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PLANNING DEPARTMENT

TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589

Town of Somers

WESTCHESTER COUNTY, N.Y.

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



**SOMERS PLANNING BOARD
SPECIAL MEETING
AGENDA
TUESDAY, DECEMBER 4, 2012
7:30 P.M.**

MINUTES Consideration for approval of Draft Minutes for September 24, 2012

PROJECT REVIEW

- 1. SOMERS REALTY PLANNED HAMLET
PRELIMINARY SUBDIVISION APPROVAL AND LOT LINE CHANGE;
WETLAND PERMIT, TREE PRESERVATION PERMIT AND STORMWATER
MANAGEMENT AND EROSION CONTROL PERMITS [4.20-1-15, 18]**

Application for Preliminary Subdivision and Lot Line Change. Wetland Permit, Stormwater Management and Erosion and Sediment Control, Tree Preservation Permits for Somers Realty Planned Hamlet.

The Preliminary Subdivision application is for creation of a 7.7 acre lot from prior Lot 2. The Lot Line change is for a minor modification to the lot line of a previously created sewer pump station parcel

**THE MEWS AT BALDWIN PLACE PHASE 2 SITE PLAN APPROVAL,
WETLANDS, STEEP SLOPES, TREE PRESERVATION AND
STORMWATER MANAGEMENT AND EROSION AND SEDIMENT
CONTROL PERMITS [TM: 4.20-1-15]**

The Mews at Baldwin Place 2, Site Plan Approval, Wetlands, Tree Preservation, Steep Slopes, Stormwater Management and Erosion and Sediment Control Permit for the Mews at Baldwin Place, Phase 2. The property is located on the South side of Route 6 in the Somers Planned

Hamlet Zoning District. The Site Plan application is for the construction of 75 units of senior affordable housing which will be serviced by public water and sewer. Last discussed at the November 14, 2012 Planning Board meeting.

Next Planning Board Meeting is December 12, 2012,
Agenda information is also available at www.somersny.com

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2

SOMERS PLANNING BOARD-TOWN BOARD
JOINT MEETING MINUTES
SEPTEMBER 24, 2012

ROLL:

PLANNING BOARD

MEMBERS PRESENT:

Chairman Currie, Mr. Keane, Ms. Gerbino,
Mr. Foley, Mr. Goldenberg, and Ms. Gannon

ABSENT:

Mrs. DeLucia

TOWN BOARD:

MEMBERS PRESENT:

Supervisor Murphy, Councilman Benedict
Councilman Morrissey, Councilman Clinchy,
and Councilman Garrity

ALSO PRESENT:

Town Planner Syrette Dym
Consulting Town Planner Sarah Brown
Consulting Engineer Joseph Barbagallo
Town Attorney Joseph Eriole
Planning Board Secretary Marilyn Murphy

The meeting commenced at 7:30 p.m.

**THE GREEN AT SOMERS AMENDED SITE PLAN,
WETLAND, STEEP SLOPES AND STORMWATER
MANAGEMENT AND EROSION AND SEDIMENT CONTROL
PERMITS [TM: 4.20-1-3.1]**

1 Chairman Currie noted that this is a special joint meeting with the Planning
2 Board and Town Board to discuss The Green at Somers Amended Site
3 Plan, Wetland, Steep Slopes and Stormwater Management and Erosion
4 and Sediment Control Permits.

5
6 Linda Whitehead, the applicant's attorney, noted that she has been before
7 both Boards on this project and has been working with the Planning Board
8 for over a year. She explained that the plan has been modified to now
9 contain four (4) two-story buildings. Attorney Whitehead said that the Town
10 Board a few years ago added into the Zoning Code an affordable housing
11 incentive which with permission of the Town Board would permit a three
12 story building provided at least 50% was affordable housing. She
13 explained that a lot of time was taken with the Planning Board reviewing
14 three story buildings but there was concern about the visual impact.
15 Attorney Whitehead indicated that the applicant came up with a plan that
16 utilizes two story buildings. She commented that the three buildings
17 located to the rear of the property have a 10,000 SF footprint that is
18 permitted by Code in the Neighborhood Shopping (NS) Zone, and will have
19 two stories of all residential units. Attorney Whitehead explained that the
20 building closest to Route 6 will have an 8,000 SF footprint with the proposal
21 to have retail on the first floor with apartments on the second floor.

22
23 Attorney Whitehead mentioned that the applicant has worked for several
24 months with the Planning Board on the parking layout, circulation,
25 stormwater basins, and the green space in the middle. She stated that she
26 appreciates the Planning Board's hard work and good comments to get to
27 this point.

