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PLANNING DEPARTMENT

TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589

Town of Somers

WESTCHESTER COUNTY, N.Y.



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

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**SOMERS PLANNING BOARD MINUTES
APRIL 27, 2011**

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ROLL:

8

PLANNING BOARD

MEMBERS PRESENT:

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

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ABSENT:

Mr. Currie

14

ALSO PRESENT:

Town Planner Sabrina Charney Hull
Consulting Town Engineer Barbagallo
Town Attorney Joseph Eriole
Planning Board Secretary Murphy

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

23

APPROVAL OF MARCH 9, 2011 MINUTES

25

Chairman DeLucia noted that Planning Board secretary Marilyn Murphy
prepared and submitted for the Board's consideration the approval of the
draft minutes of the Planning Board meeting held on March 9, 2011
consisting of sixteen (16) pages.

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The Chair asked if there were any comments or questions from members
of the Board on the draft minutes and no one responded.

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The Chair asked if there was a motion to approve the March 9, 2011 draft minutes.

On motion by Ms. Gannon, seconded by Mr. Goldenberg, and unanimously carried, the minutes of March 9, 2011 were approved.

The Chair noted that the DVD of the March 9, 2011 Planning Board meeting is made a part of the approved minutes and is available for public viewing at the Somers Public Library. The text of the approved minutes are also on the Town's website www.somersny.com and is available for public review at the Planning & Engineering office at the Town House.

PUBLIC HEARING

**HERITAGE HILLS OF WESTCHESTER
SEWAGE TREATMENT PLANT SUBDIVISION
RE-SUBDIVISION APPLICATION FOR ABBREVIATED
APPROVAL PROCESS [TM: 17.10-10-18]**

Chairman DeLucia said that this is the Public Hearing of the application of Heritage Hills of Westchester LP Sewage Treatment Plant Subdivision by General Partner Henry Paparazzo under the Abbreviated Approval Process Town Code Section 150-50 for a two-lot subdivision of an approximately 18.582 acre parcel located at the intersection of Heritage Hills Drive and Route 202. The Chair explained that a portion of this parcel is improved with the Heritage Hills Sewage Treatment Plant. She noted that the property is located in the DRD Overlay District and R-40 Residential Zoning District. The Chair explained that in 1973 the parcel was created as Lot 1 and the purpose of subdividing this parcel is solely to provide for the transfer of an approximately 9 acre portion of the parcel containing the sewage treatment plant owned by Heritage Hills of Westchester to the Heritage Hills Sewage Works Corporation and that no new improvements are proposed in relation to the subdivision. The Chair said that the applicant is represented by Attorney Linda B. Whitehead of the law firm McCullough, Goldberger & Staudt, LLP of White Plains, N.Y.

The Chair mentioned that this application was last discussed at the February 23, 2011 Planning Board meeting whereby the Board waived a site walk and the requirement for a topographic map and constraints and

1 soils map, noted that this action does not qualify as an action under
 2 SEQRA Regulations Section 617.2 (b) and moved to schedule a Public
 3 Hearing for March 23, 2011 at 7:30 p.m. at the Somers Town House. She
 4 said that due to inclement weather, the March 23, 2011 meeting was
 5 cancelled and at the April 13th meeting the Board moved to again schedule
 6 and notice the Public Hearing for this evening.

7
 8 Chair DeLucia acknowledged for the record receipt of the following:
 9 a letter dated March 16, 2011 received on March 21, 2011 from the
 10 NYSDEP by Cynthia Garcia, SEQRA Coordination Section with comments;
 11 and a memo dated March 18, 2011 received on March 21, 2011 from the
 12 Conservation Board (CB) with 7 concerns and recommendations.

13
 14 The Chair said that the Board has not received any other documents or
 15 material from the applicant or staff since the February 23, 2011 meeting.

16
 17 The Chair asked the applicant's representative Linda B. Whitehead, Esq. to
 18 respond to the items contained in the Conservation Board's (CB) March 18,
 19 2011 memo and address any other remaining outstanding issues.

20
 21 Linda Whitehead, applicant's attorney, said that this is a two lot subdivision
 22 on a 18.582 acre parcel. She explained that the purpose of this application
 23 is to convey the parcel that contains the Sewage Treatment Plant to the
 24 Heritage Hills Sewage Works Corporation.

25
 26 Attorney Whitehead noted that she received the memos from the
 27 Conservation Board (CB) and the NYC Department of Environmental
 28 Protection (DEP). She reminded the Board that there is no action under
 29 SEQRA because there is no physical activity proposed. Attorney
 30 Whitehead said that she provided the Board with an EAF but since there is
 31 no activity the EAF was not required. She mentioned that the DEC letter
 32 noted a discrepancy with the total lot acreage (19.137 acres vs. 18.58
 33 acres). She clarified that difference is because the Department of
 34 Transportation (DOT) widened Route 202 between 1972 and today and
 35 that resulted in an area decrease on the property. Attorney Whitehead
 36 noted that the DEP also said that the EAF does not list the type of
 37 permit/approvals required and that is because this application does not
 38 require any permits.

39

1 Attorney Whitehead mentioned the CB memo and reminded the Board that
2 no physical work or construction is being proposed. She indicated that the
3 CB comments relate to further subdivision and development of the parcel
4 and no development is proposed as part of this application. She said that
5 there also was a question that the Sewage Treatment Plant was counted
6 as an open space requirement but that is not possible because the Sewage
7 Treatment Plant is not open space but a developed parcel. Attorney
8 Whitehead noted that the CB questioned if the wetland and wetland buffers
9 were properly shown. She stated that the wetland and wetland buffers are
10 shown on the Site Plan for the Sewage Treatment Plant that was approved
11 by the Planning Board.

