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PLANNING DEPARTMENT

TOWN HOUSE
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Town of Somers

WESTCHESTER COUNTY, N.Y.



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

3

**SOMERS PLANNING BOARD MINUTES
DECEMBER 14, 2011**

4

5

6

ROLL:

8

PLANNING BOARD

MEMBERS PRESENT:

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

11

12

ALSO PRESENT:

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

15

16

17

18

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.

22

**APPROVAL OF OCTOBER 26, 2011 AND NOVEMBER 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 October 26, 2011
consisting of twenty-one (21) pages and draft minutes from the November
9, 2011 meeting consisting of eleven (11) pages.

31

1 Chairman DeLucia asked if there were any comments or questions from
2 members of the Board on the draft minutes of October 26, 2011 and no one
3 replied.

4
5 The Chair asked if there was a motion to approve the October 26, 2011
6 draft minutes.

7
8 On motion by Ms. Gannon, seconded by Mr. Currie, and unanimously
9 carried, the minutes of October 26, 2011 were approved.

10
11 Chairman DeLucia asked if there were any comments or questions from
12 members of the Board on the draft minutes of November 9, 2011 consisting
13 of eleven (11) pages and no one responded.

14
15 The Chair asked if there was a motion to approve the November 9, 2011
16 draft minutes.

17
18 On motion by Ms. Gerbino, seconded by Ms. Gannon, and unanimously
19 carried, the minutes of November 9, 2011 were approved.

20
21 Chairman DeLucia noted that the DVD of the October 26, 2011 and
22 November 9, 2011 Planning Board meetings are made a part of the
23 approved minutes and are available for public viewing at the Somers Public
24 Library. The text of the approved minutes is also on the Town's website
25 www.somersny.com and is available for public review at the Planning &
26 Engineering office at the Town House.

27
28 Chairman DeLucia said that before proceeding with the agenda, she would
29 again like the public to know that this is the Board's last meeting for the
30 year 2011 as well as her serving as Chairman to the Somers Planning
31 Board which began seven years ago. The Chair explained that she will
32 remain as a member of the Board. She personally thanked Mr. John
33 Keane, who served as Acting Chairman during those years for his support
34 and guidance. She said Mr. Keane has been her mentor and strength and
35 that his knowledge and dedication in both serving as Acting Chairman and
36 as a member of this Board was invaluable.

37
38 **PUBLIC HEARING**

39
40 **HOMELAND TOWERS, LLC\NEW CINGULAR WIRELESS PCS,**

1 **LLC (AT&T) SITE PLAN APPROVAL AND TREE REMOVAL, STEEP**
 2 **SLOPES, WETLAND, AND STORMWATER MANAGEMENT AND**
 3 **EROSION AND SEDIMENT CONTROL PERMITS**
 4 **[SANTARONI PROPERTY] 2580 ROUTE 35 [TM: 37.13-2-3]**
 5