28
29 Attorney Whitehead indicated that she is here this evening because the
30 current language of the NS Zone has the permitted use of apartments over
31 stores. She explained that this would result in 38,000 SF of retail space on
32 this site. Attorney Whitehead noted that this is the largest NS site in Town
33 but has a very small piece of frontage on Route 6. She mentioned that
34 there is a very large regional shopping center across the street. Attorney
35 Whitehead said that the applicant is concerned that the retail demand is
36 very limited in terms of market and does not want to end up with a lot of
37 empty stores. She opined that empty stores are not good for the applicant
38 or the Town. She said that the purpose of the NS Zone is to have
39 economically healthy environmentally sound development. She noted that
40 the need for retail was the force driving the three story building. Attorney

1 Whitehead said that retail along the Route 6 frontage is the only feasible
2 retail. She noted that she provided a Market Study, a history of the NS
3 Zone, as well as a listing of all the NS Zone properties in Town. Attorney
4 Whitehead commented that when you look at all the NS properties you
5 realize that this site is unique. She mentioned that there is no other
6 property in the NS Zone that is this large with such a small frontage.
7 Attorney Whitehead noted that the Towne Centre property is the only other
8 large NS property. She mentioned that the Towne Centre property has
9 over 800' of total frontage with good visibility. Attorney Whitehead said that
10 the Retail Study indicated that the marketability of retail that does not have
11 visibility is very low and has a high vacancy rate. She said that the
12 proposed plan will require a Zoning Amendment from the Town Board.

13
14 Attorney Whitehead mentioned that changes to the NS Zone from the 1994
15 Comprehensive Plan was intended to support the concept of adding
16 residential in with retail and emphasize the placing of multi-family in this
17 area. She noted that the Comprehensive Plan specifically talks about the
18 Baldwin Place area for multi-family residences. Attorney Whitehead said
19 that this site was previously zoned General Business (GB) and it was
20 thought that the Town has too many sites zoned for retail that could not be
21 supported. She explained that in 1996 this property was rezoned from GB
22 to NS. She also noted that the Planned Hamlet Zone has strict limitations
23 on the amount and size of retail stores.

24
25 Attorney Whitehead noted that there will be approximately 70 affordable
26 units with parking underneath for the three buildings in the back of the
27 property. She said that parking has been revised around the central
28 portion of the site and the green space has been increased with part
29 serving as a stormwater function and part as recreational space.

30
31 Bryan McClure, applicant's developer, explained that a pedestrian friendly
32 environment has been created with a center courtyard.

33
34 Councilman Clinchy asked what has been done to create the pedestrian
35 environment.

36
37 Mr. McClure said that there will be sidewalks connecting to the green area
38 and a potential for a putting green.

39

1 Attorney Whitehead said that the building fronting on Route 6 will have two
2 fronts which is an important element for people in the inside of the building
3 and people on the outside of the building. She explained that the building
4 design will be the same on both sides.

5

6 Councilman Clinchy asked what type of business will be in the
7 development.

8

9 Mr. McClure noted that there is room for a 2,000 SF restaurant and maybe
10 a mail box or copy store.

11

12 Andy Pecunia, resident, asked if the entrance on the other side of Route 6
13 can be changed.

14

15 Attorney Whitehead explained that the applicant worked with the
16 Department of Transportation (DOT) on the entrance and that is not likely
17 to change. She said that changing the entrance will also affect the entire
18 design of the Planned Hamlet. Attorney Whitehead noted that the safest
19 spot for crosswalks is at the lights.

20

21 Mr. Pecunia asked if there will be an emergency entrance at the site.

22

23 Mr. McClure explained that the entrance road is designed wide enough for
24 emergency access.

25

26 Attorney Whitehead mentioned that the improvements have been moved
27 away from the wetland. She said that no activities will be in the
28 Department of Environmental Conservation (DEC) wetland; therefore no
29 DEC wetland permit will be necessary.

30

31 Councilman Morrissey mentioned that the proposal stated that 40,000 SF
32 of retail cannot be supported; however, 8,000 SF of retail can be
33 supported. He asked if there is a middle ground.

34

35 Attorney Whitehead stated that without visibility from Route 6 it would be
36 difficult to have 40,000 SF of retail. She suggested that a deli or dry
37 cleaner would be a neighbor convenience use.

38

39 Councilman Garrity noted that there are now more two bedroom units than
40 hat was originally proposed.

1 Councilman Benedict asked about the parking.

2

3 Attorney Whitehead said that non-residential parking is one space per 200
4 SF for retail which equals 30 spaces and spaces for the restaurant equals
5 27 spaces.

6

7 Mr. McClure indicated that 65% will be one-bedroom units and 35% will be
8 two bedroom units and potentially all will be affordable.

9

10 Councilman Clinchy said that there should be demographic projections on
11 school age children.

12

13 Attorney Whitehead noted that there will be approximately 8 school age
14 children. She said that Somers Code limits occupancy in affordable units.

15

16 Councilman Benedict commented that the estimate that 8 school age
17 children will attend school is low.

18

19 Ms. Gerbino said that she supports affordable housing but would like to see
20 more affordable housing for families. She indicated that this is an
21 opportunity for affordable housing for families and she would like the Town
22 to move forward.