12
13 Mr. Goldenberg said that Attorney Whitehead made a statement that the
14 Sewage Treatment Plant had been in existence for many years and
15 ownership has never been transferred and that should have been done
16 years ago. He asked why the transfer is being done now.

17
18 Attorney Whitehead explained that Heritage is finished with development
19 and is looking at clean-up type of issues.

20
21 Mr. Goldenberg asked if both entities are interwoven and the same people
22 control each entity.

23
24 Attorney Whitehead said that presently both entities are under the same
25 control but that does not mean they will always be under the same control.

26
27 Mr. Goldenberg asked how many acres are located in the DRD Zone and
28 how many are located in the R-40 Zone.

29
30 Attorney Whitehead noted that a small portion is in the DRD with the larger
31 portion in the R-40 Zoning District.

32
33 Mr. Goldenberg asked the acreage of the Sewage Treatment Plant.

34
35 Attorney Whitehead said that the Sewage Treatment Plant is on 9.06 acres.
36 She noted that the Planning Board required drainage basins that are
37 specific to the Sewage Treatment Plant.

38 Mr. Goldenberg asked if any transfer of property will be out of the DRD
39 Zone and Attorney Whitehead said that the lot will be split zoned. She
40 stated that the zoning line is not being changed.

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Ms. Gerbino said that Mr. Paparazzo kept the water and sewer and agreed to relinquish ownership to Heritage Hills when the units were mostly occupied.

Attorney Whitehead advised that the Sewage Treatment Plant has to be run and owned by a Transportation Corporation.

Mr. Goldenberg noted that the aesthetic look at the entrance to Heritage Hills is important to the residents. He stressed that he needs an explanation as to why a Sewage Treatment Plant will be located in an R-40 Residential Zone.

Mr. Keane said that the dividing line between the two lots runs down the middle of the wetlands and there will not be any development in the wetlands.

Attorney Whitehead stated that if anything other than one house is proposed the applicant will have to come back to the Planning Board.

Marc Brassard, AIA, Vice President and Director of Architecture & Planning of Heritage Development Group, said that a subdivision has to be created in order for the Sewage Treatment Plant to have its own parcel of land under the Sewage Works Corporation.

Ms. Gannon said Mr. Goldenberg was not present at the February meeting and did not hear the initial presentation and if he could hear the foundation for the application he would better understand what is happening.

Attorney Whitehead said that the reason there was discussion about the drainage, stormwater basins and wetlands was because of the question where the line would be drawn. She mentioned that the line was moved from the original location to make sure there is an area in case the Sewage Treatment Plant needs an expansion or additional area in the future.

Mr. Goldenberg indicated that the Sewage Treatment Plant is operating at 42% capacity. He asked if there are any lawsuits pending at the Sewage Treatment Plant with New York City in relation to architectural work.

1 Architect Brassard stated that there are no lawsuits pending with the
2 Sewage Treatment Plant.

3
4 Mr. Keane opined that the underlying concern is if a house can be placed
5 on the front lot.

6
7 The Chair asked if there were any comments from Town Planner Hull or
8 Consulting Town Engineer Barbagallo since the February meeting and the
9 reply was that there are no additional comments.

10
11 The Chair asked Planning Board Secretary Murphy if prior to the Public
12 Hearing was the legal notice published, the adjoining property owners
13 notified, and the property posted.

14
15 Planning Board Secretary Murphy stated that the legal notice was
16 published in the Journal News on April 17, 2011, the adjoining property
17 owners were notified via mail and the sign stating the date and place of the
18 Public Hearing was posted on April 11, 2011.

19
20 The Chair asked if anyone was present who wished to be heard regarding
21 this application.

22
23 Henry Olson, resident of 652A Heritage Hills, asked why this application is
24 happening now. He said that it is coincidental that the Town of Somers is
25 currently under negotiations with the Water and Sewer District and now
26 there is a request to separate the property.

27
28 The Chair asked the Planning Board Secretary if she received any
29 communication by telephone, mail, e-mail, or other communication
30 regarding this Public Hearing.

31
32 Planning Board Secretary Murphy said that there was no communication
33 regarding this application.

34
35 Attorney Whitehead stated that there are no active negotiations at this time.
36 She said the reason why this application is happening now is typical of a
37 developer when a project is built out and clean-up issues are taken care of.
38 Mr. Goldenberg said that negotiations have been discussed at the Town
39 Board meeting and prices were mentioned.

40

1 Attorney Whitehead stressed that there was one phone call in reference to
2 the Sewage Treatment Plant being taken over by the Town but this is not
3 relevant to this discussion.

4
5 The Chair indicated that no one else present wished to be heard and the
6 Board did not receive any communication objecting to the proposal to
7 subdivide the parcel.

8
9 The Chair asked if there were any comments or questions from members
10 of the Board.

11
12 Ms. Gerbino explained that residents of Heritage Hills came to the Town
13 Board because of sewer increases and asked the Town to take over the
14 plant. She noted that if there are negotiations this application would have
15 to take place in order for the Town to consider taking over the Sewage
16 Treatment Plant.

17
18 Attorney Whitehead said that this application would create the parcel that
19 the Town would take if negotiations are successful.

