Plat re-signed by them.

29
30 Engineer Allen said that he is here this evening for a Public Hearing on the
31 Final Subdivision Approval. He noted that Public Hearings were held on the
32 Brownfield cleanup and were concluded in the beginning of the year.
33 He mentioned that he can discuss the sequencing of events but would like
34 to hear from the public.

35
36 Engineer Allen explained that he has not responded to Woodard & Curran’s
37 comments and would like the Public Hearing to stay open until next month.
38 He mentioned that he will take notes from the concerns and comments
39 during the Public Hearing and will respond to them.

1 Sarah Brown, the Town’s Planning Consultant from Frederick P. Clark
 2 Associates, Inc. said that she will explain where the application is in the
 3 process. She noted that this application has Preliminary Plat Approval.
 4 She said that lead was discovered on the property. Town Consultant Brown
 5 stated that a complete SEQRA process was conducted on the Subdivision
 6 Plat at the time that the Preliminary and Final Plat was approved. She
 7 explained that after the discovery of the lead the Final Plat was rescinded
 8 but the Preliminary Subdivision Plat stayed intact. She commented that the
 9 applicant was required to submit a SEIS that dealt with the lead
 10 contamination. Town Consultant Planner Brown explained that the
 11 Planning Board did a full SEQRA review on the lead and contamination.
 12 She mentioned that the Remediation Action Plan was adopted by the
 13 Department of Environmental Protection (DEP) and the Department of
 14 Environmental Conservation (DEC). Town Consultant Planner Brown
 15 stated that the findings on the SEQRA process were adopted in September
 16 2013 and that concluded SEQRA on this project. Town Consultant Planner
 17 Brown explained that the applicant has now submitted an application for
 18 Final Subdivision Approval. She noted that because so much time has
 19 passed since Preliminary Plat Approval the Board scheduled a Public
 20 Hearing on the Final Subdivision Application.

21
 22 Consultant Town Engineer Barbagallo said that he spoke to Engineer Allen
 23 in reference to the outstanding comments in his memo and they are
 24 working on getting them resolved.

25
 26 Mr. Goldenberg said that Engineer Allen said at the last meeting that the
 27 applicant with Final Subdivision Approval will have a better business
 28 interest with another party. He questioned because of the enormous
 29 cleanup is it the reason to apply for final subdivision approval now because
 30 there is money involved.

31
 32 Engineer Allen said that he did discuss that there may be a potential buyer
 33 for the property but the applicant now is Suelain Realty.

34
 35 Mr. Goldenberg said that nothing can be done on the property until October
 36 and when a request was made to continue the Public Hearing until the
 37 October meeting he is surprised that is not agreeable to the applicant. He
 38 said that the public does not have all the facts yet so he questions the
 39 scheduling of the Public Hearing. Mr. Goldenberg stated that the Board
 40 received a letter from the DEP saying that the application is incomplete.

1 Engineer Allen stated that there is nothing in the Code that supports that
2 idea.

3
4 Consultant Town Engineer Barbagallo said that if the record is not
5 complete and the Board closed the Public Hearing there would be issues.
6 He reminded the public that the applicant has requested that the Public
7 Hearing stay open.

8
9 Mrs. DeLucia asked Mr. Goldenberg why he wants the Public Hearing
10 continued to October, is it because the public requested that date.

11
12 Mr. Goldenberg opined that the public has the right to have time to review
13 and have their analysis made by their consultants.

14
15 Chair Currie asked the Planning Board Secretary if the legal notice was
16 published and the adjoining property owners notified.

17
18 Planning Board Secretary Murphy said that the Notice of the Public Hearing
19 was published in the Somers Record on May 28, 2015 and the adjoining
20 property owners were notified via mail on May 29, 2015.

21
22 Chair Currie asked if the sign was posted on the property stating the date
23 and time of the Public Hearing.

24
25 The Planning Board Secretary stated that the applicant posted the sign on
26 the property on May 28, 2015.