23

24 Councilman Clinchy said that someone growing up in Somers has the
25 opportunity to live in Somers as a young working professional and then
26 move on by buying a home in Somers and maybe ending up in Senior
27 Affordable Housing. He noted that a person can spend his whole life in
28 Somers.

29

30 Attorney Whitehead specified that this proposal offers housing for teachers,
31 firemen and policemen.

32

33 Councilman Garrity asked if this proposal would give priority to Somers
34 residents.

35

36 Attorney Whitehead stated that Somers residents are not given priority but
37 they have a better opportunity than they had today.

38

39 Mr. Goldenberg noted that there are 20 less students in Somers schools
40 this year.

1 Chair Currie explained that the Planning Board approved this project in
2 concept but realized that it needs more tweaking. He said that this meeting
3 is to help the Town Board understand the project and to answer any
4 questions the Town Board may have.

5
6 Supervisor Murphy said that she read that petroleum odors were detected
7 during soil borings. She asked if it has been determined that the soil will be
8 able to hold up the buildings. Supervisor Murphy stated that there have
9 been issues in this area and this bears serious review.

10
11 Consultant Engineer Barbagallo explained that an initial Geotech report
12 was provided knowing the history of this area with concern that the site
13 could have soft material and may be difficult to support buildings and would
14 result in putting buildings on piles. Consultant Engineer Barbagallo
15 indicated that a detailed Geotech report was done to access that situation.
16 He stressed that the Geotech report indicated that materials on site can
17 support the buildings. He mentioned that the report shows two different
18 types of soils and warrants further investigation.

19
20 Consultant Engineer Barbagallo said that petroleum odors where detected
21 by the parking lot and the applicant has agreed to prepare a more detailed
22 investigation and to determine what the environmental condition associated
23 with that is.

24
25 Consultant Engineer Barbagallo noted that understanding of the site soils is
26 necessary to determine appropriate measures for soil excavation and
27 handling. He noted that the Geotech report identifies that an existing layer of
28 fill material was encountered at depths ranging between 1 foot and 6 feet
29 below surrounding grade. Consultant Engineer Barbagallo asked that the
30 applicant perform test pits as part of the approval process and the applicant
31 has agreed. He stressed that a final review and plan have not been
32 provided but the Planning Board wanted input from the Town Board
33 because of the overlying implications of the Zoning changes before going
34 ahead with additional efforts.

35
36 Supervisor Murphy mentioned that PCE was detected in a water test at a
37 house on Mahopac Avenue. She said if this site is another source this is an
38 important issue.

1 Consultant Engineer Barbagallo said that because he knows the level of the
2 groundwater is elevated the amount of excavation dewatering will be
3 involved. He noted that he asked the applicant to prepare a layout to
4 describe the proposed dewatering system that includes the proposed
5 collection and conveyance routes of proposed groundwater as well as
6 discharge points and proposed erosion control measures.

7
8 Attorney Whitehead stated that the applicant has retained Geotech
9 structural engineers and an environmental consultant to see if there are any
10 contaminated soils. She said that any contaminated soils on site will be
11 removed.

12
13 Supervisor Murphy opined that the Market Study did not explore the issues
14 in any great depth. She said that parking under the buildings is a great idea
15 and she understands the idea to separate the residential and commercial
16 components. Supervisor Murphy commented that this is a Neighborhood
17 Shopping (NS) Zone. She explained that when the Town re-zoned this site
18 from General Business (GB) to NS Zone it was done because the Town did
19 not want Big-Box stores. Supervisor Murphy said that the residential
20 component came later in order to create an opportunity for affordable
21 housing.

22
23 Supervisor Murphy said that not all the commercial components should be
24 eliminated. She would like to see a 50-50 mix. She said that the ideas of a
25 90% residential and 10% commercial is not what a NS Zone should be.
26 She mentioned that the way the Towne Centre gets visibility is the road that
27 runs through the middle of the site.

28
29 Attorney Whitehead stated that the history she presented came from Town
30 documents. She said that the Master Plan talks about multi-family housing
31 in the Route 6 area. She noted that in 1996 some properties were rezoned
32 from GB to NS and the text of the NS Zone was amended.

33
34 Councilman Benedict said that Attorney Whitehead said "the past is the past
35 and the NS Zone was put in with a purpose and changed with a purpose".
36 He said the change is what it is and we have to deal with it. He said the
37 question is can the plan be tweaked to make it more commercial.

38
39 Attorney Whitehead said that the purpose of the NS Zone is to provide
40 housing opportunities for small households. She noted that 8,000 SF is as

1 big as the building can be because of the limited amount of frontage and
2 having the parking up front. Attorney Whitehead mentioned that the Market
3 Study states that there is not a lot of demand for retail.

