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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
NOVEMBER 9, 2011**

ROLL:

PLANNING BOARD

MEMBERS PRESENT:

Chairman DeLucia, Ms. Gerbino, Mr. Foley,
Ms. Gannon and Mr. Currie

ABSENT:

Mr. Keane and Mr. Goldenberg

ALSO PRESENT:

Town Planner Sabrina Charney Hull
Consulting Engineer Joseph Barbagallo
Town Attorney Joseph Eriole
Planning Board Secretary Marilyn 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 OCTOBER 12, 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 October 12, 2011 consisting of twenty-three (23) pages.

Chairman DeLucia asked if there were any comments or questions from members of the Board on the draft minutes of October 12, 2011.

The Chair asked that the following paragraph be added to the October 12, 2011 minutes on page 2, line 7. *On motion by Ms. Gannon, seconded by Mr. Foley and unanimously carried, the Board moved to waive the submission requirements for the soils mapping and Stormwater Pollution Prevention Plan.*

The Chair asked if there was a motion to approve the October 12, 2011 draft minutes, as amended.

On motion by Ms. Gannon, seconded by Mr. Currie, and unanimously carried, the minutes of October 12, 2011, as amended, were approved.

Chairman DeLucia noted that the DVD of the October 12, 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 is also on the Town's website www.somersny.com and is available for public review at the Planning & Engineering office at the Town House.

The Chair said that before proceeding with the agenda, she announced to the public that she served as Chairman to the Town of Somers Planning Board for seven years and that last year she met with Supervisor Mary Beth Murphy to inform her that she would be interested in serving as Chairman for 2011 but that it would be her last year. Several months ago she again met with Supervisor Murphy to remind her of her intention not to serve as Chairman in 2012 and that she will remain as a member of the Board for the next four years to 2015.

The Chair then thanked Board Member John Keane for serving as Acting Chairman and supporting her in so many ways and times. She also thanked the members of the Board for their participation and the Planning Board Town Attorney, Joe Eriole, and Town Consulting Engineer Joe Barbagallo for their help when she needed it. The Chair said that she will never cease to admire Sabrina Hull, Town Planner, for her competence and that of Marilyn Murphy, the Board's efficient secretary, who took all her calls and never complained. She felt that she couldn't have done her job without any of them.

PUBLIC HEARING**PEARCE LOT LINE CHANGE****[TM: 5.16-2- 4,5]**

Chairman DeLucia said that this is the Public Hearing on the application of Walter and Marianne Pearce who are the applicants and owners of two lots, Lot 4 which is vacant and fronts on Lovell Street and Lot 5 with a single family residence at 1 Franklin Drive at which the applicants reside in the R-40 Residential Zoning District. The Chair noted that the applicants are proposing a lot line change under §150-15 Abbreviated Approval Process of the Code of the Town of Somers. She explained that there will be an exchange of 0.1286 acres. The Chair said that Lot 4 currently 1.9812 acres will be 1.8526 acres, a decrease of 0.1286 acres after the lot line exchange and Lot 5 currently 0.9573 acres will be 1.0859 acres, an increase of 0.1286 after the lot line exchange. The Chair indicated that the purpose of the exchange is to preserve areas currently used by the owners and to give a more regular shape to both properties and is simply an exchange of land. She stated that there are no negative impacts or constraints on either property. The Chair said that the applicants are represented by Joseph C. Riina, P.E. of Site Design Consultants.

The Chair mentioned that this application was last discussed at the October 12, 2011 Planning Board meeting whereby the Board waived submission requirements for soils mapping and a Stormwater Pollution Prevention Plan and declared the proposed activity a Type II Action under New York State and Town of Somers Environmental Quality Review regulations and that no further environmental review is necessary. She said that the Board then scheduled a Public Hearing for this evening, and directed Town Planner Hull to prepare a draft Conditional Resolution of Approval.

The Chair acknowledged for the record receipt of a memo dated November 7, 2011 from Town Planner Sabrina Charney Hull, AICP, with her project review and attaching a draft resolution for the Board's consideration for approval.

The Chair said that unless the applicants' representative, Town Planner, Town Consulting Engineer and members of the Board have any comments and she will continue with the Public Hearing. She indicated that there

were no comments from the Town Planner, Town Consulting Engineer or Board members.

The Chair asked Planning Board Secretary Murphy if prior to this Public Hearing, had the legal notice been published, adjoining property owners notified and the property posted.

