

Guy L. Gagné, P.E.
Town Engineer
townengineer@somersny.com

Sabrina D. Charney Hull
Town Planner
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PLANNING AND ENGINEERING DEPARTMENTS

Town of Somers

WESTCHESTER COUNTY, N.Y.

Town House
335 Route 202
Somers, N.Y. 10589
Tele #: 914-277-5366
FAX #: 914-277-4093



Date: February 6, 2006

To: Town Board

From: Guy L. Gagné, P.E.
Town Engineer

A handwritten signature in black ink, appearing to be "GLG", is written over the printed name of the sender.

**Re: The Preserve at Somers
Sections I & II Dedication
Performance Cash Bonds**

Pursuant to my letter dated December 7, 2005 to Linda B. Whitehead, Esq., copy attached, regarding the cash escrow account for the public improvements necessary to finalize the dedication of Sections I & II at The Preserve, we are enclosing checks to be held in escrow as follows:

1. \$15,000.00 for completion of any necessary work to correct potential icing problems in two locations on Travis Road.
2. \$10,000.00 for pipes under Harris Road cul-de-sac until April 4, 2007.
3. \$5,000.00 for replanting and stabilization of the amended water quality basins.

We are also attaching copies of letters dated December 27, 2005 and January 31, 2006 from Ms. Whitehead agreeing to the time constraints associated with each item

GLG/bs
Encs.

cc: Town Clerk
Finance Director
Nicholas Ward Willis
Linda Whitehead

McCULLOUGH, GOLDBERGER & STAUDT, LLP
ATTORNEYS AT LAW
1311 MAMARONECK AVENUE, SUITE 340
WHITE PLAINS, NEW YORK

10605

(914) 949-6400

FAX (914) 949-2510

FRANK S. McCULLOUGH, JR.
CHARLES A. GOLDBERGER
JAMES STAUDT
WILLIAM SIMON
LINDA B. WHITEHEAD

JOANNA C. FELDMAN
MARK P. GIACOPELLI
DEBORAH A. GOLDBERGER
EDMUND C. GRAINGER, III
PATRICIA W. GURAHIAN
STEVEN L. KAY
SETH M. MANDELBAUM
JOHN P. MESSINA
RUTH F-L. POST

BENJAMIN I. TAYLOR (1911-1988)
JULIAN LIBERMAN (1911-1989)
FRANK S. McCULLOUGH (1905-1998)
EVANS V. BREWSTER (1920-2005)

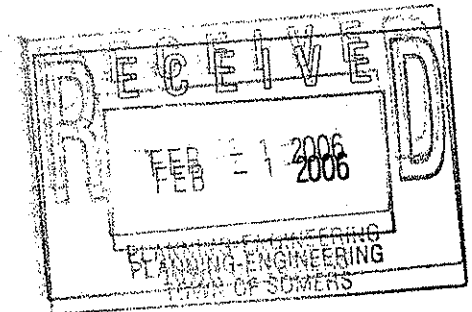
January 31, 2006

OUR FILE NO.

By Hand

Guy Gagne, P.E., Town Engineer
Town of Somers
Town House
335 Route 202
Somers, New York 10580

*This letter updates
the letter of 12/27/06*



Re: The Preserve at Somers (Meadows and Stephans Green)
Section 1 and 2 Road Dedication, Pump Station Lot and Well Lot "C"

Dear Guy:

Following up on our previous discussions and correspondence, as you requested, enclosed please find new original executed deeds, TP-584s and Equalization Forms for the Pump Station Lot and Well Lot "C". The TP-584s and Equalizations need to be executed on behalf of the Town. After they have been signed, they can be returned to me for recording together with the Section 1 and 2 road deeds which you already have.

Also enclosed are the following:

- Updated title report for Section 1 and 2 Roads.
- Copy of recorded Declaration of Covenants, Restrictions and Easements. Water, sewer and drainage easements are created by Section 5.
- Additional copy of the Stormwater Management Report prepared by Divney Tung Schwalbe.

With respect to the escrow funds previously forwarded to you with my letter of December 27, 2005, we had agreed in a conference call with Ken Powell on December 29, 2005 to modify slightly the escrow terms set forth in my letter. However, your letter of December 29, 2005 does not correctly state what was agreed to in the conference call. As was agreed, the modifications to the terms of my December 27, 2005 letter are as follows:

The \$15,000.00 being held to ensure completion of any necessary work to correct potential icing problems in the two identified locations on Travis Road will be held until April 1, 2006. In the event that we do not experience an additional frost this winter this will be extended until April 1, 2007. I do not want to get into a disagreement over what is "representative of a normal winter" as you stated in your letter. We had discussed and agreed to the "additional frost" language.

The \$10,000.00 to be held in relation to the pipe located under the Harris Court cul-de-sac will be held until December 31, 2007 rather than December 31, 2006 as stated in my letter. While we disagree with this, particularly in light of the length of time the pipe has already been in place, and the time when it was agreed to hold an escrow, we will agree to your date.

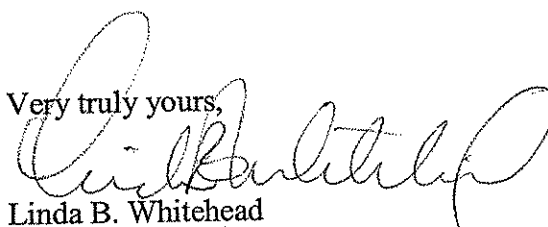
I do not believe the roads have separate tax lot designations or taxes due, but I will follow up on that with the receiver of taxes. I am not sure why you would need proof of payment of these from me as the Town would not be subject to any outstanding taxes in any event and I would think it would be easy enough for you to confirm.

