

John Currie, *Chairman*
Vicky Gannon
Jack Mattes
Bruce Prince
Anthony Sutton
Christopher Zaberto

Town of Somers
WESTCHESTER COUNTY, N.Y.

TOWN HOUSE
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**SOMERS PLANNING BOARD AGENDA
OCTOBER 9, 2024
7:30 PM**

MINUTES

Draft Minutes for consideration of approval: September 11, 2024

TIME EXTENSION

- 1. GRANITE POINTE RE-GRANT OF FINAL SUBDIVISION APPROVAL, STEEP SLOPES, TREE PRESERVATION, STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL PERMITS**
TM: 27.05-3-2&5

Request for the 29th 90-day time extension for Granite Pointe Subdivision, Re-Grant of Final Subdivision Approval, Wetland, Steep Slopes, Tree Preservation and Stormwater Management and Erosion and Sediment Control Permits, as per Resolution 2017-10, from October 12, 2024 up to and including January 10, 2025 as per Town Law Section 276 (7) (c) and Town Code Section 150-13M. The property is located on the east side of Route 118/202, adjacent to the Amawalk Reservoir and is located in an R-40 Zoning District for the development of 23 lots in a Cluster Subdivision.

- 2. NYS POLICE HEADQUARTER - SOMERS FIRE DISTRICT
295 ROUTE 100 SUBDIVISION – RESOLUTION NO. 2024-05**
TM: 17.18-1-1.2

Request from Somers Fire District Board of Commissioners for a 90-day time-extension from November 4, 2024 to February 2, 2025 for approved Preliminary Plat signature by the Planning Board Chairman to meet the conditions of approval, Resolution No. 2024-05 in accordance with Town Code Section 150-12.M.

PUBLIC HEARING**3. KENNEDY CATHOLIC PREP SCHOOL FIELD HOUSE APPLICATION FOR SITE PLAN APPROVAL****TM: 28.15-1-8, 9, 10**

The applicant is proposing a new 3,150 square foot field house adjacent to the sports field for exercise equipment to support the existing student population located in the center of the property at the southeast corner of the main athletic field. The property is located at 554 Route 138 and is in an R-120 Zoning District.

PROJECT REVIEW**4. WRIGHT'S COURT SITE PLAN - CHANGE OF USE
339 ROUTE 202****TM: 17.11-1-5&18**

The applicant submitted a site plan application for a proposed change of use to convert two separate levels in Building A-1 located at 339 Route 202 that were previously used as a martial arts training studio to proposed office uses. The property is located at 339 Route 202 and is in the Business Historic Preservation (BHP) District.

**5. NEW CINGULAR WIRELESS PCS, LLC ("AT&T")
RENEWAL OF SPECIAL USE PERMIT – SOMERS COMMONS SHOPPING
CENTER, 80 ROUTE 6****TM: 4.20-1-11**

The Applicant is applying for the renewal of their Special Use Permit for its existing co-located wireless telecommunications antennas located at 80 Route 6 (Somers Commons Shopping Center), which was last renewed by the Planning Board via a Resolution filed April 18, 2019.

**6. LACKNER WETLAND AND WATERCOURSE AND STORMWATER
MANAGEMENT AND EROSION AND SEDIMENT CONTROL APPLICATION
11 VALLEY DRIVE****TM: 26.15-1-42**

The applicant is proposing to construct an in-ground swimming pool, spa and related site work within a wetland buffer area. The property is located at 11 Valley Drive and is in an R-40 Zoning District.

DISCUSSION

**7. DISCUSSION - HARNEY PRELIMINARY SUBDIVISION APPLICATION
10 KEYREL LANE
TM: 16.07-1-3**

Application for Preliminary Subdivision for property located at 10 Keyrel Lane to subdivide the existing property creating two (2) residential lots. The property is located in an R-40 Zoning District. Applicant will be requesting the application of Town Law 280-a.

8. 2025 PLANNING BOARD CALENDAR

MEETING ADJOURNMENT

**The next Planning Board Meeting is scheduled for
Wednesday, November 13, 2024 at 7:30pm.
Agenda Subject to Change**

PLANNING BOARD

John Currie, *Chairman*
Vicky Gannon
Bruce A. Prince
Christopher Zaberto
Jack Mattes
Anthony Sutton

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SOMERS PLANNING BOARD MINUTES
September 11, 2024
7:30PM

ROLL

MEMBERS PRESENT: John Currie, Anthony Sutton, Jack Mattes, Christopher Zaberto,
Vicky Gannon

PLANNING BOARD BY ZOOM: Bruce Prince

ABSENT:

ALSO PRESENT: David Smith, Consulting Town Planner, Michael Towey,
Planning Board Attorney, Steven Robbins, Consulting Town
Engineer, Woodard & Curran

ALSO PRESENT BY ZOOM:

MEETING COMMENCEMENT

The meeting commenced at 7:30 p.m.

A moment of silence is given for the lives lost on September 11, 2001.

Chairman John Currie requests participants say the Pledge of Allegiance.

Consulting Town Engineer, Mr. Steven Robbins calls the Roll.

MINUTES

Regarding the meeting minutes for the August 14, 2024 Planning Board Meeting, Mr. Currie moves to accept the meeting minutes as they are presented in front of the Board. Mr. Jack Mattes seconds. All in favor. Motion passes.

CONTINUATION OF PUBLIC HEARING

**1. 24 ROSS DRIVE STEEP SLOPE PROTECTION AND STORMWATER
MANAGEMENT AND EROSION AND SEDIMENT CONTROL APPLICATION
TM: 16.10-2-66**

The Applicant is proposing to reconstruct the existing house with new septic, provide plantings and additional stormwater controls along an existing slope. The property is located at 24 Ross Drive in an R-10 Zoning District.

Mr. Andy Cheung presents for the Applicant before the Planning Board. Mr. Cheung states that Mr. Robbins provided comments which have since been addressed. Most of the comments were regarding grading and clarification on stormwater management. Mr. Cheung states the limits of disturbance have been updated in addition to filing a draft notice of intent to NYSDEC for disturbance over 5,000 square feet.

Mr. Robbins confirms that minor revisions to the site plan have been made to address his comments. He states that the Applicant has not made a final submittal with these revisions, but Mr. Robbins has reviewed them and believes the changes address his comments. The biggest concern on the site is the management of the stormwater specifically managing runoff on the south and east of the property, since there have been incidents of runoff flooding adjacent properties in the past. Mr. Robbins states that the site is now stabilized with vegetation and erosion and sediment controls are installed on the site. There have been no reports of flooding onto adjacent properties during the past multiple large storm events. Mr. Robbins states that the current site plan addresses the stormwater on the property. The run-on from Ross Drive has been addressed via a curb that was installed by the Highway Department across the driveway. The curb height is appropriate for a vehicle to traverse, but the curb could be softened. He states the Applicant has provided a development plan that meets code for stormwater and is more appropriate for the site than the prior proposal.

Mr. Currie asks if there is anyone from the Public who would like to present before the Planning Board.

No one from the Public presents.

Ms. Gannon clarifies that the last memo from Mr. Robbins' office was dated September 9, 2024, and that there have been conversations since that have resolved the few non-addressed issues in the memo.

1 Mr. Robbins states that through a verbal discussion and screen share before this Planning
2 Board meeting, the comments have been addressed pending final submission. Mr. Robbins
3 suggests that if the Board decides to prepare a resolution, the Board could prepare a
4 conditional resolution pending final submission from the Applicant.

5
6 Mr. Currie moves to close the Public Hearing. Ms. Gannon seconds. All in favor. Motion
7 passes.

8
9 Mr. Currie moves to direct Staff to prepare a conditional resolution. Ms. Gannon seconds.
10 All in favor. Motion passes.

11
12 **PUBLIC HEARING**

13
14 **2. 24 ORCHARD HILL ROAD WETLAND AND WATERCOURSE PROTECTION**
15 **AND TREE REMOVAL APPLICATION. TM 37.10-1-13.1**

16
17 The Applicant is proposing to construct a 355 square foot one-story addition to the existing
18 accessory structure. The property is located at 24 Orchard Hill Road and is in an R-120
19 Zoning District/Conservation Easement.

20
21 Ms. Mary Desmond with Abrams Fensterman, LLP introduces her colleague Mr. Michael
22 Towey who will represent the Planning Board moving forward.

23
24 Mr. Robbins states that the legal notice was posted in The Journal News on August 29,
25 2024. The adjoining property owners were notified via mail on August 29, 2024.

26
27 Ms. Claire Harris, representing SI Design Architects, presents before the Board for the
28 Applicant. Ms. Harris explains the proposed project is for the addition of 355 square feet to
29 an existing accessory structure. Approximately 80 square feet of the addition falls within the
30 100-foot wetlands buffer, and the addition is approximately 91 feet away from the existing
31 watercourse. She explains a 10-foot by 10-foot rain garden has been added to the site plan to
32 help retain rainwater. The new roof will align with the existing roof, and the materials will
33 match the existing materials. With the proposed addition, the total square footage of the
34 accessory structure is 12,984 square feet.

35
36 Mr. Robbins states that the addition of the rain garden addresses his last outstanding
37 comment.

38
39 Mr. Currie asks if there is anyone from the Public who would like to present before the
40 Planning Board.

41
42 Ms. Lisa Miliki, from 14 Orchard Hill Road, asks which structure the proposed addition is
43 being added to.

44
45 Ms. Harris states the proposed addition is being added to the existing tennis structure.
46

1 Ms. Miliki asks if the tennis structure is the second structure as you pull into the property.

2
3 Ms. Harris points out the structure on the site plan.

4
5 Ms. Miliki states that 24 Orchard Hill Road sold its building rights in the past. She asks if
6 this addition is allowed if the building rights have been sold.

7
8 Mr. Christopher Zaberto asks how Ms. Miliki interprets the meaning of selling the business
9 rights.

10
11 Ms. Miliki states that the land becomes preserved and then the existing dwellings cannot be
12 expanded or built upon.

13
14 Ms. Desmond states that there is a conservation easement on this piece of land, but the
15 conservation does not cover the structure in question. The conservation easement wouldn't
16 restrict any extension to the tennis structure.

17
18 Mr. Currie moves to close the Public Hearing. Ms. Gannon seconds. All in favor. Motion
19 passes.

20
21 Mr. Currie moves to accept Resolution 2024-09 granting conditional approval for wetland
22 and watercourse protection permit, town map 37.10-1-13.1. Mr. Zaberto seconds. All in
23 favor. Motion passes.

24
25 **3. NYCDEP FOREST MANAGEMENT WORK WETLAND AND WATERCOURSE**
26 **PROTECTION AND TREE REMOVAL APPLICATION. TM: 28.14-25-1.**

27
28 Application for a Wetland and Watercourse Protection Permit and a Tree Removal Permit
29 for work that will involve silvicultural forest thinning, tree planting and invasive plant
30 control by mechanical and chemical means. The project is linear along the NY-100 corridor
31 from Pines Bridge to Muscoot Farm County Park, approximately 3.5 miles.

32
33 Mr. Robbins states that the Legal Notice was published in The Journal News on August 29,
34 2024. Adjoining property owners were notified via mail on August 29, 2024.

35
36 Mr. Bart Caterino from NYCDEP presents before the Board. Mr. Caterino explains that the
37 proposed project is to thin the forest to improve the growth of the existing best trees on the
38 site. Invasive species will be removed by chemical and mechanical means to enhance the
39 growth of the forest along Route 100 and the Croton Reservoir. 4500 trees will be planted as
40 part of the project.

41
42 Mr. Robbins states that NYCDEP provided a response to his comment memo which
43 addressed most of the comments. One outstanding comment, which the Board will have to
44 weigh in on, is in regards to the approval mechanism for the chemical controls being used.
45 There are two chemical written into the plans, and there is language that states that if other

1 chemicals are to be used, NYCDEP will have to approve them. Mr. Robbins asks if
2 NYCDEP approval is sufficient for the Planning Board.

3
4 Mr. Currie asks if there is anyone from the Public who would like to present before the
5 Planning Board.

6
7 Mr. Jens Anderson, from 11 Logging Road, asks where exactly the project area is located.

8
9 Mr. Caterino states that the project area is in NYCDEP owned parcels along Route 100
10 roughly from the Yorktown border through Muscoot County Park. He states that NYCDEP
11 is looking to start as soon as permits are approved. NYCDEP would like to start mechanical
12 vegetation control work in the winter of 2024. In spring of 2025, NYCDEP would begin
13 chemical vegetation control. This schedule allows for less chemicals to be used. He states
14 that tree cutting work could occur at any time of the year, but NYCDEP would want to
15 complete the invasive species control before felling trees.

16
17 Mr. Currie states that NYCDEP will not be able to treat the invasive species if there not
18 actively growing.

19
20 Mr. Caterino states Mr. Currie is correct and NYCDEP can cut the invasive species down in
21 the winter and then treat the resprouts in the spring.

22
23 Ms. Gannon asks if there is a scheduled or preferred end date for this project.

24
25 Mr. Caterino states that the preferred end date for this project is June 2026.

26
27 Mr. Antony Sutton clarifies that the project duration is approximately 18 months.

28
29 Mr. Caterino confirms this is correct.

30
31 Ms. Amanda Locke, the NYCDEP Regional Forester for Somers, presents before the Board.
32 Ms. Locke adds that the timing of the tree planting is a time constraint. The trees would
33 need to be planted in the spring or fall. She states she is hopeful that the project can be
34 completed by the end of 2025 but should there be delays the tree planting would happen in
35 the spring of 2026. She states that the contract also includes approximately 2 years of
36 maintenance after the plantings are complete, but this would be minimal work.

37
38 Mr. Currie asks if watering is included as part of the maintenance.

39
40 Mr. Caterino states that the Contractor would only be responsible for watering for one year
41 since the new trees are potted trees.

42
43 Mr. Anderson asks what constitutes invasive species regarding trees.

44
45 Mr. Caterino states that the major invasive trees on this site would be Norway Maples and
46 Trees of Heaven. There may be Amur Cork trees as well.

1 Mr. Anderson asks what percentage of the existing forest NYCDEP expects to cut down.

2
3 Mr. Caterino states that a small percentage of trees will be cut. On average 6 out of every 98
4 trees will be cut. It would be hard to notice that trees were cut.
5

6
7 Mr. Bruce Prince asks if a decision regarding tree permits for this project has been made.
8

9 Mr. David Smith states that Mr. Steve Woelfle, the Town Engineer, will be coordinating the
10 tree permit issue with the Town Board.
11

12 Mr. Sutton states there are numerous areas along Route 100 that will be affected by this
13 project. He asks how staging of equipment and traffic management will be handled.
14

15 Mr. Caterino states that all project work will occur on NYCDEP owned land. There will be
16 no operations that impede the roadway. He states NYCDEP is requiring the contractor to
17 work with the Department of Transportation if the shoulder of the road needs to be taken,
18 but there won't be the case where a whole lane needs to be closed.
19

20 Mr. Sutton clarifies that there will be no bucket trucks working from the roadway.
21

22 Mr. Caterino believes this is correct.
23

24 Mr. Sutton asks if there will be any impedance related to staging.
25

26 Mr. Caterino states NYCDEP has large parking areas along Route 100 and equipment will
27 be staged there.
28

29 Mr. Sutton asks how the vines are going to be handled.
30

31 Mr. Caterino states that the vines will be cut and then left to die.
32

33 Mr. Currie asks that when the trees are cut and the underbrush is cleared, if the material will
34 either be chipped or taken off site.
35

36 Mr. Caterino states that material will be chipped and/or taken off site when within a certain
37 distance from the roadway. Material farther back from the road will be left to decompose
38 and replenish the soil. He clarifies that the left trees and materials won't be piled up but
39 spread about the forest floor. Cut trees will be laid flat on the ground.
40

41 Mr. Sutton asks if material will be left near the recreational boat areas.
42

43 Mr. Caterino states that the recreational boat areas will be clear and accessible for fishing
44 and boating.
45

1 Ms. Gannon recalls discussing leaving the cut material in areas that were not visible from
2 the roadway. She recalls that this area of forest did not have the type of invasive species that
3 could replant themselves after being cut.

4
5 Mr. Zaberto asks about the status of NYSDEC approving the herbicidal permit.

6
7 Mr. Caterino clarifies that there will be a wetlands permit from NYSDEC. He states he only
8 knows that NYCDEP has provided the fee for the wetlands permit.

9
10 Mr. Zaberto clarifies that NYSDEC would review what NYCDEP is proposing to apply and
11 determine if the chemicals are safe to apply for the region.

12
13 Mr. Caterino confirms this is correct. He states that NYSDEC has received the same
14 package before the Planning Board, and once they review it, they will issue a permit. He
15 states that the chemicals are all preapproved for use in forest situations per the pesticide
16 laws of New York State. NYCDEP applicators will all be certified and will use the
17 chemicals within the bounds of the label, which is the law.

18
19 Mr. Currie moves to close the Public Hearing. Ms. Gannon seconds. All in favor. Motion
20 passes.

21
22 Mr. Smith asks if the Board would like a confirmatory resolution.

23
24 Mr. Currie moves to direct Staff to prepare a confirmatory resolution approving the
25 Application. Ms. Gannon seconds. All in favor. Motion passes.

26 27 **PROJECT REVIEW**

28 29 **4. HUDSON BILLIARDS SITE PLAN APPLICATION. TM: 4.20-1-11.41.**

30
31 The Applicant is proposing a change of use for an approximately 3,600 square foot
32 storefront within the Somers Commons Shopping Center from retail (Once Upon a Child) to
33 private recreation/food service (proposed Hudson Billiards). The property is located at 80
34 Route 6 and is in the CS-Community Shopping Zoning District.

35
36 Mr. Christopher Gallow and Mr. Lex Taylor, owners of Hudson Billiards, present before the
37 Planning Board. Mr. Gallow states that they are trying to convert a traditional retail space
38 into a private recreation and food service which includes billiards, a high-end cocktail
39 program, and a high-end food offering program. He states that they plan on introducing a
40 youth billiards program during the day hours. They plan on hosting tournament programs
41 from sanctioned leagues including the BCA and APA. In addition, they will cater to casual
42 crowds on specific days of the week, possible Thursday and/or Friday evenings.

43
44 Mr. Prince asks if the Applicant is referring to pool when talking about billiards.

45
46 Mr. Gallow confirms this is correct.