4
5 Mr. Keane mentioned that the Planning Board has the obligation to enforce
6 the Code in regard to Neighborhood Shopping. He indicated that the
7 current market place is changing. Mr. Keane noted that more people are
8 renting homes instead of buying homes because they can't get a loan. He
9 said new development has to be economically healthy, functionally efficient,
10 environmentally sound and visually attractive. Mr. Keane stated that the two
11 primary functions that have to be served are local convenience retail and
12 personal services and to provide alternative housing for small households.
13 He explained that the Code mentions principal use as retail stores, banks,
14 medical and professional offices and child and adult day care. He said that
15 retail and professional offices will go in across the street in the Planned
16 Hamlet and retail will go in the Camarda development. Mr. Keane indicated
17 that there are very few use options available in this location for principal
18 uses. He said that it is more rational to accenuate the residential, and make
19 the project economically sound. Mr. Keane stressed that there is nothing
20 worse than empty stores. He said that if we abide by the absolute letter of
21 the Code we will have many dark retail stores. Mr. Keane mentioned that
22 the applicant has now reduced the total number of buildings from five to four
23 and all buildings will be two stories in height. Mr. Keane explained that the
24 Planning Board suggested placing the residential in three buildings and
25 retail should be placed where it is maximized in the best location. He
26 stressed that this is not about a determination that this project complies with
27 Code but is about putting something that is viable in Somers that will be
28 around for a long time.

29
30 Supervisor Murphy suggested that maybe the Zone should be called multi-
31 family residential zone and not NS Zone.

32
33 Attorney Whitehead noted that when the NS Zone was created it allowed
34 very little residential which was changed as the zoning was changed. She
35 reiterated what Mr. Keane said that it has to be economically healthy,
36 functionally efficient, environmentally sound and visually attractive
37 neighborhood business areas. She said that it also says to serve local
38 convenience retail and personal services as well as housing opportunities.

39

1 Councilman Clinchy opined that you don't change good laws for a particular
2 project but because it has good effects. He asked how this change in zoning
3 will affect other parts of Town and along Route 6.

4
5 Town Planner Dym asked how you maintain the integrity of the NS Zone.
6 She said that there are limited areas in Town zoned NS that serve the
7 neighborhood retail commercial needs of different parts of the Town. She
8 said that she was concerned about the global integrity of the NS Zone and
9 its purpose. Town Planner Dym suggested language that could be added to
10 the proposed amendment: *On any property zoned NS which contains more*
11 *than eight (8) acres as of the date of enactment of this amendment and*
12 *provided there will be at least one building along the road frontage which will*
13 *contain first floor retail uses with a minimum square footage of 20 percent of*
14 *the total square footage of residential uses.*

15
16 Town Planner Dym stated that 90% residential and 10% commercial is
17 probably not the right balance but if it is only applied to a very limited
18 amount of sites and if the Town Board and Planning Board are in favor of
19 this development with the caveat of limiting this to current parcels. She said
20 that if the Board agrees she can work with the applicant and their attorney to
21 script the appropriate language.

22
23 Councilman Garrity said that if the Town Board will be changing the Code
24 for this one property he feels that this is spot zoning.

25
26 Town Attorney Eriele asked how it can be limited without spot zoning and
27 tying in with precedent on the actual use of the site. He explained that the
28 best limiting factor in the proposed language is the affordable component
29 because that has to do with how the applicant proposes to use the site.
30 Town Attorney Eriele explained that there will not be spot zoning because
31 the affordable issue is a different planning objective and has to do with use
32 and may be perceived by the Board as a valuable pursuit. He said that from
33 a legal perspective this is a laudable planning goal and is a limiting factor
34 that is not related to the size of a site or area requirements. Town Attorney
35 Eriele said that it is important to distinguish between what is a change in the
36 law and what is proposed with this particular site. He opined that the
37 change in zoning on this site will not have precedent over other sites and
38 will always be a case by case basis.

39

1 Councilman Benedict said that because this is affordable housing does that
2 affect the funding source and if so does the split between residential and
3 commercial depend on the deal.

4
5 Ron Shulman, financier of affordable housing, said that there is a limit on
6 how much retail can be financed in an affordable housing bond. He
7 stressed that retail can be at 15% but not higher. He reminded the Board
8 that residents of this complex will be making between \$45,000. to \$75,000.
9 per year. He stated that studies show that this complex should not be a
10 drain on the community because there will be permanent jobs created,
11 taxes will be generated and economic generators because residents will buy
12 goods and services. Mr. Shulman stated that studies show that people
13 shop close to home.

14
15 Councilman Clinchy said that if the Town Board makes the Zoning change
16 for this project he as a Town Board member has to ask if this is a good
17 project for Somers that will justify changing the Code.

18
19 Councilman Clinchy suggested extending the sidewalk up to the light so
20 residents can cross the street and do their shopping which will make this a
21 better project for Somers.

22
23 Attorney Whitehead explained that the applicant can consider extending the
24 sidewalk but that will be up to the Department of Transportation (DOT).
25 She said that the sidewalk will have to be in the right-of-way and will be a
26 cost issue.