20
21 Mr. Olson stated that the Town allocated \$25,000 to study the value of the
22 property and to decide if they should take over the Water and Sewer
23 District. He said that there are active negotiations.

24
25 Mr. Brassard stated that there is no active communications between the
26 Town Supervisor and Heritage Sewer Works regarding purchase other than
27 one phone call and a possible ballpark price. He stressed that this is not
28 relevant to this application.

29
30 Consulting Town Engineer Barbagallo said that prior to the last meeting he
31 asked for a description and purpose for this subdivision and Attorney
32 Whitehead explained it. He said for clarity the Town has begun the
33 process of looking and evaluating the assets of the Sewage Treatment
34 Plant. Consulting Town Engineer Barbagallo noted that he cannot say this
35 is a negotiation but the Town is reviewing the assets. He indicated that the
36 plant is being looked at and is being redesigned for upgrades and
37 management of the flow. He said that the only issue in regard to the
38 subdivision is will there be enough land for upgrades and the applicant
39 stated there is enough land.

40

1 Mr. Keane said that the functionality of the current design is being
2 reviewed.

3
4 Attorney Whitehead indicated that the functionality of the design is under
5 the DEP upgrade program.

6
7 The Chair indicated that there was a consensus of the Board to close the
8 Public Hearing, grant the two-lot subdivision and direct Town Planner Hull
9 to prepare a conditional resolution for approval for the Chairman's
10 signature.

11
12 On motion by Ms. Gerbino, seconded by Ms. Gannon, (Mr. Goldenberg
13 voting nay) and carried, the Board moved to close the Public Hearing on
14 the application of Heritage Hills of Westchester LP Sewage Treatment
15 Plant Subdivision and direct Town Planner Hull to prepare a draft
16 conditional resolution of approval for the Chairman's signature.

17
18 **PUBLIC HEARING**

19
20 **102 MOSEMAN LLC (GAGGINI)**
21 **WETLAND AND STORMWATER MANAGEMENT AND**
22 **EROSION AND SEDIMENT CONTROL PERMIT**
23 **[TM: 48.18-1-10]**
24

25 Chairman DeLucia noted that this is the Public Hearing of the application of
26 102 Moseman LLC, owner, by applicant Elizabeth Gaggini, member of 102
27 Moseman LLC, for a wetland permit under Somers Town Code Chapter
28 167 and Stormwater Management and Erosion and Sediment Control
29 Permit under Chapter 93 for property located at the intersection of
30 Moseman Avenue and Stuart Lane in the R-80 Residential Zoning District.
31 The proposed project consists of the addition of a three-car garage, a
32 family room and landscaping improvements to the single family residence
33 within the wetland buffer zone of a 6,534 sq. ft. man-made retention pond
34 which is proposed to include hydrodredging the acidifying sediment from
35 the pond.

36
37 The Chair noted that this application was last discussed at the March 13,
38 2011 Planning Board meeting whereby the proposed activity was
39 determined to be a Type II Action as not having a significant environmental
40 impact under SEQRA and therefore, no further environmental review is

1 necessary. She said that the Board also waived a site walk, directed
2 applicant to revise the plans and address the comments outlined in the
3 memoranda from the Consulting Town Engineer, the Principal Engineering
4 Technician and comments from the Board. The Chair stated that the Board
5 moved to schedule a Public Hearing for this evening. She indicated that
6 the applicant is represented by Trevor G. Spearman of Spearman
7 Architectural Design, P.C., Thornwood, N.Y.

8
9 The Chair acknowledged for the record receipt of the following: a
10 submission received on April 18, 2011 by applicant consisting of revised
11 drawings last dated April 13, 2011 and responses to comments made in
12 Consulting Town Engineer Barbagallo's memorandum dated March 18,
13 2011 and by the Board including other documents and material relating to
14 the application; two memoranda from the Conservation Board both dated
15 April 22, 2011 received on April 25, 2011, one with concerns and
16 recommendation regarding the landscape plan and the other regarding the
17 submitted documents and materials; and a memo dated and received on
18 April 22, 2011 from Consulting Town Engineer Barbagallo with his
19 discussion review and recommendations.

20
21 The Chair asked the applicant's representative, Architect Trevor G.
22 Spearman, AIA, to give a brief presentation on the recent submission.

23
24 Architect Spearman indicated that the changes requested by Consulting
25 Town Engineer Barbagallo have been addressed. He noted that his recent
26 submission included items such as the construction entrance. Architect
27 Spearman noted that the CB memo addresses items that have been taken
28 care of in the recent submission. He mentioned number 10 in the CB
29 memo #11-19. *The plan appears to suggest that farming activities will take*
30 *place on the site.* He stated that there is no livestock or commercial
31 agriculture intent on the site. Architect Spearman said that the CB may
32 have been confused by the planting boxes that the owner will use for her
33 personal use.

34
35 Architect Spearman mentioned that the staging for the aqua cleaning has
36 started and the work will commence Thursday or Friday.
37 The Chair asked Consulting Town Engineer Barbagallo to summarize his
38 memo to the Board.

39

1 Consulting Town Engineer Barbagallo said that all his concerns have been
2 addressed. He noted that the construction of the forebay has changed and
3 will now be forebay, waterfall, and waterfall.

4
5 The Chair asked if there were any comments or questions from members
6 of the Board.

7
8 Mr. Keane said that his concern was the velocity of the inflowing water and
9 the ability of sedimentation to take place at the appropriate time.