Planning Board Secretary Murphy stated that the legal notice was published in the Journal News on October 31, 2011, the adjoining property owners notified via mail on October 31, 2011 and the sign stating the date, time and place of the Public Hearing was posted on the property on October 27, 2011.

The Chair asked for the record if the Secretary received any communication in objection to the lot line change.

Planning Board Secretary Murphy replied that there was no communication in reference to the lot line change.

The Chair asked if anyone present wished to be heard regarding this application and no one responded. She said to let the record show that no one was present who wished to be heard and no communication has been received in objection to the proposal.

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

On motion by Mr. Currie, seconded by Ms. Gerbino, and unanimously carried, the Board moved to close the Public Hearing.

The Chair said that Town Planner Hull prepared for the Board's consideration for approval draft Conditional Resolution No. 2011-09 and had no objection approving this project. She asked if Consulting Engineer Barbagallo had an objection and he replied that he has no objection to approving this project.

The Chair asked if there are any comments from the applicants' representative or the Board regarding the draft resolution.

Joseph Riina, the applicant's engineer, and that he has no problems with the draft resolution.

Ms. Gannon mentioned that on page 2 the language should read that the subject site does not contain wetlands *and/or* associated 100-foot regulated area...She also suggested the language on page 3, sixth WHEREAS paragraph, to read, *and in accordance with the Town's Steep Slopes Protection regulations, Chapter 144 of the Code of the Town of Somers*. Ms. Gannon asked *that lines 15 thru 18 on page 4 be eliminated*.

Mr. Foley said that the box on the front page of the Resolution should be changed to *Lots 4 and 5*. He noted that on Page 2, line 23 the acreage should read *0.1286*.

On motion by Ms. Gerbino, seconded by Mr. Foley, and unanimously carried, the Board moved to adopt Resolution No. 2011-09, as amended, Granting of Conditional Preliminary and Final Subdivision Approval under Abbreviated Approval Process §150-15 of the Code of the Town of Somers for a Lot Line Change to Walter and Marianne Pearce for the Chairman's signature.

PROJECT REVIEW

HOMELAND TOWERS, LLC\NEW CINGULAR WIRELESS PCS, LLC (AT&T) SITE PLAN APPROVAL AND TREE REMOVAL, STEEP SLOPES, WETLAND, AND STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL PERMITS [SANTARONI PROPERTY] 2580 ROUTE 35 [TM: 37.13-2-3]

Chairman DeLucia noted that this is the project review of the application of Homeland Towers, LLC/New Cingular Wireless PCS, LLC (AT&T) for Site Plan Approval and permits for Tree Preservation, Stormwater Management and Erosion and Sediment Control, Steep Slopes and Wetlands. She said that the applicants propose to install a wireless telecommunications facility consisting of a 130-foot tall monopole disguised as a stealth tree together with an equipment compound at the base thereof, 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 the leased area consists of approximately 3,500 square feet and falls within the Muscoot Reservoir drainage basin of the New York City Water

Supply Watershed. The Chair indicated that the Somers Fire Department equipment has been added to the proposal. She noted that this application has been before the Zoning Board of Appeals (ZBA) as Lead Agency in a coordinated review with the Planning Board as an Involved Agency under SEQRA for a Special Use Permit and area variances. Chair DeLucia 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 Chair mentioned that this application was last discussed at the October 26, 2011 Planning Board meeting whereby by memo dated October 21, 2011, Town Planner Hull advised the Planning Board that the ZBA at their October 18, 2011 meeting determined that there is no environmental significance with the project, granted the Special Exception Use Permit for the wireless tower and directed the applicant to work with the Planning Board regarding the alternate access driveway designs to be addressed through Site Plan Approval. The Chair indicated that the Board also requested the applicants to respond to the outstanding issues mentioned in Consulting Engineer Barbagallo's October 21, 2011 memo, comments from Town Planner Hull, and the Board and to revise the plans accordingly.