27
28 Mr. Pecunia said that three new projects will be going up near Route 6
29 and he is concerned about traffic and he also noted that it will be dangerous
30 for pedestrians crossing Route 6. He mentioned that it will be dangerous
31 for cars making a left hand turn out of the development. Mr. Pecunia asked
32 when improvements will take place on Route 6.

33
34 Attorney Whitehead said that there was a meeting with DOT in regard to the
35 Camarda project and DOT is reviewing their options on improvement on
36 Route 6.

37
38 Attorney Whitehead stated that a traffic study reviewed by F. P. Clark has
39 been submitted and is acceptable. She noted that the traffic study was
40 done when there was much more retail being considered.

1 Mr. Foley mentioned that the Board is discussing a Zoning Amendment. He
2 said that there is a mechanism in place i.e. a variance, and that is handled
3 by the Zoning Board of Appeals. Mr. Foley opined that a code change is the
4 more difficult route versus a traditional route which is a variance.

5

6 Attorney Whitehead explained that the applicant would have to request a
7 use variance which is not traditional and the standard for a use variance is
8 very high. She commented that if the Town Board denies the zoning
9 change the use variance would be an alternative.

10

11 Mr. Goldenberg noted that the Planning Board has had many meetings on
12 this project and approves the project in concept and now it is up to the Town
13 Board to make a decision.

14

15 Chair Currie asked the Town Board for an informal poll on how they feel
16 about this project.

17

18 Councilman Garrity stated that he would like to see more retail.

19

20 Mr. McClure indicated that a lot more retail would be very challenging with
21 the affordable housing component.

22

23 Councilman Clinchy asked if this is the best plan the land can be used for.
24 He said that he is concerned because residents leaving the development
25 have to turn right.

26

27 Mr. McClure reminded the Board that there were no issues regarding the
28 right turn out of the development in the traffic study. He mentioned that the
29 DOT makes all the decisions regarding turns and lights on Route 6.

30

31 Mr. Foley indicated that this plan is unique because the Planning Board
32 usually reviews plans that are code compliant. He explained that this plan is
33 not code compliant but there is a proposal that requires the code to be
34 tweaked. He stressed that given the information that the Board has been
35 given this is the best plan but that is not to say that it should be done.

36

37 Town Attorney Eriole said that no action can be taken tonight but asked if
38 the Town Board is comfortable with reduced retail on this site.

39

1 Rick Van Benschoten, applicant, noted that some of his employees at the
2 Golf Range live a distance away because they can't find affordable housing
3 in this area. He indicated that he can look at 15% retail which amounts to
4 1,700 SF. He said that he doesn't want it to be overlooked that this project
5 is good for the Town.

6
7 Councilman Benedict said that the decision has to be is this the best project
8 for this property.

9
10 Attorney Whitehead suggested putting this project on the Town Board
11 October Work Session.

12
13 Supervisor Murphy asked if there are any site conditions that will reduce the
14 development potential.

15
16 Attorney Whitehead stated that she is comfortable that there is no site
17 condition that will reduce the development potential of this site. She
18 explained that Consulting Engineer Barbagallo is asking how things will be
19 done. She mentioned that contaminated soil will have to be removed but
20 this will not make the project economically unfeasible.

21
22 Consulting Engineer Barbagallo noted that if economics change and it is
23 costly to make those changes you will be looking at a changed project.

24
25 Mr. McClure said that if residential units have to be reduced the applicant
26 would have to review the matrix but he is doubtful that will happen.

27
28 Consulting Engineer Barbagallo indicated that the applicant only wants to go
29 as high as 15% retail and he suggested that a plan showing 15% retail be
30 submitted.

31
32 Mr. Keane said that the Planning Board worked on visual impacts and its
33 context in the neighborhood.

34
35 Supervisor Murphy stated that she did not suggest changing the height of
36 the front building but suggested eliminating the nine (9) housing units on the
37 second floor and replacing them with retail.

38

1 Attorney Whitehead explained that the applicant has struggled with parking
2 close to the retail building and if that has to be increased it will increase the
3 parking requirement.

4
5 Councilman Morrissey indicated that the project that is in the NS Zone now
6 has more residential and less retail. He said that this is nonconforming and
7 does not fit in the NS Zone. Councilman Morrissey said he would be more
8 comfortable if there was more retail. He indicated that the Town Board is
9 here to enforce Code not to change Code and his preference is a variance
10 rather than a Code change.

11
12 Mr. Keane said that originally 50-foot buildings were considered and the
13 Planning Board changed that but the applicant has the right to go back to
14 50-foot three story buildings. He said the Planning Board has tried to
15 balance everyone's needs. Mr. Keane asked where the Town is in regard
16 to Westchester County and HUD in regard to affordable housing.

17
18 Town Planner Dym noted that this project now shows 12% retail and 15%
19 equals just one more retail store.

20
21 Ms. Gannon indicated that this plan tries to balance parking, aesthetics
22 visibility of retail and landscaping.

23
24 Attorney Whitehead said that she will work on the text amendment
25 language and she hopes this project will be heard at the October Town
26 Board meeting.