1
2 Mr. Taylor explains the new use would include eight pool tables. The project includes
3 converting existing space previously used as storage and office space into an additional
4 bathroom and commercial kitchen. In front of the new kitchen, would be a proposed 13-
5 person capacity bar. The walls for the bathroom and the bar would be the only new
6 construction. He states they are currently working with the Department of Health on the
7 proposed changes. He states the building will have a seating capacity of 35 people.
8

9 Mr. Zaberto asks if the Applicants have contacted the New York State Liquor Authority
10 regarding the proposed drink service.
11

12 Mr. Gallow states that they have submitted an application to the New York State Liquor
13 Authority. In the next 2-3 weeks, he expects a response.
14

15 Mr. Sutton asks if there will be seating for viewers at the proposed tournaments, and where
16 people that are eating will be sitting.
17

18 Mr. Taylor explains that during tournaments, typically one pool table would be the focus,
19 and chair and tables would be rearranged for the tournament. He explains that there are
20 numerous chairs and tables around the perimeter of the interior where people would eat.
21 These chairs and tables could be moved around as necessary.
22

23 Mr. Smith states that the proposed use has been reviewed by the Building Department. He
24 states that the proposed use is a permitted use within the CS Zoning District. Because this
25 project is a change of use, the Town Code requires site plan approval. Since no exterior
26 changes are being made to the property and this is an existing retail facility in a shopping
27 center, there should be plenty of parking for the new establishment. Under SEQR, this is a
28 Type II Action, so no environmental assessment form is required. He suggests that the
29 Board waive the site plan requirements and the Public Hearing for this Application. The
30 Board could then approve a confirmatory resolution.
31

32 Mr. Jack Mattes asks if the Applicants have had any similar projects in the past.
33

34 The Applicants state they have not.
35

36 Mr. Prince asks if the pool tables are stationary or moveable.
37

38 Mr. Taylor states that the pool tables are stationary, and they weigh approximately 800
39 pounds.
40

41 Mr. Currie moves to waive the site plan requirements. Ms. Gannon seconds. All in favor.
42 Motion passes.
43

44 Mr. Currie moves to waive the Public Hearing. Ms. Gannon seconds. All in favor. Motion
45 passes.
46

1 Mr. Currie moves to direct staff to prepare a confirmatory resolution. Ms. Gannon seconds.
2 All in favor. Motion passes.
3

4 **5. KENNEDY CATHOLIC PREP SCHOOL FIELD HOUSE APPLICATION FOR**
5 **SITE PLAN APPROVAL. TM: 28.15-1-8, 9, 10.**
6

7 The Applicant is proposing a new 3,150 square foot field house adjacent to the sports field
8 for exercise equipment to support the existing student population located in the center of the
9 property at the southeast corner of the main athletic field. The property is located at 554
10 Route 138 and is in an R-120 Zoning District.
11

12 Mr. Paul Checco, Principal at PC Studio Architects, presents before the Board. He states the
13 project proposes a new 3,150 square foot athletics center to supplement the physical
14 education at Kennedy Catholic. The new center would only be used by the student
15 population. Inside the existing building is a small weight room which no longer can support
16 the growing student population. He states that his civil engineer has been in coordination
17 with Mr. Robbins and has designed a stormwater pollution prevention plan that utilizes
18 infiltrators. Percolation tests have been conducted and provided good results. He states Mr.
19 Robbins has received more minor comments from Mr. Robbins since. Additionally, the
20 Bureau of Fire Prevention has provided minor comments. He states sewer will be served via
21 the existing sanitary manhole to the northeast of the building.
22

23 Mr. Smith states that the Bureau of Fire Prevention has provided comments to the Planning
24 board regarding access to the building. He asks if the Board has any preliminary responses
25 to those comments.
26

27 Mr. Checco states there is an access road that runs to the east of the building. The building is
28 approximately 70 feet off the access road. A spur that comes off the access road would be
29 added. He states the survey needs to be expanded to show the access road on the plans.
30

31 Ms. Gannon asks if this access road is the same one that has been there for many years.
32

33 Mr. Checco states that this access road is the one Ms. Gannon is referring to.
34

35 Mr. Sutton asks if there is proposed parking associated with the project.
36

37 Mr. Checco states the existing parking is adjacent to this structure, and no new parking is
38 proposed.
39

40 Mr. Zaberto asks what the current student enrollment is.
41

42 Father Vaillancourt, from Kennedy Catholic Prep School, states the current enrollment is
43 620 students.
44

45 Mr. Prince asks what material the proposed access road spur would be made of.
46

1 Mr. Checco states that the material will be reinforced turf. Fire trucks can drive over the
2 reinforced turf, and the turf is pervious to allow rainwater to penetrate through it.

3
4 Mr. Robbins states that this is a relatively small project which adds some impervious area.
5 The disturbance is more than 5,000 square feet, which means the Town's stormwater plan
6 requirements are required. Mr. Robbins states he is awaiting a resubmittal from the
7 Applicant which addresses his outstanding comments.

8
9 The Board agrees that a site walk should be scheduled.

10
11 Mr. Checco will stake out the corners of the proposed building.

12
13 The Board schedules a site walk for September 14, 2024 at 8:00 a.m.

14
15 Mr. Currie moves to schedule a Public Hearing for the October 9, 2024 Planning Board
16 Meeting. Ms. Gannon seconds. All in favor. Motion passes.

17
18 **CONSIDERATION OF DRAFT RESOLUTION**

19
20 **6. LAWTON ADAMS APPLICATION FOR SITE PLAN APPROVAL 260 ROUTE 100.**
21 **TM: 28.10-2-6.1**

22
23 Consideration of Draft Resolution No. 2024-10, Granting of Conditional Site Plan
24 Approval, Groundwater Protection Overlay District, Special Use Permit, Stormwater
25 Management and Erosion and Sediment Control Permit and Steep Slope Permit to Lawton
26 Adams Materials, Supplies and Recycling. Application for Site Plan approval for the
27 construction of a proposed new building (8,455 +/- SF) for retail, warehouse and office use.
28 The property is located at 260 Route 100 and is in an OLI (Office & Light Industry) Zoning
29 District.

30
31 Mr. Smith states a draft resolution is before the Board. Mr. Tim Allen has reviewed the
32 resolution and provided comments. Some minor modifications have been made. An
33 additional review memo from the Town of Somers ARB dated August 23, 2024 was added.
34 He states the ARB had no issues with the design of the building. In the Conditions Required
35 Prior to Signing, language has been added indicating that the Applicant still has to address
36 some outstanding engineering comments from Mr. Robbins' August 7, 2024 review memo.

37
38 Mr. Currie moves to accept Resolution 2024-10 with the previously mentioned changes for
39 the Granting of Conditional Site Plan Approval, Groundwater Protection Overlay District,
40 Special Use Permit, Stormwater Management and Erosion and Sediment Control Permit and
41 Steep Slope Permit to Lawton Adams Materials, Supplies and Recycling. Ms. Gannon
42 seconds. All in favor. Motion passes.

TOWN BOARD REFERRAL**7. TRAILSIDE ESTATES ENVIRONMENTAL REVIEW/EXPANDED ENVIRONMENTAL ASSESSMENT FORM.**

The Town Board has caused to be circulated an expanded EAF and requests the Planning Board, as an involved agency, to provide comments on potential environmental impacts and proposed mitigation prior to a determination of significance being made.

Mr. Smith states that the Town Board has gone through a process where they declared their intent to act as lead agency. The Applicants have previously presented before the Planning Board, and the Planning Board had no objections as the Town Board acting as lead agency. Mr. Smith states the Applicant has prepared a series of technical reports to go along with the full environmental assessment form, which has been circulated to all interested and involved agencies. The Town Board is asking, from each interested and involved agency, if there are any comments on the environmental impact of this proposed project. The Town Board is looking for comments for their October 3, 2024 meeting at which they will begin to evaluate and make a determination of significance. Mr. Smith explains that, under SEQR, if the Town Board finds that there are significant adverse impacts because of the proposed action, The Town Board may issue a positive declaration. An environmental impact statement will then be prepared, which is a very formal process under SEQR. If the Town Board finds that there is not a significant amount of adverse impacts, or that the adverse impacts can be mitigated, the Town Board may issue a negative declaration. Mr. Smith states that at some point this project will come before the Planning Board again for subdivision and site plan approval.

Mr. Rich Williams, from Insight Engineering, presents for the Applicant before the Planning Board. Mr. Williams states the Applicant had been before the Town Board for a while and has prepared a series of technical reports to hopefully prove there is not a significant number of adverse impacts or that the Applicant has mitigated the adverse impacts. Before the Planning Board is a full set of engineered drawings. There is still more work to do, and there is more work to do with the Planning Board after SEQR is complete. A full environmental assessment form part one, a traffic study prepared by Tim Miller Associates, an ecological setting and consideration of focal species of concern assessment prepared by Tim Miller Associates, a fiscal analysis prepared by Tim Miller Associates, narratives on stormwater and utilities, a stormwater pollution prevention plan, a wastewater engineering report, and a water engineering report have been provided to the Planning Board. Draft water and sewer petitions have been submitted to the Town Board since the existing water are sewer districts need to be expanded to encompass the property. Mr. Williams states that the property is 56.8 acres and is located at the end of Reynolds Drive. He states an unpaved access road has been constructed to the property at a previous date. The property is adjacent to a bike trail. Of the 56.8 acres, 20 acres which lie adjacent to the bike trail will be placed in conservation. 7.5 acres on the northern end of the property will be subdivided for the construction of a community center. The community center will be just under 6,000 square feet and will include a 300-person community room, two indoor pickleball courts each 65 feet by 48 feet, a 23 foot by 12 foot conference room, elevator, lockers, bathrooms, a small utility space,

1 and additional storage and conference room on a second floor mezzanine. Adjacent to the
2 proposed community center, a 2-acre dog park is proposed. The proposed development
3 includes 81 units. The Applicant has worked with the Town Board to refine the layout of the
4 units. The current layout includes a main through road with the units set in 2- or 3-unit
5 clusters. Numerous spur roads will come off the main road. Each unit will have a garage and
6 their own parking space in a driveway. 70 visitor parking spaces will be included. Testing
7 on the stormwater designs has been completed, and preliminary concepts for where the
8 stormwater infrastructure will be located have been made. Coordination with the Bureau of
9 Fire Prevention has happened as well. The Applicant is willing to coordinate with the Town
10 if additional access is required. Looped access has been added through the conservation
11 easement which can be used by the fire department.
12

13 Mr. Mattes states that the conservation area near the trail is accessible through the
14 development, and the homeowners can access the conservation area. He asks if the Public
15 has this same access.
16

17 Mr. Williams states that this project will not formalize any connection between the bike trail
18 and the conservation area. He states there are existing foot paths that have been created
19 through the years, but there is no proposal to create a formal access.
20

21 Mr. Currie asks who would provide the water and sewer services to the development.
22

23 Mr. Williams states that water would be provided by the Consolidated Water District and
24 sewer would be provided by Sewer District 1 which is part of a Westchester County Sewer
25 District.
26

27 Mr. Zaberto asks what the dimensions are of the conservation area between the trail and
28 development. He asks how far off the trail is the conservation area.
29

30 Mr. Williams states the conservation area is approximately 400 feet off the trail.
31

32 Mr. Zaberto asks if there is any plan to disturb this 400-foot-wide area.
33

34 Mr. Williams states that there are no plans to disturb this area other than to provide an
35 emergency access trail.
36

37 Mr. Sutton asks if there are any plans to fence the area.
38

39 Mr. Williams states there are no plans to fence the area. He states there will be gates at
40 either end of the emergency access trail.
41

42 Mr. Zaberto asks who the proposed road material is.
43

44 Mr. Williams states the material would be Item 4 gravel.
45

46 Mr. Zaberto asks if reinforced turf could be used in the scenario or is Item 4 a better option.

Mr. Williams believes that it would be hard for grass to grow in this area if reinforced turf were to be used. He states he would prefer Item 4 gravel to have the road be more durable.

Mr. Prince asks where access would be for a possible development to the south.

Mr. Williams states there is space between the two end units that could accommodate future access.

Ms. Gannon asks Mr. Williams to describe the grade as you traverse the development.

Mr. Williams states that the grade goes up and down throughout the site. He states that the Applicant would cut into the existing hill to nestle the units in the hill. From north to south, the topology dips back down and there is a low point at the southern end of the site. Currently only 5,000 cubic yards of imported soil will be needed.

Mr. Prince asks if the residents will be okay with driving over an Item 4 gravel road.

Mr. Williams clarifies that the roadway for the residents will be paved, and the emergency access road through the woods will be Item 4 gravel.

Mr. Currie asks if the access road for this development is the same access road for a different development.

Mr. Smith states that the Applicant would be providing an access way for either an emergency access or access to another development.

Mr. Williams states that the Applicant is committed to working with the Town and to accommodate any future Town plans.

Mr. Zaberto asks if, when the Town Board is down with the SEQR and subdivision, the project will come back before the Planning Board for site plan approval.

Mr. Smith states the project will come back to the Planning Board for subdivision and site plan approval.

MEETING ADJOURNMENT

Mr. Currie states that the next Planning Board Meeting is scheduled for October 9, 2024 at 7:30 p.m.

Mr. Currie makes a motion to adjourn the meeting. Ms. Gannon seconds. All in favor. Motion passes.

Respectfully submitted,

Kyle Nordquist, Transcriber
Woodard & Curran
800 Westchester Avenue, Suite N507
Rye Brook, New York 10573

DRAFT



Timothy S. Allen, P.E.
Nicholas Gaboury, P.E.
Matthew J. Girona, P.E.

September 10, 2024

RECEIVED

Somers Planning Board
335 Route 202
Somers, NY 10589

SEP 13 2024

**PLANNING-ENGINEERING
TOWN OF SOMERS**

Attn: Mr. John Currie, Chairman

Re: Suelain Realty, LLC
Granite Pointe Subdivision
Final Subdivision Approval
Request for Extension
Sh. 27.05, Blk. 3, Lots 2 & 5

Dear Chairman and Members of the Board:

On behalf of our client, we are requesting that a 90 day extension be granted for Resolution 2017-10 that will be expiring on October 12, 2024 for the above referenced project.

Clean-up of the site is complete. We are currently working with the NYSDEC and other involved agencies to move this project toward final plat signature.

We respectfully request to be placed on your October 9, 2024 agenda for consideration.

Very truly yours,

A handwritten signature in black ink, appearing to be "T. Allen", written over a horizontal line.

Timothy S. Allen, P.E.
Senior Partner

TSA/mme

cc: J. Harkins (via email)
L. Whitehead, Esq. (via email)
File

Site Design • Environmental

Mill Pond Offices • 293 Route 100 • Suite 203 • Somers, New York 10589
Phone: 914.277.5805 • Fax: 914.277.8210
Website: www.bibboassociates.com • E-mail: bibbo@bibboassociates.com

David B. Smith

From: Eric Zohar <ezohar@somersfd.com>
Sent: Wednesday, September 25, 2024 2:46 PM
To: David B. Smith
Cc: Jerome S. Jefferson; porteuss@gmail.com; Wendy Getting; MTowey@abramslaw.com; Robert Scorrano; Kim DeLucia; Steven Robbins (srobbins@woodardcurran.com); Steve Woelfle; All Commissioners
Subject: Re: Subdivision renewal

Dave,

As requested.

This is an official request by the Somers Fire District Board of Fire Commissioners;

Re; Subdivision approval extension request.

Somers Town Planning Board

October, 2024 meeting.

Somers Fire District requesting to extend the Sub Division Approval for the Fire District Property located at 295 Route 100 Granted on May of 2024.

(Subdivision for NYS Police Barracks)

Please let us know if there's anything else you need so we can expedite the process so we can move forward with closing on the property.

Additionally please let us know what is the reason for delays last we spoke at your office when I dropped off the Survey we were waiting on signatures from Water Company so it can be submitted to the Westchester County Health Department for approval.

Thank you,

Ariye Zohar
Chairman BOFC
Somers Fire District
119 Primrose Street
Lincolndale, NY 10540
914.774.0157

"Tell me, I'll forget. Show me, I'll remember. Involve me, I'll understand"

"people may not remember what you told them, they may not remember what you showed them but they will always remember how you made them feel."

Please excuse all typos.

Woodard & Curran Engineering
and Geological Services P.A. P.C.
800 Westchester Avenue
Suite N507
Rye Brook, New York 10573
www.woodardcurran.com

T 800.426.4262
T 914.448.2266
F 914.448.0147

RECEIVED

OCT - 3 2024

**PLANNING-ENGINEERING
TOWN OF SOMERS**



MEMORANDUM

TO: David Smith, Director of Planning
FROM: Steven Robbins, P.E., LEED AP
DATE: October 2, 2024
RE: Kennedy Catholic Preparatory School Field House Project
Review of Site Plan Permit Application
TM: 28.15-1-8/9/10, R-120 District

GENERAL

The purpose of this memorandum is to provide a summary of our comments related to our review of the Site Plan Application that was submitted for Kennedy Catholic Preparatory School Field House Project, in the Town of Somers, New York.

The Applicant is proposing the construction of a 3,150 square foot field house facility adjacent to the existing sports field in the school, located near the southeast corner of the main athletic field, with a total site disturbance of 20,284 SF. The project site exceeds 5,000 SF of disturbance and is located within the East of Hudson Watershed.

This review focused on the engineering design and the associated Town Code requirements in accordance with the following:

- Town of Somers Code, Chapter 93: Stormwater Management and Erosion and Sediment Control, and other sections, as applicable.
- Town of Somers Code, Chapter 144: Site Plan Review
- Town of Somers Code, Chapter 170: Zoning.
- New York State Standards and Specifications for Erosion and Sediment Control, dated November 2016.
- New York State Department of Environmental Conservation's (NYSDEC's) Stormwater Management Design Manual (SMDM), dated January 2015.
- Rules and Regulations for the Protection from Contamination, Degradation, and Pollution of the New York City Water Supply and its Sources, Chapter 18 (NYCDEP Regulations).

DOCUMENTS REVIEWED

- Town of Somers Application for Site Plan Approval, dated July 25, 2024;
- Town of Somers Chapter 67 "Application Processing Restrictive Law", dated July 25, 2024;
- Short Environmental Assessment Form, prepared by PC Studio Architect, PLLC, dated July 25, 2024;
- Stormwater Pollution Prevention Plan (SWPPP), prepared by Sarka Leff Engineering, PLLC, dated August 22, 2024;
- Affidavit to be Completed by Corporation Owner, dated July 29, 2024;



- Drawings prepared PC Studio Architects, PLLC, including:

Sheet Number	Sheet Name	Dated
C100.00	Boundary Plan & Zoning Data	July 25, 2024
C101.00	Boundary Plan & Zoning Data	July 25, 2024
C102.00	Site Layout, Grading & Utilities Plan	July 25, 2024
C103.00	Soil Erosion & Sediment Control Plan	July 25, 2024
C104.00	Site Details	July 25, 2024
C105.00	Stormwater Management Plan	Aug 23, 2024

PERMITS AND APPROVALS REQUIRED

- Town of Somers Planning Board: Site Plan Application Permit
- NYSDEC: SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-20-001)
- NYCDEP SWPPP Approval (If determined to be required)

DISCUSSION

The following is a summary of our preliminary comments based on our technical review of the latest submittal. Previously issued comments are noted in *italics* and the corresponding current status and response is shown below in **bold**. It should be noted that further comments will be provided upon review of additional information.

1. *The Applicant shall provide a legend that clearly indicates all existing and proposed linework on the plans.* **Partially Addressed. The legend shall include all proposed utilities including storm drainage.**
2. *The Applicant shall confirm the limits of disturbance on the plans that encompasses all proposed work and provide a revised limit of work line on the plans, as it appears the proposed stormwater infiltration system go beyond the extents of the current limit of work line shown on Sheet C-102.00.* **Addressed.**
3. *The following comments are provided upon review of the SWPPP:*
 - a. *The Applicant shall provide a draft MS4 SWPPP Acceptance Form to obtain coverage under NYSDEC SPDES General Permit based upon the SWPPP for review and acceptance by the Consulting Town Engineer, as the project is in the East of Hudson watershed and will disturb greater than 5,000 SF.* **Not Addressed. The Applicant shall provide a draft of the MS4 SWPPP Acceptance Form. The form can be found at this link: https://extapps.dec.ny.gov/docs/water_pdf/swpppaccept.pdf**
 - b. *The Applicant shall provide details for Appendix K of the SWPPP.* **Addressed.**
 - c. *The Applicant shall revise the proposed stormwater management practice design to ensure there is no increase in peak flows for the 100-year storm under proposed conditions compared to existing conditions, to demonstrate the proposed project will not have adverse impacts on downstream waterways*



post-construction. Partially Addressed. The Applicant shall confirm the 100-year flow rate of the proposed condition at Point of Analysis "A", as the values in the SWPPP and the comment letter appear to be different.