27
28 Chair Currie opened the Public Hearing and asked if anyone from the
29 public would like to be heard.

30
31 Katherine J. Beinkafner, PH. D, certified professional geologist, explained
32 that she has been retained by the residents of Gwynne Drive, which is
33 across the street from the proposed subdivision. She noted that she
34 reviewed the Granite Pointe septic application records from 1995 on file
35 from the Westchester County Department of Health, Bureau of
36 Environmental Quality. Ms. Beinkafner noted that she studied the site's
37 topographical maps, proposed site plan, and NYC DEP correspondence
38 addressed to the applicant. She said that she conducted a brief review of
39 documentation of the identification of contaminants in the soil from use of
40 the site as a shooting range. Ms. Beinkafner explained that she also

1 reviewed documentation of local climate change and believes additional
 2 site work will be needed. She indicated that she reviewed scientific and
 3 public references on issues applicable to this site, including increased
 4 rainfall and storm intensity that our region has received in the last decade.
 5

6 Consultant Town Engineer Barbagallo interjected that SEQRA is complete
 7 on this application and climate change is a SEQRA issue.
 8

9 Ms. Beinkafner said that she brings with her experience as a Planning
 10 Board member for 10 years. She mentioned that the remediation of lead
 11 from the soil at the site must be completed and confirmatory testing that the
 12 soil is clean must be completed before any approval for a subdivision is
 13 built. She opined that no Planning Board should approve the site plan until
 14 the remediation is complete. She noted that even though there are only
 15 three lots she feels there may be six lots that need remedial action access
 16 to the DEP portion of the site will be needed and cleanup activity is yet to
 17 begin. Ms. Beinkafner said that the applicant is planning to remediate this
 18 portion of the contamination separately but completion of the remediation
 19 work could take a number of years, months, weeks, not days.
 20

21 Ms. Beinkafner said that letters have been received from the DEP stating
 22 that the application was incomplete on May 28, 2015 and June 1, 2015.
 23 She said that the DEP is concerned about the wetlands and stormwater.
 24 She said that turbidity is one of the biggest problems DEP has to deal with
 25 to keep the potable water supply in conformance with drinking water
 26 standards. She said that the applicant must demonstrate that all
 27 stormwater will be contained and not allowed to escape as uncontrolled
 28 runoff.
 29

30 Ms. Beinkafner said that the questions in reference to the Stormwater
 31 Pollution Prevention Plan (SWPPP) and the discharge of stormwater are
 32 significant and have to be dealt with. She passed out to the Board the DEP
 33 Assessing and Managing Climate Change Risk to New York City's Water
 34 Supply and Wastewater Treatment Systems. She said that she is
 35 interested in the boxes on Temperature, Precipitation, Sea Level and
 36 Severe Rainfall events. She said that under temperature from 1900 to
 37 2005, New York City's annual mean temperature increase by 1.9 degrees F
 38 and under precipitation annual mean precipitation also increased by 4.2
 39 inches. Ms. Beinkafner said that most of the counties in this area receive
 40 about 45 to 50 inches of rain a year and this is an increase of 10% which is

1 a significant increase in the amount of water that lands on the land as
 2 stormwater. She mentioned that sea level in the same period, mean sea
 3 level at Battery Park rose by 1 foot. Ms. Beinkafner said that dealing with
 4 the severe rainfall events more planning has to be done to deal with the
 5 severe rainfall events.

6
 7 Ms. Beinkafner pointed out that the septic studies on this site were done in
 8 1995 and she questioned if the water levels have changed. She stated that
 9 it is important to know where the water table is relative to where the septic
 10 system is located. She said that the County requires a certain distance
 11 between the top of the water table and the bottom of the sediment put in for
 12 the septic field. She opined that some of the test pits should be done over
 13 again to see if there has been a change and if there is we should know
 14 about it. Ms. Beinkafner opined that the data may have to be revised.
 15 She mentioned that in 1995 there was a study on the trees and which ones
 16 shall stay and which shall go and that may have changed and should be
 17 investigated She said that the deed restriction had to do with fertilizer and
 18 pesticides that will be used on the property and that should be in
 19 compliance with the latest version of the manual “1987 Pest Management
 20 Recommendations for Commercial ...” She noted that pesticides have a
 21 potential for surface flow into the reservoir and safer pesticides have to be
 22 used.

