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PLANNING DEPARTMENT

TOWN HOUSE
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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

SOMERS PLANNING BOARD MINUTES
JUNE 8, 2011

ROLL:

PLANNING BOARD MEMBERS PRESENT: Chairman DeLucia, Mr. Keane, Ms. Gerbino, Mr. Goldenberg, Ms. Gannon and Mr. Currie

ABSENT: Mr. Foley

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

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.

APPROVAL OF MAY 11, 2011 MINUTES

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 May 11, 2011 consisting of eight (8) pages.

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

The Chair asked if there was a motion to approve the May 11, 2011 draft minutes.

On motion by Ms. Gannon, seconded by Mr. Currie, and unanimously carried, the minutes of May 11, 2011 were approved.

The Chair noted that the DVD of the May 11, 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.

TIME-EXTENSION

MERRITT PARK ESTATES SUBDIVISION
[TM: 5.20-1-1]

Chairman DeLucia mentioned that this is the request by letters dated May 10, 2011 and May 13, 2011 from the applicant's representative Geraldine N. Tortorella, Esq. of the law firm Hocherman, Tortorella & Wekstein, LLP for the Board's consideration for a fourth 90-day time-extension to the period of Conditional Final Subdivision Approval from July 11, 2011 through and including October 11, 2011 of the Merritt Park Estates Subdivision owned by Mancini Building Corp. She said that the property is located on the easterly side of Lovell Street and Adson Way in the Residential R-40 Zoning District.

The Chair noted that Town Planner Hull in her memo to the Board dated June 2, 2011 reviewed the correspondence and had further conversations with both the applicant and Attorney Tortorella. She said that as to the fourth 90-day time-extension, Town Planner Hull comments in her memo that the applicant is working towards completing the infrastructure of the approved subdivision prior to filing the final plat and has no objection with issuing the requested time-extension from July 11, 2011 to and including October 11, 2011. The Chair specified that Town Planner Hull also comments in her memo that "the applicant has also requested that the Board consider adopting a resolution to allow future time-extensions while construction of the infrastructure is occurring as long as it is conditioned upon the applicant requesting the time-extension with evidence demonstrating continued progress in relation to construction of the

infrastructure." The Chair said that Town Planner Hull also commented that the Board may want to consider a resolution with the language she provided.

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

Mr. Goldenberg said that the Board received letters from Attorney Tortorella dated May 10, 2011 and May 13, 2011. He noted that in the May 13, 2011 letter it states that she was overly optimistic about when construction could start and the extent of construction that would be completed within the additional 90-day extension period. He explained that his thoughts are on the performance bond as it was indicated by Attorney Tortorella that the monies for the performance bond could be used for the infrastructure. Mr. Goldenberg asked why the applicant has to provide a performance bond.

Geraldine N. Tortorella, the applicant's attorney, explained that after final subdivision approval and in order to file the subdivision plat the owner has to install the infrastructure, roads, drainage and other related utilities or post a performance bond that secures the completion of the improvements. She indicated that until recently her experience has been that the developer files the map as quickly as possible, obtains financing and put in the infrastructure post filing of the map. Attorney Tortorella said with the change in the economy developers put in the infrastructure and related utilities before filing the map. She commented that if a bond is posted the applicant must post security and pay a fee for the bond and if you post a bond and install the infrastructure the developer will be paying twice. Attorney Tortorella said that the developer's objective is to complete as much of the infrastructure improvements as possible before he files the Final Plat so that his investment is made in the ground as opposed to be tied up with a performance bond. She stressed that this is allowed by law. Attorney Tortorella said that most of the infrastructure will be completed before filling the plat except for the final paving of the road. She explained that the developer will submit an estimate to the Town and the amount of the bond will only be for the unfinished work.

Mr. Goldenberg asked who will be protected with the performance bond. He opined that if the infrastructure is not done properly the bond will provide payment for the person who fixes the infrastructure.

Attorney Tortorella advised that the performance bond protects the infrastructure if it has not been installed. She stressed that if the infrastructure is installed there is no need for a performance bond. She noted that the performance bond is not a guarantee.

