

Telephone  
(914) 277-5366

FAX  
(914) 277-4093

PLANNING DEPARTMENT

Town of Somers

WESTCHESTER COUNTY, N.Y.

TOWN HOUSE  
335 ROUTE 202  
SOMERS, NY 10589

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



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

**ROLL:**

**PLANNING BOARD**

**MEMBERS PRESENT:**

Acting Chairman Gerbino, Mr. Foley, Mr. Goldenberg, Ms. Gannon and Mr. Currie (Chair DeLucia arriving late)

**ABSENT:**

Mr. Keane

**ALSO PRESENT:**

Town Planner Sabrina Charney Hull  
Consulting Engineer Joseph 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. Acting Chairman Gerbino noted that a required quorum of four members was present in order to conduct the business of the Board.

**APPROVAL OF MAY 25, 2011 AND JUNE 8, 2011 MINUTES**

Acting Chairman Gerbino 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 25, 2011

consisting of twenty-four (24) pages and draft minutes from the June 8, 2011 meeting consisting of seventeen (17) pages.

The Acting Chair asked if there were any comments or questions from members of the Board on the draft minutes of May 25, 2011 and no one responded.

The Acting Chair asked if there was a motion to approve the May 25, 2011 draft minutes.

On motion by Ms. Gannon, seconded by Mr. Currie, and unanimously carried, the minutes of May 25, 2011 were approved.

The Acting Chair asked if there were any comments or questions from members of the Board on the draft minutes of June 8, 2011 and no one responded.

The Acting Chair asked if there was a motion to approve the June 8, 2011 draft minutes.

On motion by Ms. Gannon, seconded by Mr. Currie, and unanimously carried, the minutes of June 8, 2011 were approved.

The Acting Chair noted that the DVD of the May 25, 2011 and June 8, 2011 Planning Board meetings are made a part of the approved minutes and are available for public viewing at the Somers Public Library. The text of the approved minutes is also on the Town's website [www.somersny.com](http://www.somersny.com) and is available for public review at the Planning & Engineering office at the Town House.

## **PROJECT REVIEW**

### **HOMELAND TOWERS, LLC\NEW CINGULAR WIRELESS PCS, LLC (AT&T) SITE PLAN, TREE REMOVAL, STEEP SLOPES WETLAND, AND STORMWATER MANAGEMENT AND EROSION CONTROL PERMITS [SANTARONI PROPERTY] [TM: 37.13-2-3]**

Acting Chairman Gerbino noted that this is the project review of the application of Homeland Towers, LLC\New Cingular Wireless PCS, LLC for Site Plan Approval, Tree Removal Permit, Stormwater Management and

Erosion and Sediment Control, Steep Slopes, Wetland Permits and a Special Exception Use Permit and area variances for the installation of a proposed 135' tall monopole for wireless telecommunications services and related equipment on a portion of a 6.4 acre residential property located at 2580 Route 35 in the R-120 Residential Zoning District (3 acre) owned by Umberto and Carol Santaroni. She said that this application is currently before the Zoning Board of Appeals (ZBA) as Lead Agency under SEQRA, in a coordinated review with the Planning Board as an Involved Agency, for a Special Use Permit and area variances for minimum front yard, minimum rear yard, minimum distance from dwelling and maximum height. Acting Chair Gerbino explained that Manuel Vincente is the managing member of Homeland Towers, LLC a New York limited liability company with a main office located in White Plains, New York and is represented by Robert D. Gaudio, Esq. of Snyder & Snyder, LLP and AT&T is represented by Neil J. Alexander, Esq. of Cuddy & Feder, LLP.

The Acting Chair mentioned that this application was last discussed at the April 13, 2011 Planning Board meeting whereby there was a discussion regarding information that attorney Gaudio agreed to provide but was not received for the April 13, 2011 meeting and was directed to submit for the next meeting said information and the required applications and to address the outstanding issues in staff's previous memoranda as well as concerns of the Board. She said that the Board also noted that the application remained to be incomplete and that the FCC's 150-day ruling had not yet begun to toll.