27 28 **DISCUSSION**

29 30 **GRANITE POINTE SUBDIVISION FSEIS** 31 **COMPLETENESS REVIEW**

32
33 Chair Currie said that the Board will discuss fees for professional consulting
34 services in connection with the Planning Board's completeness review of
35 the Final Supplemental Environmental Impact Statement for the Granite
36 Pointe Subdivision.

37
38 Chair Currie mentioned that the Board and the applicant have received
39 proposals from Frederick P. Clark, Woodard & Curran and EA Engineering
40 to review the document.

1 Timothy Allen, representing the applicant, explained that the applicant met
2 with the consultants and from that meeting the applicants were able to
3 prepare their proposals for the completeness review. He said that the
4 applicant was surprised at the cost of the review and would like to resolve
5 the issue.

6
7 Engineer Allen explained that the impact statement is based on the
8 Brownfield approval with the Department of Environmental Conservation
9 (DEC) which are found in Volumes 2 and 3. He noted that Volume 1
10 references comments from the Planning Board, their consultants and
11 residents' comments. He mentioned that the SEQRA process has to be
12 closed with the Planning Board. Engineer Allen said that the documents in
13 Volume 2 and 3 should not be changed but incorporated into the plan. He
14 noted that Paul Muessig of EA Engineering will be reviewing the technical
15 part of the documents.

16
17 Mr. Keane commented that Volumes 2 and 3 relate to the Remedial Action
18 that has been approved by the DEC to resolve the lead problem on the site.
19 He questioned if it is necessary to review Volumes 2 and 3 which have
20 already been approved by the DEC. He explained that if DEC has
21 approved Volumes 2 and 3 that removes those issues from an
22 environmental impact.

23
24 Engineer Allen indicated that Mr. Muessig will review the testing criteria in
25 order to close the SEQRA process.

26
27 Consulting Engineer Barbagallo said that after the meeting with the
28 consultants they compartmentalized the issues into three parts. He
29 explained that he will be reviewing the Stormwater Pollution Prevention
30 Plan (SPPP) and the access. He noted that making sure all the comments
31 that were received during the SEQRA process were adequately addressed.
32 Consultant Engineer Barbagallo said the F.P. Clark will verify that the
33 FSEIS Volume 1 includes copies of all correspondence submitted in DSEIS
34 in Section 5 and all Public Hearing transcripts in Section VI. He explained
35 that F.P. Clark will color-code a version of those pages to identify F.P.
36 Clark's, EA Engineers and Woodard & Curran's review responsibilities and
37 coordinate in regard to review assignments.

38

1 Mr. Keane stressed that this is about the removal of lead from the site and
2 very little planning is involved. He said that if the site is remediated it can
3 be developed.

4
5 Sarah Brown, representing F. P. Clark, stated that the Lead Agency has to
6 ensure that all comments are answered in the FSEIS portion of the
7 document.

8
9 Mr. Keane asked if there is any legal requirement that every question has
10 to be answered that was raised at the Public Hearing or do you just have to
11 meet the criteria that there is no significant impact.

12
13 Town Attorney Eriole advised that he will research the legal requirements
14 and will attend the meeting with the consultants.

15
16 Engineer Allen stated that all relevant questions have to be answered.

17
18 Town Attorney Eriole advised that all comments have to be acknowledged.
19 He noted that the important question is "have you done the appropriate
20 review".

21
22 Chair Currie suggested that the consultants rework their estimates.

23
24 Mr. Goldenberg asked if environmental groups can challenge the DEC
25 Brownfield document.

26
27 Engineer Allen noted that the DEC held a Public Hearing on the Remedial
28 Plan.

29
30 Town Attorney Eriole advised that what gives rise to a challenge is a new
31 decision by any discretionary Board. He indicated that relevant questions
32 and comments should be answered to protect the record.

33
34 Mr. Muessig stated that the FSEIS is the Board's document and needs to
35 be complete according to SEQRA. He said that the Board has to make
36 sure that the comments in the record are addressed. He noted that some
37 comments may be grouped and not answered individually. Mr. Muessig
38 stressed that if DEC did their homework the document should be good and
39 he will only have to do a cursory review.

40

1 Mr. Keane asked what the Department of Environmental Protection (DEP)
2 was doing about a small portion of lead on their property.

3
4 Engineer Allen explained that a letter of intent was given to the DEP to
5 allow them on the applicant's property but the DEP never contacted them.

6
7 Engineer Allen stated that he would like to schedule a meeting with the
8 three consultants, Planning Board representative and Town Attorney to
9 rework their proposals.

10
11 There being no further business, on motion by Ms. Gannon, seconded by
12 Mr. Goldenberg, and unanimously carried, the meeting adjourned at 10:45
13 P.M. and the Chair noted that the next Planning Board meeting will be held
14 on Wednesday, October 10, 2012 at 7:30 P. M. at the Somers Town
15 House.