As I indicated in my e-mail, the Pump Station and Well Lot C title report is being amended to omit the mortgages and related items.

Upon your receipt of the amendment to the title report, you should have all required documentation to complete the dedication.

Thank you.

Very truly yours,



Linda B. Whitehead

cc: Hon. Mary Beth Murphy, Supervisor
Kathleen Pacella, Town Clerk

McCULLOUGH, GOLDBERGER & STAUDT, LLP
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1311 MAMARONECK AVENUE, SUITE 340
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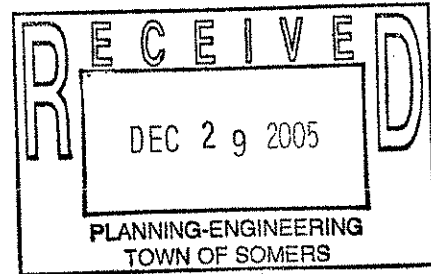
BENJAMIN I. TAYLOR (1911-1988)
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FRANK S. McCULLOUGH (1905-1998)
EVANS V. BREWSTER (1920-2005)

December 27, 2005

OUR FILE NO.

See attached L.W. letter
Dated 1/31/06

Via Federal Express
Guy Gagne, P.E., Town Engineer
Town of Somers
Town House
335 Route 202
Somers, New York 10580



Re: The Preserve at Somers (Meadows and Stephans Green)
Section 1 and 2 Road Dedication

Dear Guy:

Following up on our previous discussions, enclosed please find the original executed deeds, TP-584s and Equalization Forms for the Section 1 and 2 Roads. The TP-584s and Equalizations need to be executed on behalf of the Town. After they have been signed, they can either be forwarded to First American Title Insurance Company, reference title #3004-20136, for recording, or return them to me and I will have them recorded. The performance bond for the two sections which was already reduced to 10% is being modified to a maintenance bond.

In addition, enclosed please find checks for the escrow or cash bonds as set forth in your letter of December 7, 2005 and as is more fully set forth below. These funds are provided on the following terms:

\$15,000.00 to ensure completion of any necessary work to correct potential icing problems in the two identified locations on Travis Road. The area will be observed over the winter to determine if there is a problem. If an icing problem is observed, Beaver Brook/Somers Associates will make repairs to address the problem by installation of additional curtain drains or as may be otherwise reasonably necessary and the funds will be released upon completion of the work to the reasonable satisfaction of the Town Engineer. If no problem is observed by April 1, 2006, the full amount shall be released to Beaver Brook/Somers Associates.

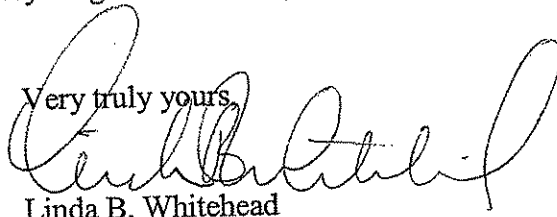
\$10,000.00 to be held in relation to the pipe located under the Harris Court cul-de-sac. The area will be observed over the next year. If a problem with the pipe is observed, Beaver Brook/Somers

Associates will make repairs to address the problem by relocating the pipe or as may be otherwise reasonably necessary and the funds will be released upon completion of the work to the reasonable satisfaction of the Town Engineer. If no problem is observed by December 31, 2006 the full amount shall be released to Beaver Brook/Somers Associates.

\$5000.00 for re-planting and stabilization of the recently amended water quality basins. The work shall be completed by Beaver Brook/Somers Associates in the spring of 2006 and the funds released upon completion of the work to the reasonable satisfaction of the Town Engineer.

Please let me know if you require anything further or if you have any questions regarding the enclosed.

Very truly yours,



Linda B. Whitehead

cc: Hon. Mary Beth Murphy, Supervisor
Ken Powell, Esq., Town Attorney
Kathleen Pacella, Town Clerk
Howard Blitman, P.E.
Erik Tinkhauser
Ron York

Guy L. Gagné, P.E.
Town Engineer
townengineer@somersny.com

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Sabrina D. Charney Hull
Town Planner
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Town of Somers

WESTCHESTER COUNTY, N.Y.



VIA FACSIMILE

December 7, 2005

Linda B. Whitehead, Esq.
McCullough, Goldberger & Staudt, LLP
1311 Mamaroneck Avenue, Suite 340
White Plains NY 10605

**Re: The Preserve at Somers
Sections I & II Dedication**

Dear Ms. Whitehead:

I am in receipt of your letter dated December 2, 2005, with the revised As Built drawing for section number I, dated November 21, 2005 showing the required volume for the water quality basin along with copies of the transfer documents for section I and II; your contractor's estimate in the amount of \$8,400 for the installation of curtain drains should it become necessary to address the related icing condition; and you have offered to post a cash bond in the amount of \$15,000 to cover that work.

Therefore, this office has no objection to recommending the Town Board accept the public improvements in section I & II, provided the two cash bonds (\$10,000 and \$15,000) are posted to cover the pipe under the Harris Court cul-de-sac and the potential icing enumerated in my last check list letter to you. However, the recently completed basin work must be re-planted and stabilized. Therefore, an additional \$5,000 cash bond will be needed bringing the full cash bond required to \$30,000. In addition, the field office trailer must be removed from the site. The trailer may not be transferred to other areas of the Preserve; and any other required dedication documents must be submitted to the Town Attorney.

If you have any questions, please do not hesitate to call me.


Guy L. Gagné P.E.
Town Engineer

GLG/wg

cc: Town Board, Town Clerk, Town Attorney, Highway Superintendent,
Nicholas Ward Willis, Ron York, Cosmo D. Marfione

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