6 Chairman DeLucia noted that this is the Public Hearing on the application
 7 of Homeland Towers, LLC\New Cingular Wireless PCS, LLC for Site Plan
 8 Approval and Tree Preservation, Stormwater Management and Erosion
 9 and Sediment Control, Steep Slopes and Wetlands. She said that the
 10 applicants propose to install a wireless telecommunications facility
 11 consisting of a 135-foot tall monopole disguised as a stealth tree together
 12 with an equipment compound at the base thereof on a portion of a 7.96
 13 acre residential property located at 2580 Route 35 in the R-120 Residential
 14 Zoning District (3 acre) owned by Umberto and Carol Santaroni. She said
 15 that the leased area consists of approximately 3,500 square feet. The Chair
 16 indicated that the Somers Fire Department equipment has been added to
 17 the proposal. She noted that this application is currently before the Zoning
 18 Board of Appeals (ZBA) as Lead Agency under SEQRA, in a coordinated
 19 review with the Planning Board as an Involved Agency, for a Special Use
 20 Permit and area variances. Chair DeLucia explained that Manuel Vincente
 21 is the managing member of Homeland Towers, LLC a New York limited
 22 liability company with a main office located in White Plains, New York and
 23 is represented by Robert D. Gaudio, Esq. of Snyder & Snyder, LLP and
 24 AT&T is represented by Neil J. Alexander, Esq. of Cuddy & Feder, LLP.
 25 The Chair noted that this application was last discussed at the November 9,
 26 2011 Planning Board meeting whereby Town Planner Hull advised the
 27 Planning Board that at the Zoning Board of Appeals October 18, 2011
 28 meeting the ZBA accepted and issued the Negative Declaration
 29 determining that there is no environmental significance with the project and
 30 granting the Special Exception Use Permit for the wireless tower and
 31 directed the applicant to work with the Planning Board regarding the
 32 alternate access driveway designed to be addressed through Site Plan
 33 Approval. The Chair indicated that the Planning Board scheduled the
 34 Public Hearing for this evening and directed Town Planner Hull to prepare
 35 a draft Conditional Resolution of Approval for the Board's review and
 36 consideration for adoption. She explained that the Board also asked the
 37 applicant to respond to the outstanding issues mentioned in Consulting
 38 Engineer Barbagallo's November 4, 2011 memo and comments from Town
 39 Planner Hull and revise the plans accordingly.
 40 The Chair acknowledged for the record receipt of the following: a letter

1 dated November 28, 2011 received on November 29, 2011 from Attorney
2 Robert D. Gaudio of Snyder & Snyder, LLP enclosing copies of a letter
3 dated November 13, 2011 from Tectonic Engineering & Surveying, P.C.
4 addressing the issues raised in Consulting Town Engineer's November 4,
5 2011 memo and the NYC DEP's comments by e-mail dated October 31,
6 2011 from Cynthia Garcia; a memo dated December 9, 2011 from
7 Consulting Town Engineer Joseph C. Barbagallo, P.E., BCEE to the
8 Planning Board with comments for discussion; and a memo from Town
9 Planner Hull to the Planning Board attaching copies of the ZBA's approved
10 Negative Declaration and signed Resolution for the Planning Board's usage
11 together with draft Resolution 2011-11 for the Board's review and
12 comment.

13
14 Mr. Keane, taking over for Chair DeLucia, asked the applicant's
15 representative to give a brief presentation regarding this application.

16
17 Cara Bonomolo, the applicant's attorney, said that the applicant responded
18 to the comments from Consulting Engineer Barbagallo and she is here to
19 answer comments from the public during the Public Hearing on this
20 application.

21
22 The Chair asked Consulting Engineer Barbagallo to summarize his memo
23 to the Board for the benefit of the public.

24
25 Consulting Engineer Barbagallo said that his memo dated December 9,
26 2011 summarizes the outstanding items. He noted that at the last Planning
27 Board meeting there was concern that the visual analyses does not reflect
28 the tree removal proposed as part of this Site Plan. He asked the applicant
29 to add a note to the drawing indicating that up to an additional 8 Coniferous
30 trees of the size and species already included in the Landscaping Plan be
31 added to promote further screening of the constructed facility. Consulting
32 Engineer Barbagallo indicated that the need and location of these
33 additional trees be determined in the field by the Town Planner and
34 Consulting Town Engineer. He asked that prior to the issuance of a
35 Certificate of Occupancy, the applicant obtain concurrence from the Town
36 Planner on the installed visual mitigation.