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20 Respectfully submitted,

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22
23
24 Marilyn Murphy
25 Planning Board Secretary
26
27

PLANNING AND ENGINEERING DEPARTMENTS

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Syrette Dym, AICP
Town Planner
sdym@somersny.com

MEMORANDUM

TO: Town of Somers Planning Board

FROM: Syrette Dym, Town Planner

DATE: November 28, 2012

RE: Project: Preliminary Subdivision#2 for the Somers Realty Planned Hamlet Master Plan
Applicant: Somers Realty Corporation
Location: Further Subdivide prior created Lot 2 of Tax Map Sheet 4.20, Bl.1, Lot 15 to 7.7 acre lot
Zoning: PH - Planned Hamlet District
Overall Actions: Review of Preliminary Subdivision # 2 Application
- SEQR Comments Relative to Modifications and Potential Impacts to Somers Realty Planned Hamlet Master Plan
Specific Issue: Applicant's Proposed Elimination of Assisted Living Facility and 30,000 Square Feet of Mixed Retail/Office/Restaurant Use

The specific issue raised by the Applicant's proposal to remove both the assisted living facility and 30,000 square feet of mixed retail/office/restaurant space to replace it with the 75 unit senior affordable housing project is whether the Planning Board should consider all or some of these uses permanently removed from the Master Plan or shifted to later, yet to be defined lots of the overall Somers Realty subdivision. It is already apparent that even without shifting some or all of these uses south of Clayton Boulevard as part of later development scenarios, that the development envisioned in the Master Plan concept plan of February 2009 is likely to require modification due to changes in stormwater regulations since the time of its conception. Shifting some or all of the uses to be eliminated north of Clayton Boulevard south of the road would further change the mix of uses in the approved concept plan. In addition, the total combination of uses is

self-limited by dimensional requirements of the Planned Hamlet zoning district in addition to the capacity of the land to provide adequate stormwater drainage areas.

Several relevant points for the Board to consider when making its decision on how to treat the assisted living and 30,000 square feet of mixed non-residential uses are identified below.

Purpose of the Planned Hamlet PH District

Section 170-22 of the zoning ordinance states the purpose of the Planned Hamlet PH District as follows:

“Pursuant to the Town of Somers Comprehensive Master Plan, it is the purpose of the PH District to provide the opportunity and encouragement for the creation of a village-like development cluster containing a combination of housing, jobs and other nonresidential uses linked to, and supportive of neighboring retail shopping areas.”

While the purpose does not specifically identify what that combination of uses should be, the use and dimensional requirements of the zone provide an indication that the balance was to favor a mix of uses other than standard retail uses that would provide a daytime and evening local shopper base that would be “supportive of neighboring retail shopping areas.” Of the 20 specific use categories identified in Section 170-23 Principal uses of the PH district, no category specifies retail stores as a principal permitted use. This compares with the Neighborhood Shopping NS District and the Community Shopping CS District, each of which lists retail stores as the first principal permitted use. The retail type uses permitted in the PH district are specified in use category S, as “Restaurants, tavern, convenience stores and specialty shops not exceeding 5,000 square feet of floor area each, by special exception use permit issued by the Town Board.” These are the only uses among the 20 uses that require the additional oversight from the Town Board of issuance of a special exception use permit. This seems to fit with the district purpose in that a high percentage of category S uses would be competitive with, rather than supportive of, “neighboring retail shopping areas”.

The dimensional requirements of specific uses in Section 170-23.4 Dimensional standards and requirements also provide support for the purpose of the district. This section specifies these standards as applying only to the PH District parcel as a whole. Section C, however, lists the maximum floor area ratio (FAR) for any individually listed category as:

“0.04, except a maximum of 0.06 and a minimum of 0.04 shall be required for multifamily residences and a maximum of 0.01 shall be permitted for use category S.”

So again use category S is singled out for limitation.

This is not to say that the mix of these uses, particularly retail and restaurant, should be reduced on the overall site since the Master Plan indicated that as originally proposed, they fell within the FAR requirements.

Of greatest concern to the Board seemed to be the potential elimination of the mixed retail/office/restaurant 30,000 square feet, rather than the loss of the assisted living facility. However, the Board needs to make clear whether it are willing to consider elimination of one or both of these categories or require the replacement of one or both on the south side of Clayton Boulevard with resulting remix of uses within the parameters of the PH dimensional regulations and stormwater management requirements..

The PH district also lists the generation of jobs as a purpose of the district, so elimination of these non-residential uses would also affect achieving this district purpose.

Fiscal Impacts

As indicated in the memorandum from Linda Whitehead of November 21, 2012, Table 3.11-7 of the DEIS provides the projected tax revenue for the assisted living and mixed office retail/ restaurant uses of the Master Plan. Extrapolating from this chart for the modified square footages in the final plan, I agree with Linda's figure of projected revenues of approximately \$628,000 for these uses.