23
 24 Marc Houslanger, resident of Gwynne Drive, showed the Board pictures of
 25 5 trenches, 15 feet deep and approximately 300 feet from the waterfront
 26 that are on the site. He mentioned that the DEC did not receive notice that
 27 holes would be dug on the property. Mr. Houslanger said that the DEC
 28 said that the applicant is in violation of not notifying them and for not
 29 covering up the holes. He commented that there is water in the holes and
 30 the trenches were filled in with 4 feet of contaminated soil and now the
 31 contamination is 15 feet in the ground mixed in with the groundwater. Mr.
 32 Houslanger said as a resident of Granite Springs he is concerned about the
 33 integrity and character of the applicant’s engineer, Tim Allen, or the owner
 34 of the project, because they failed to notify the DEC and that is breaking
 35 the law.

36
 37 Consultant Town Engineer Barbagallo asked Mr. Houslanger how he was
 38 on the site.

39

1 Mr. Houslanger said that he saw DEC trucks on the site and wanted to
2 know what was the status of the work. He mentioned that the trenches are
3 now filled in.

4
5 Ms. Gannon asked who Mr. Houslanger spoke to at the site.

6
7 Mr. Houslanger said that he spoke to the project manager.

8
9 Mrs. DeLucia asked Mr. Houslanger if he was aware that he was on private
10 property and if he was injured who would be responsible.

11
12 Julia Rellou, a 26-year Somers taxpayer, humanist and environmentalist,
13 former member of the Somers Conservation Board, and mother of two
14 school age children and committed to justice She said that she is
15 submitting public comments on the 23-unit housing subdivision planned for
16 for the 29-acre, panoramic, densely forested peninsula of Amawalk
17 Reservoir, a subdivision known as “Granite Pointe” located at the
18 intersection of Granite Springs Road and Amawalk Reservoir.

19
20 Ms. Rellou said that on May 29, 2015 the Planning Board received written
21 request by the residents of Gwynne Drive, Granite Springs, joined by other
22 Somers residents, for this Public Hearing scheduled for tonight 27 days ago
23 on May 13, 2015 to be moved by four months to the October 14, 2015
24 meeting.

25
26 Ms. Rellou said that on June 1, 2015 this Board received a second written
27 request by the residents of Gwynne Drive, joined by other Somers
28 residents, for this public hearing to be moved to the October 14, 2015
29 meeting. She stated that no response was received to Citizens’ two written
30 requests. Ms. Rellou said that on June 4, 2015 citizens wrote to Sarah
31 Brown of Frederick P. Clark Associates, instructed by the Board Chairman
32 to review Citizens’ request for the Public Hearing to be postponed, to date,
33 no response has been received from Ms. Brown, either. Ms. Rellou said
34 that Citizens express disappointment and regret with the lack of
35 responsiveness and accountability by the Board Chairman and the
36 consultants he engages and whose actions and recommendations Citizens
37 believe he influences. Ms. Rellou indicated that the Planning Board has
38 given the Granite Point applicant 244 months from February 1995, when
39 his 2nd application for preliminary subdivision approval was submitted to
40 this Board. She said that this is an anomaly and irregularity not envisioned

1 by SEQRA and not practiced by any other responsible Town anywhere, for
 2 a single application for a large housing subdivision to remain in effect over
 3 more than 20 years, 244 months to be exact. She said that any other
 4 responsible Town steward of the environment and accountable to its
 5 citizens would have required a brand new application to be submitted over
 6 the past two decades in light of significant new environmental protection
 7 regulations that have been passed into law at all government levels in the
 8 last 20 years. Ms. Rellou stated that a new application for Granite Pointe
 9 should have been required by this Board at the time site contamination was
 10 confirmed by soil testing in early 2004, prompting this Board to rescind the
 11 previously issued final subdivision approvals to the Granite Pointe housing
 12 subdivision, shockingly on the forested promontory of Amawalk Reservoir.
 13 She said that this is a major drinking water supply for more than 40,000
 14 people with the majority in Yorktown and the rest in Somers.