37
38 Consulting Engineer Barbagallo said that as a condition prior to the signing
39 of the Site Plan that the applicant submit a revised Department of
40 Transportation (DOT) Permit and Site Plan using porous pavement or

1 documentation from the DOT indicating that they would not accept such an
2 approach. He stated that the applicant shall submit documentation of
3 NYSDOT Permit approval prior to the signing of the Site Plan. He
4 mentioned that another condition prior to the signing of the Site Plan is that
5 the applicant demonstrates to the satisfaction of the Consulting Town
6 Engineer that the access drive represents the minimum width required for
7 the Site/Tower construction, operation and maintenance. Consulting
8 Engineer Barbagallo also asked that the applicant submit signed and
9 sealed documents relative to the fall zone; submit retaining wall design
10 details and documentation of the NYC DEP approval prior to the signing of
11 the Site Plan.

12

13 The Chair asked if Town Planner Hull would like to comment on the
14 Negative Declaration and Resolution submitted by the ZBA for the Board's
15 information.

16

17 Town Planner Hull said that she has no comment on the content of the
18 ZBA's Negative Declaration and Resolution as it was signed by the Chair
19 and given to the Board for reference.

20

21 Attorney Bonomolo asked for clarification on the condition that prior to the
22 issuance of a Certificate of Occupancy, the applicant obtain concurrence
23 from the Town Planner on the installed visual mitigation. She opined that
24 this condition is vague and open ended and asked that this be clarified as it
25 is not specific to the eight (8) trees and she is concerned that there is
26 confusion as to what this condition pertains to and what concurrence
27 means.

28

29 Consulting Engineer Barbagallo clarified that determinations can be made
30 on paper but when you get out in the fields you realize where the trees
31 should be planted. He explained that the eight (8) additional trees will fill in
32 any gaps in the field.

33

34 Attorney Bonomolo said her concern is that prior to the issuance of the CO
35 the applicant shall obtain concurrence from the Planning and Engineering
36 Department on the installed visual mitigation. She noted that the draft
37 Resolution does not directly relate back to Condition 13. She asked that
38 Condition No. 1 on Page 16 be clarified.

39

1 Attorney Bonomolo clarified that the applicant will submit two plans to the
2 Department of Transportation (DOT) to obtain their permit. She explained
3 that the applicant will send the plan that includes the narrower driveway
4 with the apron and porous pavement and a code compliant plan. Attorney
5 Bonomolo said that the Planning Board agreed to send a recommendation
6 to the DOT that the narrower driveway and porous pavement be
7 considered.

8
9 Manny Vincente, managing member of Homeland Towers, said that he
10 prefers the smaller access drive. He understood that the plan was to
11 submit both plans with a preference from the applicant and the Board for
12 the narrower driveway.

13
14 Consulting Engineer Barbagallo said that he would like to have input on the
15 drawing before it is submitted to the DOT and he will make a
16 recommendation for the narrower driveway.

17
18 Mr. Keane said that in all the documentation there is the free usage of the
19 word *facility* and that word has not been defined. He noted the VHB
20 defined *facility* as including the pole while others don't include the pole and
21 only include the compound. Mr. Keane indicated that when the trees that
22 will be used for screening are mentioned for the facility the applicant is
23 talking about the compound and not the pole. He stressed that there is no
24 screening for the pole. Mr. Keane commented that when you use the word
25 *facility* it must include the pole and not just the compound or further define
26 it as only the compound and not the pole. He stated that the color for the
27 fencing has not been decided yet.

28
29 *At this time Town Attorney Eriole joined the meeting.*

30
31 Consulting Engineer Barbagallo said that he will clarify the language in
32 comment 13 of the Resolution from "constructed facility" to "constructed
33 compound area."

34
35 The Chair asked Planning Board Secretary Murphy if prior to this Public
36 Hearing had the legal notice been published, adjoining property owners
37 notified and the property posted.

38
39 Planning Board Secretary Murphy stated that the legal notice was
40 published in the Journal News on December 4, 2011, the adjoining property

1 owners notified via mail on December 4, 2011 and the sign stating the date,
2 time and place of the Public Hearing was posted on the property on
3 December 2, 2011.

4
5 The Chair asked for the record if the Secretary received any
6 communication in objection to this application.