10
11 Consulting Town Engineer Barbagallo explained that will take place
12 upstream before the sediment gets into the pond. He noted that there was
13 verbal communication with the Department of Environmental Protection
14 (DEP) in reference to this application and there are no permits needed from
15 the DEP on this application.

16
17 The Chair asked Planning Board Secretary Murphy if prior to the Public
18 Hearing was the legal notice published and the adjoining property owners
19 notified.

20
21 Planning Board Secretary Murphy stated that the legal notice was
22 published in the Journal News on April 17, 2011 and the adjoining property
23 owners were notified via mail on April 17, 2011.

24
25 The Chair asked if anyone was present who wished to be heard regarding
26 this application and no one responded.

27
28 The Chair asked the Planning Board Secretary if she received any
29 communication by telephone, mail, e-mail, or other communication
30 regarding this Public Hearing.

31
32 Planning Board Secretary Murphy replied that there was no communication
33 by telephone, mail, e-mail, or other communication regarding this Public
34 Hearing.

35
36 The Chair said that no one present wished to be heard and the Board did
37 not receive any communication objecting to the issuance of the Wetland or
38 Stormwater Management and Erosion and Sediment Control Permits.

39

1 The Chair indicated that there is a consensus of the Board to close the
2 Public Hearing, grant the Wetland and Stormwater Management and
3 Erosion and Sediment Control Permit and direct Town Consulting Engineer
4 Barbagallo to prepare a resolution of approval for the Chairman's signature.
5

6 On motion by Mr. Goldenberg, seconded by Ms. Gannon, and unanimously
7 carried, the Board moved to close the Public Hearing on the application of
8 102 Moseman LLC for a Wetland and Stormwater Management and
9 Erosion and Sediment Control Permit and direct Consulting Town Engineer
10 Barbagallo to prepare a conditional resolution of approval for the
11 Chairman's signature.
12

13 **PUBLIC HEARING**

14
15 **SOMERS ESTATES SUBDIVISION**
16 **PERFORMANCE BOND REDUCTION**
17

18 Chairman DeLucia said that this is the Public Hearing to consider a first
19 performance bond reduction from the original amount of \$970,846 to an
20 adjusted reduced amount by \$275,306 leaving a bond balance remaining of
21 \$695,540 for roadway improvements of the extension of Florence Drive and
22 the installation of two private common driveways and associated
23 infrastructure improvements in accordance with Somers Town Code
24 Section 150-16G. The Chair noted that the property is located at the
25 intersection of Lovell Street and Florence Drive.
26

27 The Chair stated that this application was last discussed at the April 13,
28 2011 Planning Board meeting whereby the Board considered the request of
29 Timothy S. Allen, P.E. of Bibbo Associates on behalf of Somers Estates
30 Subdivision for a first performance bond reduction by \$353,295 from the
31 original bond amount of \$970,846 leaving a balance of \$617,551. She
32 noted that according to a memo received from Principal Engineering
33 Technician Steven Woelfle and supported by Consulting Town Engineer
34 Barbagallo recommending the reduction requested amount of \$353,295 be
35 adjusted and reduced by \$275,306 leaving a balance of \$695,540 from the
36 original bond amount of \$970,846 which the Board accepted and then
37 moved to schedule a Public Hearing for this evening.
38

39 The Chair asked Planning Board Secretary Murphy if prior to the Public
40 Hearing was the legal notice published.

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Planning Board Secretary Murphy stated that the legal notice was published in the Journal News on April 17, 2011.

The Chair asked if anyone was present who wished to be heard regarding this application and no one responded.

The Chair asked the Planning Board Secretary if she received any communication by telephone, mail, e-mail, or other communication regarding this Public Hearing.

The Planning Board Secretary replied that there has been no communication by telephone, mail, e-mail, or other communication regarding this Public Hearing.

The Chair noted that no one present wished to be heard and the Board did not receive any communication objecting to the proposal.

The Chair asked if there were any comments or questions from members of the Board and no one replied.

The Chair indicated that there was a consensus of the Board to close the Public Hearing and to send a memo to the Town Board recommending approval of the adjusted bond reduction amount.

On motion by Ms. Gannon, seconded by Mr. Foley, and unanimously carried, the Board moved to close the Public Hearing and to send a memo to the Town Board recommending that a first performance bond reduction of \$275,306 for Somers Estates Subdivision from the original bond amount by \$970,846 to \$695,540 as the remaining bond amount be approved as recommended by Principal Engineering Technician Woelfle and Consulting Town Engineer Barbagallo.

PROJECT REVIEW
MITCHELL CONSERVATION SUBDIVISION
[TM: 16.09-1-9]

Chairman DeLucia explained that this is the project review of the application of Gary and Ann Mitchell for a four-lot Preliminary Conservation Subdivision Approval, Steep Slopes, Stormwater Management and Erosion

1 and Sediment Control and Tree Removal Preservation Permits. She said
2 that the property is owned by Gary and Ann Mitchell and is located at 201
3 Tomahawk Street, NYS Route 118, on the west side of the street, south of
4 the Route 118 intersection with Green Tree Road in the R-40 Residential
5 Zoning District. She noted that the south side of the site abuts the Town of
6 Somers Koegel Park. The Chair stated that the proposal would divide a
7 7.10 acre parcel into four single-family residence lots fronting on a new
8 Town roadway 800 linear feet long and 25-feet wide within a 50-foot-wide
9 right-of-way consisting of an existing residence and outbuildings on one
10 0.94 acre lot, two new lots on 0.94 acres, and the remaining lot on 3.29
11 acres serviced by individual septic systems, wells and driveways.