Mr. Keane asked what would happen if the trees were cleared to put in the road and the developer never puts in the road and leaves the site raw. He said there is no security.

Attorney Tortorella said that you have to separate the purpose of the performance bond and concerns about inadequate work.

Attorney Tortorella clarified that the developer is not asking permission because they are entitled by law to complete the infrastructure before filing the map. She explained that the performance bond is to secure the completion of the improvements that are not installed prior to filing the map. She said that when the map is filed it breathes life into the lots because the lots are created when the map is filed. Attorney Tortorella indicated that the law does not want to allow the sale of lots without security for the installation of the infrastructure and access to the lots. She noted that if there is partial construction and the site is left in a raw state the erosion control bond will cover the problem. She mentioned that professionals retained by the developer and Town staff will provide inspections of the property. Attorney Tortorella said that a Notice of Intent has to be filed and a Stormwater Pollution Prevention Plan (SPPP) has to be approved and the erosion control bond has to be posted for stabilization of the site. She indicated that the approval is also for the removal of the trees.

Attorney Tortorella said if the trees are removed pursuant to the applicant's approvals and construction is not continued that is part of the approval because a certain sequence has to be followed. She explained that the map cannot be filed unless the infrastructure is installed or a bond for what has not been completed is provided.

Mr. Keane said he does not understand the statement that the applicant does not want to eat into his credit line or cash that he has available and wants to go ahead and devote that money "in the ground".

Attorney Tortorella restated the request by saying that the applicant has until July 11, 2011 to file the map and would like to start construction of the

infrastructure and complete as much as possible before he files the map. She explained that will not happen by July 11, 2011 so the applicant is requesting an additional 90-day extension to October 11, 2011. She said the second part of the request is that the applicant is not sure how advanced the infrastructure will be by October 11, 2011 and if they are working in good faith they want to make an additional 90-day request. Attorney Tortorella said she just wants to make sure that the Board would be amendable to the time-extension. She explained that the applicant wants to buy as much time as reasonable to complete as much of the infrastructure as possible before filing the map.

Mr. Goldenberg stated that legal agreements have not been reached with the Lake Lincolndale Property Owners Association (LLPOA) and Heritage Hills Entities and he is wondering if this will happen.

Attorney Tortorella stressed that the applicant will not start work until they have the agreements from Lake Lincolndale POA and Heritage Hills Condo 29.

Town Planner Hull explained that the applicant is asking for a good faith resolution on the part of the Planning Board that as long as they demonstrate that progress is being made the Board will grant an additional time-extension.

Mr. Keane said that it was never the intention of the Board to frustrate the applicant's efforts to complete the project. He said that this time-extension will finally see something happening on the ground and that is progress.

Mr. Currie stated that the more work that gets done the smaller the performance bond will be.

The Chair mentioned that this application has been before the Planning Board for 18 years.

Ms. Gannon suggested that the applicant submit a letter to update the Board on progress.

Mr. Goldenberg asked what the problem is with the Lake Lincolndale LLPOA and Heritage Hills Condo 29 not signing the legal agreements.

Attorney Tortorella said that she would not say it was a problem in terms of resistance from the entities. She explained that she is waiting to finalize details with the Lake Lincolndale Property Owners Association. She said that one of the issues with the Lake Lincolndale Property Owners Association is the easement agreement document which gives the Town an easement to drain stormwater runoff from Lovell Street into Lake Lincolndale. Attorney Tortorella mentioned that the Lake Lincolndale Property Owners Association wants to make sure that the Town will add the easement area to its insurance policy. She indicated that the President of the Lake Lincolndale Association assured her that they are in favor of signing the agreements but are just waiting to hear from the Town. She stressed that the improvements are being done as a courtesy to the Town and Lake Lincolndale because of their stormwater issues. Attorney Tortorella reiterated that this project will not move forward until the agreements are signed. She said the applicant cannot install the stormwater management system which involves improvements on the Condo 29 property until the agreement is signed. Attorney Tortorella stated that she sent out final versions of the agreements and is just waiting for signoffs and when that happens the project can move forward.