7
8 Planning Board Secretary Murphy replied that there was no communication
9 in reference to this application.

10
11 The Chair asked if anyone present wished to be heard regarding this
12 application.

13
14 Mr. Oscar Ma of 2572 Route 35, asked where the monopole will be located
15 in relation to his property. He said that he lives west of the Santaroni
16 property.

17
18 Mr. Goldenberg asked if Mr. Ma received notice of the Public Hearings
19 which were held at the Zoning Board and tonight at the Planning Board
20 Public Hearing.

21
22 Mr. Ma said that the only notice he received was for the Planning Board
23 Public Hearing. He noted that he might have received a notice from the
24 ZBA a long time ago.

25
26 Attorney Bonomolo stated that the first Public Hearing on this application
27 was held at the ZBA in November 2009.

28
29 Greg Lahey, the applicant's engineer, showed Mr. Ma the location of the
30 proposed pole, the size of the compound and the proposed access
31 driveway. Engineer Lahey explained that the facility will be maintained
32 approximately once a month.

33
34 The Chair asked Mr. Ma if he was satisfied with the responses he received
35 and Mr. Ma replied that he is satisfied.

36
37 Ms. Gannon mentioned that Mr. Ma can go to the Planning Office and
38 review the material on this project.

39

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

3
4 Mr. Keane opined that the applicant and his consultants have been
5 disingenuous especially after all the time that was spent telling the
6 applicant what the Board wanted. He mentioned that the visual impact
7 analysis consultants came to conclusions before they had any facts. Mr.
8 Keane said that any conclusions that were made in the visual impact
9 analysis were not based on the reality of what is proposed. He noted that
10 the Board was faced with a Hopsons choice. He said that the applicant
11 went to the Department of Environmental Protection (DEP) and discussed
12 the process before consulting with the Planning Board. Mr. Keane
13 commented that the justification in the Negative Declaration in regard to the
14 visual impacts is insufficient and a hard look was not taken by the ZBA into
15 the alternatives, in particular the camouflage alternatives. Mr. Keane noted
16 that the Resolution states that the pole will be painted Thunder Gray.

17
18 Ms. Gannon said that Sabre Technology submitted a letter on October 7,
19 2011 giving their rationale on choosing Thunder Gray. She asked the
20 applicant to provide a sample of the color for the record.

21
22 Mr. Keane opined that there were conclusions that were made that are not
23 fact based on what is in the file. He said that the documentation does not
24 support the conclusions there were made in the visual impact analysis and
25 the Negative Declaration. Mr. Keane mentioned Viewpoint 4 along Route
26 35 where the pole can be seen the greatest number of times. The visual
27 analysis states that it will not be seen for any length of time; therefore, it will
28 not be an impact and is not a major viewpoint. He said that Viewpoint 4 is
29 the only viewpoint where you can see the entire tower for any length of
30 time. He asked how this is not a major viewpoint.

31
32 Ms. Gannon disagreed that only viewpoint 4 is a problem because she is
33 troubled with viewpoint 29 where the pole can be seen.

34
35 Mr. Keane said that the applicant had to demonstrate that they met the
36 maximum extent practicable threshold under SEQRA and that they met the
37 maximum extent reasonably possible threshold under Somers Regulations
38 and they did not do either.

39

1 Mr. Foley stated that because of the determination of the Neg Dec, SEQRA
2 was avoided. He said that the determination was made that the proposal
3 will not have a significant effect on the environment. He noted that a cell
4 tower erected right near Route 35 ended with the determination that it will
5 not have a significant effect on the environment. Mr. Foley stressed that
6 this defies every ounce of logic he has.

7
8 Mr. Keane mentioned camouflage techniques and said that those
9 techniques were not addressed. He opined that there was a failure to take
10 the Department of State document that identifies how to deal with a cell
11 tower and the issue of camouflage and screening. He said that he told
12 Attorney Gaudioso about three possible camouflage methods relating to
13 visual impact and they were never used.