- d. *The Applicant shall confirm the maximum site slope over the proposed underground infiltration system. According to Table VI.7.1 of the SWPPP, the Applicant indicates a natural slope of less than 15%; however, it appears the site slope over the footprint of the infiltration system is closer to 26%. Addressed.*
- e. *The Applicant shall confirm the Hydrologic Soil Group for the proposed runoff reduction volume calculation noted on Section V1.8.2 of the SWPPP. Addressed.*
4. *The Applicant shall provide rim and invert elevations for the proposed Cultec Stormfilter system. Addressed.*
5. *The Applicant shall confirm the minimum cover requirements have been met for the proposed underground detention system. The Applicant indicates a minimum cover of 1 foot per Sheet C105.00; however, the construction detail appears to indicate an additional 8" of cover is required above the top of the minimum 8" stone layer. Partially Addressed. The Applicant indicates a bottom of chamber elevation of 239.0 per Appendix I of the SWPPP; however, the spot elevation at the northwestern corner of the proposed system on Sheet C105.01 appears to indicate an elevation of 238.2. The Applicant shall confirm minimum cover over the entire underground detention system is met.*
6. *The Applicant shall provide a site or landscaping plan that indicates all existing trees on the property, and which trees are proposed to be protected and removed during development. If any trees are removed under the criteria per Section 156-4(A) of the Town Code, the Applicant shall provide a Tree Removal Permit and provide a Tree Removal and Protection Plan. Addressed.*
7. *The Applicant has provided a Soil Erosion & Sediment Control Plan, and the following comments are regarding this Plan:*
 - a. *The Applicant shall show the intended location of the equipment staging area on the plans. Partially Addressed. The Applicant shall add a note regarding this on Sheet C103.01.*
 - b. *The Applicant shall indicate how the proposed disturbance within slopes steeper than 15% will be protected from erosion during construction. Addressed.*
 - c. *The Applicant shall provide orange construction fencing around the extents of the infiltration practice to limit over-compaction by equipment tracking during construction. Addressed.*
8. *The Applicant shall provide sizing calculations for the proposed pretreatment system (Stormfilter T-80) to ensure the system has a treatment capacity of the water quality volume. Addressed.*

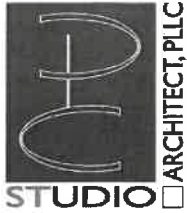


9. *The Applicant shall estimate site earthwork, indicating total net cut/fill in cubic feet.* **Addressed.**
10. *The Applicant shall provide top of wall and bottom of wall elevations for the proposed retaining walls.* **Addressed.**
11. *The Applicant shall include a note on the plans which states the following:*
 - a. *"Any imported topsoil shall comply with all federal, state, and local requirements for quality and use."* **Addressed.**
 - b. *"Off-site disposal of excess cut shall be in accordance with all federal, state, and local requirements."* **Addressed.**

Please find enclosed the following additional comments from the latest submittal:

12. The Applicant shall confirm the drainage areas for the existing conditions and proposed conditions are equal in the HydroCAD model. It appears the existing conditions model indicates 0.80 acres, whereas the proposed conditions model indicates total drainage area of 0.81 acres.
13. The Applicant shall explain how the bypass flow from the diversion manhole does not contribute to the Point of Analysis A as indicated in the Proposed Conditions with SWMP model in the HydroCAD, per the SWPPP. The peak flows for post-construction at Point of Analysis A shall be equal or less than the peak flows at the existing conditions at Point of Analysis A to ensure no adverse impacts downstream.
14. The Applicant shall confirm the invert elevations of Diversion Manhole A2, the StormFilter, and SDMH A3. The Applicant shall clarify how the water quality volume will be conveyed to the underground detention system based on the proposed elevations shown on Sheet C105.01 of the plans.
15. The Applicant shall clarify how the runoff from the impervious areas will be captured and conveyed the Diversion Manhole A2. There appears to be a cleanout upstream of the diversion manhole; however, this does not appear to have a piped connection to the 6" solid HDPE that runs underneath the paver areas.
16. The Applicant shall provide a construction detail of the proposed headwall for the bypass storm drain pipe.

Please feel free to contact our office with any questions. Please provide a response memo identifying where responses to these comments can be located on revised submittals.



RECEIVED

SEP 20 2024

19 September 2024

PLANNING-ENGINEERING
TOWN OF SOMERS

Town of Somers
Planning Board
335 Route 202
Somers, NY 10589

Att: John Currie, Chairperson & respective members

Re: Kennedy Catholic Preparatory School Field House Project
Response to Site Plan Review comments
TM: 28.15-1-8/9/10, R-120 District

Dear Chairman Currie and Members of the Board;

We are in receipt of the comments provided by Steve Robbins, P.E. of Woodward & Curran dated September 4, 2024. Following, please find the original comment followed by our response.

Comment 1: The Applicant shall provide a legend that clearly indicates all existing and proposed linework on the plans.

Response 1: Legend has been added to drawing C102.01

Comment 2: The Applicant shall confirm the limits of disturbance on the plans that encompasses all proposed work and provide a revised limit of work line on the plans, as it appears the proposed stormwater infiltration system go beyond the extents of the current limit of work line shown on Sheet C-102.00.

Response 2: Limits of disturbance have been modified to encompass the stormwater infiltration system area.

Comment 3a: The Applicant shall provide a draft MS4 SWPPP Acceptance Form to obtain coverage under NYSDEC SPDES General Permit based upon the SWPPP for review and acceptance by the Consulting Town Engineer, as the project is in the East of Hudson watershed and will disturb greater than 5,000 SF.

Response 3a: Draft of MS4 SWPPP Acceptance Form is now included as Appendix "N" to Stormwater Pollution Prevention Plan, revised September 19, 2024

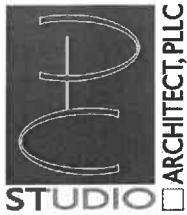
Comment 3b: The Applicant shall provide details for Appendix K of the SWPPP.

Response 3b: Appendix "K" of the SWPPP now includes Appendix F of the New York State Standards and Specifications, dated November 2016

Comment 3c: The Applicant shall revise the proposed stormwater management practice design to ensure there is no increase in peak flows for the 100-year storm under proposed conditions compared to existing conditions, to demonstrate the proposed project will not have adverse impacts on downstream waterways post-construction.

Response 3c: Underground Infiltration Basin was revised so the following Peak Flows at Point of Analysis "A" are expected based on the computation.

Storm Frequency	Existing Peak Flows at Point of Analysis "A"	Proposed Peak Flows at Point of Analysis "A"
1-year	0.19 cfs	0.18 cfs
10-year	1.65 cfs	1.49 cfs
100-year	5.25 cfs	4.75 cfs



Comment 3d: The Applicant shall confirm the maximum site slope over the proposed underground infiltration system. According to Table VI.7.1 of the SWPPP, the Applicant indicates a natural slope of less than 15%; however, it appears the site slope over the footprint of the infiltration system is closer to 26%.

Response 3d: Slope Analysis Graphic of the Project Area shows, that majority slopes in the project area fall within 0% to 15%. Slopes from 15% to 25% and 25% to 35% were created by cutting in 1970's to accommodate the existing running track. The proposed underground infiltration system bottom is situated at the toe of the slope.

Comment 3e: The Applicant shall confirm the Hydrologic Soil Group for the proposed runoff reduction volume calculation noted on Section VI.8.2 of the SWPPP.

Response 3e: Hydrological Soil Group "B", Reduction Factor was revised to be 0.4.

Comment 4: The Applicant shall provide rim and invert elevations for the proposed Cultec Stormfilter system.

Response 4: Cultech Stormfilter Rim, Inv. In and Inv. Out Elevations are now shown on Dwg. No. C105.01

Comment 5: The Applicant shall confirm the minimum cover requirements have been met for the proposed underground detention system. The Applicant indicates a minimum cover of 1 foot per Sheet C105.00; however, the construction detail appears to indicate an additional 8" of cover is required above the top of the minimum 8" stone layer.

Response 5: The detail on C105.01 was revised to reflect that the proposed underground infiltration system is not located under a paved area.

Comment 6: The Applicant shall provide a site or landscaping plan that indicates all existing trees on the property, and which trees are proposed to be protected and removed during development. If any trees are removed under the criteria per Section 156-4(A) of the Town Code, the Applicant shall provide a Tree Removal Permit and provide a Tree Removal and Protection Plan.

Response 6: No trees are proposed to be removed.

Comment 7: The Applicant has provided a Soil Erosion & Sediment Control Plan, and the following comments are regarding this Plan:

Comment 7a: The Applicant shall show the intended location of the equipment staging area on the plans.

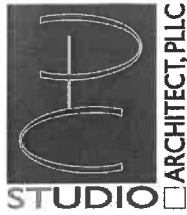
Response 7a: Material & Equipment staging are proposed to be on the vacant former convent parking area just south of site.

Comment 7b: The Applicant shall indicate how the proposed disturbance within slopes steeper than 15% will be protected from erosion during construction.

Response 7b: The existing slope resulted during construction of the running track cca in 1970's. The proposed infiltration basin is located at the bottom of the excavated area at level elevation of 238 which corresponds to the toe of the slope elevation.

Comment 7c: The Applicant shall provide orange construction fencing around the extents of the infiltration practice to limit over-compaction by equipment tracking during construction.

Response 7c: Temporary Chain Link Fence is to be provided around the construction site and orange construction fencing added around the extents of the infiltration area and indicated on I/C102.01



1511 Route 22 ♦ Suite C-23 ♦ Brewster, NY 10509
Ph: 845.278.0200 contact@pcstudioarch.com F: 845.278.4367

Comment 8: The Applicant shall provide sizing calculations for the proposed pretreatment system (Stormfilter T-80) to ensure the system has a treatment capacity of the water quality volume.

Response 8: Evaluation based on the Manufacturer's information of the StormFilter Treatment Capabilities is now included in the SWPPP.

Comment 9: The Applicant shall estimate site earthwork, indicating total net cut/fill in cubic feet.

Response 9: It is estimated that a net 900 cu. yds of fill will be removed from the site and legally disposed of offsite

Comment 10: The Applicant shall provide top of wall and bottom of wall elevations for the proposed retaining walls.

Response 10: T.O.W. & B.O.W. elevations have been added TO I/C101.01

Comment 11: The Applicant shall include a note on the plans which states the following:

"Any imported topsoil shall comply with all federal, state, and local requirements for quality and use."

"Off-site disposal of excess cut shall be in accordance with all federal, state, and local requirements."

Response 11:

C103.01; Sequence of Construction Notes, #8 has been expanded to address "Any imported topsoil shall comply with all federal, state, and local requirements for quality and use."

C103.01; Sequence of Construction Notes, #10 has been expanded to address "in accordance with all federal, state, and local requirements"

We thank you in advance for your review and continued consideration of our application.

Respectfully Submitted;
PC Studio Architect, PLLC

A handwritten signature in cursive script that reads "Paul R. Checco".

Paul R. Checco, AIA
Principal

BUREAU OF FIRE PREVENTION

Telephone
(914) 277-5582
Fax
(914) 277-3790

Town of Somers
WESTCHESTER COUNTY, N.Y.

SOMERS TOWN HOUSE
ANNEX
337 ROUTE 202
SOMERS, NY 10589

THOMAS J. TOOMA, JR.
CHIEF



RECEIVED

SEP 20 2024

PLANNING-ENGINEERING
TOWN OF SOMERS

MEMO TO: Planning Board

FROM: Bureau of Fire Prevention

RE: 54 Route 138

DATE: September 20, 2024

At our monthly meeting on August 21, 2024, the Bureau reviewed and discussed the submission to build at field house at Kennedy Catholic Prep School located at 54 Route 138. An access road is needed from the parking lot to the field house and the Bureau requests the designer to address regulations as per the 2020 Fire Code of NYS. There has not yet been an update.

**PLANNING BOARD
TOWN OF SOMERS
WESTCHESTER COUNTY, NEW YORK**

PUBLIC NOTICE:

NOTICE IS HEREBY GIVEN that the Planning Board of the Town of Somers, Westchester County, New York, has scheduled a **Public Hearing** on **Wednesday, October 9, 2024** at 7:30 p.m. at the Somers Town House, 335 Route 202, Somers, New York, to consider the application of Kennedy Catholic Prep School Field House Site Plan Application.

The proposal is more specifically shown on plans titled: "Boundary Plan & Zoning Data", "Site Layout, Grading & Utilities Plan" and "Site Details" dated July 25, 2024, "Soil Erosion & Sediment Control Plan" dated July 25, 2024, last revised August 9, 2024 and "Stormwater Management Plan" dated July, 25, 2024, last revised August 23, 2024, prepared by PC Studio Architects, PLLC.

The Applicant is proposing the construction of a 3,150 square foot field house facility adjacent to the existing sports field in the school, located near the southeast corner of the main athletic field, with a total site disturbance of 20,284 SF.

The subject property is located at 554 Route 138, Somers, New York and is designated on the Town Tax Map as Sheet 28.15, Block 1, Lot 8, 9, 10, is in the R-120 Zoning District and is located within the East of Hudson Watershed.

Anyone is invited to attend and will be heard on the aforesaid matter.

BY ORDER OF THE PLANNING BOARD

John Currie, Chairman

Wendy Getting, Senior Office Assistant

PLANNING AND ENGINEERING DEPARTMENTS

Telephone
(914) 277-5366
Fax
(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



David B. Smith
Town Planner
directorofplanning@somersny.com

September 18, 2024

To: Hon. John Currie, Chairman and Planning Board Members

From: David B. Smith

Re: Application for Site Plan Change of Use Wright's Court

Cc: Somers Town Board
Town of Somers Landmarks Committee
Town of Somers Architectural Review Board
Town of Somers Opens Space Committee
Bureau of Fire Prevention
William Basharat, on behalf of the Applicant

Attached please find a site plan application for a proposed change of use to convert two separate levels in Building A-1 located at 339 Route 202 that were previously used as a martial arts training studio (the Subject Site) to proposed office uses (the Proposed Action). The proposed uses are permitted uses in the Business Historic Preservation (BHP) District. As required by Code §170-16 all permitted uses in the BHP are subject to site plan approval. In addition, uses in the BHP require a meeting with the BHP Technical Committee to provide an initial review of the application. A memo on the results of that meeting is attached herewith.

It is noted that the application package does not contain an environmental assessment form (EAF). A review of the Type 2 Actions under the State Environmental Quality Review Act (SEQRA) notes the following are classified as Type II Actions:

(9) construction or expansion of a primary or accessory/appurtenant, nonresidential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls, but not radio communication or microwave transmission facilities; and

(18) reuse of a residential or commercial structure, or of a structure containing mixed residential and commercial uses, where the residential or commercial use is a permitted use under the applicable zoning law or ordinance, including permitted by

special use permit, and the action does not meet or exceeds any of the thresholds in section 617.4 of this Part.

Given that the proposed action is a Type 2 Action and will not have a significant adverse impact on the environment an EAF is not needed.

The conversion of the space to proposed office use does not require any modifications to the site itself, just the interior modifications. Given these rather unique circumstances, the Applicant has prepared some of the relevant submission materials. A copy of the prior approved site plan has been provided to indicate the total number of parking spaces and circulation. It is noted that the original approvals called for office space. It is noted that the Planning Board, as part of Chapter 144-7 Site Plan Review, may waive site plan elements that it deems not pertinent or necessary for the development. It is respectfully requested, that given the nature of the proposal, the Planning Board consider the submitted materials sufficient for review.

It is further suggested that the Planning Board consider Chapter 170-114.C.(8)(e) and waive the requirement for a public hearing. Regardless of whether the Planning Board waives the public hearing, the Code does require, because the Site is located in the BHP, that required referrals of the subject application be made to the Open Space Committee, ARB, Landmarks Committee and the Town Board for their review and comment. A copy of this memo along with the application materials will be forwarded to them for their review and consideration.

**TOWN OF SOMERS
PLANNING BOARD
APPLICATION FOR SITE PLAN APPROVAL**

I. IDENTIFICATION OF APPLICANT:

- A. Owner: SOUTHEAST REALTY INC Applicant: William Beshyart
Address: 343 Rt 202 Somers Address: 266 Shear Hill Rd Mahopac
Tele #: 914-715-2370 Tele #: 914 330 4999
- B. Architect: — Engineer: ROY A. FREDRIKSEN, PE
Address: — Address: 266 Shear Hill Rd MAHOPAC
Tele #: — Tele #: 914-330-4999
- C. Surveyor: — Tele #: 845-621-4000
Address: —

II. IDENTIFICATION OF PROPERTY:

- A. Identifying Title: WRIGHT COURT
B. Tax Map Design: Sheet: 17.11 Block: 1 Lot(s): 5 & 18
C. Zoning District: B-HP
D. Street which property abuts: SCOTT DR
E. Does property connect directly into State or County highway? YES
F. Is site within 500 feet of Town Boundary? NO
G. Total area of site: 1.73 AC Area of site activity: 0
H. Site coverage: 39.1 % Building coverage: 8.45 %
I. Affected Wetland Area: — Wetland Buffer Area: —
J. Affected Steep Slope Area: 15%-25%: — Over 25%: —
K. Existing building size: 4000 New/additional building size: N/A
L. Existing parking spaces: 42 New parking spaces: 0

III. APPLICATION FEE:

\$500 base fee plus \$50 per 1,000 sq.ft or part thereof plus \$25 per parking space to be paid by certified check to the Town of Somers.

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

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

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.

Total Fee: _____ Date Paid: _____

IV. DOCUMENTS TO BE SUBMITTED WITH THIS APPLICATION:

Submit 14 copies of all correspondence and plans to the Planning Board.

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

It is the responsibility of the applicant to be knowledgeable of the law. The following are available at the Town Clerks Office: Master Plan, Zoning Ordinance, Site Plan Regulations, State Environmental Quality Review (SEQR) and Environmental Quality Review, Wetland and Steep Slope Ordinances of the Town of Somers.

All revised plans shall be accompanied by a letter indicating what changes were made. All costs incurred by the Town for professional services and SEQR review will be paid by the applicant.

By submission of this application, the property owner agrees to permit Town Officials and their designated representatives to conduct on-site inspections in connection with the review of the proposal. The property shall be identified on site as being proposed for site plan approval.

William Beshyart
Signature of Applicant

Date: 8/27/2024

—
Signature of Owner

Date: 8/27/24

AFFIDAVIT TO BE COMPLETED BY CORPORATION OWNER

STATE OF NEW YORK)

ss:

COUNTY OF _____)

Enrico Di Nardo, being duly sworn, deposes and
says that he resides at 343 Route 202 Somers
in the County of Westchester, State of New York
that he is the President of Glenerda Realty
(Title) Southeast
Glenerda Realty, Inc
(Name of Corporation)

which is the owner in fee of all property shown on plat entitled _____
_____, application for approval of which is
herein made. That said Glenerda Realty, Inc
Southeast
(Name of Corporation)

acquired title to the said premises by deed from _____
recorded in the Office of the Clerk of the County of Westchester
on _____ in Liber _____ of Conveyances at Page _____

That the statements contained herein are true to the best of deponent's
knowledge and belief, and are made for the purpose of obtaining the approval of
the submitted application by the Planning Board of the Town of Somers.

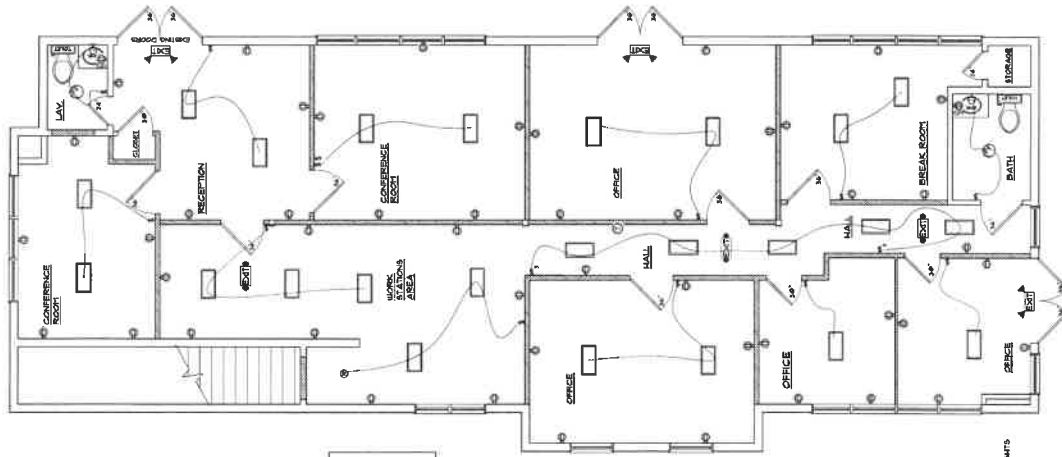
(Signed) Enrico Di Nardo

Sworn to before me this Enrico Di Nardo - 27th
day of August, 2024.