On motion by Ms. Gerbino, seconded by Mr. Keane, and unanimously carried, the Board moved to grant a fourth 90-day time-extension from July 11, 2011 to and including October 11, 2011 and directed Town Planner Hull to prepare a conditional resolution stating, “in accordance with Town Planner Hull’s memo, that the Somers Planning Board has agreed that as long as the applicant in relation to the Merritt Park Estates Subdivision, has requested a time-extension and has demonstrated that progress is being made regarding the construction of the infrastructure for the approved subdivision, the Planning Board will issue a time-extension in accordance with §150-13M of the Code of the Town of Somers.”

Town Attorney Eriole clarified that at the time any subsequent application for an extension is made nothing in the Resolution will deprive the Board discretion under the law with respect to the facts and circumstances that are before the Board at that time.

PROJECT REVIEW

NACLERIO SITE PLAN, STEEP SLOPES, STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL AND TREE PRESERVATION PERMITS [TM: 4.20-1-7]

Chairman DeLucia explained that this is the project review of the application of Vincent and Juliane Naclerio for Site Plan Approval, Steep Slopes, Stormwater Management and Erosion and Sediment Control and Tree Preservation Permits for property located at 75 Route 6 in the Neighborhood Shopping (NS) Zoning District. The Chair said that the applicants were issued a Notice of Violation by letter dated March 23, 2010 by the Town's Principal Engineering Technician Steven Woelfle for altering the existing grade by importing fill and disturbing approximately 16,000 SF without obtaining the required Site Plan Approval pursuant to Somers Town Code §170-14A.(1). She noted that this application was originally received on September 17, 2010 and last discussed at the October 27, 2010 Planning Board meeting. Chairman DeLucia mentioned that a site walk was conducted on November 6, 2010 by Consulting Town Engineer Barbagallo and members of the Board and on December 22, 2010 Consulting Town Engineer Barbagallo submitted a memo giving the observations for consideration at a future meeting. She explained that the applicants would like to continue grading and filling the rear portion of the property between the existing building and the wetland control area to provide a level yard around the existing building. The Chair noted that the applicants are represented by Jeffrey J. Contelmo, P.E. of Insite Engineering, Surveying & Landscape Architecture, P.C. of Carmel, New York.

The Chair acknowledged for the record receipt of the following: a cover letter dated and received on May 31, 2011 from Insite Engineering by Jeffrey J. Contelmo, P.E. enclosing Site Plan drawings dated September 13, 2010 last revised May 31, 2011 together with a full Environmental Assessment Form (EAF) last revised May 31, 2011; a letter from Tim Miller Associates regarding a soil sampling investigation; a NYSDEC Environmental Resource Map or Site for Rare Plants and Animals; and responses to comments by staff, the Board and the Conservation Board; a memo dated November 5, 2010 received November 8, 2010 from the Conservation Board with 5 concerns and recommendations; a memo dated June 8, 2011 from Consulting Town Engineer Barbagallo, P.E. with discussion comments; and a memo dated June 2, 2011 from Town Planner Hull, AICP with a property history, project description, review comments

and the preparation of the Planning Board's Notice of Intent to be Lead Agency for the Board's review.

The Chair asked the applicant's representative to give a brief presentation regarding this application.

Richard Williams, P.E. the applicant's engineer, explained the revisions to the drawings. He noted that the quality of the fill that was brought into the site was questioned by the Board; therefore, the soil was tested in accordance with NYSDEC Guidelines. He noted that the testing program was submitted to the Consulting Town Engineer which consisted of two soil samples in accordance with Part 375, soil criteria for Restricted Use Residential. He stated that all the testing results were acceptable and he believes that the fill material is acceptable on this site.