The Chair acknowledged for the record receipt of the following: a letter dated October 31, 2011 received November 1, 2011 from Westchester County Planning Board Commissioner Edward Buroughs, AICP regarding a potential visual impact to Lasdon County Park, Arboretum and Veterans Memorial; a report by memo dated November 1, 2011 addressed to Chair Paul Marx and ZBA members from Michael P. Musso, PE., Senior Project Engineer and Stacey Calta, RLA, Visual Resources Analyst of HDR Engineering Inc. further clarifying their opinion on the technical merits and completeness associated with the applicants' submittals and concluding in its report that "It is HDR's opinion that the applicant materials submitted to the Town of Somers have been comprehensive, have met the intent of the Town's wireless code (170-129), and are of satisfactory technical quality, as discussed at prior ZBA meetings"; a letter dated and received November 4, 2011 addressed to the Chair and Members of the Planning Board from Robert D. Gaudio, Esq. of Snyder & Snyder with two responses. The Chair noted that the first

response is in connection with response to comments received from the Consulting Town Engineer dated October 21, 2011 and comments of the Planning Board at the October 26, 2011 Planning Board meeting, and enclosing 14 copies of the following 2 documents:

- A letter from Tectonic Engineering & Surveying , P.C. dated November 1, 2011 specifically addressing issues raised in the Consulting Town Engineer's comments, together with Revised Site Plan Sheets Z12A and Z13 prepared by Tectonic, last revised November 2, 2011;
- Site Plan Sheet AP1 prepared by Tectonic, last revised October 24, 2011 presented at the October 26th Planning Board meeting, depicting the alternative access drive with additional landscaping to further shield limited views from the area Viewpoint 4 contained within the VHB Report previously submitted, together with comments made at the October 18, 2011 ZBA hearing and October 26th Planning Board meeting regarding the alternative access drive plan;
- The second response is in connection to Westchester County Planning Board Comments regarding their letter dated October 31, 2011 restating their April 18, 2011 comments concerning visual analyses from Lasdon County Park, Arboretum and Veterans' Memorial which were responded to in applicants' July 7, 2011 submission that showed no impact on Lasdon.

The Chair mentioned that Attorney Gaudioso concluded his November 4th letter with a request that the Planning Board schedule a Public Hearing for its meeting on December 14, 2011 or schedule a special meeting at an earlier date.

The Chair said that the Negative Declaration has not been received and she asked Town Planner Hull when will the Board receive the Negative Declaration.

Town Planner Hull explained that Chairman Marx of the Zoning Board of Appeals (ZBA) acknowledged that he had changes to address in the Negative Declaration and he would try to have the Negative Declaration for this evening but that did not happen.

The Chair said that the Negative Declaration must be reviewed at the December Planning Board meeting.

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

The Chair asked Consulting Engineer Barbagallo to summarize his memo dated November 4, 2011 for the benefit of the public.

Consulting Engineer Barbagallo said that there are a few items remaining and one is the submittal of a sampling and analysis plan. He noted that he has agreed on the proposed sampling and analysis plan and that work is underway and should be provided by the December Planning Board meeting.

Consulting Engineer Barbagallo mentioned that he would review discussion from the ZBA meeting relative to the access drive. He explained that the width of the access drive at the access point and deciding if a porous apron will be used will be determined under Site Plan review by the Planning Board. He noted that discussion took place at the ZBA meeting in reference to the wetland buffer impacts while decreasing the visual impacts in changing the alignment of the access road. Consulting Engineer Barbagallo requested the applicant's engineer to contact him in reference to the information in regard to the access drive and retaining wall in order for him to summarize the information for the Planning Board for their next meeting. He mentioned that his focus is on saving the large tree that is directly in view of the pole that can be approved by the Department of Transportation (DOT) and will minimize the impact to the wetland buffer.

Cara Bonomolo, the applicant's attorney, said that the ZBA focused on the width of the access drive and determined that the environmental impacts of the alternate access drive location would result in greater impact. She advised that this is within the purview of the ZBA as Lead Agency under SEQRA. Attorney Bonomolo indicated that the ZBA determined that the applicant work with the Planning Board regarding the width of the access drive. She noted that an alternate access plan has been submitted. Attorney Bonomolo mentioned that impacts to the wetlands that were before the ZBA in regard to the alternative access drive or the height of the retaining wall is not relevant to the Planning Board when the alternative access drive was deemed not to be a feasible alternative by the ZBA.

Town Planner Hull stated that is in the language that is under review in the Negative Declaration. She mentioned that she is confused if it is a done deal on the width of the driveway or just focusing on the DOT curb cut. Town Planner Hull requested the ZBA Chair to make that clarification and if the Planning Board has room to move on that issue.