(Notary Public)



Rose D'Angelo
Notary Public - State of New York
No. 01D0017029
Qualified in Putnam County
My Commission Expires 11/28/27



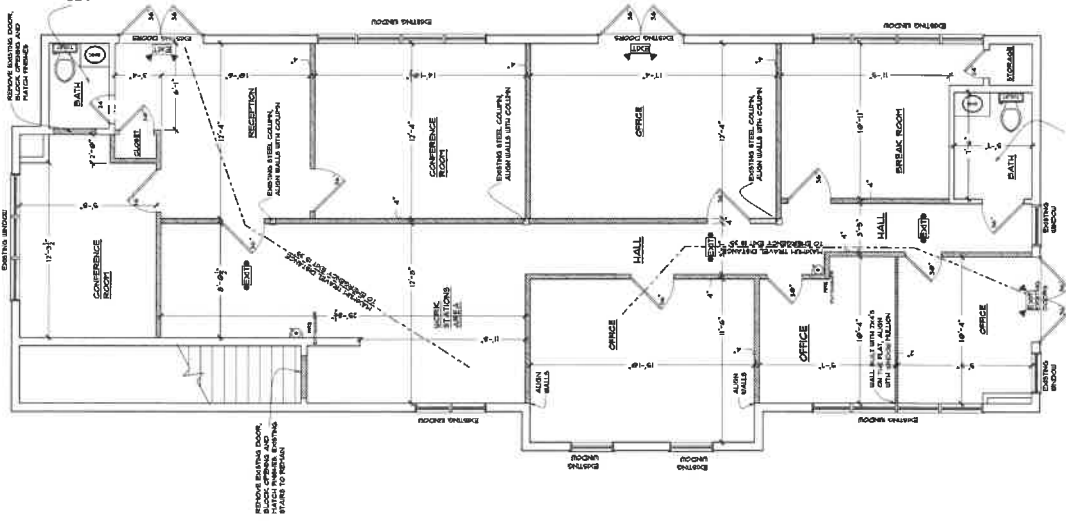
OFFICE ELECTRICAL PLAN
SCALE 1/4" = 1'-0"

NOTE: THIS ELECTRICAL LAYOUT IS CODE COMPLIANCE LAYOUT. SOME LIGHTING SYMBOLS MAY BE DIFFERENT FROM THE LAYOUTS LOCATED. ALL WORK TO BE DONE AS PER NATIONAL ELECTRICAL CODE.

- ELECTRICAL LEGEND**
- ⌚ SINGLE POLE SWITCH
 - ⌚ THREE-WAY SWITCH
 - ⌚ HORIZONTAL TRAY DUPLEX RECEPTACLE
 - ⌚ GROUND-FULT CIRCUIT INTERRUPTING
 - ⌚ SURFACE MOUNTED CEILING FUTURE
 - ⌚ RECESSED FUTURE
 - ⌚ BRILLIANT MANULIGHT COMBO
 - ⌚ 1/2" LED CEILING MOUNTED PLATE
 - ⌚ EXIST. MAN WITH EMERGENCY LIGHTS
 - ⌚ EXIST. TWO SMOKE DETECTORS WITH EMERGENCY LIGHTS
 - ⌚ PROGRAMMABLE THERMOSTAT

- LEGEND**
- ⌚ EXISTING WALLS
 - ⌚ WALLS TO BE REMOVED
 - ⌚ NEW WALLS

NOTE:
TO THE BEST OF MY KNOWLEDGE, BELIEF AND PROFESSIONAL JUDGMENT OF THE UNDERSIGNED, ROY A. FREDRIKSEN, P.E., THE PLANS AND THE SPECIFICATIONS DEPICTED ON THESE DRAWINGS ARE IN COMPLIANCE WITH THE APPLICABLE PROVISIONS OF NEW YORK STATE ENERGY CONSERVATION AND BUILDING CODE AND THE NEW YORK STATE ENERGY CONSERVATION CONSTRUCTION CODE, AS CURRENTLY AND AT THE MAIN BUILDING WAS CONSTRUCTED IN EFFECT.



OFFICE FLOOR PLAN
SCALE 1/4" = 1'-0"

NOTE: ALL LAYOUTS TO BE DONE AS PER NATIONAL ELECTRICAL CODE.

- BUILDING CODE ANALYSIS:**
1. BUILDING TYPE TYPE 5 AS PER SECTION 602
 2. OCCUPANCY CLASSIFICATION: GROUP B AS PER SECTION 602
 3. TRAVEL TO EXITS: DISTANCE: ALLOWED 100'
 4. PROVIDED BY AS PER SECTION 609.2.1
 5. MINIMUM EXITS REQUIRED ONE AS PER SECTION 1009.2
- NOTES:**
1. THESE PLANS ARE PREPARED IN COMPLIANCE WITH THE NEW YORK STATE ENERGY CONSERVATION AND BUILDING CODE, AS CURRENTLY AND AT THE MAIN BUILDING WAS CONSTRUCTED IN EFFECT.
 2. ALL HVAC COMPONENTS ARE EXISTING. ANY ALTERATIONS SHALL BE IN COMPLIANCE WITH 2009 NEW YORK STATE ENERGY CONSERVATION CONSTRUCTION CODE.

OFFICE FLOOR
AREA 1,858 S.F.

RAYEX CONSTRUCTION

ROY A. FREDRIKSEN, P.E.
DESIGN-PLANNING-CONSULTING ENGINEERING
288 SHEAR HILL RD. MAHOPAC, NY 10541 • 845-521-4000
RAYEXDESIGN@GMAIL.COM

OWNER: **SOUTHEAST REALTY GROUP, INC.**
PROJECT: RENOVATION OF EXISTING OFFICE SPACE LOCATED AT 335 RT 209 IN THE TOWN OF GORPENS, NY

SHEET TITLE: FLOOR PLANS
1 OF 2
DATE: 7/27/2014
REVISIONS:

N.Y.S. EDUCATION NOTE
IT IS A VIOLATION OF ARTICLE 148 OF THE NEW YORK STATE EDUCATION LAW FOR ANY PERSON TO ALTER THIS DOCUMENT IN ANY WAY WITHOUT THE WRITTEN VERIFICATION OR ADOPTION BY A N.Y.S. LICENSED ENGINEER IN ACCORDANCE WITH SECTION 1309(2).

RAYEX DESIGN GROUP
DESIGN PLANNING CONSTRUCTION

**266 SHEAR HILL ROAD
MAHOPAC, NEW YORK 10541
845-621-4000
RAYEXDESIGN@GMAIL.COM**

Date: September 11, 2024

Planning Department Somers.
335 Route 202.
Somers, NY 10589

Re: Southeast Realty Group
339 Route 202
Somers, NY

Dear Sir:

We are requesting to add the office space in the basement level to the Planning Board application for change of use. Space is located in building at 339 Route 202 in Somers, NY of the building located at

If I could be of any further assistance, please do not hesitate to call.

Very Truly Yours,

Roy Fredriksen, PE



RECEIVED

SEP 16 2024

PLANNING-ENGINEERING
TOWN OF SOMERS

445 Hamilton Avenue, 14th Floor
White Plains, New York 10601
T 914 761 1300
F 914 761 5372
cuddyfeder.com

Maximillian R. Mahalek
mmahalek@cuddyfeder.com

September 13, 2024

VIA ELECTRONIC MAIL AND FEDERAL EXPRESS

Chairperson John Currie
and Members of the Planning Board
Town of Somers
334 Route 202
Somers, NY 10589

Re: New Cingular Wireless PCS, LLC ("AT&T") – Site NYCNNY5577
Renewal of Special Use Permit per Section 170-29.6(G)
Premises: Somers Commons Shopping Center - 80 Route 6
Tax Parcel: 4.20-1-11

Dear Chairperson Currie and Members of the Planning Board:

This letter and referenced enclosures are respectfully being submitted on behalf of New Cingular Wireless PCS, LLC ("AT&T"), in connection with its application for renewal of its Special Use Permit for its existing co-located wireless telecommunications antennas on the subject Premises, which was last renewed by the Planning Board via a Resolution filed April 18, 2019. The existing tower is owned by Crown Castle.

The original tower was approved by the Planning Board on May 13, 2009 by Resolution 2009-07. AT&T's co-location on the tower was approved by the Planning Board via Resolution 2011-01 on April 13, 2011 (the Zoning Board of Appeals granted Approval on April 19, 2011 via Resolution BZ12D/10); and Site Plan Approval was re-granted by the Planning Board by Resolution 2013-08 on July 10, 2013. Amended Special Permit Approval was granted by the Planning Board on March 13, 2019 by Resolution 2019-03.

In further support of this request for renewal of its Special Use Permit, please find attached hereto seven (7) copies of the following exhibits to address the requirements of Section 170-129.6(G) of the Town Code:¹

- Exhibit A: Copies of AT&T's prior approvals and permits including the April 18, 2019 Planning Board Resolution; August 14, 2013 Planning Board Resolution; May 16, 2011 Zoning Board of Appeals Resolution; and April 18, 2011 Planning Board Resolution
- Exhibit B: Construction Drawings previously approved by the Planning Board, prepared by NB+C Engineering Services, LLC and dated February 20, 2019;
- Exhibit C: Town of Somers Planning Board Application Form; and
- Exhibit D: July 30, 2024 Structural Letter prepared by KMB Design Group.

¹ Pursuant to Section 170-129.6(G), the Applicant is reviewing its files to confirm if there is a Removal Bond in place.



September 13, 2024

Page 2

We have also enclosed a check made payable to the "Town of Somers" in the amount of \$500.00, representing the payment of the Special Use Permit Renewal Application Fee.

AT&T respectfully submits that its existing co-located facility conforms with the requirements of Section 170-29.6(G) of the Town Code. Note, as a co-locator on the existing wireless telecommunications facility and not the owner of the structure, AT&T does not have access to other requests for co-location on the telecommunications facility.

Additionally, AT&T has advised us that at this time, there are no proposed changes in its equipment. Considering the provisions of Federal Law governing wireless facilities and given that AT&T is a co-locator on this tower and not the tower owner, AT&T respectfully requests that its Special Use Permit be renewed indefinitely or at a minimum for a five (5)-year term.

Given that a Special Use Permit Renewal Application is a Type II Action exempt from the State Environmental Quality Review Act ("SEQRA"), per 6 NYCRR Section 617.5(c)(26), and that no modifications are proposed, the Applicant respectfully requests the Board waive the Public Hearing, as permitted under Section 170-129.6(G) of the Town Code.

AT&T respectfully requests that this matter be placed on the Board's next available Agenda for review and action. In the interim, should you or Town Staff have any questions or comments in connection with this matter, please do not hesitate to contact me.

Thank you in advance for your consideration of the enclosed.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Max Mahalek", written over a horizontal line.

Maximillian R. Mahalek
Enclosures

cc: Crown Castle
Client
Lucia Chiocchio, Esq.

1.2019

**TOWN OF SOMERS
WESTCHESTER COUNTY, NEW YORK
APPLICATION FOR SPECIAL USE PERMIT
WIRELESS TELECOMMUNICATIONS FACILITY**

Facility Owner/User CCTMO, LLC (a division of Crown Castle) **Tel. #:** 201-316-9182
Address: 2300 Corporate Dr., Canonsburg, PA 15317
Property Owner: UB Somers, Inc. **Tel. #:** 203-863-8205
Address: 321 Railroad Ave., Greenwich, CT 06820
Applicant: New Cingular Wireless PCS, LLC d/b/a AT&T Mobility Corp. **Tel. #:** 201-310-1305
Address: One AT&T Way, Bedminster, NJ 07921
Managing Agent: Albert Garcia **Tel. #:** 201-310-1305
Address: 15E Midland Avenue, Paramus, NJ 07652
Westchester County Agent: Maximillian Mahalek, Esq./Lucia Chiochio, Esq. **Tel. #** 914-872-1874
Address: Cuddy & Feder LLP, 445 Hamilton Ave., 14th Floor, White Plains, NY 10601

Premises: Sheet: 4.20 **Block:** 1 **Lot:** 11 **Situated on the** South **side of**
Route 6 **(Street)** 300 **feet from the intersection of** Rt 118 and Rt 6 **(Street)**
Zoning District CS

PROJECT TITLE: Special Use Permit Renewal

DESCRIPTION OF WORK AND PURPOSE:

Special Use Permit Renewal of the existing wireless telecommunications facility.

TYPE OF PERMIT REQUESTED: ORIGINAL/NEW
3/13/2019 **AMENDED (Date of Original Permit)**
RENEWAL (Date of Original Permit)

SIZE OF ACTIVITY AREA: _____

ESTIMATED TOTAL VALUE OF WORK: _____

PROPOSED STARTING DATE: _____

PROPOSED COMPLETION DATE: _____

PLANS PREPARED BY: Burtner Engineering Services, PLLC **DATED:** 2/20/2019

Plans must be submitted with application.

APPLICATION FEE: \$1,000.00 **Original/New Special Use Permit Application**
 \$ 800.00 **Amended Special Use Permit Application**
 \$ 500.00 **Renewal of Special Use Permit Application (every 5 years)**

Based upon Somers Town Code §133-2. At the time of submission of any application, an Escrow Account shall be established to pay for the costs of professional review services.

DOCUMENTS TO BE SUBMITTED WITH THIS APPLICATION:

14 Copies of all correspondence and plans submitted to the Planning Board.

Please refer to Somers Town Code §170-129.8, Application procedure. for the required documents to be submitted. (see attached)

APPLICANT/FACILITY/OWNER/USER SIGNATURE: Joseph C. DiSto

DATE: 9-5-2024

PROPERTY OWNER'S SIGNATURE: _____

DATE: _____

Exhibit D



July 30, 2024

Town of Somers – Building Department
335 Route 202
Somers, NY 10589

Re: Structural Letter

Site #: NYCNNY5577
FA #: 10107990
Site Address: 80 Route 6
Somers, NY 10589
KMB Number: 334.1006.000

To Whom It May Concern:

KMB has performed a limited visual inspection from grade level of the existing flagpole and equipment shelter located at the above referenced AT&T site on 07/19/2024.

Based on field observations and information from the provided Construction Drawings, the following existing conditions were visually inspected at the time of the visit:

- Flagpole exterior cannister from grade
- Exposed tower foundation above grade level
- Equipment shelter at grade level
- Overall site conditions

The existing AT&T telecommunications installation consists of the following:

- A concrete equipment pad with an equipment shelter with interior equipment
- Three (3) panel antennas and assorted ancillary equipment (not visible from grade) with an approximate centerline height of 84' AGL inside the existing flagpole.
- Related cabling and underground utility conduits.

The below documents were provided to aid in the preparation of this letter.

- Construction Drawings prepared by NB+C Engineering Services, Rev 2, dated 02/20/2019
PE Philip Burtner #077087-1.

Furthermore, additional carriers' antennas are also mounted on the existing flagpole, as well as their respective ground-level equipment areas.



After reviewing the referenced documentation, KMB has concluded that the installation closely aligns with existing conditions as shown in the referenced Construction Drawings. Due to the flagpole design of the tower, and the fact that an RF transparent shroud covers the flagpole, it is not possible to draw definitive conclusions regarding the integrity of the structural elements of the structure from the limited ground survey.

During our visit, visual observations indicated that the antenna shroud is in good condition, showing no visible signs of deterioration. The base plate and anchors are in good condition, with no visible rust noted at the time of our visit. The AT&T equipment location was unobstructed and appeared to be well kept.

Considering the aforementioned observations, the overall state of the tower structure and AT&T equipment installation seems to be acceptable.

This visual inspection, as mentioned above, was performed from grade-level, and was limited to the structural elements and appurtenances that were clearly visible and unobstructed to view on the day of the inspection. No analysis was performed for this review.

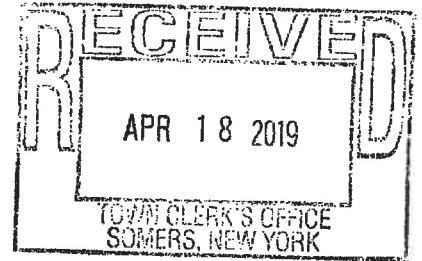
Should you have any questions or comments, please do not hesitate to contact us.

Sincerely,



Stephen A. Bray, P.E.
Professional Engineer
NY PE License No. 086064
NY Certificate of Authorization: 081784
Expiration Date: 06/30/2025

Exhibit A



PLANNING AND ENGINEERING DEPARTMENTS

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

Town of Somers
WESTCHESTER COUNTY, N.Y.