Engineer Williams described the wetland boundary and noted that a NYS Wetland is located off site to the North of the property. He said that the boundary was validated by NYSDEC and it was confirmed that there are no additional Town of Somers regulated wetlands. Engineer Williams stated that he provided a signed Freshwater Wetland Validation Map. He mentioned that the boundary has not changed from what was shown on the Site Plan. Engineer Williams noted that Tim Miller Associates went to the site and determined that the DEC boundary and the Town of Somers boundary follow the same line, as was previously shown on the plan. He reminded the Board that there is no activity planned in the wetland buffer.

Engineer Williams mentioned the trees that have been removed from the site. He explained that during the Winter of 2010 two trees defined under the Somers Code were damaged and fell down. He noted that there was a 42'' and 24'' tree stump that were removed in the Spring 2010. He explained that in the Neighborhood Shopping Zoning District (NS) as long as a tree is not located on an extremely steep slope the owner is permitted to remove two trees per calendar year. He stressed that the trees that were removed were not located on an extremely steep slope. Engineer Allen asked the Board to allow the removal of three additional trees which are shown on the Site Plan in order to bring in additional fill material.

Engineer Williams discussed the revisions to the grading as requested by the Consulting Town Engineer. He explained that as opposed to having all the runoff sheet flow across the fill section and down the slope it was

suggested to divert the runoff around the side of the slope and use an existing stone channel at the site to reshape and reformat to safely convey the runoff to prevent erosion issues occurring on the slope. Engineer Williams pointed out that if you go to the site today the slope behind the fill that has been imported is about 1 horizontal to 1 vertical to 2 horizontal to 1 vertical slope. He indicated that the proposal is to lay the slope back to 1 vertical two 4 vertical slope which will help with runoff and preventing future erosion.

Engineer Williams noted that he received staff's memos and will address their concerns.

The Chair asked if the applicant should apply for a Tree Permit.

Town Planner Hull suggested that the Tree Removal Permit be part of this application.

Mr. Currie said that during the site walk of the property it was suggested that the stumps of the storm damaged trees not be removed. He suggested that the stumps of the additional trees that will be removed also not be removed.

Consulting Town Engineer Barbagallo noted that the discussion was to flush cut the stumps but not to disturb any earth associated with the area.

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

Consulting Town Engineer Barbagallo said that his June 8, 2011 memo updated the 8 items that were included in his original memorandum. He said that a Wetlands Validation Map has been submitted but he is requesting that a note on the Site Plan be revised to reflect the date of the NYSDEC Freshwater Wetland Boundary Validation and the NYSDEC representative who validated the boundary.
Consulting Town Engineer Barbagallo said that another concern was the location of the septic system. He asked that the applicant's engineer provide a certification that the septic system was not damaged by the filling operations.

Consulting Town Engineer Barbagallo asked the applicant to depict the location of all trees to be removed in accordance with local Town Code Chapter 156. He said that the proposed conditions shall be revised to show the proposed treeline and the trees that have already been removed. Consulting Town Engineer Barbagallo said that the Planning Board could consider whether the applicant shall provide additional trees to replace those removed by filling operations.

Consulting Town Engineer Barbagallo explained that these are new comments since his last memo and he asked that the applicant clarify the location of the proposed stone retaining wall and to add a drainage flow directional arrow and a note which indicates that flow shall be directed away from the steep slopes. He also requested that the rip-rap at the toe of the slope to dissipate flow velocities prior to entering the wetland buffer be provided. He asked that the existing soils be evaluated and determined to meet Part 375 soil criteria for Restricted Use Residential Parameters. He said that a note shall be added that all additional fill imported to the site must meet criteria established in the NYS DEC DER-10 Technical Document.

Mr. Keane subbing momentarily for Chair DeLucia asked Town Planner Hull to share her project review comments for the benefit of the public.

Town Planner Hull stated that the applicant has addressed most of her comments. She mentioned that she asked that the plan indicate the floor area of the business use in comparison to the floor area and number of bedrooms of the residential use on the site. She said that the applicant has confirmed that two septic systems exist on site and she asked that the applicant provide the explanation as to why two septic systems exist and whether or not both systems are being utilized. Town Planner Hull noted that in the EAF the applicant must show a Stormwater Management and Erosion and Sediment Control and Tree Preservation Permit is required under Question 25. She stated that she prepared a draft Notice of Intent for Lead Agency for the Board's consideration. Town Planner Hull indicated that if the Board accepts the Lead Agency Notice revised plans have to be submitted.