12

13 The Chair mentioned that this application was last discussed at the
14 June 23, 2010 Planning Board meeting. She explained that at that
15 meeting, although the property is less than 12 acres, there was a
16 discussion regarding whether the project could be considered by the Town
17 Board to authorize the Planning Board to proceed with a Conservation
18 Subdivision because of the benefits to the Town and the applicant and
19 directed Town Planner Hull to prepare a memo to the Town Board to
20 amend Town Code Article IIIA Conservation Zoning §170-13.2
21 Authorization. The Chair noted that the Town Board at its regular meeting
22 held on November 18, 2010 adopted the amendment which was filed by
23 the New York Secretary of State.

24

25 The Chair acknowledged for the record receipt of the following:
26 a letter dated and received on March 25, 2011 from applicant's
27 representative Timothy S. Allen, P.E. of Bibbo Associates, submitting a
28 copy of the amended Local Law, Conventional Subdivision Plans and a
29 Stormwater Pollution Prevention Plan report; a letter dated and received on
30 April 18, 2011 from Westchester County Planning Board who responded to
31 previous letters and had no further comments at this time; a memo dated
32 and received April 27, 2011 from the Bureau of Fire Prevention with
33 concerns regarding the width of the driveways, the amount of room to turn
34 a vehicle around and the grade of the driveways; a memo dated April 22,
35 2011 from Consulting Town Engineer Barbagallo with review comments for
36 discussion regarding the Stormwater Pollution Prevention Plan and Site
37 Plan; and a memo dated April 22, 2011 from Town Planner Hull with a
38 project description and project review comments regarding the Site Plan,
39 Stormwater Pollution Prevention Plan, and requesting the applicant to
40 provide additional information.

1

2 The Chair asked the applicant's representative to give a brief presentation
3 on the revised submission.

4

5 Timothy Allen, the applicant's engineer, explained that the Planning Board
6 adopted a resolution sending the application to the Town Board
7 recommending that this be handled as a Conservation Subdivision and the
8 Town Board approved the recommendation. He explained that the back
9 portion of the property will be a conservation parcel and will be donated to
10 Koegel Park and the house on Lot #1 will be designated affordable housing.
11 Engineer Allen indicated that the revised plan will have smaller driveways
12 and better control of stormwater and swales.

13

14 Engineer Allen acknowledged receipt of the Town Planner and
15 Consulting Town Engineer's memos. He said that according to the
16 Consulting Town Engineer's memo more work has to be done on the SPPP.
17 He said that he just received the memo from the Bureau of Fire Prevention
18 who were concerned about the width of the driveways and the ability of the
19 emergency vehicles to turn around. Engineer Allen mentioned that he will
20 meet with the Bureau of Fire Prevention to discuss their concerns.
21 He indicated that changes were made to the common driveway code and he
22 will discuss the changes with the Bureau of Fire Prevention.

23

24 The Chair asked Town Planner Hull to share her project review comment
25 memo for the benefit of the public.

26

27 Town Planner Hull said that this is the first time the Board is reviewing the
28 Conservation Subdivision as an official plan. She mentioned that the
29 applicant should provide and update the Full Environmental Assessment
30 Form with the EAF addressing concerns as identified by the NYCDEP in
31 their May 5, 2010 letter to the Planning Board. She indicated that once this
32 is furnished the Planning Board can issue their intent to be Lead Agency.
33 The Chair said that she had a copy of the Intent to be Lead Agency on the
34 Mitchell Subdivision which was submitted but not agreed to at the April 28,
35 2010 Planning Board meeting.

36 Town Planner Hull explained that she prepared the Notice of Intent to be
37 Lead Agency for the April 28, 2010 meeting but that was not entertained
38 because the Board recommended that the subdivision be handled with a
39 change in the Ordinance to a Conservation Subdivision. She indicated that

1 the only change in the Lead Agency notice will be the description of the
 2 Conservation Subdivision with the new EAF.

3
 4 Town Planner Hull noted that the applicant is asking if the Board members
 5 are comfortable with declaring Lead Agency contingent upon the Chair's
 6 review of the draft notice and revised plans.

7
 8 On motion by Mr. Keane, seconded by Mr. Goldenberg, and unanimously
 9 carried, the Board moved to declare Lead Agency regarding the Mitchell
 10 Conservation Subdivision application contingent upon receiving the revised
 11 EAF and plans to be circulated to the Involved and Interested agencies per
 12 review of the draft Notice of Intent to be Lead Agency by the Planning
 13 Board Chairman and the Board determined that this is an Unlisted Action.

14
 15 Town Planner Hull asked that the constraints mapping for the conservation
 16 layout be resubmitted. She said that the applicant should provide a
 17 physical demarcation between lot #4 and the proposed conservation parcel
 18 so that encroachment into this area does not occur. Town Planner Hull
 19 noted that reference to §150-13 is incorrect in the Zoning Conformance
 20 table (§170-13). She also recommended that a notation be provided on the
 21 plan regarding dedication of the house on lot #1 as an affordable housing
 22 unit. Town Planner Hull said that the plans should indicate that the
 23 common driveway and stormwater facilities are to be owned and operated
 24 by the homeowners association formed through the conservation
 25 subdivision, not the Town. She noted that she had several concerns with
 26 regard to the SPPP most notably that the Town will not be maintaining any
 27 of the stormwater facilities or the roadway. Town Planner Hull said that
 28 these facilities should be enveloped into the responsibilities of the
 29 homeowners association.