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

Steven Woelfle
Principal Engineering Technician
swoelfle@somersny.com



Syrette Dym, AICP
Town Planner
sdym@somersny.com

Planning Board Meeting Date of March 13, 2019

PLANNING BOARD

TOWN OF SOMERS, WESTCHESTER COUNTY, NEW YORK

Resolution No. 2019-03

Granting of Conditional Amended Special Permit Approval and Amended Site Plan Approval to

**NEW CINGULAR WIRELESS PCS, LLC d/b/a AT&T Mobility Corp.
for
MODIFICATION OF EXISTING APPROVED AT&T WIRELESS FACILITY**

**At Somers Commons Shopping Center 80 Route 6
Town Tax Number: Section 4.20, Block 1, Lot 11**

WHEREAS, a formal application by New Cingular Wireless PCS, LLC ("AT&T") (Applicant), dated February 22, 2019 for Amended Special Permit Approval pursuant to Sections 170-129 and 170-114, was received on February 29, 2019 consisting of the following plans and supporting materials:

1. Cover letter from Cuddy & Feder dated February 27, 2019
2. Exhibit A – Eligible Facilities Request Form
3. Exhibit B. Section 1.6100 Wireless Facility Modifications., 47 C.F.R. Section 1.6100
4. Exhibit C – Application for Special Use Permit dated 02/22/19
5. Exhibit D – Affidavit
6. Exhibit E – Application for Building Permit – dated 02/26/2019
7. Exhibit F – Short Environmental Assessment Form Part 1, dated 02/26/19

Page 1 of 5

Z:\PE\Site plan files\Baldwin Place\AT&T New Cingular-2019 Somers Commons\FinalPB Resolution for New Cingular Wireless 03-13-19.doc

8. Exhibit G - Copy of Resolution No. 2011-01 dated April 13, 2011
9. Exhibit H - Antenna Site FCC RF Compliance Assessment and Report by Pinnacle Telecom Group dated January 31, 2019
10. Exhibit I – Structural Modification Report by Paul J. Ford & Company dated February 6, 2019
11. Site Plans prepared by NB&C Engineering Services, PLLC dated as revised 02/20/19 including sheets ANT-001.00 through ANT-008.00

WHEREAS, the subject application is for the implementation by AT&T of modifications and upgrades including replacements of three (3) antennas and replacement of six (6) new diplexers inside the existing monopole and installation of six (6) radio remote heads in the existing compound to its existing wireless facility at 80 Route 6 on a pole owned by Crown Castle on Somers Commons property which is shown on the Town Tax Maps as Section 4.20 Block 1 Lot 11; and

WHEREAS, the subject property consists of a total area of approximately 27.7 acres and is located on the south side of Birdsall Road, Route 6, west of Meadow park Road, within the Amawalk Drainage Basin and is located in the Community Shopping (CS) zoning district in the Town of Somers; and

WHEREAS, the original pole, then owned by Omnipoint, was approved by the Planning Board by Resolution # 2009-07 dated May 13, 2009; and

WHEREAS, as part of the original AT&T co-location application granted by Resolution No. 2011-01 dated April 13, 2012, a Structural Analysis Report dated March 2, 2010 by GPD Associates was prepared and concluded based on computer analysis, that the existing foundation was adequate to sustain the proposed co-location; and

WHEREAS, since the conditions of that Resolution No. 2011-01 were not met as required within the specified timeframes, an application by New Cingular Wireless PCS, LLC ("AT&T") dated May 28, 2013 was made requesting Re-Granting of Site Plan Approval and such re-grant was approved by Resolution No. 2013-08 on July 10, 2013; and

WHEREAS, the Applicant made a preliminary presentation to the Planning Board for the Amended Special Permit that is the subject of this resolution on March 13, 2019; and

WHEREAS, the Planning Board has determined that the proposed application constitutes as an eligible facilities request in accordance with the Section 6409 Middle Class Tax Relief and Job Creation Act of 2012 and it does not substantially change the physical dimensions of the subject Tower; and

WHEREAS, the Somers Planning Board at their regular meeting of March 13, 2019 determined that this action was a Type II Action and is, therefore, exempt pursuant to the New York State Environmental Quality Review Act (SEQRA) Section 617.5(c)(7) 2 which states that construction or expansion of a primary or accessory/appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls is a Type II action under SEQRA and that the proposed project involved less than 4,000 square feet, and, therefore, no further action under SEQRA would be required as directed by a motion and second unanimously carried by the Board; and

WHEREAS, the amended special use permit application and associated plans, were circulated to the Town of Somers to Open Space Committee and the Building Inspector and no comments were received by the Planning Board; and

WHEREAS, the Somers Planning Board at their March 13, 2019 meeting determined to waive the site plan review and site plan and special use permit and public hearing in accordance with §170-129.9 B and §170-129.6F, respectively; and

WHEREAS, the Planning Board and its Consulting Engineer discussed the project and its compliance with Section 170-129.7 Special Permit standards for wireless or attached wireless telecommunications facilities; and

WHEREAS, the Planning Board accepts the findings of the Antenna Site FCC RF Compliance Assessment and Report dated January 31, 2019 prepared by Pinnacle Telecom Group, concluding that the maximum RF level from the combination of proposed and existing antenna operation is 4.1202 percent of the FCC general population MPE limit, which is well below the 100% reference of compliance or more that 20 times below the limit established as safe for continuous human exposure; and

WHEREAS, it has been more than five (5) years since renewal of the special use permit for the pole now owned by Crown Castle, the Planning Board directed the applicant to have Crown Castle submit a pole renewal application to the Planning Board that included a structural analysis as well as an on-site visual analysis; and

WHEREAS, the Planning Board has reviewed and is familiar with the project and its surroundings; and

NOW, THEREFORE, BE IT RESOLVED, that the foregoing **WHEREAS** clauses are incorporated herein by reference and are fully adopted as part of this approval; and

BE IT FURTHER RESOLVED, that the application for Conditional Amended Special Permit Approval, to New Cingular Wireless PCS, LLC (AT&T) as shown and described by the materials enumerated herein, is **HEREBY CONDITIONALLY GRANTED** in accordance with §170-129.4,129.5,129.6 and 129.9 of the *Code of the Town of Somers, New York*, **SUBJECT TO** the following conditions set forth below:

Conditions Associated with Special Use Permit:

1. **Compliance with Town Code:** The Applicant shall comply with all applicable provisions of the Zoning Code of the Town of Somers as set forth in Section 170-129.4 and such other laws as may be applicable to wireless telecommunications facilities.
2. **Operations (future):** Operations shall be maintained in accordance with the Town's Wireless Ordinance and all other relevant Town codes.
3. **Permit Term:** Pursuant to Section 170.129.6(D)(F) and (G) of the *Code of the Town of Somers*, the Amended Special Use Permit term has an onset starting at five years from the date of this approval. This Special Use Permit may be renewed on application for additional five-year terms, provided the applicant shall demonstrate that the wireless telecommunications facility is and has been in compliance with the requirements of the *Code of the Town of Somers* per §170-129.6G. As such, the special use permit for AT&T as co-locator modifications, on an existing pole that is the subject of this Resolution, shall run from April 10, 2019 up to and including April 9, 2024.
4. Crown Castle as the tower owner must undertake and submit a special renewal application that includes a structural analysis report and proof that an onsite personal inspection of the tower has taken place in accordance with Section 170-129.6G of the Town Code by an engineer licensed in the State of New York and must post an updated removal bond that has been reviewed and approved by the Town.
5. **Review Fees:** All review fees associated with this application shall be paid by the applicant. The Applicant is to be responsible for the costs of all consulting engineer services and reviews required hereunder.
6. **Certificate of Occupancy:** A certificate of occupancy issued by the Building Inspector must be issued for the modified facility prior to use or operation of such modified facilities.

BE IT FURTHER RESOLVED, that upon determination of compliance with the foregoing conditions, the Planning Board Chairman is hereby authorized to endorse Amended Site Plan and Amended Special Use Permit Approval by signing of this Resolution. The validity of any Certificate of Occupancy shall be subject to continued conformance with the approved Renewal Amended Special Use Permit.

This resolution shall have an effective date of March 13, 2019.

**BY ORDER OF THE PLANNING BOARD
OF THE TOWN OF SOMERS**



John Currie, Chairman

4/18/19

Date

CERTIFICATION

I hereby certify that this is a true and correct copy of Resolution #2019-03 adopted by the Town of Somers Planning Board granting an Amended Special Permit, subject to the modifications stated herein, to New Cingular Wireless PCS LLC (AT&T) at Somers Commons Site at a regular meeting held on March 13, 2019



Syrette Dym, AICP
Director of Planning

April 16, 2019

Date

PLANNING AND ENGINEERING DEPARTMENTS

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

Town of Somers
WESTCHESTER COUNTY, N.Y.

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

Steven Woelfle
Principal Engineering Technician
swoeffle@somersny.com



Syrette Dym, AICP
Town Planner
sdym@somersny.com

Planning Board Meeting Date of July 10, 2013

Somers Planning Board
TOWN OF SOMERS, WESTCHESTER COUNTY, NEW YORK

Resolution No. 2013-08
*Re-Granting of Resolution No. 2011-01 as it Pertains to Conditional Amended
Site Plan Approval and Wetlands and Watercourse Protection Permit to*

**NEW CINGULAR WIRELESS PCS, LLC (AT&T) at SOMERS COMMONS
SHOPPING CENTER
(UB SOMERS, INC.)**

Town Tax Number: Section 4.20, Block 1, Lot 11

WHEREAS, a formal application by New Cingular Wireless PCS, LLC ("AT&T") (Applicants) and UB Somers, Inc. (Owners), dated October 14, 2010, for Site Plan Approval in accordance with Chapter 144 of the *Code of the Town of Somers and Special Use Permit in accordance with Chapter 170-129.1* of the *Code of the Town of Somers*, was received on December 6, 2010 consisting of the following plans and supporting materials:

1. Application packet (narrative materials) submitted by Cuddy & Feder, dated November 12, 2010.
2. Plan titled "Title Sheet (T-1), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.
3. Plan titled "Plot Plan (Z-1A), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.
4. Plan titled "Property Owner's List & Setback Maps (Z-1B), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.
5. Plan titled "Site Plan (Z-1), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.
6. Plan titled "Site Detail Plan and Notes (Z-2), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.

7. Plan titled "Elevation, Antenna Plan & Details (Z-3), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.
8. Plan titled "Details & Notes (Z-4), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.

WHEREAS, such prior approval was granted by Resolution No. 2011-01 at the Planning Board meeting of April 13, 2011; and whose content and conditions are incorporated into this current resolution; and

WHEREAS, the conditions of that resolution and of the Code of the Town of Somers with regard to time frames required for signing of the site plan and issuance of a building permit were not met by the Applicant in that the site plan was not signed nor was a building permit issued; and

WHEREAS, to remedy that condition of the prior resolution that signing of the site plan needed to take place by April 13, 2012 or Site Plan Approval would expire in accordance with §170-114.H, "Time for Signature of Site Plan", and §170-114.K, "Extension", of the Town Code, and that failure to comply with the above shall result in the expiration of Site Plan approval on April 13, 2012 unless an extension of this time period is requested prior to the expiration date and approved by the Planning Board; and

WHEREAS, such extension of the time period was not requested or granted by the Planning Board, a formal application by New Cingular Wireless PCS, LLC ("AT&T"), dated May 28, 2013 for Re-granting of Site Plan Approval in accordance with Chapter 144 of the Code of the Town of Somers and extension of Wetlands and Watercourse Protection Permit pursuant to Chapter .167 of the Code of the Town of Somers was received by the Town on May 31, 2013 and

WHEREAS such application consisted of the following:

1. Application cover letter submitted by Cuddy & Feder dated May 29, 2013, received May 31, 2013.
2. Application Fee for Site Plan Approval and Wetlands Permit
3. Plan titled "Title Sheet (T-1), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.
4. Plan titled "Wetlands & Regulated Buffer Disturbance Area" (C-1), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T dated February 23, 2011
5. Plan titled "Plot Plan (Z-1A), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.
6. Plan titled "Property Owner's List & Setback Maps (Z-1B), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.
7. Plan titled "Site Plan (Z-1), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.
8. Plan titled "Site Detail Plan and Notes (Z-2), prepared by Tectonic

- Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.
9. Plan titled "Elevation, Antenna Plan & Details (Z-3), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.
 10. Plan titled "Details & Notes (Z-4), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010; and

WHEREAS, the submission cover letter from Cuddy & Feder, dated May 29, 2013, received May 31, 2013 further indicated that materials submitted in support of the application included the following:

1. Copies of prior land use approvals issued by the Planning Board and Zoning Board of Appeals to AT&T relative to this wireless facility
2. Copies of prior land use approvals issued by the Planning Board and the Zoning Board of Appeals to T-Mobile relative to this wireless facility
3. 10 sets of the plans listed in 3 through 10 above last revised March 15, 2011; and
4. Incorporation by reference of all materials previously submitted to the Planning Board and Zoning Board of Appeals relative to the prior approvals issued to T-Mobile and AT&T; and

WHEREAS, the prior approved and expired Site Plan Approval and Wetlands and Watercourse Special Permit and current re-grant and extension request application is a collocation application consisting of concealment of AT&T's antennas at 84 feet above grade level within the existing 120 foot tall concealment monopole. At grade level, in the existing telecommunications facility, AT&T will place a 12 foot long by 20 foot wide associated, unmanned equipment shelter within its 350 square foot lease area east of the concealment monopole and T-Mobile's existing equipment cabinets; and

WHEREAS, the subject property consists of a total area of approximately 27.7 acres and is shown on the Town Tax Maps as Section 4.20, Block 1, Lot 11; and

WHEREAS, the subject property is located on the south side of Birdsall Road, Route 6, west of Meadow Park Road, within the Amawalk Drainage Basin; and

WHEREAS, the subject property is located in the Community Shopping (CS) zoning district in the Town of Somers; and

WHEREAS, the current uses on the subject property consist of nine commercial condominiums comprising the Somers Commons Shopping Center with associated parking areas and access driveways; and

WHEREAS, 100' wetland buffers are identified on-site and the proposed installation at the site would require approximately 25.13 Cubic Feet or 6.28 Square Feet of permanent disturbance within the Town-regulated wetland buffer; and

WHEREAS, the Planning Board has determined that the proposed application for Re-granting of Conditional Amended Site Plan Approval and extension of Wetlands and Watercourse Protection Permit constitute as an eligible facilities request in accordance with the Section 6409 Middle Class Tax Relief and Job Creation Act of 2012 ; and

WHEREAS, the Somers Planning Board determined for the April 13, 2011 approved site plan and wetlands and watercourse special use permit as well as for this application for the re-granting and extension of such approval at its meeting of July 10, 2013, determined that this action was a Type II Action and is, therefore, exempt pursuant to the New York State Environmental Quality Review Act (SEQRA) Section 617.5(c)(7) which states that construction or expansion of a primary or accessory/appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls is a Type II action under SEQRA and that the proposed project involved less than 4,000 square feet, therefore, no further action under SEQRA would be required as directed by a motion and second, and unanimously carried by the Board; and

WHEREAS, the April 13, 2011 approved site plan application and associated materials and plans, as revised throughout the prior review process, were circulated to the New York City Department of Environmental Protection, the Westchester County Department of Planning, the Putnam County Department of Planning, the Town of Somers Zoning Board of Appeals, the Town of Somers Conservation Board, the Town of Somers Architectural Review Board, and the Town of Carmel and their comments were considered by the Planning Board; and

WHEREAS, the site plan and associated materials and plans that are part of the re-grant and renewal application of May 28, 2013, were circulated to the New York City Department of Environmental Protection, Westchester County Planning Department, the Somers Architectural Review Board, and the Somers Open Space Committee; and

WHEREAS, the Somers Planning Board discussed the prior approved application and associated plans and materials at their meetings of February 9, 2011, March 9, 2011(Public Hearing), and April 13, 2011 and the re-grant and extension subject application at their meeting of July 10, 2013; and

WHEREAS, during the course of the Planning Board's review of the Applicant's prior approved site plan and renewal application the Planning Board received and considered correspondence from the public as well as Town staff, Town advisory boards and other Involved Agencies. Correspondence from the public, Town staff, Town advisory boards and other Involved Agencies are listed as follows:

1. Communication from the Somers Architectural Review Board dated March 8, 2011;
2. Memorandum from the Somers Conservation Board dated January 22, 2011, January 25, 2011 and March 4, 2011;
3. Memoranda from the Town of Somers Town Planner dated December 17, 2010, January 7, 2011, February 9, 2011, March 7, 2011, March 18, 2011, and April 8, 2011; and

WHEREAS, during the course of the Planning Board's review of the application for re-granting of site plan and extension of the wetlands and watercourse permit approval, the Planning Board received and considered correspondence from Town staff and correspondence from the Westchester County Planning Board dated June 18, 2013 indicating this was a matter for local determination; and

WHEREAS, the consideration of wetlands protection was made by the Planning Board and in accordance with the Town's Wetland and Watercourse Protection Regulations, Chapter 167 of the Code of the Town of Somers, it was determined that the site does contain wetlands and associated 100-foot regulated wetland buffer and the plans indicate that the total disturbance within the wetland buffer would be negligible (25.13 Cubic Feet or 6.28 Square feet) given the existing disturbed condition of the affected area and that such disturbance would remain the same in the re-grant and extension application. Therefore, a wetland permit will be required, however no mitigation will be required; and

WHEREAS, the plans representing the changes to the existing site do not meet the thresholds which would require the installation of stormwater management practices which would be set forth in a Stormwater Pollution Prevention Plan & Drainage Analysis, thereby a Stormwater Management and Erosion and Sediment Control Permit as described in Chapter 93 of the *Code of the Town of Somers* is not required and that such changes would remain the same in the re-grant application; and

WHEREAS, a public hearing was conducted on due notice for the prior approved application beginning on March 9, 2011 at which time all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, on March 9, 2011 on motion by Mr. Goldenberg, seconded by Mr. Currie and unanimously carried, the public hearing on the prior approved application was closed; and

WHEREAS, a Site Plan public hearing as per Section 170-114-C.(8)(e) and a Wetlands and Watercourse Protection Special Permit public hearing as per Section 167-5.F was waived as a requirement for the re-grant and extension application by unanimous vote of the Planning Board at its meeting of July 10, 2013 due to the record of prior review and no altering or extension of the original intent of the permit, respectively; and

WHEREAS, Section 167A(9) requires location of wetlands no earlier than 12 months prior to the date of filing of the application, and Section 167-2B allows the Planning Board to waive delineation of wetlands and the Board, at its meeting of July 10, 2013, voted unanimously to waive such re-delineation; and

WHEREAS, relative to the Wetlands and Watercourse Protection Special Permit, Section 167-5F of the Code of the Town of Somers that indicates that all permits are valid for one year from the date of permit approval such that the subject permit would be extended to April 13, 2014; and

WHEREAS, in addition to the plan alternatives and reports reviewed throughout the review process and as a result of the review of those additional documents by the Somers Planning Board, Town staff and other advisors throughout the review process, the following plans and reports- as required to be revised by the conditions of this resolution were submitted for the Planning Board's consideration and are the subject of the April 13, 2011 approval as well as the re-grant and extension approval of this resolution, in addition to those previously stated for the re-grant and renewal application:

1. Application packet (narrative materials) submitted by Cuddy & Fedder, dated November 12, 2010 and last revised January 26, 2011
2. Additional application materials (narrative and maps) submitted by Tectonic Engineering & Surveying Consultants, P.C., dated February 22, 2011;
3. Plan titled "Title Sheet (T-1), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010 and last revised February 23, 2011.
4. Plan titled "Plot Plan (Z-1A), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010 and last revised March 15, 2011.
5. Plan titled "Wetland and Regulated Buffer Disturbance Area (C-1)", prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated February 23, 2011.
6. Plan titled "Property Owner's List & Setback Maps (Z-1B), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010 and last revised February 23, 2011.
7. Plan titled "Site Plan (Z-1), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010 and last revised February 23, 2011.
8. Plan titled "Site Detail Plan and Notes (Z-2), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010 and last revised February 23, 2011..
9. Plan titled "Elevation, Antenna Plan & Details (Z-3), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010 and last revised February 23, 2011.
10. Plan titled "Details & Notes (Z-4), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010 and

last revised February 23, 2011.

WHEREAS, on March 9, 2011, the Planning Board made a positive recommendation that the Zoning Board should grant the two variances being sought by the applicant which include a maximum site coverage variance of 0.01% to be issued for a total site coverage of 87.72% and a rear yard setback variance of 20 feet making the total rear yard setback 160 feet; and

WHEREAS, the Planning Board has reviewed and is familiar with the project and has previously inspected the site and its surroundings and the Town Consulting Engineer inspected the site on July 3, 2013, and noted no apparent issues that suggest improper maintenance of the cell tower and adjacent equipment enclosure; and

WHEREAS, the Planning Board has carefully considered all of the comments raised by the public and other interested agencies, organizations and officials, including those presented at meetings of the Board, as well as those submitted separately in writing; and

WHEREAS, the applicant has demonstrated as part of the approval of April 13, 2011 and of the subject application that they have met the special permit standards for wireless telecommunications facilities as discussed in §170-129.7 of the *Code of the Town of Somers*; and

WHEREAS, the Planning Board determined that the Re-granting of Site Plan and extension of Wetlands and Watercourse Protection Permit were to be subject to the more recent standards for co-location and that those standards be incorporated as part of the conditions of this Re-Grant and extension application approval; and

WHEREAS, the Planning Board determined that the Resolution of Approval should be prepared by the Director of Planning for the Chairman's signature incorporating all of the provisions identified by the Board; and

NOW, THEREFORE, BE IT RESOLVED that the foregoing **WHEREAS** clauses are incorporated herein by reference and are fully adopted as part of this approval; and

BE IT FURTHER RESOLVED, that the application for Re-Granting of Resolution # 2011-01 as it pertains to conditional amended Site Plan Approval and Wetlands Permits to **New Cingular Wireless PCS, LLC ("AT&T") at Somers Commons Shopping Center (UB SOMERS, INC.)** as shown and described by the materials enumerated herein, is **HEREBY CONDITIONALLY "RE-GRANTED"** in accordance with the New York State Town Law §276 and §278 and in accordance with §170-114(12) "Planning Board Action" of the Code of the Town of Somers, New York **SUBJECT TO** the following conditions set forth below:

Conditions Required Prior to Signing of Site Plan

1. **That all improvements** shown on the plans be installed in accordance with the approved plan and construction standards and specifications of the Town.
2. **That all work associated** with this Site Plan application shall be subject to the satisfaction of the Consulting Town Engineer
3. **That the site plan** be amended to include proper information regarding the requested variances in the zoning conformance table.
4. **Utility Infrastructure Analysis:** The Applicant shall provide documentation to demonstrate that additional electrical service loads proposed by new AT&T equipment, along with anticipated future co-location electrical loads may be met by existing electrical service to the cell tower site. If additional electrical equipment is required to be added to accommodate these existing and future loads, the Applicant shall indicate where such equipment will be located and any additional screening measures that will be provided.
5. **Inspection Fee:** An engineering inspection fee for the Site Plan shall be paid by check made payable to the Town of Somers in accordance with the Fee Schedule adopted by the Town Board; the amount of such fee shall be set after submission by the Applicant of estimated costs for required improvements as identified by the Consulting Town Engineer, and upon recommendation of the Consulting Town Engineer.
6. **Review Fees:** All review fees associated with this application shall be paid by the applicant. The Applicant is to be responsible for the costs of all consulting engineer services and reviews required hereunder.