Mr. Keane said that Town Planner Hull has prepared and submitted for the Board's review a draft Notice of Intent to be Lead Agency and that the proposed action is an Unlisted Action under SEQRA.

Mr. Keane asked Engineer Williams if he reviewed the draft Notice of Intent and did he have any comments or questions.

Engineer Williams replied that he reviewed the draft Notice of Intent and had no questions or comments.

Mr. Keane stated that there was a consensus of the Board that the Proposed Action is an Unlisted Action under SEQRA and declares its intent to be Lead Agency.

On motion by Mr. Currie, seconded by Mr. Goldenberg, and unanimously carried, the Board moved to determine that the Proposed Action is an Unlisted Action under the procedures and requirements of SEQRA and Chapter 92 of the Code of the Town of Somers in conjunction with Article 24 of the NYS Environmental Conservation Law and declares its intent to be Lead Agency with regard to this Proposed Action and to circulate a Notice of Intent to be Lead Agency to all involved and interested agencies, together with Part I of the Full Environmental Assessment form and a copy of the plans.

The Chair said that this information is available for public review in the Planning and Engineering office at the Town House.

The Chair directed that the applicant submit an application for a Tree Preservation Permit, revise the plans, and address the comments of Town Planner Hull, Consulting Town Engineer Barbagallo, the Planning Board and the Conservation Board.

PROJECT REVIEW

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

Chairman DeLucia noted that this is the project review of the application of Route 100 Realty, LLC by Juliette Fourgeot Sussmann and Paul Sussmann for amended Site Plan Approval, Wetland and Steep Slopes Permits, Special Exception Use Permit for Activity within a Groundwater Protection Overlay District, and Stormwater and Erosion and Sediment Control Permit

for the proposed alteration and expansion of an existing 880 square foot convenience store to 3,363 square feet, a reconfiguration of the existing and additional parking spaces at a total of 17 spaces and a new stormwater management basin. The Chair said that the property is located at the Mobil Gasoline Service Station, 291 NYS Route 100 on a .8660 acre in the Neighborhood Shopping Zoning District (NS) and Groundwater Protection Overlay District. She explained that a significant portion of the site is located within a 100-foot wetland buffer which includes an adjacent pond and stream that drains directly to the Muscoot Reservoir. The Chair mentioned that at the April 14, 2010 Planning Board meeting the Board determined the proposed action an Unlisted Action under SEQRA and at the June 23, 2010 meeting the Board declared itself Lead Agency. She noted that the applicants are represented by Engineer Timothy S. Allen, P.E. of Bibbo Associates LLP and Architect Roy Van Lent of Van Lent Architects and Planners.

The Chair said that this application was last discussed at the May 25, 2011 Planning Board meeting whereby at that meeting the Public Hearing was held and after everyone wishing to give testimony was heard the Public Hearing was then closed with a 10-day written comment period to June 6, 2011.

The Chair acknowledged receipt of the following for the record: a letter dated and received on June 3, 2011 from the applicant's representative Timothy S. Allen, P.E. of Bibbo Associates submitting: Construction Plans last revised June 2, 2011; copy of Stormwater Pollution Prevention Plan last revised June 2, 2011; copy of revised Aquifer Impact Assessment by HydroEnvironmental Solutions, Inc. dated June 3, 2011; a copy of a Truck Turning Radius Plan; responses to staff's and the Board's comments; and a copy of a letter dated June 3, 2011 from Timothy S. Allen, P.E. of Bibbo Associates addressed to Cynthia Garcia, Project Manager, NYCDEP Environmental Protection Bureau of Water Supply, SEQRA Coordination Section, in response to comments made in its May 27, 2010 letter regarding potential impacts; a letter dated May 27, 2011 received on May 31, 2011 from Robert F. Davis, Esq. of the law firm Shamberg Marwell Davis & Hollis, P.C. representing Mill Pond Offices, Inc., the owner of the adjoining property to the south of the Mill Pond Offices, Inc. on which its tenant, Seasons Restaurant is located, and the adjoining property to the west on which its Mill Pond Office Park is located, together with its deeded right-of-way to its adjoining Office Park entrance drive to the north,