15
 16 Ms. Rellou said that Citizens of this Town were unfairly given only 27 days
 17 to tonight's public hearing from your May 13, 2015 meeting scheduling
 18 such expedited public hearing just 27 days to citizens but 244 month to the
 19 landowner/developer. She noted that if we count the timeframe from his
 20 original application to this Board, on or about 1988, you have given the
 21 Granite Pointe applicant from 1988 to today 27 years, amounting to 328
 22 months. She stressed that 27 years to the Granite Pointe developer but
 23 only 27 days to the public. Ms. Rellou opined that such vast unfairness is a
 24 continued act unmistakably skewed in favor of the applicant/developer
 25 whose ill-conceived project still perilously hangs from a stunningly false
 26 environmental review findings statement and preliminary subdivision
 27 approval of April 1998, more than 17 years ago. Ms. Rellou said that after
 28 all of the above unfairness this Board has generously and questionably
 29 accommodated over the past 27 years. She said that even with the
 30 meager 27 days given the public, your citizens have once again had to
 31 continue the uphill struggle for justice to the environment and society. She
 32 said that citizens managed to retain the services of two experts who made
 33 themselves available to attend and present to your Board tonight. Ms.
 34 Rellou indicated that there are several additional experts, however, who
 35 were not given adequate time by this Board to even begin their review of
 36 Granite Pointe, let alone to issue their expert findings and
 37 recommendations to this Board.

38
 39 Ms. Rellou said that according to the reasonable person rule it is
 40 unreasonable for the Planning Board, its consultants and agents to except

1 citizens to engage the services of experts out of their own pockets in just
2 27 days before they can begin their review of Granite Pointe. She said that
3 the public is unavailable during the summer months and until school
4 reopens.

5
6 Ms. Rellou said that citizens standing with the forest, the environment, the
7 drinking water supply, the scenic vistas, and this and future generations
8 must not be additionally ignored and compromised any more than the Town
9 of Somers has ignored and compromised citizens, the environment and
10 future generations with its final subdivision proceedings on an unethical
11 project; a 23 unit housing subdivision, 23 septic systems and their
12 impervious surfaces to replace the 29 acre, densely forested, panoramic
13 promontory that juts into a major drinking water supply for more than
14 40,000 local area residents and that constitutes a vital public scenic,
15 ecological, environmental and drinking water resource.

16
17 Ms. Rellou said that while the Chairman and F. P. Clark Associates
18 consultants may claim a 10-day notice requirement is afforded by SEQRA
19 for Public Hearings, such 10-day allowance applies to normal projects and
20 normal timeframes followed by an applicant and a Town. She noted that
21 Granite Pointe and its timeframe from 1988 to date and from its single
22 application of 1995 to this day are not normal but are abnormal and
23 irregular.

24
25 Ms. Rellou opined that the Planning Board should not need further words to
26 keep tonight's public hearing on Granite Pointe open and to schedule a
27 follow-up public hearing on this single most crucial environmental justice
28 matter for this Town and our entire region at the October meeting on
29 October 14, 2015.

30
31 Ms. Rellou said that she expects this Board to be fully informed and take
32 the only appropriate, responsible, and ethical action: to refer Granite Pointe
33 to the Town Board and for the Town Board to reinstate discussions with
34 Westchester Land Trust that will see the forested peninsula of Amawalk
35 Reservoir, an inherently public asset, preserved as open space in
36 perpetuity.