On-going Conditions Required After Signing of Site Plan

1. **Future Provision of Co-locators:** Upon completion of construction, the Applicant shall confirm that the additional equipment will not impair the future addition of co-locators, both on the Tower and at ground level within the existing equipment pad enclosure
2. **Town Code Compliance:** The Applicant shall comply with all applicable provisions of the *Code of the Town of Somers* as set forth in Section 170-129.4 & 129.5 and such other laws as may be applicable to wireless telecommunications facilities.
3. **Federal Code Compliance:** The wireless telecommunication facility shall comply with any and all applicable laws, rules and regulations, including the provisions of the Code of Federal Regulations pertaining to objects affecting navigable airspace as delineated in Federal Aviation Regulation

(FAR) Part 77 and the criteria for obstructions to air navigation as established by FAR part 77, Subpart C, Obstruction Standards and the wireless telecommunication facility shall comply at all times to the applicable FCC non-ionizing electrical radiation standards.

4. **Improvements:** All improvements shown on the plans are installed in accordance with the approved plan and construction standards and specifications of the Town.
5. **Satisfaction:** All work associated with this Site Plan application shall be to the satisfaction of the Consulting Town Engineer.
6. **Construction Hours:** Construction activity shall be limited from 7AM to 6PM. No construction activity shall occur on Sundays or legal New York State holidays as specified by §144-7D. (13) of the *Code of the Town of Somers*.
7. **Certification of Operations:** Prior to issuance of a certificate of occupancy, a certification of operations is to be provided that specifically certifies that the Tower is operating in accordance with the FCC limits for Maximum Permissible Exposure (MPE) and an operating agreement is to be in place to ensure that maintenance activities are completed in the future.
8. **Certificate of Occupancy:** A certificate of occupancy issued by the Building Inspector must be issued for the modified facility prior to use or operation of such modified facilities.
9. **Best Management Practices:** The Applicant implements and maintains Best Management Practices and erosion control measures during construction.

BE IT FURTHER RESOLVED, that upon determination of compliance with the foregoing conditions, the Planning Board Chairman is hereby authorized to endorse Site Plan approval upon all maps and drawings constituting the Site Plan. The Applicant shall provide six (6) prints of each map and drawing to the Planning Board Secretary. No construction or site work is authorized until the Site Plan has been signed by the Chairman and the required copies delivered.

In accordance with §170-114.H, "Time for Signature of Site Plan", and §170-114.K, "Extension", of the Town Code, failure to comply with the above shall result in the expiration of Site Plan approval on April 13, 2014 unless an extension of this time period is requested prior to the expiration date and approved by the Planning Board.

Site Plan approval and its continued validity are subject to all requirements of Section 170-114, "Site Plan Approval", and Chapter 144, "Site Plan Review", of

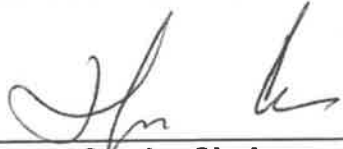
the Town Code. Approval shall be deemed null and void one (1) year from the date of signing of the Site Plan unless a Building Permit in compliance with the above shall have been obtained and construction progressed as required by §170-114.I, "Time to Obtain Permit and Complete Construction", of the Town Code.

Before the completion of the improvements shall be approved and the Certificate of Occupancy issued, the Applicant shall submit an as-built plan to the satisfaction of the Consulting Town Engineer.

The validity of any Certificate of Occupancy shall be subject to continued conformance with the approved Site Plan.

This resolution shall have an effective date of July 10, 2013.

**BY ORDER OF THE PLANNING BOARD
OF THE TOWN OF SOMERS**

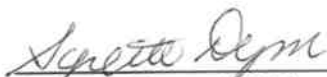


John Currie, Chairman

8/14/13
Date

CERTIFICATION

I hereby certify that this is a true and correct copy of Resolution 2013-08 Re-granting Resolution No. 2011-01 as it pertains to conditional amended Site Plan Approval, and Wetlands and Watercourse Protection Permit extension to **New Cingular Wireless PCS, LLC ("AT&T") at Somers Commons Shopping Center (UB SOMERS, INC.)** as shown and described by the materials enumerated herein at a regular meeting held on July 10, 2013



Syrette Dym, AICP
Director of Planning

8/14/13
Date

WHEREAS, a formal application by New Cingular Wireless PCS, LLC ("AT&T") (Applicants) and UB Somers, Inc. (Owners), dated October 14, 2010, for Site Plan Approval in accordance with Chapter 144 of the *Code of the Town of Somers* and a Special Use Permit in accordance with Chapter 170-129.1 of the *Code of the Town of Somers*, for co-location of a wireless telecommunications facility was received by the Town of Somers on December 6, 2010 consisting of the following plans and supporting materials:

1. Application packet (narrative materials) submitted by Cuddy & Feder, dated November 12, 2010.
2. Plan titled "Title Sheet (T-1)", prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.
3. Plan titled "Plot Plan (Z-1A)", prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.
4. Plan titled "Property Owner's List & Setback Maps (Z-1B)", prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.
5. Plan titled "Site Plan (Z-1)", prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.
6. Plan titled "Site Detail Plan and Notes (Z-2)", prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.
7. Plan titled "Elevation, Antenna Plan & Details (Z-3)", prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.
8. Plan titled "Details & Notes (Z-4)", prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.

WHEREAS, the subject application is a co-location application consisting of concealment of AT&T's antennas at 84 feet above grade level within the existing 120 foot tall concealment monopole and at grade level, in the existing telecommunications support facility, a 12 foot long by 20 foot wide associated, unmanned, equipment shelter within its 350 square foot lease area east of the concealment monopole and T-Mobile's existing equipment cabinets; and

WHEREAS, the subject property consists of a total area of approximately 27.7 acres and is shown on the Town Tax Maps as Section 4.20, Block 1, Lot 11; and

WHEREAS, the subject property is located on the south side of Birdsall Road, Route 6, west of Meadow Park Road, within the Amawalk Drainage Basin; and

WHEREAS, the subject property is located in the Community Shopping (CS) zoning district in the Town of Somers; and

WHEREAS, the current uses on the subject property consist of nine commercial condominiums comprising the Somers Commons Shopping Center with associated parking areas and access driveways; and

WHEREAS, 100' wetland buffers are identified on-site and the proposed installation at the site would require approximately 25.13 Cubic Feet or 6.28 Square Feet of permanent disturbance within the Town-regulated wetland buffer; and

WHEREAS, the Somers Planning Board determined that this action was a Type II Action pursuant to the New York State Environmental Quality Review Act (SEQRA) and, therefore, no further action under the SEQRA would be required; and

WHEREAS, during the course of the Planning Board's review of the Applicant's proposed site plan application, correspondence from the public as well as Town staff, Town advisory boards and other Involved Agencies was received, including:

1. Communication from the Somers Architectural Review Board dated March 8, 2011;
2. Memorandum from the Somers Conservation Board dated January 22, 2011, January 25, 2011 and March 4, 2011;
3. Memoranda from the Town of Somers Town Planner dated December 17, 2010, January 7, 2011, February 9, 2011, March 7, 2011, March 14, 2011, March 18, 2011, and April 8, 2011; and

WHEREAS, evidence was submitted on behalf of the Applicant that demonstrated that the proposed wireless telecommunications facility is necessary, in accordance with §170-129.7A of the *Code of the Town of Somers*, to fill a significant gap in reliable coverage in the area where the co-location is proposed and that the subject facility will operate within federally established radio frequency emission standards, and addressing other requirements of 170-129.7 of the *Code of the Town of Somers*; and

WHEREAS, consideration of wetlands protection was made by the Planning Board and in accordance with the Town's Wetland and Watercourse Protection Regulations, Chapter 167 of the Code of the

Town of Somers, it was determined by the Planning Board that the site contains wetlands and associated 100-foot regulated wetland buffer and the plans indicate that the total disturbance within the wetland buffer would be negligible (25.13 Cubic Feet or 6.28 Square feet) given the existing disturbed condition of the affected area and that a wetland permit is required, although no mitigation will be required; and

WHEREAS, the plans representing the changes to the existing site do not meet the thresholds which would require the installation of stormwater management practices which would otherwise be set forth in a Stormwater Pollution Prevention Plan & Drainage Analysis, and therefore a Stormwater Management and Erosion and Sediment Control Permit as described in Chapter 93 of the *Code of the Town of Somers* is not required; and

WHEREAS, a public hearing regarding the Site Plan Application and Special Use Permit was conducted on due notice beginning on March 9, 2011 at which time all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, on March 9, 2011 on motion by Mr. Goldenberg, seconded by Mr. Currie and unanimously carried, the public hearing was closed; and

WHEREAS, in addition to the plan alternatives and reports reviewed throughout the review process and as a result of the review of those additional documents by the Somers Planning Board, Somers Zoning Board, Town staff and other advisors throughout the review process, the following plans and reports were submitted for consideration and are the subject of this approval:

1. Application packet (narrative materials) submitted by Cuddy & Feder, dated November 12, 2010 and last revised January 26, 2011
2. Additional application materials (narrative and maps) submitted by Tectonic Engineering & Surveying Consultants, P.C., dated February 22, 2011;
3. Plan titled "Title Sheet (T-1)", prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010 and last revised February 23, 2011.
4. Plan titled "Plot Plan (Z-1A)", prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010 and last revised March 15, 2011.
5. Plan titled "Wetland and Regulated Buffer Disturbance Area (C-1)", prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated February 23, 2011.
6. Plan titled "Property Owner's List & Setback Maps (Z-1B)",

prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010 and last revised February 23, 2011.

7. Plan titled "Site Plan (Z-1)", prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010 and last revised February 23, 2011.
8. Plan titled "Site Detail Plan and Notes (Z-2)", prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010 and last revised February 23, 2011.
9. Plan titled "Elevation, Antenna Plan & Details (Z-3)", prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010 and last revised February 23, 2011.
10. Plan titled "Details & Notes (Z-4)", prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010 and last revised February 23, 2011.

WHEREAS, on March 9, 2011, the Planning Board made a positive recommendation that the Zoning Board should grant the two variances being sought by the applicant which include a maximum site coverage variance of 0.01% to be issued for a total site coverage of 87.72% and a rear yard setback variance of 20 feet making the total rear yard setback 160 feet rather than 180 feet.; and

WHEREAS, at the April 19, 2011 monthly meeting, the Zoning Board of Appeals determined that the maximum site coverage variance of 0.01% and the area variance for rear yard setback of 20 feet sought by the applicant were appropriate; and

WHEREAS, on April 19, 2011 the following persons were

PRESENT: Chairman Marx, Members: Burke, Carpaneto, Cannistra, Guyot and Ms. Burpee

ALSO PRESENT: Efrem Citarella, Building Inspector, Teresa Reale, ZBA Secretary, Sabrina D. Charney Hull, AICP, Town Planner, Michael Musso, HDR, Inc.

ALSO PRESENT: John Furst, Esq., Cuddy & Feder, Attorney for the applicant, and interested citizens; and

WHEREAS, after a thorough review and consideration of Planning Board recommendation, the application, and other associated materials, Chairman Marx asked for a motion in respect to the requested variances and Mr. Burke made a motion that based on the Planning Board recommendation the variances should be granted; and whereas Mr. Carpaneto seconded the motion, and

WHEREAS, a vote was then taken of the Board as follows;

POLL OF THE BOARD

Mr. Guyot	Aye
Mr. Carpaneto	Aye
Mr. Cannistra	Aye
Ms. Burpee	Aye
Mr. Burke	Aye
Mr. Wohlberg	Aye
Chairman Marx	Aye

NOW THEREFORE BE IT RESOLVED, that upon reviewing all materials submitted in support of the application by New Cingular Wireless PCS, LLC (AT&T), the area variances requested be granted to permit New Cingular Wireless PCS, LLC (AT&T) to collocate at the wireless telecommunications facility as shown on the "Plot Plan (Z-1A)", prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010 and last revised March 15, 2011 consisting of sheets Z-1 through Z-4 ; and

BE IT FURTHER RESOLVED, that the Special Permit application for the wireless communications facility proposed for the subject property located at 80 Route 6, as proposed in the plans identified above in the recitals, being in conformity with the applicable standards of the Somers Zoning Law be granted subject to the following conditions of the Planning Board's Special Use permit approval:

1. That an engineering inspection fee for the Site Plan shall be paid by check made payable to the Town of Somers in accordance with the Fee Schedule adopted by the Town Board; the amount of such fee shall be set after submission by the Applicant of estimated costs for required improvements as identified by the Consulting Town Engineer, and upon recommendation of the Consulting Town Engineer.
2. That all improvements shown on the plans be installed in accordance with the approved plan and construction standards and specifications of the Town.
3. That all work associated with this Site Plan application shall be to the satisfaction of the Consulting Town Engineer.
4. That the site plan be amended to include proper information regarding the requested variances in the zoning conformance table.

5. That the applicant provides proof of the grant of the subject variances to the Planning Board.
6. That all review fees associated with this application shall be paid by the applicant. The Applicant is to be responsible for the costs of all consulting engineer services and reviews required hereunder.
7. That the Applicant shall comply with all applicable provisions of the *Code of the Town of Somers* as set forth in Section 170-129.4 & 129.5 and such other laws as may be applicable to wireless telecommunications facilities.
8. That the wireless telecommunication facility shall comply with any and all applicable laws, rules and regulations, including the provisions of the Code of Federal Regulations pertaining to objects affecting navigable airspace as delineated in Federal Aviation Regulation (FAR) Part 77 and the criteria for obstructions to air navigation as established by FAR part 77, Subpart C, Obstruction Standards and the wireless telecommunication facility shall comply at all times to the applicable FCC non-ionizing electrical radiation standards.
9. That the Special Use Permit term shall be five (5) years from April 13, 2011, subject to renewal as provided by §170-129.6D of the *Code of the Town of Somers*. This Special Use Permit may be renewed on application for additional five-year terms, provided the applicant shall demonstrate that the wireless telecommunications facility is and has been in compliance with the requirements of the *Code of the Town of Somers* per §170-129.6G.

**BY ORDER OF THE ZONING BOARD OF APPEALS
OF THE TOWN OF SOMERS**



Paul I. Marx, Esq., Chairman

Dated: 5/16/11

Telephone
(914) 277-5582

FAX
(914) 277-3790

PLANNING DEPARTMENT

Town of Somers

WESTCHESTER COUNTY, N.Y.

TOWN HOUSE
ANNEX
337 ROUTE 202
SOMERS, NY 10589

Fedora DeLucia, Chairman
John Currie
Christopher Foley
Vicky Gannon
Nancy Gerbino
Eugene Goldenberg
John Keane



Planning Board Meeting Date of April 13, 2011

Somers Planning Board
TOWN OF SOMERS, WESTCHESTER COUNTY, NEW YORK

Resolution No. 2011-01
*Granting of Conditional Amended Site Plan Approval, Special Use and Wetlands
and Watercourse Protection Permits to*

**NEW CINGULAR WIRELESS PCS, LLC (AT&T) at SOMERS COMMONS
SHOPPING CENTER
(UB SOMERS, INC.)**

Town Tax Number: Section 4.20, Block 1, Lot 11

WHEREAS, a formal application by New Cingular Wireless PCS, LLC ("AT&T") (Applicants) and UB Somers, Inc. (Owners), dated October 14, 2010, for Site Plan Approval in accordance with Chapter 144 of the *Code of the Town of Somers* and *Special Use Permit in accordance with Chapter 170-129.1* of the *Code of the Town of Somers*, was received on December 6, 2010 consisting of the following plans and supporting materials:

1. Application packet (narrative materials) submitted by Cuddy & Fedder, dated November 12, 2010.
2. Plan titled "Title Sheet (T-1), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.
3. Plan titled "Plot Plan (Z-1A), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.
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5. Plan titled "Site Plan (Z-1), prepared by Tectonic Engineering and

- Surveying Consultants, P.C. and AT&T, dated November 11, 2010.
6. Plan titled "Site Detail Plan and Notes (Z-2), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.
 7. Plan titled "Elevation, Antenna Plan & Details (Z-3), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.
 8. Plan titled "Details & Notes (Z-4), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010.