30
 31 The Chair asked Consulting Town Engineer Barbagallo to summarize his
 32 memo for the benefit of the public.

33 Consulting Town Engineer Barbagallo indicated that his memo focuses on
 34 the Stormwater Pollution Prevention Plan (SPPP). He said that he
 35 questioned who owns the stormwater features on site and how will they be
 36 maintained. He noted that recordkeeping and reporting requirements
 37 should be provided in accordance with applicable law. Consulting Town
 38 Engineer Barbagallo noted that he had questions in relation to the septic
 39 and the well separation and how the well and septic interact. He asked that
 40 the applicant revise the existing and proposed well setbacks to account for

1 the 200' separation distance required in the direct line of drainage and
2 revise the septic location accordingly as needed (i.e. key-hole layout).

3
4 Engineer Allen interjected and said that there is a ridge line that shows the
5 200' separation.

6
7 Consulting Town Engineer Barbagallo said that he also asked for additional
8 site topography be provided north of the proposed entrance along
9 Tomahawk Street to demonstrate sufficient sight distance is achieved.
10 He commented that because of the slopes on the property he will conduct a
11 site visit to walk the road realignment and make sure the slopes to the
12 North and driveway interactions will work.

13
14 Engineer Allen said that the Consulting Town Engineer wanted the
15 stockpile areas confined to the individual lots. He opined that the stockpile
16 areas were not thought to be on individual lots but on the common
17 driveway.

18
19 Consulting Town Engineer Barbagallo asked that the stockpile area be
20 clarified.

21
22 The Chair asked if there were any other comments from the Board.

23 Mr. Foley asked if the property is owned by an LLC as the plans state the
24 owner is GAVL, LLC.

25
26 Engineer Allen said that the owner originally was GAVL, LLC but now is
27 Gary and Ann Mitchell.

28
29 The Chair mentioned that in the Consulting Town Engineer's memo dated
30 April 22, 2011 to the Board that "additional comments may be incorporated
31 after a site walk has been conducted." She said that some members may
32 not have gone on the original site walk on October 14, 2008 and the Board
33 may want to consider another site walk.

34
35 The Chair said that Consulting Town Engineer Barbagallo will arrange a
36 date and time for the site walk and after the site walk he will report to the
37 Board.

38

1 Ms. Gerbino said that she had a concern about the stability of the house on
2 the property.

3
4 Town Consulting Engineer Barbagallo stated that he will be looking at the
5 stability of the house as well as other concerns on the site walk.

6
7 The Chair directed the applicant to submit revised drawings and address
8 the outstanding issues and comments from staff and the Board.

9

10 **PROJECT REVIEW**

11

12 **ROUTE 100 REALTY, LLC**
13 **SUSSMANN MOBIL STATION**
14 **APPLICATION FOR AMENDED SITE PLAN,**
15 **WETLAND AND STEEP SLOPES PERMITS**
16 **[TM: 17.18-1-2]**

17

18 Chairman DeLucia noted that this is the project review of the application of
19 Route 100 Realty, LLC for amended Site Plan Approval, Wetland and
20 Steep Slopes Permits, Groundwater Protection Overlay District Special
21 Exception Use Permit and Stormwater Management and Erosion and
22 Sediment Control Permit for the proposed alterations and additions of an
23 existing 880 square foot convenience store, a reconfiguration of the
24 existing parking area and new stormwater management basin. The Chair
25 said that the owners of the property are Juliette Fourgeot Sussmann and
26 Paul Sussmann. She mentioned that the property is located at the Mobil
27 Gasoline Service Station, 291 NYS Route 100 on a .8660 acre parcel in
28 the Neighborhood Shopping Zoning District and Groundwater Protection
29 Overlay District. She commented that a significant portion of the site is
30 located within a 100-foot wetland buffer which includes an adjacent pond
31 and stream that drains directly to the Muscoot Reservoir. The Chair said
32 that the applicants are proposing to expand the existing 880 square foot
33 convenience store located at that site to approximately 3,363 square feet
34 and a reconfiguration of the existing parking lot with additional parking
35 spaces and a stormwater management basin. She mentioned that the
36 applicants are represented by Architect Roy Van Lent of Van Lent
37 Architects and Planners and Engineer Timothy S. Allen of Bibbo Associates
38 LLP.

39

1 Chair DeLucia said that this application was last discussed at the
2 November 10, 2010 Planning Board meeting whereby the applicant
3 requested a Public Hearing but withdrew his request in order to obtain
4 feedback from the Department of Environmental Protection (DEP) and
5 the Department of Environmental Conservation (DEC) and was directed to
6 revise the plans, obtain confirmation from the Westchester County Health
7 Department (WCHD) regarding concerns in its May 14, 2010 letter, and
8 address the outstanding comments contained in the staff's memoranda to
9 the Board and the Board's comments.

10
11 The Chair acknowledged for the record receipt of the following:
12 a letter dated April 14, 2011 received April 15, 2011 from applicant's
13 representative Timothy S. Allen, P.E. of Bibbo Associates responding to
14 staff's memoranda and the Board's comments, submitting Amended Site
15 Plan drawings last revised April 13, 2011, and attaching a letter from the
16 WCHD dated April 13, 2011; an e-mail from the NYSDEC approving the
17 shut down of the remediation shed, a Mitigation Plan, and an undated letter
18 from Paul and Juliette Sussmann regarding future gasoline deliveries at
19 Somers Mobil; a memo dated April 25, 2011 received April 27, 2011 to Tim
20 Allen, P.E. with a copy to the Planning Board and Town Attorney Roland
21 Baroni from the Building Inspector commenting on the Site Plan and Zoning
22 Conformance code provisions; a memo dated April 22, 2011 from
23 Consulting Town Engineer Joseph C. Barbagallo, P.E., BCEE with
24 discussion comments; and a memo dated April 22, 2011 from Town
25 Planner Sabrina Charney Hull, AICP, with project review comments and
26 also commenting that provided there are no other issues by the Consulting
27 Town Engineer and the Planning Board, her office has no objection to
28 scheduling a Public Hearing.