37
38 Michael McKenna, resident of Tomahawk Street, said that the survey
39 showing the homes 300 feet from the reservoir was done when the water
40 level was low while work was taking place at the Amawalk Dam in 2007.

1 He asked who is paying for the Brownfield program.

2

3 Consultant Town Engineer Barbagallo reminded Mr. McKenna that this
4 public hearing is only on the subdivision. He explained that there is a cost
5 sharing that is traditional with every other Brownfields program in the State.

6

7 Mr. McKenna questioned why he didn't have the access to have public
8 water and this subdivision will be served by public water.

9

10 Mr. McKenna said that he understands that there was a private meeting
11 where the DEC explained how the Brownfields program will work.

12

13 Ms. Gerbino interjected that the meeting with the DEC was not private and
14 was opened to the public.

15

16 Chair Currie mentioned that Grace Zimmerman, Vice President of the
17 Historical Society, submitted her concerns in writing.

18

19 Peter Schuyler, attorney representing the Gwynne Drive residents, said
20 that he was only retained this week and did not have time to do a thorough
21 review of the project. He mentioned that he reviewed the files in the
22 Planning and Engineering Department. He agreed with Mr. Goldenberg
23 that until there is a full record the Public Hearing should remain opened so
24 experts can fully review the record. Attorney Schuyler noted that he looked
25 to see if a wetland permit was submitted but did not see that in the files he
26 reviewed. He said that under the original SEQRA analysis in 1998 the
27 resolution granting Conditional Preliminary Subdivision Approval
28 referenced that there were wetlands on the property and a wetland buffer
29 area therefore a wetland permit is required. He asked if it has been
30 determined that there are now no wetlands or buffer on the site that has to
31 be considered under Chapter 167 of the Wetlands and Watercourse
32 Protection section of the Town Code. Attorney Schuyler stated that if a
33 wetland permit is required that analysis is required before final subdivision
34 approval under a separate Public Hearing.

35

36 Attorney Schuyler said that the SEQRA analysis has already taken place
37 but his review of the record that analysis was done in 1997 and 1998 and
38 none of the Board members are presently on this Board. He noted that this
39 application has gone on for almost 30 years and the original SEQRA
40 analysis cannot be relied on by this Board and the SEQRA Law states that

1 any changes or analysis they have to be reviewed under a new or
2 supplemental SEQRA analysis. Attorney Schuyler opined that this
3 application is an anomaly because this application has dragged on for so
4 long. He said that additional contamination on the site cannot be
5 determined until after the cleanup of the site. He mentioned that the
6 applicant is saying that they will do the remediation after they have their
7 final subdivision approval and that is not how this should work. Attorney
8 Schuyler said that it would be unfair to the rest of the citizens of this Town
9 if this Board gives preference to this developer.

10
11 Attorney Schuyler opined that if there is a wetland permit required this
12 application has to go back to square one before the final subdivision can be
13 approved. He mentioned that analysis for the bonds has to take place
14 before final approval.

15
16 Consultant Town Engineer Barbagallo asked Attorney Schuyler to read
17 Resolution No. 2002-26 as that is the document the Board is working off as
18 the applicant has Preliminary Subdivision Approval that was based on the
19 SEQRA analysis at that time. He explained that there are 21 conditions that
20 have to be addressed under the Final Subdivision Approval. Consultant
21 Town Engineer Barbagallo said that one of the conditions referenced the
22 SWPPP where the DEC and DEP are involved in that review.

23
24 Planning Board Town Attorney Eriole said that the questions Attorney
25 Schuyler raised in reference to SEQRA do not assume that they were not
26 considered by this Board if material changes were made. He mentioned
27 that there was a Supplemental Environmental Impact Statement (SEIS)
28 that was prepared and fully reviewed by the Planning Board. Attorney
29 Eriole said that the scope of the meeting tonight is about the conditions that
30 are remaining and are not about SEQRA and new or old environmental
31 concerns.