WHEREAS, the subject application is a collocation application consisting of concealment of AT&T's antennas at 84 feet above grade level within the existing 120 foot tall concealment monopole. At grade level, in the existing telecommunications facility, AT&T will place a 12 foot long by 20 foot wide associated, unmanned equipment shelter within its 350 square foot lease area east of the concealment monopole and T-Mobile's existing equipment cabinets; and

WHEREAS, the subject property consists of a total area of approximately 27.7 acres and is shown on the Town Tax Maps as Section 4.20, Block 1, Lot 11; and

WHEREAS, the subject property is located on the south side of Birdsall Road, Route 6, west of Meadow Park Road, within the Amawalk Drainage Basin; and

WHEREAS, the subject property is located in the Community Shopping (CS) zoning district in the Town of Somers; and

WHEREAS, the current uses on the subject property consist of nine commercial condominiums comprising the Somers Commons Shopping Center with associated parking areas and access driveways; and

WHEREAS, 100' wetland buffers are identified on-site and the proposed installation at the site would require approximately 25.13 Cubic Feet or 6.28 Square Feet of permanent disturbance within the Town-regulated wetland buffer; and

WHEREAS, the Somers Planning Board determined that this action was a Type II Action pursuant to the New York State Environmental Quality Review Act (SEQRA) and therefore no further action under the SEQRA would be required; and

WHEREAS, the site plan application and associated materials and plans, as revised throughout the review process, were circulated to the New York City Department of Environmental Protection, the Westchester County Department of Planning, the Putnam County Department of Planning, the Town of Somers

Zoning Board of Appeals, the Town of Somers Conservation Board, the Town of Somers Architectural Review Board, and the Town of Carmel and their comments were considered by the Planning Board; and

WHEREAS, the Somers Planning Board discussed the subject application and associated plans and materials at their meetings of February 09, 2011, March 9, 2011(Public Hearing), and April 13, 2011; and

WHEREAS, during the course of the Planning Board's review of the Applicant's proposed site plan application the Planning Board received and considered correspondence from the public as well as Town staff, Town advisory boards and other Involved Agencies. Correspondence from the public, Town staff, Town advisory boards and other Involved Agencies are listed as follows:

1. Communication from the Somers Architectural Review Board dated March 8, 2011;
2. Memorandum from the Somers Conservation Board dated January 22, 2011, January 25, 2011 and March 4, 2011;
3. Memoranda from the Town of Somers Town Planner dated December 17, 2010, January 7, 2011, February 9, 2011, March 7, 2011, March 18, 2011, and April 8, 2011; and

WHEREAS, the consideration of wetlands protection was made by the Planning Board and in accordance with the Town's Wetland and Watercourse Protection Regulations, Chapter 167 of the Code of the Town of Somers; it was determined that the site does contain wetlands and associated 100-foot regulated wetland buffer and the plans indicate that the total disturbance within the wetland buffer would be negligible (25.13 Cubic Feet or 6.28 Square feet) given the existing disturbed condition of the affected area. Therefore, a wetland permit will be required, however no mitigation will be required; and

WHEREAS, the plans representing the changes to the existing site do not meet the thresholds which would require the installation of stormwater management practices which would be set forth in a Stormwater Pollution Prevention Plan & Drainage Analysis, thereby a Stormwater Management and Erosion and Sediment Control Permit as described in Chapter 93 of the *Code of the Town of Somers* is not required; and

WHEREAS, a public hearing was conducted on due notice beginning on March 9, 2011 at which time all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, on March 9, 2011 on motion by Mr. Goldenberg, seconded by Mr. Currie and unanimously carried, the public hearing was closed; and

WHEREAS, in addition to the plan alternatives and reports reviewed throughout the review process and as a result of the review of those additional documents by the Somers Planning Board, Town staff and other advisors throughout the review process, the following plans and reports- as required to be revised by the conditions of this resolution- were submitted for the Planning Board's consideration and are the subject of this approval:

1. Application packet (narrative materials) submitted by Cuddy & Fedder, dated November 12, 2010 and last revised January 26, 2011
2. Additional application materials (narrative and maps) submitted by Tectonic Engineering & Surveying Consultants, P.C., dated February 22, 2011;
3. Plan titled "Title Sheet (T-1), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010 and last revised February 23, 2011.
4. Plan titled "Plot Plan (Z-1A), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010 and last revised March 15, 2011.
5. Plan titled "Wetland and Regulated Buffer Disturbance Area (C-1)", prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated February 23, 2011.
6. Plan titled "Property Owner's List & Setback Maps (Z-1B), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010 and last revised February 23, 2011.
7. Plan titled "Site Plan (Z-1), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010 and last revised February 23, 2011.
8. Plan titled "Site Detail Plan and Notes (Z-2), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010 and last revised February 23, 2011..
9. Plan titled "Elevation, Antenna Plan & Details (Z-3), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010 and last revised February 23, 2011.
10. Plan titled "Details & Notes (Z-4), prepared by Tectonic Engineering and Surveying Consultants, P.C. and AT&T, dated November 11, 2010 and last revised February 23, 2011.

WHEREAS, on March 9, 2011, the Planning Board made a positive recommendation that the Zoning Board should grant the two variances being sought by the applicant which include a maximum site coverage variance of 0.01% to be issued for a total site coverage of 87.72% and a rear yard setback variance of 20 feet making the total rear yard setback 160 feet; and

WHEREAS, the Planning Board has reviewed and is familiar with the project and has inspected the site and its surroundings; and

WHEREAS, the Planning Board has carefully considered all of the comments raised by the public and other interested agencies, organizations and officials, including those presented at meetings of the Board, as well as those submitted separately in writing; and

WHEREAS, the applicant has demonstrated that they have met the special permit standards for wireless telecommunications facilities as discussed in §170-129.7 of the *Code of the Town of Somers*;

NOW, THEREFORE, BE IT RESOLVED that the foregoing **WHEREAS** clauses are incorporated herein by reference and are fully adopted as part of this approval; and

BE IT FURTHER RESOLVED, that the application for conditional amended Site Plan Approval, Special Use and Wetlands Permits to **New Cingular Wireless PCS, LLC ("AT&T") at Somers Commons Shopping Center (UB SOMERS, INC.)** as shown and described by the materials enumerated herein, is **HEREBY CONDITIONALLY GRANTED** in accordance with the New York State Town Law §276 and §278 and in accordance with §170-114(12) "Planning Board Action" of the *Code of the Town of Somers, New York* **SUBJECT TO** the following conditions set forth below:

Conditions Required Prior to Signing of Site Plan

1. That an engineering inspection fee for the Site Plan shall be paid by check made payable to the Town of Somers in accordance with the Fee Schedule adopted by the Town Board; the amount of such fee shall be set after submission by the Applicant of estimated costs for required improvements as identified by the Consulting Town Engineer, and upon recommendation of the Consulting Town Engineer.
2. That all improvements shown on the plans be installed in accordance with the approved plan and construction standards and specifications of the Town.
3. That all work associated with this Site Plan application shall be subject to the satisfaction of the Consulting Town Engineer.
4. That the site plan be amended to include proper information regarding the requested variances in the zoning conformance table.
5. That the applicant obtains and provides proof of receipt regarding the requested variances from the Town of Somers Zoning Board of Appeals.

6. Review Fees: All review fees associated with this application shall be paid by the applicant. The Applicant is to be responsible for the costs of all consulting engineer services and reviews required hereunder.
7. Compliance with Town Code: The Applicant shall comply with all applicable provisions of the *Code of the Town of Somers* as set forth in Section 170-129.4 & 129.5 and such other laws as may be applicable to wireless telecommunications facilities.
8. Regulatory Compliance: (1). The wireless telecommunication facility shall comply with any and all applicable laws, rules and regulations, including the provisions of the Code of Federal Regulations pertaining to objects affecting navigable airspace as delineated in Federal Aviation Regulation (FAR) Part 77 and the criteria for obstructions to air navigation as established by FAR part 77, Subpart C, Obstruction Standards. (2). The wireless telecommunication facility shall comply at all times to the applicable FCC non-ionizing electrical radiation standards.
9. Permit Renewal: The special permit term shall be five (5) years from April 13, 2011, subject to renewal as provided by §170-129.6D of the *Code of the Town of Somers*. A special permit may be renewed on application for additional five-year terms, provided the applicant shall demonstrate that the wireless telecommunications facility is and has been in compliance with the requirements of the *Code of the Town of Somers* per §170-129.6G.

On-going Conditions Required After Signing of Site Plan

1. That the Applicant implements and maintains Best Management Practices and erosion control measures during construction.
2. That construction activity shall be limited from 8:00 a.m. to 6:00 p.m., and that no construction activity shall occur on Sundays or legal New York State holidays.
3. Within 60 days of the Department of Justice decision regarding the AT&T/T-Mobile merger, the Applicant will make a submission demonstrating that there is no redundancy in AT&T's customer access to its network, and that there is a continuing need. If such redundancy does exist and there is not a continuing need, the applicant will remove all the AT&T equipment related to this collocation from the facility. If a merger is effectuated, the reference to AT&T or the "Applicant" shall refer to and inure to the merged entity and/or AT&T's successors or assigns.

BE IT FURTHER RESOLVED, that upon determination of compliance with the foregoing conditions, the Planning Board Chairman is hereby authorized to endorse Site Plan approval upon all maps and drawings constituting the Site Plan. The Applicant shall provide six (6) prints of each map and drawing to the Planning Board Secretary. No construction or site work is authorized until the Site Plan has been signed by the Chairman and the required copies delivered.

In accordance with §170-114.H, "Time for Signature of Site Plan", and §170-114.K, "Extension", of the Town Code, failure to comply with the above shall result in the expiration of Site Plan approval on April 13, 2012 unless an extension of this time period is requested prior to the expiration date and approved by the Planning Board.

Site Plan approval and its continued validity are subject to all requirements of Section 170-114, "Site Plan Approval", and Chapter 144, "Site Plan Review", of the Town Code. Approval shall be deemed null and void one (1) year from the date of signing of the Site Plan unless a Building Permit in compliance with the above shall have been obtained and construction progressed as required by §170-114.I, "Time to Obtain Permit and Complete Construction", of the Town Code.

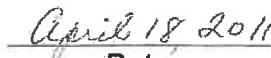
Before the completion of the improvements shall be approved and the Certificate of Occupancy issued, the Applicant shall submit an as-built plan to the satisfaction of the Consulting Town Engineer.

The validity of any Certificate of Occupancy shall be subject to continued conformance with the approved Site Plan.

This resolution shall have an effective date of April 13, 2011.

**BY ORDER OF THE PLANNING BOARD
OF THE TOWN OF SOMERS**


Fedora C. DeLucia, Chairman

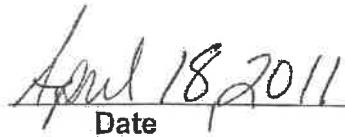

Date

CERTIFICATION

I hereby certify that this is a true and correct copy of Resolution No. 2011-01 adopted by the Town of Somers Planning Board granting the application for conditional amended Site Plan Approval, Special Use and Wetlands and Watercourse Protection Permits to **New Cingular Wireless PCS, LLC ("AT&T") at Somers Commons Shopping Center (UB SOMERS, INC.)** as shown and

described by the materials enumerated herein at a regular meeting held on April 13, 2011.


Sabrina D. Charney Hull, AICP
Town Planner


Date

APPLICANT ACKNOWLEDGEMENT

By making this application, the undersigned Applicant agrees to permit Town officials and their representatives to conduct on-site inspections in connection with the review of this application.

The applicant also agrees to pay all expenses for the cost of professional review services required for this application, as referred to in §133-1 of the Code of the Town of Somers. As such, an Escrow Account, according to §133-2 of the Code of the Town of Somers, may be required.

It is further acknowledged by the Applicant that all bills for the professional review services shall be mailed to the Applicant, unless the Town is notified in writing by the Applicant at the time of initial submission of the application that such mailings should be sent to a designated representative instead.

Signature of Applicant: _____

Date: _____

Signature of Property Owner:
(if different from applicant) _____

Date: _____

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: Lackner			
Project Location (describe, and attach a location map): 11 Valley Driver			
Brief Description of Proposed Action: Construction of in-ground pool.			
Name of Applicant or Sponsor: Piza Construction		Telephone: 914-705-9662	
Address: 1070 US 4 Suite 207		E-Mail: office@pizacreationguy.com	
City/PO: Fishkill		State: NY	Zip Code: 12524
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.		NO ☒	YES ☐
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: Building permit, Planning Board, Zoning Board and NYSDEC		NO ☐	YES ☒
3.a. Total acreage of the site of the proposed action?		1.2 acres	
b. Total acreage to be physically disturbed?		0.3 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		1.2 acres	
4. Check all land uses that occur on, adjoining and near the proposed action. ☐ Urban ☐ Rural (non-agriculture) ☐ Industrial ☐ Commercial ☒ Residential (suburban) ☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other (specify): _____ ☐ Parkland			

**TOWN OF SOMERS
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 _____ Block 3 Lot 56
Property Address 11 Valley drive. Yorktown Heights
Permit Applying For inground pool

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 [Signature]
(Owner of Record)

Signed [Signature]
(Applicant for Permit)

Mike Lachner
(Print Name)

Austin Cox
(Print Name)

Date 9/19/21

Date 9/19/21

CONFIRMATIONS

Engineering Department

Date: _____

Zoning Enforcement Officer

Date: _____

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO ☐	YES ☒	N/A ☐
b. Consistent with the adopted comprehensive plan?	☐	☒	☐
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO ☐	YES ☒	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO ☒	YES ☐	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO ☒	YES ☐	
b. Are public transportation service(s) available at or near the site of the proposed action?	☒	☐	
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	☒	☐	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: Equipment will be compliant	NO ☐	YES ☐	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: well	NO ☒	YES ☐	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: Septic	NO ☒	YES ☐	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places? b. Is the proposed action located in an archeological sensitive area?	NO ☒ ☒	YES ☐ ☐	
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? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	NO ☐ ☒	YES ☒ ☐	
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: ☐ Shoreline ☐ Forest ☐ Agricultural/grasslands ☐ Early mid-successional ☐ Wetland ☐ Urban ☒ 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 ☐	
16. Is the project site located in the 100 year flood plain?	NO ☒	YES ☐	
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____	NO ☒ ☒ ☒	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: _____	NO	YES
	☒	☐
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	YES
	☒	☐
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	YES
	☒	☐
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <u>PSC Construction</u> Date: <u>9/19/24</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?	☐	☐
2. Will the proposed action result in a change in the use or intensity of use of land?	☐	☐
3. Will the proposed action impair the character or quality of the existing community?	☐	☐
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	☐	☐
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?	☐	☐
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?	☐	☐
7. Will the proposed action impact existing:		
a. public / private water supplies?	☐	☐
b. public / private wastewater treatment utilities?	☐	☐
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	☐	☐
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	☐	☐

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	☐	☐
11. Will the proposed action create a hazard to environmental resources or human health?	☐	☐

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

☐	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.						
☐	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.						
<table border="0" style="width: 100%;"> <tr> <td style="width: 50%; border-bottom: 1px solid black; text-align: center;">Name of Lead Agency</td> <td style="width: 50%; border-bottom: 1px solid black; text-align: center;">Date</td> </tr> <tr> <td style="border-bottom: 1px solid black; text-align: center;">Print or Type Name of Responsible Officer in Lead Agency</td> <td style="border-bottom: 1px solid black; text-align: center;">Title of Responsible Officer</td> </tr> <tr> <td style="border-bottom: 1px solid black; text-align: center;">Signature of Responsible Officer in Lead Agency</td> <td style="border-bottom: 1px solid black; text-align: center;">Signature of Preparer (if different from Responsible Officer)</td> </tr> </table>		Name of Lead Agency	Date	Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer	Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)
Name of Lead Agency	Date						
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer						
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)						

STATE OF NEW YORK)
)
) ss:
COUNTY OF Westchester)

(Signed)

Sworn to before me this 20th
day of September, 2024

SCOTT GENE BARRIOS
Notary Public - State of New York
NO. 01BA6396532
Qualified in Westchester County
My Commission Expires Aug 19, 2027

AFFIDAVIT TO BE COMPLETED BY CORPORATION OWNER

STATE OF NEW YORK)

ss:

COUNTY OF Westchester)

Austin Cox being duly sworn, deposes and
says that he resides at 11 Rivera Drive
in the County of Dutchess, State of New York
that he is the Vice President of Pisa Construction
(Title)

Pisa Construction

(Name of Corporation)

which is the owner in fee of all property shown on plat entitled 11 Valley
Drive Verblanc Heights, application for approval of which is
herein made. That said Pisa Construction

(Name of Corporation)

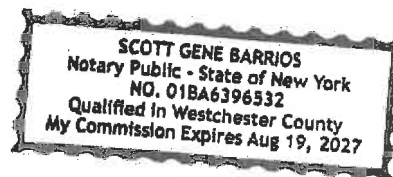
acquired title to the said premises by deed from Mike Lachar
recorded in the Office of the Clerk of the County of Westchester
on _____ in Liber _____ of Conveyances at Page _____

That the statements contained herein are true to the best of deponent's
knowledge and belief, and are made for the purpose of obtaining the approval of
the submitted application by the Planning Board of the Town of Somers.

(Signed) [Signature]

Sworn to before me this 20th
day of September, 20 24

[Signature]
(Notary Public)



APPLICANT ACKNOWLEDGEMENT

By making this application, the undersigned Applicant agrees to permit Town officials and their representatives to conduct on-site inspections in connection with the review of this application.

The applicant also agrees to pay all expenses for the cost of professional review services required for this application, as referred to in §133-1 of the Code of the Town of Somers. As such, an Escrow Account, according to §133-2 of the Code of the Town of Somers, may be required.

It is further acknowledged by the Applicant that all bills for the professional review services shall be mailed to the Applicant, unless the Town is notified in writing by the Applicant at the time of initial submission of the application that such mailings should be sent to a designated representative instead.

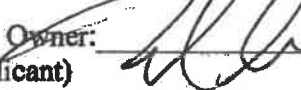
Signature of Applicant:



Date:

9/19/24

Signature of Property Owner:
(if different from applicant)



Date:

9/19/24

**TOWN OF SOMERS
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 _____ Block 3 Lot 56

Property Address 11 Valley drive Yorktown Heights

Permit Applying For Inground pool

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 [Signature]
(Owner of Record)

Signed [Signature]
(Applicant for Permit)

Mike Lackner
(Print Name)

Ashia Cox
(Print Name)

Date 9/14/24

Date 9/14/24

CONFIRMATIONS

Engineering Department

Date: _____

Zoning Enforcement Officer

Date: _____

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 3
21 South Platt Corners Road, New Paltz, NY 12561-1620
P: (845) 256-3054 | F: (845) 255-4659
www.dec.ny.gov



**Department of
Environmental
Conservation**

IMPORTANT NOTICE TO ALL PERMITTEES

The permit you requested is enclosed. Please read it carefully and note the conditions that are included in it. The permit is valid for only that activity expressly authorized therein; work beyond the scope of the permit may be considered a violation of law and be subject to appropriate enforcement action. Granting of this permit does not relieve the permittee of the responsibility of obtaining any other permission, consent or approval from any other federal, state, or local government which may be required.

Please note the expiration date of the permit. Applications for permit renewal should be made well in advance of the expiration date (minimum of 30 days) and submitted to the Regional Permit Administrator at the above address. For SPDES, Solid Waste and Hazardous Waste Permits, renewals must be made at least 180 days prior to the expiration date.

The DEC permit number & program ID number noted on page 1 under "Permit Authorization" of the permit are important and should be retained for your records. These numbers should be referenced on all correspondence related to the permit, and on any future applications for permits associated with this facility/project area.

If a permit notice sign is enclosed, you must post it at the work site with appropriate weather protection, as well as a copy of the permit per General Condition 1.

If you have any questions on the extent of work authorized or your obligations under the permit, please contact the staff person indicated below or the Division of Environmental Permits at the above address.

Frank Benedetto

Frank Benedetto

Division of Environmental Permits, Region 3
Telephone (845) 256-0208
Frank.benedetto@dec.ny.gov



**Department of
Environmental
Conservation**



Distribution List

PAUL J JAEHNIG
Sarah Pawliczak; NYSDEC
Maria Tupper- Goebel; NYCDEP
Town of Somers

Permit Components

NATURAL RESOURCE PERMIT CONDITIONS

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Permit Attachments

Permit Sign

NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following Permits: FRESHWATER WETLANDS

- 1. Conformance With Plans** All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or applicant's agent as part of the permit application. Such approved plans were prepared by the applicant and consist of Joint Application Form, received by DEC on April 5, 2023, and "Pool Plan for Lackner", received by DEC on July 5, 2023.
- 2. Notice of Intent to Commence Work** The permittee or their representative must notify Sarah Pawliczak of the DEC Bureau of Ecosystem Health via email (sarah.pawliczak@dec.ny.gov) no less than 48 hours prior to the commencement of work.
- 3. Prior Approval of Changes** If the permittee desires to make any minor changes to the scope of work shown in the approved plans referenced in Natural Resources Permit Condition 1 or seeks minor changes to timeframes or deadlines in any conditions of this permit, the permittee shall submit a request via email to Sarah Pawliczak of the DEC Bureau of Ecosystem Health (sarah.pawliczak@dec.ny.gov) to make such proposed changes. The proposed changes shall not be implemented unless authorized in writing by the Department. Issuance of such approval without modification of the permit is at the Department's discretion.
- 4. Post Permit Sign** The permit sign enclosed with this permit shall be posted in a conspicuous location on the worksite and adequately protected from the weather.



5. Install Controls as Shown on Plans Prior to commencement of the activities authorized herein, the permittee shall install securely anchored silt fencing and/or continuous staked straw bales as shown on the plans or drawings referenced in this permit.

6. Maintain Erosion Controls These erosion control devices shall be maintained until all disturbed land is fully vegetated to prevent any silt or sediment from entering the freshwater wetland or its adjacent area. Silt fencing, hay bales and any accumulated silt or sediment shall be completely removed for disposal at an appropriate upland site.

7. No Equipment in Wetland Heavy equipment, including bulldozers, backhoes, payloaders, etc., shall not be operated in the wetland.