14
15 Mr. Goldenberg said that he is in shock that Mr. Ma came tonight to
16 express his concerns and did not know about past hearings. He
17 questioned if the process was legal.

18
19 Town Planner Hull stated that the ZBA follows the proper noticing and there
20 probably are receipts stating who was notified. She opined that Mr. Ma
21 was probably notified of the ZBA Public Hearing.

22
23 Mr. Goldenberg asked Town Planner Hull to check and make sure that Mr.
24 Ma was notified of the meetings.

25
26 Town Attorney Eriole advised that because of the nature of the ZBA's
27 hearings and other than the initial notice the residents have to follow the
28 agendas.

29
30 Attorney Bonomolo said that the applicant followed the proper noticing that
31 the Town requires. She opined that this application did go through the
32 appropriate SEQRA process. Attorney Bonomolo explained that the ZBA
33 determined that there were no significant adverse environmental impacts
34 which concluded the SEQRA review. She explained that the Planning
35 Board participated in a coordinated SEQRA review with the ZBA as Lead
36 Agency.

37
38 Mr. Foley asked if the question whether the environmental impacts have
39 been mitigated to the maximum extent possible has been answered.

40

1 Town Planner Hull said that the problem is that there was no determination
2 in this application that there was any significant environmental impacts.

3
4 Mr. Keane said that from a Site Plan perspective the Board has the ability
5 to deal with visual impacts and is the reason he wanted to know what was
6 in the ZBA's Negative Declaration. He opined that the Neg Dec did not
7 meet the thresholds to mitigate the impacts.

8
9 The Chair asked if there was a consensus of the Board and staff to close
10 the Public Hearing.

11
12 Mr. Goldenberg noted that he is against closing the Public Hearing
13 because Mr. Ma has not reviewed the material. He asked if children are
14 living in the home.

15
16 The Chair asked Mr. Ma if he needs time to review the material and receive
17 more information on this project.

18
19 Mr. Ma indicated that there is a lot to digest as he had no idea where the
20 pole will be placed in relation to his home.

21
22 Attorney Bonomolo said that she is concerned that the Board is
23 encouraging Mr. Ma to say that he has questions in order to keep this
24 application open and delay resolution on this project. She stressed that
25 the Public Hearing process was followed by the ZBA and Mr. Ma
26 acknowledged that he received notice and was aware of the application.
27 Attorney Bonomolo stressed that the Public Hearing is for Site Plan
28 Approval and the environmental impacts have been decided by the ZBA.
29 She reminded the Board that the shot clock on this application expires on
30 January 13, 2012.

31
32 Ms. Gannon suggested that the Public Hearing be closed but keep open
33 the opportunity for a 10-day written comment.

34
35 On motion by Chair DeLucia and seconded by Ms. Gannon and
36 unanimously carried, the Board moved to close the Public Hearing on
37 Homeland Towers, LLC/New Cingular Wireless PCS, LLC with a 10-day
38 written comment period to December 28, 2011.

39

1 The Chair said that Town Planner Hull has prepared for the Board's
 2 consideration for approval draft Conditional Resolution No. 2011-09.

3
 4 Ms. Gannon suggested asking for a paint sample of the color Thunder Gray
 5 for the file.

6
 7 Ms. Gannon corrected page 16, line 35 of the Resolution under On-going
 8 Conditions Required After Signing of Site Plan to read *New York State*
 9 *Standard and Specifications for Erosion and Sediment Control, also known*
 10 *as the Blue Book and any relevant Town Codes. .*

11
 12 Mr. Keane asked Town Consulting Engineer Barbagallo that under Section
 13 167-8 (d) the application has to replace the buffer similar functioning
 14 capability or if they can't they have to demonstrate the proper mitigation
 15 that allows it to happen or provide off-site measures to meet that criteria.