Taking the analysis a step further to identify the taxes attributable to each set of uses, it would appear that the assisted living facility as modified was projected to generate \$476,700 and the 30,000 sq. ft. office/retail/restaurant use \$151,700 of the projected approximately \$628,000.

Since the overall Master Plan was projected to generate \$1.96 million in taxes or \$1.92 million over those existing, elimination of both sets of uses would reduce overall revenues to approximately \$1.33 million. If only the assisted living facility were eliminated, tax revenues would be in the range of \$1.48 million.

While not addressed in Linda's memorandum, Table 3.11-6 of the July 2007 DEIS for the Somers Realty Planned Hamlet Master Plan, identified the impacts of the proposed commercial uses on public expenditures. Again, extrapolating for adjustments made to the size of each facility in the final approved plan, the costs to the Town for the assisted living facility was projected at approximately \$60,750 and for the 30,000 square feet of mixed office/retail/restaurant space was \$12,800, or a total of \$73,550. The costs to the Town of the assisted living facility was the greatest projected cost of all considered non-residential uses with the nursing home next highest in cost. Therefore, while elimination of the assisted living facility would remove substantial tax revenue potential, it also eliminates the highest costs to the Town. Still its net additional tax revenue would be \$416,700, a substantial addition to reveue.

Likewise, Table 3.11-5 addressed the impacts of proposed residential units on public expenditures. While a single building of market rate senior housing was not envisioned

in the Master Plan, Table 3.11-5 provided projections for costs for servicing an affordable development for persons 55 years and older for a 2-bedroom and den unit. The cost per unit generally to the Town was identified as \$ 1,323 per unit, so the cost for 75 units of affordable housing for persons 55 and older could be considered to be approximately \$99,225. Since the affordable housing is projected to request a PILOT Agreement with the Town to pay taxes of \$500 per unit annually increasing by 3% per year, its revenue to the Town would be \$37,500 for the first year. In this case, costs would outweigh revenues by approximately \$61,725. However, it would bring the Town closer to meeting its \$2,000,000 obligation to the County for acquisition of the Angle Fly Preserve.

In any case of eliminating one or both uses and substituting the 75 unit senior affordable housing, the overall fiscal benefits to the Town significantly still outweigh the costs, even though these are reduced from those originally analyzed as part of the DEIS. If all uses are retained for future consideration, the fiscal benefits are still likely to be significant even if their magnitude changes and they are likely to significantly outstrip costs to the Town.

SEQR and Master Plan Modification Alternatives

For purposes of SEQR and definition of the modifications to the Master Plan, the Planning Board has to determine one of the following courses of action:

1. Eliminate both the assisted living facility and mixed 30,000 square feet of uses from the conceptual Master Plan
2. Eliminate only one use, presumably the Assisted Living Facility, and retain the 30,000 square feet of mixed uses to be included on parcels south of Clayton Boulevard as part of future subdivisions, configurations and modifications to the Master Plan of size, number and square footage to this and other prior proposed uses yet to be determined
3. Retain both uses for future consideration and acknowledge there will be a change of mix and magnitude of uses south of Clayton Boulevard under any scenario and that such mix will be determined upon future subdivision application.

The implications for SEQRA of any of the above are that the changes to the Master Plan cannot result in any impacts that would be greater than those analyzed and mitigated as part of the Master Plan SEQR process. This is stated in the Resolution No 2009-02 Granting of Master Plan Approval for the Somers Realty Planned Hamlet. As stated in "Conditions Required Prior to Subdivision Approval" of that resolution:

"13. Upon the submission of a site plan application for any portion of the Master Plan, the Planning Board will evaluate the site plan for consistency with the Master Plan and the parameters set forth in the SEQRA review process and determine if any modification may result in any significant adverse environmental impacts not previously addressed and mitigated. If any such impact is identified, further review under SEQRA will be required."

Based on the input from Linda Whitehead in her memorandum of November 21, it would appear that from a traffic point of view, all uses could be conceptually retained because the affordable housing adds only 6 cars in the AM peak, 8 cars in the PM peak and 22 cars in the Saturday peak hour of traffic, and that these could be considered not to have a significant impact on traffic even when added to all other proposed uses south of Clayton Boulevard. Also, elimination of the assisted living alone or in combination with the mixed uses, would have a beneficial impact on traffic generation.

Fiscal impacts are greatest for elimination of the assisted living facility even when costs to the Town are considered. However, the additional revenue generated by the remainder of the project, even considering the minimal initial PILOT contribution of the senior housing and its costs, result in a significant net fiscal benefit to the Town.

Conclusion

Based on the above, it appears that a finding could be made to support any of the above scenarios the Board chooses. However, retention of both uses provides the Board and the applicant the widest flexibility for consideration of uses south of the Boulevard as market conditions continue to improve over the next several years. Since the amount and mix of uses will change in any event due to stormwater regulations, as long as future site plan applications propose a mix of uses that meet the purpose of the PH district and do not create impacts greater than those analyzed for the original conceptual plan, site specific negative declarations can be issued based on information prepared as part of the review record.