Consulting Engineer Barbagallo said that when Chairman Marx issues his determination and if all site plan issues are open for review by the Planning Board that he coordinates with the applicant's engineer to present the information to the Planning Board so that they can adequately weigh their options at their December meeting.

Ms. Gannon noted that her concern is still the southbound view picture 29 in the Visual Impact Analysis dated July 2011 that shows a photo simulation of before and after. She said that she would like the opportunity to discuss the Landscape Plan and adding in plantings that will mitigate the view. She asked Consulting Engineer Barbagallo to look into additional plantings in the Landscape Plan.

Mr. Foley said that by footnote Attorney Gaudioso reminds the Board that the FCC shot clock is running and the Consulting Engineer has agreed to review certain issues due to the lack of clarity from the ZBA.

Attorney Bonomolo said that the issue of what the ZBA intended will be explained in their Negative Declaration that should be provided shortly.

Ms. Gannon noted that HDR's submission received November 2, 2011 on completeness on Page 9 states that *it should be noted that visual impacts to users of Lasdon Park or Mildred Lasdon Bird Sanctuary are not anticipated by the proposed installation, based on the applicant's viewshed analysis and balloon testing.*

The Chair mentioned that Attorney Gaudioso has requested that the Board schedule a Public Hearing for Wednesday, December 14, 2011. She asked if there was any objection from staff and/or the Board.

On motion by Ms. Gerbino, seconded by Ms. Gannon, and unanimously carried, the Board moved to schedule a Public Hearing on the application of Homeland Towers, LLC and Cingular Wireless PCS LLC ("AT&T") for Wednesday, December 14, 2011 at 7:30 p.m. at the Somers Town Hall.

The Chair directed Town Planner Hull to prepare a draft conditional resolution for the December 14, 2011 meeting and upon receipt review the draft for consideration for approval for Chair's signature.

The Chair said that this application is adjourned to Wednesday, December 14, 2011, which is the Planning Board's last meeting in December and for the year 2011.

TIME EXTENSION

SUSAN HAFT/RIDGEVIEW DESIGNER BUILDERS, INC. FINAL CONSERVATION SUBDIVISION APPROVAL [TM: 16.12-1-41 & 42]

The Chair noted that this is a request by letter dated October 31, 2011 received November 2, 2011 from Geraldine N. Tortorella, Esq. of the law firm Hocherman Tortorella & Wekstein, LLP for the Board's consideration for a fourth 90-day time extension from November 23, 2011 to and including February 21, 2012 of the Conditional Final Conservation Subdivision Approval granted on May 25, 2011 to Susan F. Haft and Ridgeview Designer Builders, Inc. for property located on the east side of Lovell Street north of Benjamin Green Lane. She explained that under the 2010 amendment to Town Law Section 276(7)(c) the Planning Board is given the authority and discretion to extend the two-time limit on extensions due to current economic conditions and the difficulty in obtaining project financing. She said that in her letter dated October 31, 2011, Attorney Tortorella stated "There are a few conditions of approval that require the payment of funds and/or posting of security which our clients are not prepared to undertake at this time given the current economic conditions that are outside our clients' control and this continues to be the case." Attorney Tortorella requested that the Board let her know if her appearance was required. She said that Town Planner Hull contacted the Chair and Board members as to the request and informed Attorney Tortorella that her appearance would not be necessary.

The Chair asked Town Planner Hull if she had any objection to the Planning Board issuing the requested time extension.

Town Planner Hull responded that she had no objection to issuing the requested time extension.

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

On motion by Mr. Currie, seconded by Ms. Gerbino, and unanimously carried, the Board moved to grant a fourth 90-day time-extension of the Conditional Final Conservation Subdivision Approval to Susan F. Haft and Ridgeview Designer Builders, Inc. from November 23, 2011 to and including February 21, 2012.

PLANNING BOARD CALENDAR FOR 2012

Chairman DeLucia said that this item is for a discussion regarding the Planning Board calendar for the year 2012 and because Messrs. Keane and Goldenberg were not present she would like to hold it over for the December 14, 2011 meeting and the Board members agreed.

There being no further business, on motion by Ms. Gerbino, seconded by Ms. Gannon, and unanimously carried, the meeting adjourned at 8:30 P.M. and the Chair noted that the next Planning Board meeting will be held on Wednesday, December 14, 2011 at 7:30 P. M. at the Somers Town House.

Respectfully submitted,

Marilyn Murphy
Planning Board Secretary