Acting Chair Gerbino acknowledged for the record receipt of the following: a letter dated and received on July 7, 2011 from attorney Robert D. Gaudio responding to comments in Town Planner Hull's memo dated April 8, 2011; enclosing a letter from Tectonic Engineering & Surveying, P.C., dated May 5, 2011 with a modification to the proposed landscaping indicated on the Wetland Buffer Mitigation Plan revised June 15, 2011; a letter from tower manufacturer Sabre Industries, Inc. dated April 26, 2011 responding to the Conservation Board's (CB) comments dated May 6, 2011 and responding to comments of the Westchester County Planning Board dated April 18, 2011; submitting a second additional Radio Frequency Information Report dated June 27, 2011 prepared by Stephanie Guillabert on behalf of AT&T; a VHB Visual Impact Analysis with supporting documentation and analyses; and tables listing all documentation supporting the application submitted in response to the scoping document

by applicants. She noted that Attorney Gaudio also said that the Somers Volunteer Fire Department equipment has been added to the proposal. Acting Chair Gerbino said that Consulting Engineer Barbagallo and Michael Musso of HDR have not submitted their reports for this meeting.

The Acting Chair indicated that the Board is in receipt of a memo dated July 25, 2011 from Town Planner Hull, AICP with her project review and recommendations and outstanding comments from previous memoranda and new comments.

Acting Chair Gerbino asked Town Planner Hull to summarize her memo for the benefit of the public.

Town Planner Hull explained that her July 25, 2011 memo is similar to her July 19, 2011 memo; however, since that memo there has been changes regarding submissions made by the applicant. She noted that the latest submission from Tectonic was in regard to amending the Zoning Conformance Table. Town Planner Hull indicated that narrative has been provided that the appropriate changes have been made; however, revised plans have not been provided for verification. She said that information from the pole manufacturer has indicated that the fall zone would be within a radius of 64 feet and explained how that would affect the neighboring property owners. Town Planner Hull mentioned that NYC Department of Environmental Protection (DEP) has deemed the variance application incomplete. She noted that the applicant will provide information on the curb cut at the entrance of Route 35. Town Planner Hull indicated that comments in regard to VP5 and VP27 is currently under review by Mr. Musso of HDR. She mentioned that an updated visual resource evaluation and associated profiles have been submitted regarding the viewpoints agreed to by the Planning Board and Zoning Board of Appeals (ZBA). Town Planner Hull said that the Tree Removal fees have been provided.

Town Planner Hull noted that at the July 19, 2011 Zoning Board of Appeals (ZBA) meeting the following requests and determinations were made: additional visual simulations including a brown monopole were requested from view 4, 11 and 24, a request was made in regards to the landscaping plan to increase the caliper of the proposed tree plantings from 2-4" to 4 to 6", a request made to document the growth rate of the proposed trees, the ZBA determined that the application still remained to be incomplete and per the applicant's request, the ZBA directed her to

prepare a draft SEQRA determination for the ZBA's August 16, 2011 meeting which she has no problem with except that there will be holes in regard to the outstanding reviews that have to occur by the consulting engineers.

Acting Chair Gerbino asked Attorney Gaudioso to update the Planning Board with the proceedings held at the ZBA meeting.

Attorney Gaudioso explained that there have been fundamental changes with the Site Plan that have improved the project. He mentioned the relocation of the facility and the moving of the pole approximately 13 feet away from the wetland. He noted that the stone wall has been saved by relocating the access drive which reduced the amount of cut and fill and area of disturbance. Attorney Gaudioso said that the Landscape Plan now has 60 new trees, 200 shrubs and groundcover. Attorney Gaudioso mentioned the discussion on the Mitigation Report that was submitted. He noted that discussion was held on the retaining wall changing impervious concrete to a soil retaining wall in order to incorporate construction elements into the project. Attorney Gaudioso mentioned that the Stormwater Pollution Prevention Plan (SPPP) has been submitted and is being reviewed by Consulting Engineer Barbagallo. He explained that as part of the project an overall Mitigation Plan has been submitted.

Attorney Gaudioso stated that the key element that has been provided is the Visual Impact Analysis in response to the scoping document. He explained that this document includes the visual renderings, analysis and narratives.

Attorney Gaudioso explained the Visual Impact Analysis Map that shows the location of the towers and the low impact locations. He noted that the map overlays on the Somers Zoning Map which includes the tax lot lines. He said that a wireless communication facility has to be located on a lot that is 80,000 square feet or better. He mentioned that the Code requires the reason why you cannot locate the facility on a lower impact location. Attorney Gaudioso showed the Board the locations of the low impact areas. He pointed out the Lincoln Hall property which has a tower and an antenna on a smoke stack. He stated that AT&T is already located on that tower. He pointed out the DRD Zone which is Heritage Hills and noted that there is a tower on the property. Attorney Gaudioso also mentioned another AT&T site located on the Majestic property across the street from the

Mexican Shack. He noted that the Pepsi property is also a low impact area.