32
33 On motion by Mr. McNamara, seconded by Mrs. DeLucia, and
34 unanimously carried, the Board moved to continue the Public Hearing at
35 the July 8, 2015 Planning Board meeting.

36
37 **PROJECT REVIEW**

38
39 **SOMERS POINTE COUNTRY CLUB [TM: 6.17-20-1.21]**

40

1 Chairman Currie said this is the application of Somers Pointe Country Club
2 for a Site Plan for property located on the southeast side of the Somers
3 Pointe Clubhouse at 100 West Hill Drive for the construction of a swimming
4 pool and cabana building and two tennis courts with associated parking lots
5 to provide additional recreational activities.

6
7 Chairman Currie asked the applicant's representative to update the Board
8 and the public on the application.

9
10 John Petroccione, the applicant's engineer, said that the proposal is to
11 install a 1600 square foot swimming pool, cabana building adjacent to the
12 pool, two tennis courts and two parking lots to accommodate the additional
13 cars. Engineer Petroccione noted that this is consistent with the previous
14 approved plans, although he knows that approval is no longer valid. He
15 mentioned that he will be addressing the Consultant Town Engineer's and
16 Planning Director's memos.

17
18 Chair Currie acknowledged a memo from the Open Space Committee
19 dated May 29, 2015, Somers Bureau of Fire Prevention dated May 20,
20 2015, Woodard & Curran dated June 5, 2015 and the Director of Planning
21 dated June 5, 2015.

22
23 Chair Currie asked Director of Planning Dym to review her memo for the
24 benefit of the Board and the public.

25
26 Director of Planning Dym said that initially she felt that the application was
27 not complete due to items that needed to be resolved but Engineer
28 Petroccione sent a letter addressing the items that previously were deemed
29 incomplete. She noted that a major threshold issue to be determined is
30 whether the application complies with zoning Section 170-12 Designed
31 Residential Development (DRD). She said that the golf course, swimming
32 pool, tennis courts, riding stables and general recreation and athletic
33 facilities are intended primarily for the use of residents of the DRD. She
34 noted that under the parking requirements specifically within the DRD
35 District it lists two separate uses that separates the golf course use from
36 the pool and other facility uses. Director of Planning Dym said that it is not
37 clear why the Country Club use was not separate. She mentioned that this
38 relates to who are the members of this club. Director of Planning Dym said
39 that during discussion with the Town Attorney and the Building Inspector it
40 became clear that an interpretation of the zoning needs to be made and

1 that has to be made by the Building Inspector. She said that the Planning
2 Board should refer the zoning question to the Building Inspector.

3
4 Director of Planning Dym said that another issue is parking compliance that
5 relates to the Golf Club, restaurant and swimming pool parking. She
6 indicated that the applicant is proposing a total space provision of 199
7 spaces of which 111 are existing, 38 new would be constructed and 50
8 spaces would be landbanked or not built at this time. She said that she
9 recommends a parking utilization study, as the results will provide
10 information that the Planning Board needs to determine whether all, some
11 or none of the spaces should be landbanked, proposed landbanked parking
12 areas should be prepared to be used only as overflow parking during peak
13 periods and whether valet parking is something that should be considered.

14
15 Director of Planning Dym said that architecture elements and a floor plan of
16 the proposed cabana building need to be provided and enclosures around
17 the tennis courts need to be detailed and described. She mentioned that a
18 landscape plan for the proposed development needs to be prepared.
19 Director of Planning Dym said the Board needs a better idea on the number
20 of trees to be removed. She also mentioned that the applicant should
21 address the issues in the Open Space Committee memo.

22
23 Chair Curie asked Consultant Town Engineer Barbagallo to review his
24 memo for the benefit of the Board and the public.