8. No Wetland Disturbance No disturbance to the wetland is authorized.

9. Clean Fill Only All fill shall consist of clean soil, sand and/or gravel that is free of the following substances: asphalt, slag, flyash, broken concrete, demolition debris, garbage, household refuse, tires, woody materials including tree or landscape debris, and metal objects. The introduction of materials toxic to aquatic life is expressly prohibited.

10. Stockpile Areas Excavated materials and/or fill materials shall be stockpiled more than 100 feet landward of the wetland or water body and shall be contained by straw bales or silt fencing to prevent erosion.

11. No Pool Discharges to Wetland There shall be no draining of swimming pool water directly or indirectly into wetlands or protected buffer areas.

12. Equipment Cleaning Before equipment and materials are used in any project work area involving regulated waters or wetlands, the equipment must be inspected for, and cleaned of, any visible soils, vegetation, and debris to prevent the potential introduction of invasive species into regulated waters or wetlands from other areas.

13. Vegetation Debris Disposal Invasive species, host material and attached soil material that has been removed from vehicles, equipment, and materials, or generated from cleaning operations shall be rendered incapable of any growth or reproduction by placing in plastic bags at least 3 mil thick, hauled in a covered truck, and properly disposed of offsite; or the material shall be managed within the infested project area, provided that no filling of any wetland or adjacent area will occur. A list of prohibited and regulated invasive species is contained within 6 NYCRR Part 575 and available at <https://www.dec.ny.gov/animals/99141.html>.

14. Disposal of Material Any demolition debris, excess construction materials, and/or excess excavated materials shall be immediately and completely disposed of on an approved upland site more than 100 feet from any regulated waterbody or wetland. These materials shall be suitably stabilized so as not to re-enter any water body, wetland, or wetland adjacent area; and must be disposed of in accordance with all local, state, and federal statutes, regulations, or ordinances.



15. Seed, Mulch Disturbed Areas All areas of soil disturbance resulting from this project shall be seeded with an appropriate perennial grass, and mulched with straw immediately upon completion of the project, within two days of final grading, or by the expiration of the permit, whichever is first.

16. State Not Liable for Damage The State of New York shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the State for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.

17. State May Order Removal or Alteration of Work If future operations by the State of New York require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Department of Environmental Conservation it shall cause unreasonable obstruction to the free navigation of said waters or flood flows or endanger the health, safety or welfare of the people of the State, or cause loss or destruction of the natural resources of the State, the owner may be ordered by the Department to remove or alter the structural work, obstructions, or hazards caused thereby without expense to the State, and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized shall not be completed, the owners, shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill and restore to its former condition the navigable and flood capacity of the watercourse. No claim shall be made against the State of New York on account of any such removal or alteration.

18. State May Require Site Restoration If upon the expiration or revocation of this permit, the project hereby authorized has not been completed, the applicant shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may lawfully require, remove all or any portion of the uncompleted structure or fill and restore the site to its former condition. No claim shall be made against the State of New York on account of any such removal or alteration.

19. Precautions Against Contamination of Waters All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate or any other environmentally deleterious materials associated with the project.

GENERAL CONDITIONS - Apply to ALL Authorized Permits:
--

1. Facility Inspection by The Department The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).



The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

2. Relationship of this Permit to Other Department Orders and Determinations Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

3. Applications For Permit Renewals, Modifications or Transfers The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Regional Permit Administrator
NYSDEC Region 3 Headquarters
21 S Putt Corners Rd
New Paltz, NY12561

4. Submission of Renewal Application The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Freshwater Wetlands.

5. Permit Modifications, Suspensions and Revocations by the Department The Department reserves the right to exercise all available authority to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

6. Permit Transfer Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.



NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

Item B: Permittee's Contractors to Comply with Permit

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

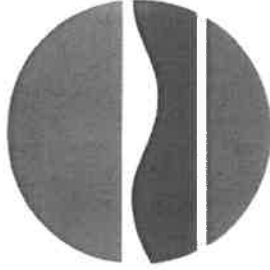
Item C: Permittee Responsible for Obtaining Other Required Permits

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

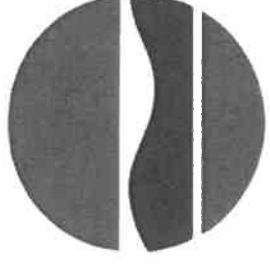
Item D: No Right to Trespass or Interfere with Riparian Rights

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

New York State
Department of Environmental Conservation



NOTICE



The Department of Environmental Conservation (DEC) has issued permit(s) pursuant to the Environmental Conservation Law for work being conducted at this site. For further information regarding the nature and extent of work approved and any Department condition on it, contact the DEC at 845-256-3054 or dep.r3@dec.ny.gov. Please refer to the permit number shown when contacting the DEC.

Permittee: Michael Lackner

Permit No. 3-5552-00226/00001

Effective Date: 7/7/2023

Expiration Date: 12/31/2028

☐ Applicable if checked. No instream work allowed between October 1 & April 30

NOTE: This notice is **NOT** a permit.



John J. Hogan
Donald M. Rossi
Michael T. Liguori*

Nancy Tagliafierro*
Jamie Spillane*†
Scott J. Steiner
Brendan J. Liberati*

Of Counsel
Bonnie N. Feinzig
Mary Jane MacCrae

* Also Admitted in CT
† Also Admitted in NJ

September 23, 2024

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

Re: Two Lot Subdivision 10 Keyrel Lane, Mahopac (Town of Somers), New York

Dear Chair Currie and Members of the Board:

Our office represents Melissa Harney the owner of 10 Keyrel Lane. Ms. Harney is seeking to subdivide 10 Keyrel Lane to create two residential lots. In connection therewith, enclosed herewith, please find fourteen (14) of the following documents which, taken together, form the application:

1. Preliminary Subdivision Application;
2. Short Environmental Assessment Form;
3. Existing Condition Plan;
4. Subdivision Plan Harney Property; and
5. Mailing Labels for Abutting Property owners;
6. Ownership Affidavit; and
7. Letter from Receiver of Taxes that Taxes are current.

Also enclosed is the check made to the order of the "Town of North Somers" in the amount of \$800 for the application fee.

Please note, though it has been maintained by the Town highway department for over 10 years, it has come to our understanding that only a portion of Keyrel Lane is included on the official Town road inventory. As such, this is a "highway by use" under the laws of New York. Should the Board be inclined to grant this application, we will be applying for a 280-a variance from the Zoning Board of Appeals. The premises meet all other requirements as a two-lot subdivision.

Thank you very much.

Respectfully,
Jamie Spillane, Esq.

7/02

SOMERS PLANNING BOARD

APPLICATION FOR PRELIMINARY APPROVAL OF SUBDIVISION

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

I. IDENTIFICATION OF APPLICANT:

A. OWNER: Melissa Harney SUBDIVIDER: Melissa Harney
 ADDRESS: 10 Keyrel Lane ADDRESS: 10 Keyrel Lane, Town of Somers, New York

TELE #: _____ TELE #: _____
 B. SURVEYOR: Spinelli Surveying TELE #: _____
 ENGINEER: Bibbo Associates, LLP TELE #: 914 277-5805

II. IDENTIFICATION OF PROPERTY: 10 Keyrel Lane, Mahopac (Town of Somers), NY

A. Subdivision identifying Title: Subdivision Plan Harney Property
 B. Street abutting property: Keyrel Lane
 C. Tax Map Designation: Sheet: 16.07 Block: 1 Lot: 3
 D. Zoning District: R-40
 E. Project (does) (does not) connect directly into (State) (County) highway.
 F. Proposed drainage (does) (does not) connect directly into channel lines established by the County Commission of Public Works.
 G. Project site (is) (is not) within 500 feet of Town boundary.
 H. Affected Wetland Area: 0 Wetland Buffer Area: 0
 I. Affected Steep Slope Areas: 15% - 25%: 0 Over 25%: 0
 J. Total area of property in acres: 2.50 acres

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

Abbreviated Procedure fee of \$250: _____ Date Paid: _____
 Preliminary Subdivision Plat is \$400 per lot _____ \$800
 Number of lots: 2 Date Paid: _____
 Wetland Permit Fee: \$200 min. fee + \$100 per 5,000 s.f. of regulated area or proposed portions to be disturbed.
 Steep Slope Permit Fee: \$150 min. fee + \$75 per 10,000 s.f. of regulated area or proposed portions to be disturbed.
 Total Fee: \$800 Date Paid: _____

IV. DOCUMENTS TO BE SUBMITTED WITH THIS APPLICATION

14 copies of all submitted correspondence during review process

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

V. ADJOINING PROPERTY OWNERS

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

SHEET BLOCK LOT NAME OF OWNER & MAILING ADDRESS

If necessary, continue listing on additional sheet.

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

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

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

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

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

Applicant _____ Date: _____

Property Owner [Signature] Date: 9/20/2024

AFFIDAVIT TO BE COMPLETED BY OWNER OTHER THAN CORPORATION

STATE OF NEW YORK)

SS:

COUNTY OF Putnam

Melissa Harney, being duly sworn, deposes and says: that he is the owner in fee of all the property shown on plat entitled Subdivision Plan Harney Property, application for approval of which is herein made. The deponent acquired title to the said premises by deed from A&S RE LLC dated April 1, 2022, and recorded in the Office of the Clerk of the County of Westchester on April 26, 2022, in Control No. 620983274. That the statements contained herein are true to the best of deponent's knowledge and belief, and are made for the purpose of obtaining the approval of the submitted application by the Planning Board of the Town of Somers.

(Signed)

Melissa Harney

Sworn to before me this 20
day of Sept, 2024.

[Signature]
DARA L. BERKWITS
Notary Public, State Of New York
(Notary Public No. 01BE6073548)
Qualified In Putnam County
Commission Expires April 22, 2026

Short Environmental Assessment Form

Part 1 - Project Information

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.

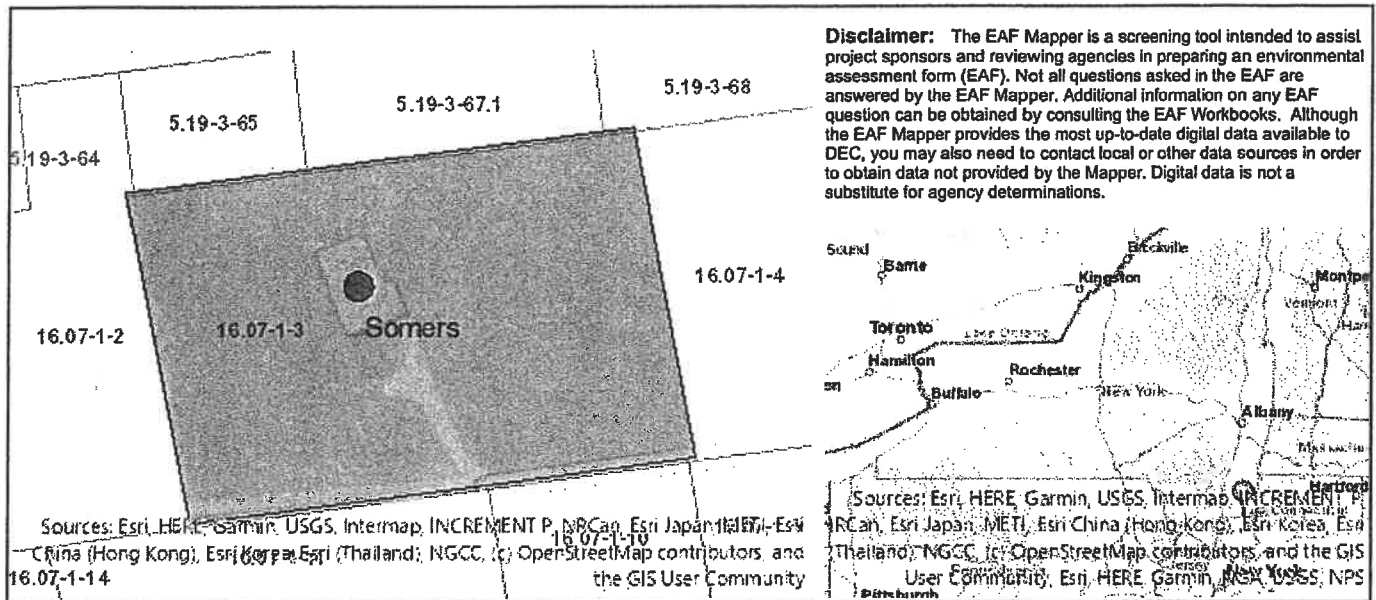
Part 1 – Project and Sponsor Information			
Melissa Harney			
Name of Action or Project: Harney Subdivision			
Project Location (describe, and attach a location map): 10 Keyrel Lane, Mahopac (Town of Somers), New York 10541			
Brief Description of Proposed Action: Two lot residential subdivision			
Name of Applicant or Sponsor: Melissa Harney		Telephone: 646-232-5866 E-Mail: mc2579@yahoo.com	
Address: 10 Keyrel Lane			
City/PO: Mahopac (Town of Somers)		State: NY	Zip Code: 10541
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation?		NO	YES
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.		☒	☐
2. Does the proposed action require a permit, approval or funding from any other government Agency?		NO	YES
If Yes, list agency(s) name and permit or approval: Westchester County Health Dept., Somers Zoning Board		☐	☒
3. a. Total acreage of the site of the proposed action?		2.5 acres	
b. Total acreage to be physically disturbed?		.5 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		2.5 acres	
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. ☐ Urban ☒ Rural (non-agriculture) ☐ Industrial ☐ Commercial ☒ Residential (suburban)			
☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other(Specify):			
☐ Parkland			

5. Is the proposed action, a. A permitted use under the zoning regulations? b. Consistent with the adopted comprehensive plan?	NO ☐ ☐	YES ☒ ☒	N/A ☐ ☐
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO ☐	YES ☒	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO ☒	YES ☐	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO ☒ ☐ ☐	YES ☐ ☐ ☐	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO ☐	YES ☒	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ New well will be dug on the new lot	NO ☒	YES ☐	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ New septic will be constructed on the new lot	NO ☒	YES ☐	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	NO ☒ ☐	YES ☐ ☒	
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? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO ☐ ☒	YES ☒ ☐	

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: ☐ Shoreline ☐ Forest ☐ Agricultural/grasslands ☐ Early mid-successional ☐ Wetland ☐ Urban ☒ 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? Northern Long-eared Bat	NO	YES
	☐	☒
16. Is the project site located in the 100-year flood plan?	NO	YES
	☒	☐
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES
a. Will storm water discharges flow to adjacent properties?	☒	☐
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	☒	☐
If Yes, briefly describe: _____ _____		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO	YES
	☒	☐
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	YES
	☒	☐
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	YES
	☒	☐
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor/name: _____ Date: _____ Signature: _____ Title: _____		

EAF Mapper Summary Report

Friday, September 13, 2024 3:56 PM



Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	Yes
Part 1 / Question 15 [Threatened or Endangered Animal - Name]	Northern Long-eared Bat
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No

MACCARIELLO, JOSEPH &
12 KEYREL LN
MAHOPAC, NY 10541

ATHENA PROPERTY SOLUTIONS
11 DOGWOOD RD
MAHOPAC, NY 10541

DOELZ, JASON &
KELLY
9 KEYREL LN
MAHOPAC, NY 10541

REIT, PETER &
ALYSSA
5 DOGWOOD RD
MAHOPAC, NY 10541

BOCCHINO, MICHAEL
7 KEYREL LN
MAHOPAC, NY 10541

MURTHA, ANN
6 KEYREL LN
MAHOPAC, NY 10541

YOUNGMAN TRUSTS -
7 DOGWOOD RD
MAHOPAC, NY 10541

A &
S RE LLC.
10 KEYREL LN
MAHOPAC, NY 10541

THOMAS, CAROLYN L
5 KEYREL LN
MAHOPAC, NY 10541

OFFICE OF THE TAX RECEIVER

Town of Somers

WESTCHESTER COUNTY, N.Y.

Telephone
(914) 277.3610

Fax
(914) 277.8932

Michele A. McKearney
Receiver of Taxes
mmckearney@somersny.com



335 Route 202
Town House
Somers, NY 10589

September 20, 2024

RE: Harney, Melissa
10 Keyrel Lane
Parcel # 16.07-1-3

To Whom It May Concern,

All taxes have been paid in full on the above referenced parcel. There are no outstanding liens or taxes due as of the date of this letter.

If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,


Michele McKearney
Receiver of Taxes

**PLANNING BOARD –TOWN OF SOMERS
MEETING DATES FOR 2025
2nd WEDNESDAY OF THE MONTH**

Meeting Date	Evening	Staff/Consultant Submission Cut Off Date	Applicant's Sub. Cut Off Date
January 8, 2025	2 nd Wednesday	December 31, 2024	December 18, 2024
February 12, 2025	2 nd Wednesday	February 5, 2025	January 27, 2025
March 12, 2025	2 nd Wednesday	March 5, 2025	February 24, 2025
April 9, 2025	2 nd Wednesday	April 2, 2025	March 24, 2025
May 14, 2025	2 nd Wednesday	May 7, 2025	April 28, 2025
June 11, 2025	2 nd Wednesday	June 4, 2025	May 23, 2025
July 9, 2025	2 nd Wednesday	July 1, 2025	June 20, 2025
August 13, 2025	2 nd Wednesday	August 6, 2025	July 28, 2025
September 10, 2025	2 nd Wednesday	September 3, 2025	August 22, 2025
October 8, 2025	2 nd Wednesday	October 1, 2025	September 22, 2025
November 12, 2025	2 nd Wednesday	November 3, 2025	October 23, 2025
December 10, 2025	2 nd Wednesday	December 3, 2025	November 20, 2025

ADOPTED

Note Pursuant to §150-11 C. (1) of the Somers Code new applications shall not be considered by the Planning Board less than 31 days after the date of receipt by the Planning Board's professional staff of all required materials.

PLANNING BOARD MEETING APPLICANT'S SUBMISSION DATE IS 12 BUSINESS DAYS PRIOR TO MEETING DATE

STAFF AND CONSULTANT'S SUBMISSION DATE IS 5 BUSINESS DAYS PRIOR TO MEETING DATE.

**PLANNING BOARD –TOWN OF SOMERS
MEETING DATES FOR 2025 (IF NEEDED)
4th WEDNESDAY OF THE MONTH**

Meeting Date	Evening	Staff/Consultant Submission Cut Off Date	Applicant's Sub. Cut Off Date
January 22, 2025	4 th Wednesday	January 14, 2025	January 3, 2025
February 26, 2025	4 th Wednesday	February 19, 2025	February 7, 2025
March 26, 2025	4 th Wednesday	March 19, 2025	March 10, 2025
April 23, 2025	4 th Wednesday	April 16, 2025	April 7, 2025
May 28, 2025	4 th Wednesday	May 20, 2025	May 9, 2025
June 25, 2025	4 th Wednesday	June 18, 2025	June 9, 2025
July 23, 2025	4 th Wednesday	July 16, 2025	July 7, 2025
August 27, 2025	4 th Wednesday	August 20, 2025	August 11, 2025
September 24, 2025	4 th Wednesday	September 17, 2025	September 8, 2025
October 22, 2025	4 th Wednesday	October 15, 2025	October 3, 2025
November 26, 2025	4 th Wednesday	November 19, 2025	November 7, 2025
December, 2025	4 th Wednesday	NO MEETING	

ADOPTED

Note Pursuant to §150-11 C. (1) of the Somers Code new applications shall not be considered by the Planning Board less than 31 days after the date of receipt by the Planning Board's professional staff of all required materials.

PLANNING BOARD MEETING APPLICANT'S SUBMISSION DATE IS 12 BUSINESS DAYS PRIOR TO MEETING DATE

STAFF AND CONSULTANT'S SUBMISSION DATE IS 5 BUSINESS DAYS PRIOR TO MEETING DATE.