Attorney Gaudioso said that the map also shows other items that are required by the Zoning Code. He mentioned that the location has to have a 500' setback from schools. Attorney Gaudioso also pointed out the Business Historic Preservation District (B-HP) where a telecommunication facility is prohibited. He stated that you cannot locate a telecommunication facility on a scenic road (Mahopac Ave.) Attorney Gaudioso pointed out all the telecommunication facilities located in the Town of Somers. He mentioned that AT&T is located on a majority of the sites. Attorney Gaudioso also showed locations that would be off limits because they are park lands. He pointed out Lasdon Park. He mentioned that the County was concerned that the proposed facility will be visible from Lasdon County Park, Arboretum and the Veterans Memorial. Attorney Gaudioso stated that the proposed facility will not be visible from Lasdon Park. He showed the Board the Angle Fly property, the DEP property and the property located at the base of the Amawalk Dam which is controlled by the Northern Westchester Joint Water Works which are also off limits for cell towers.

Attorney Gaudioso said that the design of the map also shows residences and the locations of the residences are in a low impact area. He reminded the Board that Sprint submitted three applications for cell towers with one right across the street from Lasdon Park off of Orchard Hill Road. Attorney Gaudioso indicated that the proposed tower off of Orchard Hill Road would have been visible from Lasdon Park and the property owners at the top of the hill. He stated that there was a tremendous amount of opposition to this location. Attorney Gaudioso pointed out another cell tower proposal that would have been located on the Butler property which was next to the residential property off of Dr. Tony's Road and there was also opposition to this proposal. He showed the Board another proposed cell tower that would have been located at the Amawalk Fire Department located on the corner of Mahopac Avenue and Route 35 with Sprint withdrawing this application.

Attorney Gaudioso opined that the 2580 Route 35 location from a visual standpoint, from a land use perspective and from a maximizing distance from residences is a good location and the map shows that. He said that

this map is an important part of the scoping document and is helpful in showing that this is a good location.

Mr. Goldenberg asked if Lincoln Hall is considered a low impact area.

Attorney Gaudioso stated that the Code finds the Lincoln Hall property as one of the low impact areas.

Mr. Goldenberg mentioned that there is a proposal for a co-location at the Lincoln Hall property and there may be spots for three more co-locators.

Attorney Gaudioso informed Mr. Goldenberg and the Board that AT&T is already located on that tower.

Attorney Gaudioso explained that one of the main reasons the DEP deemed the variance application incomplete is that the ZBA has to make a decision pursuant to SEQRA first before they can say the applicant is complete. Attorney Gaudioso explained that the Planning Board providing comments to the ZBA as an Involved Agency is an important step in the process. He said that the plans will be revised for the DEP but their comments were non-substantive and minor in nature. Attorney Gaudioso mentioned that pursuant to the Town Planner's request the Site Plan application and all other required applications were submitted. He noted that there was an original curb cut permit at the original location but the new location has better sight lines. Attorney Gaudioso commented that the new location of the Department of Transportation (DOT) curb cut will be a condition of the Zoning Board of Appeals (ZBA) Permit. He submitted for the record a copy of an e-mail from Mr. Doherty, P.E. Senior Traffic Engineer in reference to the new curb cut location. Attorney Gaudioso said that the Landscape Plan was revised to bolster the landscaping between Route 35 and the proposed facility. He noted that a 40' Red Maple Tree was saved.

Ms. Gannon said it was not clear who put together the list of the Scoping Documents and requested that in the future the name of the person and the revision date be listed on the document.

Attorney Gaudioso said that he understands that the consultants have their reviews pending and he thanked the Board for allowing his presentation.

*At this time Chairman DeLucia joined the meeting.*

Mr. Goldenberg said that a future location at Heritage Hills may be worth exploring.

The Acting Chair said that the application remains to be incomplete and therefore the FCC's 150-day ruling has not yet begun to toll.

Attorney Gaudioso took issue with the idea that the application is not complete but looks forward to meeting with the Planning Board next month and hopes to have the consultants' reports in advance in order to have a productive meeting. He informed the Board that the Fire Department joined the application and previously they were put on the Amato cell tower location free of charge.

There being no further business, on motion by Ms. Gannon, seconded by Mr. Goldenberg, and unanimously carried, the meeting adjourned at 8:15 P.M. and the Chair noted that the next Planning Board meeting will be held on Wednesday, August 24, 2011 at 7:30 P. M. at the Somers Town House.

Respectfully submitted,

Marilyn Murphy  
Planning Board Secretary