29
30 The Chair asked the applicant's representative to give a brief presentation
31 regarding the revised submission and related materials.

32
33 Tim Allen, the applicant's engineer, said that at the November 2010
34 meeting he promised to provide all the information requested by the Board.
35 He indicated that he submitted approval from the Westchester County
36 Health Department, the DEP wetland sign-off which is now on the plan and
37 he also submitted a Mitigation Plan. Engineer Allen noted that the plan has
38 not changed and the Board stated at the last meeting that if all the
39 information was provided a Public Hearing could be scheduled.

40

1 Engineer Allen mentioned that one parking space has been added and that
2 has been delineated and that eighteen parking spaces are required.

3
4 Engineer Allen said that Beth Evans handled the wetland application and
5 processed the application with the DEP. He commented that the Health
6 Department raised one issue but until all the monitoring is completed it was
7 their recommendation to keep the permit in place.

8
9 The Chair asked Town Planner Hull to share her project review comment
10 memo for the benefit of the public.

11
12 Town Planner Hull said that the applicant responded to all her comments.
13 She noted that the one space behind the loading zone may be problematic
14 and should be discussed by the Board.

15
16 Ms. Gannon noted that early one morning on her way to work she saw a
17 delivery truck entering through the exit at the southern most access point to
18 the site. She asked if this was a normal practice.

19
20 Engineer Allen explained that this practice cannot take place during normal
21 operating hours but when the station is closed they will use the exit.

22
23 Mr. Keane said that the issue is which side of the tank the valves are on.
24 He said that if the tractor trailers pull in from the northern most entrance
25 and parked in such a way that the valves are on the passenger side, the
26 entire unit would be too far out in the travelled portion of the ingress. He
27 opined that as long as the valves are on the driver's side that is the best
28 way of handling the problem.

29
30 Ms. Gerbino said that this is the policy for large delivery trucks and the
31 Board does not have control over those large trucks.

32
33 The Chair asked Consulting Town Engineer Barbagallo to summarize his
34 memo to the Board for the benefit of the public.

35
36 Consulting Town Engineer Barbagallo said that he has a couple of items
37 that remain open and he recommended that stormwater practices be
38 incorporated to capture 100% of the runoff, not the 25% which is currently
39 demonstrated and revise the SPPP. He noted that Engineer Allen felt that
40 there was a minimum standard that had to be met and that standard has

1 been met. Consulting Town Engineer Barbagallo stated that the Planning
2 Board wants the applicant to do more than just meet the minimum
3 standard.

4
5 Mr. Keane read from the New York State Stormwater Design Manual
6 Sections 9, 9.1, 2, & 3, and 9.3.1. and said that “If you do not comply with
7 the requirements of those three sections with regard to making the best
8 effort to use the standard practices, and if you do not in your Stormwater
9 Pollution Prevention Plan (SPPP) provide your discussion and rationale
10 that you cannot use the standard practices, you will be in violation of the
11 Stormwater Permit requirements.”

12
13 Engineer Allen explained that it was a combination of having a better
14 situation than what is there now. He indicated that there will be stormwater
15 controls on the property but the most important thing is the minimization
16 with improvements and that is the goal of Chapter 9.

17
18 Consulting Town Engineer Barbagallo said that another open item is that a
19 hydrodynamic separator or similar unit should be provided instead of the
20 oil/water separator and he will review this with Engineer Allen.

21
22 Consulting Town Engineer Barbagallo said that another open item is the
23 letter from the Westchester County Health Department. He noted that the
24 applicant provided a letter stating that “it appears the existing OWTS is of
25 sufficient capacity to service the change of use as proposed”. He stated
26 that he spoke with the Health Department and asked if they had any
27 outstanding comments. Consulting Town Engineer Barbagallo said that he
28 was told that the comment did not relate to the functionality or the
29 demonstrations that the system can handle the flow but relates to the air
30 permits and other aspects that exist on site but do not relate to the septic
31 system.

32
33 Mr. Keane said that consistent with the Stormwater Manual it is inferred
34 that whatever practices you use have to go synergistically with all the other
35 issues that have to be addressed such as sewage treatment. He noted
36 that because this application is so close to a reservoir stem he is curious
37 which priority the DEP will place on either stormwater or sewage treatment
38 concerns.

39

1 Engineer Allen stated that this application is in a designated Main Street
2 Area which means that a DEP permit is needed. He explained that the
3 Health Department is co-reviewing with DEP. Engineer Allen mentioned
4 that he submitted an e-mail from Danny Shedlo of DEP stating that subject
5 to stormwater approval they are comfortable with the septic arrangement
6 as it is.

7
8 Mr. Keane said the question is what are the DEP's minimum requirements
9 for stormwater. He opined that the Stormwater Pollution Prevention Plan
10 (SPPP) suffers compared to sewage treatment.

11
12 Consulting Town Engineer Barbagallo said that it has been determined that
13 the septic system does not have to be expanded.