expressing concerns regarding visual impacts upon an unauthorized use of its properties and requesting appropriate screening and buffering; an e-mail dated June 6, 2011 to Town Planner Hull from Cynthia Garcia, DEP, SEQRA Coordination Section commenting that Bibbo Associates has provided the DEP with a letter dated May 27, 2011 in response to DEP's comment letter dated May 27, 2010 that potential impacts identified in DEP's letter have been addressed; a memo dated June 6, 2011 from Town Planner Hull with project review comments and comments for the Board's discussion; a second memo dated June 7, 2011 from Town Planner Hull regarding designated main street areas and complying with the NYCDEP Watershed Rules and Regulations §18-39(b)(c) and (d) and with the NYSDEC Chapter 9 of the NYS Stormwater Management Design Manual; and a memo dated June 7, 2011 from Consulting Town Engineer Barbagallo with a summary of review comments and discussion.

The Chair asked Planning Board Secretary Murphy if she was in receipt of any other written comments other than the letter received from Attorney Robert F. Davis.

Planning Board Secretary Murphy said that she received an e-mail from Frank (AL) Petrocca of Heritage Hills in reference to the Public Hearing.

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

Timothy S. Allen, P.E., the applicant's engineer, said that discussion in reference to the tanker truck entering the gas station is not a viable option and will not be part of this application. He explained that the tanker truck entering the gas station as shown on the Traffic Study will be used for this application. He mentioned that the turning radius diagram that was submitted on June 3, 2011 is withdrawn.

Town Planner Hull explained that the entire planning of this application has been based on the premise that the fuel truck will come in the entrance and will circle around and exit the designated exit. She noted that at the Public Hearing there was discussion about the fuel truck coming in the exit and exiting through the entrance. She stressed that this is not a viable option.

Mr. Keane said if you follow that methodology every fuel tanker will have to have the discharge pipe on the driver's side of the tank.

Engineer Allen said that the curb will be moved out 2 feet in order for the tanker to fill the gas tanks.

Engineer Allen said that he met with Paraco the propane supplier, and it was decided that the propane tank will be underground ten feet off the property line and 10-feet off the building. He noted that the propane tank will feed the filling station in the back of the building.

Mr. Keane said that he understands that the propane tank will not be exposed except for the release valve.

Ms. Gerbino said that the valve looks like a periscope.

Mr. Keane asked if there will be physical protection for the propane tank.

Engineer Allen stated that there will not be any physical protection for the propane tank. He said a fence would be an eyesore.

Mr. Keane suggested a short ballard to protect the fuel release valve.

Engineer Allen said that he was surprised to learn that the gas station is not in a Main Street area. He noted that he spoke to the DEP and nothing has changed in regard to this application. Engineer Allen explained that he is allowed two 25% expansions of the facility.

Mr. Keane said that 25% threshold of the existing impervious surface calculations should be provided for the file and included in the SPPP.

Engineer Allen said that the SPPP will be changed to eliminate the designate Main Street Area.

Mr. Keane indicated that a SPPP is required to comply with the Town of Somers Regulations under §93. He said that all three (DEP, DEC, TOS) SPPP reference the DEC Manual. He said that the SPPP should be uniformly accepted by all three agencies. He noted that the SPPP submitted June 3, 2011 still does not meet the 9.3.1 and the 9.2 criteria. He explained that calculations have to be done that show that the applicant can move to the 25% rule.

Town Planner Hull stated that the uniform SPPP can be a condition of approval in the Resolution. She suggested that the approved DEP SPPP has to be submitted to the Town.