25
26 Consultant Town Engineer Barbagallo said that the applicant provided a
27 draft SWPPP for review and the applicant will address his concerns. He
28 mentioned that the applicant proposes to construct porous pavement
29 parking areas to address stormwater quality and runoff reduction
30 requirements. Consultant Town Engineer Barbagallo said that he asked
31 that the steep slopes analysis be revised to distinguish steep slopes by
32 categories defined in the Town Code. He noted that the applicant shall
33 update the erosion and sediment control plan to illustrate proposed limits of
34 erosion blanket installation on steep slope areas. Consultant Town
35 Engineer Barbagallo asked that the applicant provide a summary of project
36 earthwork as cut/fill volume. He also recommended that installation of
37 temporary sediment trap outside of the lower landbanked parking area
38 should be considered during construction. Consultant Town Engineer
39 Barbagallo said that the applicant shall prepare a rock removal plan to
40 describe rock excavation activities during construction. He noted that the

1 plans show the construction of new outdoor lighting adjacent to the new
 2 parking area and asked that a site photometric plan to depict illumination
 3 levels based upon the layout and intensity of light fixtures be provided for
 4 consideration by the Planning Board.

5

6 Consultant Town Engineer Barbagallo mentioned the grading and utility
 7 plan and noted that it does not include the proposed electrical utilities for
 8 the development. He also recommended that the application include the
 9 construction of the new cabana structure. He indicated that the applicant
 10 shall obtain all Westchester County Department of Health approvals for
 11 water service and sanitary sewer modification prior to the issuance of a
 12 Building Permit. He commented that aerial imagery appears to show an
 13 existing maintenance/service road between the existing parking lots and
 14 golf cart storage barn and he asked the applicant to clarify how access to
 15 the cart storage barn and other maintenance activities will be coordinated
 16 with the construction work. Consultant Town Engineer Barbagallo stated
 17 that the applicant must identify the proposed interim construction condition
 18 of landbanked parking areas contemplated for porous pavement parking
 19 lots. He said that it should be noted that temporary vehicle access
 20 driveways should not be planned in future porous pavement infiltration
 21 areas.

22

23 Consultant Town Engineer Barbagallo said he is concerned about the
 24 condos on the northern side because of the runoff of stormwater in that
 25 area. He mentioned that has to be looked at to make the situation better.

26

27 Mr. Goldenberg said that this action effects a private community of 5,000
 28 residents. He noted that the Country Club is primarily for Heritage Hills
 29 residents. Mr. Goldenberg indicated that there has to be a Zoning Change
 30 because no Heritage Hills resident will join the pool or tennis court as they
 31 already have their own pools and tennis courts. He opined that this is not a
 32 Site Plan change but a change in zoning.

33

34 Ms. Gerbino said that the club was to be a private business and not part of
 35 Heritage Hills. She noted that the use of the roads in Heritage Hills provide
 36 a revenue to the Society. Ms. Gerbino opined that it is important to get the
 37 interpretation of the Building Inspector on the intent of the DRD.

38

39 Director of Planning Dym said Section 170-12 D.(5) lists two separate uses
 40 with two different parking requirements. One is "private golf and country

1 club” and this is the reason that an interpretation has to be made by the
2 Building Inspector.

3
4 Ms. Gannon said that at the last meeting she spoke about delivery trucks
5 parking on the road and she was given assurance that would not continue.
6 She noted that on June 5, 2015 at 3:07 PM she passed the site and there
7 was a truck parked on the road. She asked where deliveries are supposed
8 to take place.

9
10 Mr. Dorno, manager of the Somers Pointe Country Club, showed the Board
11 the driveway where trucks should make deliveries. He said that he will
12 speak to the truck drivers to make sure they park in the driveway.

13
14 Ms. Gannon questioned if the driveway pull in is adequately sized.

15
16 Consultant Town Engineer Barbagallo said he will take a look at the loading
17 facility. He suggested a turning radius plan showing how the trucks turn in
18 and out.