14
15 Consulting Town Engineer Barbagallo referred to his memo to provide
16 details on the decommissioning process for the groundwater remediation
17 and monitoring network. He said that the applicant partially addressed this
18 by noting that once it is finalized, the decommissioning process shall be
19 reviewed by the Town Engineer prior to the signing of the Site Plan.

20 Consulting Town Engineer Barbagallo said that as a condition of approval
21 the applicant shall submit documentation from the DEC that de-
22 commissioning has been accepted.

23
24 Consulting Town Engineer Barbagallo referred to his memo under
25 outstanding items from his September 17, 2010 memo, *At the last Planning*
26 *Board meeting, the Board requested the Applicant to consider additional*
27 *mitigation measures, specifically applying deep ripping and de-compaction*
28 *to the steep slopes adjacent to the pond.*

29
30 Engineer Allen replied that he provided a Planting Detail on Mitigation from
31 Evans Associates. He mentioned that he has to decide if the slope will be
32 treated with aeration or deep ripping. Engineer Allen indicated that Beth
33 Evans felt that the area should be left in its current state with the slopes
34 being left alone.

35
36 Mr. Keane said that the context of the discussion was the snow being piled
37 up during the winter.

38 Engineer Allen noted that there will be trenches along the back of the
39 driveway on the west side of the curb.

1 The Chair asked if there were any comments or questions from members
2 of the Board.

3
4 Consulting Town Engineer Barbagallo said that he has no objection to
5 scheduling a Public Hearing.

6
7 Mr. Keane stated that the SPPP has to be changed for the Public Hearing.

8
9 Engineer Allen indicated that the aquifer protection assessment will be
10 provided shortly.

11
12 The Chair asked Engineer Allen if he responded to the DEP letter.

13
14 Engineer Allen noted that he responded to the DEP and they said that
15 when SEQRA is finished the applicant should apply for the stormwater
16 permit from the DEP.

17
18 The Chair read from the November 10, 2010 Planning Board Minutes,
19 *The Chair said that Engineer Allen suggested that the Planning Board*
20 *respond to the DEP letter because they are Lead Agency and the letter*
21 *was sent to the Planning Board. The Chair opined that it is Engineer*
22 *Allen's responsibility to respond to the DEP and then Engineer Allen*
23 *agreed to respond to the DEP letter.*

24
25 Ms. Gannon mentioned that parking space 17 is shown in two different
26 locations, loading area and the curb fronting on Route 100.

27
28 Engineer Allen indicated that space 17 will be on the curb fronting on Route
29 100.

30
31 Town Planner Hull said that she will verify how many spaces are required.

32
33 Consulting Town Engineer Barbagallo noted that the space along Route
34 100 will be striped.

35
36 The Chair stated that she needs something in writing from the DEP that all
37 issues are addressed.

38
39 Town Planner Hull requested that Engineer Allen verify that all issues have
40 been satisfied with the DEP.

1 Town Attorney Eriole clarified that Engineer Allen does not have to satisfy
 2 the DEP but has to respond to their issues.

3
 4 The Chair indicated that there was a consensus of the Board and staff to
 5 schedule a Public Hearing for Wednesday, May 25, 2011.

6
 7 On motion by Ms. Gerbino, seconded by Mr. Goldenberg, and unanimously
 8 carried, the Board moved to schedule a Public Hearing on the application
 9 of Route 100 Realty, LLC for Wednesday, May 25, 2011 at 7:30 p.m. at the
 10 Somers Town House.

11
 12 **SCHEDULE PUBLIC HEARING**

13
 14 **METROPCS NEW YORK, LLC**
 15 **AMENDED SITE PLAN APPROVAL**
 16 **WETLAND AND STORMWATER MANAGEMENT AND**
 17 **EROSION AND SEDIMENT CONTROL AND SPECIAL**
 18 **EXCEPTION USE PERMIT FOR THE GROUNDWATER**
 19 **PROTECTION OVERLAY DISTRICT**
 20 **[TM: 17.15-1-13]**

21
 22 Chairman DeLucia said that the Board will schedule a Public Hearing on
 23 the application of MetroPCS New York LLC to co-locate a wireless
 24 telecommunication facility on the existing 103' tall stealth flagpole at the
 25 Somers Towne Centre property at 325 Route 100.

26
 27 The Chair explained that at the April 13, 2011 Planning Board meeting, the
 28 applicant requested the Board to schedule a Public Hearing for May 11,
 29 2011. She stated that the applicant was informed that *if* the applicant
 30 submits revised plans and responds to staff's memos by April 21, 2011, a
 31 Public Hearing can be scheduled for May 11, 2011. She said that on April
 32 20, 2011 the applicant made such submission.

33
 34 The Chair indicated that there was a consensus of the Board to schedule a
 35 Public Hearing.

36
 37 On motion by Ms. Gerbino, seconded by Mr. Keane, and unanimously
 38 carried, the Board moved to schedule a Public Hearing on the application
 39 of MetroPCS New York, LLC for Wednesday, May 11, 2011 at 7:30 p.m. at
 40 the Somers Town House.

1 There being no further business, on motion by Mr. Keane, seconded by
2 Mr. Goldenberg, and unanimously carried, the meeting adjourned at 9:30
3 P.M. and the Chair noted that the next Planning Board meeting will be held
4 on Wednesday, May 11, 2011 at 7:30 P. M. at the Somers Town House.

5
6
7
8
9
10
11
12

Respectfully submitted,

Marilyn Murphy
Planning Board Secretary