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September 16, 2025

VIA ELECTRONIC MAIL

Ms. Dolores Carpinelli
Secretary, Verona Planning Board
880 Bloomfield Avenue
Verona, New Jersey 07044

**RE: Wedgewood Gardens Condominium Association, Inc.
PB# 2025-002**

Dear Ms. Carpinelli:

My office represents the applicant Wedgewood Gardens Condominium Association, Inc. in connection with the above-referenced application. We are in receipt of a memorandum from the Verona Environmental Commission (“VEC”) dated September 12, 2025 detailing 12 separate comments related to the pending application. The VEC’s memo was issued after it reviewed a recently submitted Tree Replacement Plan without the benefit of supporting documentation, such as a revised Tree Reservation Report prepared on August 14, 2025 by Mr. Keith Bimib, LTE, of Bartlett Tree Experts.

The purpose of this letter is to respond to the each of the comments made by the VEC. We kindly ask that you forward this to the VEC and the Planning Board.

1. There is no requirement that the Tree Replacement Plan be prepared by a licensed tree expert. The ordinance cited by the VEC states: “[a]ll tree contractors operating within the Township shall be licensed in accordance with the NJ Tree Experts and Tree Care Operators Licensing Act; maintain the required insurance; hold valid registration with the Township of Verona; and display proof of same on each of its vehicles operating in the Township.” See § 493-26B.

This ordinance makes no mention of the Tree Replacement Plan. Similarly, the applicable ordinance imposing the obligation to submit a Tree Replacement Plan makes no mention of a licensed tree expert. Indeed, a permit application must be submitted with “[a] tree replacement plan describing or showing the approximate location of all trees to be planted, the species of such trees and their caliper or size as required.” See § 493-22(5).

The VEC’s demand that the Tree Replacement Plan be prepared by a licensed tree expert is tantamount to amending the ordinance. Therefore, the applicant is not required to submit a tree replacement plan prepared by a licensed tree expert. The applicant submits that a Tree Replacement Plan prepared by a licensed landscape architect is sufficient provided it satisfies the substantive criteria listed in § 493-22(5).

2. The reference to the Arborist’s Report is a reference to the “Revised Tree Preservation Report” dated August 14, 2025 and prepared by Mr. Keith Bimbi of Bartlett Tree Experts. Mr. Bimbi is a licensed tree expert (LTE #594) and an ISA certified arborist (#NJ-0891A).

The VEC's review of Mr. Heller's Tree Replacement Plan was performed without the benefit of Mr. Bimbi's Tree Preservation Report. The applicant engaged Bartlett and Mr. Bimbi to re-evaluate and re-measure the trees at issue after the Planning Board and VEC disagreed with the initial evaluation and measurements provided by the applicant earlier this year.

3. If the Township disagrees with the number of replacement trees calculated by the applicant, then the applicant will defer and accept whatever number of replacement trees determined by the Township. However, the applicant's landscape architect has advised that only twenty-two (22) trees can be responsibly re-planted at the site. The applicant intends making a monetary contribution to the Township for any trees in excess of the twenty-two (22) that are being replanted.

If the VEC believes that more than twenty-two (22) trees can be responsibly replanted on the site, then please let us know the reasons why and locations of where those trees can be replanted. Similarly, please provide us with the qualifications of any individual(s) informing the VEC on this issue.

4. Again, the applicant has stated it will accept the Township's calculation as to the number of replacement trees. Because no more than twenty-two (22) trees can be responsibly replanted, the applicant will make a monetary contribution as any trees in excess of twenty-two (22).

5. The tree numbers and measurements on Mr. Heller's Tree Replacement Plan correspond with Mr. Bimbi's Tree Preservation Report dated August 14, 2025.

6. This comment was made without the benefit of Mr. Bimbi's Tree Preservation Report. As stated earlier, Mr. Bimbi re-evaluated and re-measured these trees. A preliminary version of this report was provided to Verona's Forester in preparation of an on-site meeting which took place on August 7, 2025. At that meeting, and with the exception of a single tree (#8), the Forester did not take issue with the measurements or evaluations. The finalize report states this tree shall not be removed. Moreover, the Forester has also agreed that, due to the upcoming state-mandated paving project, it is appropriate to remove each tree identified on page 10 of Mr. Bimbi's report regardless of its health.

7. As stated in paragraphs 3 and 4, the applicant will defer to and accept the Township's calculation in the event it disagrees with ours.

8. Please provide us with the facts informing your "understanding" that two (2) trees were 'irreparably damaged due to a lack of tree protection during construction, and were subsequently removed.' Please explain why the VEC believes these trees were damaged and removed in connection with the road repaving project. Please also explain why the VEC believes these trees were not dead, diseased or constituted a safety hazard (which would be exempt from the tree replacement requirement § 493-28B).

If the Planning Board believes these trees should be counted towards the total number of replacement trees, then the applicant will accept that determination. However, it does not change the fact that only twenty-two (22) trees can be responsibly replanted on the site. The applicant will have to make a monetary contribution for each additional tree.

9. The applicant cannot be fined simply because a third-party damaged a tree on its property. Unless the applicant “cause[d] or allow[ed]” its contractor to spray paint the tree, then there can be no liability under the ordinance. See § 493-19A(2); see also § 493-19B.

The applicant never directed any person or company to spray paint trees. Please provide us with any facts and information supporting the VEC’s allegation that it caused or allowed a tree contractor to spray paint any tree. These trees should be identified with specificity.

10. Again – the applicant will accept whatever number of replacement trees the Township decides is appropriate under the ordinance. If the Township’s number is different than the applicant’s, then we will accept the Township’s number.

11. The VEC is taking issue with six trees that were removed due to their health and safety risk. These trees are totally unrelated to the parking lot project and – perhaps, more importantly – the pending application.

Any tree that is dead, diseased, or determined to be a safety hazard is exempt from the tree replacement. § 493-28B. Moreover, when the ordinances are read in *pari materia*, it is clear that the applicant is only required to submit a tree replacement plan covering the trees that have been identified for removal in the pending application.

Here, the applicant has submitted an application to remove seventeen (17) trees in connection with its tree repaving project, along with a proposed tree replacement plan as to those seventeen (17) trees. Our tree replacement plan satisfies the applicable ordinance’s substantive criteria. The VEC has no authority to augment the ordinance so as to require the Tree Replacement Plan cover the replacement any other trees.

The applicant stresses that the six (6) trees removed in the buffer area were dead or poor health and constituted a safety hazard. These trees had nothing to do with the road repaving project. These trees do not require replacement, and, notably, the VEC is not taking issue with the applicant’s determination that these trees were dead and constituted a safety risk. Unfortunately, it seems the VEC’s objective is to use the pending application as leverage to strong arm the applicant into replacing trees that are not required to be replaced.

12. The applicant has engaged a licensed landscape architect to prepare its Tree Replacement Plan, and he is more than qualified to propose suitable replacements. Nothing in the ordinance requires the applicant select replacement trees identified on the zoning conde’s list of ‘recommended plantings.

Very truly yours,

Daniel W. Heinkel, Esq.

Cc: Mr. Greg Mascera, Esq.