19
20 On motion by Chair Currie, seconded by Mrs. DeLucia, and unanimously
21 carried, the Board moved to make a referral to the Building Inspector
22 relative to the interpretation of zoning as per the Director of Planning’s
23 memorandum dated June 5, 2015.

24
25 Planning Board Town Attorney Eriole said that it is a matter of law that the
26 first level of interpretation of any municipal code is the Building Inspector.
27 He said that the next level of appeal is the Zoning Board of Appeals (ZBA)
28 if there is controversy over the decision of the Building Inspector.

29
30 **INFORMAL APPEARANCE WITH SKETCH PLAN (CONTINUED)**

31
32 **SOMERS CROSSING [TM: 17.15-1-15.1]**

33
34 Mr. Goldenberg recused himself and did not participate in the discussion
35 and review of the application.

36
37 Chairman Currie said that the Board will be discussing and reviewing the
38 Informal Appearance with Sketch Plan for the approval of the preliminary
39 development concept plan that includes a grocery store and an 80 unit
40 multifamily residential community.

1 Chairman Currie asked the applicant to update the Board and the public on
2 the project.

3
4 Gus Boniello, applicant, said that the last time he was before the Board he
5 discussed changes that would be made. He explained that the changes
6 came from the comments from the Planning Board, Department of
7 Environmental Conservation (DEC), Department of Environmental
8 Protection (DEP) and the Town Board. Mr. Boniello said that there will be
9 an interconnection to the Somers Towne Centre which will alleviate the
10 traffic flow as the left hand turn will be removed. He indicated that the
11 grocery store will be moved to the front of the property and the parking will
12 be in the back. Mr. Boniello mentioned that now everything will be out of
13 the wetland and wetland buffer area. He said that the trash collection will
14 be enclosed and inside the buildings. Mr. Boniello explained that infiltration
15 and stormwater basins will be used. He said that the biggest change in the
16 residential is that there now will be 65 units instead of 85. He mentioned
17 that the road design has been changed from a looped road to three cul-de-
18 sacs. Mr. Boniello said that a community center has been added to the site
19 as requested by a few agencies. He commented that the buildings and
20 infrastructure will use the green technology.

21
22 Chairman Currie asked Mr. Boniello if the owner of the Towne Centre is
23 aware of the changes.

24
25 Mr. Boniello said that the owner of the Towne Centre is aware of the
26 changes but he will meet with him officially when things are more definite.

27
28 Chair Currie asked how the residents will exit their building.

29
30 Mr. Boniello explained that residents will exit via Route 100.

31
32 Ms. Gerbino asked if there will be sidewalks so residents don't have to
33 drive to the shopping center.

34
35 Mr. Boniello said that the area is pedestrian friendly and residents can walk
36 to the shopping center. He said that he considered sidewalks in the
37 residential section but feels they will make the area look too cluttered. Mr.
38 Boniello said that the DEIS has been accepted and now he is working on
39 the FEIS.

40

1 Ms. Gannon noted that the Town is embracing complete streets which
2 includes sidewalks. She asked how children will get to the school bus stop.

3
4 Mr. Boniello said that sidewalks will be added on the commercial side of the
5 project. He explained that there will be a central pick up for the children
6 on site.

7
8 Chair Currie asked if Director of Planning Dym had any comments on the
9 presentation.

10
11 Director of Planning Dym explained that she is not the planner on the
12 project but after a quick review of the plans she finds that there is not
13 enough visitor parking.

14
15 Mr. Boniello said that Director of Planning Dym's comment is being looked
16 at and he anticipates more parking will be added to the visitors parking
17 area.

18
19 There being no further business, on motion by Chair Currie, seconded by
20 Mr. McNamara and unanimously carried, the meeting adjourned at 10:30
21 P.M. The Chair announced that the next Planning Board meeting will be
22 held on Wednesday, July 8, 2015 at 7:30 P.M. at the Somers Town House.

23

24

25

26

27

Respectfully submitted,

28

29

Marilyn Murphy
Planning Board Secretary

30

31

32