Consulting Town Engineer Barbagallo indicated that a condition would require the DEP SPPP be validated to be the same or better than the DEC SPPP. He said that the risk falls on the applicant because if things change the SPPP has to come back to the Board for approval.

Engineer Allen stressed that he cannot get DEP approval until he has a Negative Declaration from the Board.

The Chair asked Town Planner Hull to share her project review comments for the benefit of the public.

Town Planner Hull said that most of her comments have been addressed. She noted that there are two new comments. Town Planner Hull explained that the plans have been corrected and a new Landscaping Plan indicated 20 new plantings, small trees and shrubs, along the property line of the site. She indicated that this will address the neighbors' concerns.

Town Planner Hull said at the last meeting there was discussion on signs. She explained that the applicant stated that they would provide "no parking" signs and "parking for restaurant use only" signs.

Engineer Allen stated that he spoke to Pat Gigliotti, adjoining property owner, and he is in agreement with the proposed plantings but does not want the "no parking" signs.

The Chair asked Consulting Town Engineer Barbagallo to summarize his memo to the Board for the benefit of the public.
Consulting Town Engineer Barbagallo said that he is clear about the calculations that have to be provided and he indicated that the project requires approvals from the NYCDEP including the SPPP.

Consulting Engineer Barbagallo indicated that the implementation of the Site Plan improvements cannot be completed until the decommissioning process for the groundwater remediation and monitoring network is complete and accepted by the NYSDEC.

Consulting Town Engineer Barbagallo said that in reference to the Aquifer Impact Assessment (AIA) revised June 3, 2011 noted that the Site Plan shall be revised to include both plan and detail the roof runoff mitigation that was identified in the AIA as being required to comply with the technical requirements of §170-32.8 A. (3). He said that test pits shall be completed along with soil percolation tests that demonstrate that the area proposed for installation of the Cultec system is suitable for infiltration purposes and that Infiltration rates verify those assumed in calculations within the SPPP Report.

Consulting Town Engineer Barbagallo asked that the applicant dimension the propane tank from the nearest property line and to the building to demonstrate the minimum separation requirements of 10-feet are provided.

Town Attorney Eriole advised that a condition should be that the fuel tanker's circulation pattern should be consistent with the April 15, 2011 plan.

Engineer Allen stated that he will submit revised plans and will show the traffic pattern consistent with the April 15, 2011 plan.

The Chair told Engineer Allen to have everything cleaned up for the next meeting.

The Chair said that there is a consensus of the Board to direct Town Planner Hull to prepare a draft Negative Declaration and draft Conditional Resolution of Approval for consideration at the June 22, 2011 meeting.

On motion by Mr. Goldenberg, seconded by Mr. Currie, and unanimously carried, the Board moved to direct Town Planner Hull to prepare a draft Negative Declaration and draft Conditional Resolution of Approval for Route 100 Realty, LLC, by Juliette Fourgeot Sussmann and Paul Sussmann, Amended Site Plan Approval, Wetland and Steep Slopes, Special Exception Use Permit for Activity within a Groundwater Protection Overlay District and Stormwater Management and Erosion and Sediment Control Permit.

The Chair mentioned that Town Planner Hull will not be at the June 22, 2011 meeting because she will be attending a family graduation.

The Chair noted that the next Planning Board meeting after the June 22, 2011 meeting is July 27, 2011 and if the Draft Negative Declaration and the Draft Resolution are not granted by that time there must be mutual consent for an extension because the “within 62 days to make a decision” falls on Tuesday, July 26, 2011 and the July 27, 2011 meeting date is 63 days from the close of the Public Hearing.

Engineer Allen stated that the applicant grants the extension to the 62 days to make a decision from the close of the Public Hearing rule.

There being no further business, on motion by Ms. Gerbino, seconded by Mr. Keane, and unanimously carried, the meeting adjourned at 9:30 P.M. and the Chair noted that the next Planning Board meeting will be held on Wednesday, June 22, 2011 at 7:30 P. M. at the Somers Town House.

Respectfully submitted,

Marilyn Murphy
Planning Board Secretary