16
 17 Town Consulting Engineer Barbagallo said that relative to wetland
 18 mitigation and given the constraints that you have to work with
 19 he asked the applicant to put at the toe of the slope a shallow trench
 20 to facilitate infiltration of the stormwater coming off the slope. He noted that
 21 in combination with the erosion and sediment control plan it is the best that
 22 can be done on this site. Town Consulting Engineer Barbagallo stated that
 23 he is comfortable as it relates to stormwater that the plan uses mitigation in
 24 accordance with the requirements. He said that he will coordinate with
 25 Town Planner Hull on the language to be used in the resolution.

26
 27 Attorney Bonomolo stated that while 32 trees are being removed the
 28 applicant is planting 67 trees about 240 shrubs and removing the invasive
 29 species. She noted that the Department of Environmental Protection
 30 (DEP) has said that this will improve the wetland buffer.

31
 32 The Chair read from Paul Marx, Chairman of the ZBA, letter dated
 33 December 2, 2011, *Succinctly put, the ZBA has deferred the issue of the*
 34 *width of the access drive and size of the curb cut (street apron) to the*
 35 *Planning Board in order to determine if certain trees can be spread and/or*
 36 *doing so allows additional landscaping to help reduce the visual impact of*
 37 *Viewpoint 4.*

38

1 Town Attorney Eriole indicated that the Planning Board can decide if
2 additional landscaping is needed to reduce the visual impact of Viewpoint
3 4.

4
5 The Chair asked if there were any other comments from the applicants'
6 representative or the Board regarding the draft resolution.

7
8 Attorney Bonomolo corrected page 3, line 41 of the resolution to read
9 *creation of a 24-foot maximum wide gravel access road.*

10
11 Chairman DeLucia directed that the application be on the January 11, 2012
12 Planning Board meeting.

13

14 **DISCUSSION**

15

16 **THE GREEN AT SOMERS AMENDED SITE PLAN, WETLAND, 17 STEEP SLOPES AND STORMWATER MANAGEMENT AND EROSION 18 AND SEDIMENT CONTROL PERMITS [TM: 4.20-1-3.1]**

19

20 Chairman DeLucia noted that this is a Board discussion on the application
21 of The Green at Somers Amended Site Plan and related permits for the
22 construction of a Mixed Use (Residential and Retail) development. The
23 Chair indicated that the proposed project is located at 57 Route 6 owned by
24 National Golfworx New York Realty, LLC. The Chair said that the applicant
25 is Richard Van Benschoten. She mentioned that a discussion of the
26 proposed project was requested by the applicant and held at the Planning
27 Board meeting on October 26, 2011 to determine whether the Planning
28 Board is in support of items that have been incorporated into the plan in
29 order to make a recommendation to the Town Board required for their
30 approval under Code §170-20.4.B (Affordable dwelling units) in the
31 Neighborhood Shopping NS Zoning District. The Chair said that at that
32 discussion meeting on October 26, 2011 Town Planner Hull supported a
33 computer generated simulation to be presented at the December 14, 2011
34 Board meeting. She mentioned that Attorney Whitehead said that a
35 computer generated modeling presentation can be made showing the
36 buildings and elevation on the site. Attorney Whitehead noted that the
37 Board could recommend that the Code be amended to allow the first floor
38 retail with apartments in the courtyard buildings or that 50% of the buildings
39 have apartments over the stores. Board member John Keane suggested

1 that 25% of the first floor be retail with the remainder as residential. The
2 Chair noted that Town Attorney Eriole commented that apartments on the
3 first floor with retail is either a ZBA interpretation of the Town Code or
4 clarified by petitioning the Town Board.

5
6 The Chair noted that the applicant is represented by Attorney Linda B.
7 Whitehead of the law firm McCullough, Goldberger & Staudt, LLP and by
8 Daniel J. Holt, P.E. of Pawling, N.Y., the applicant's engineer.

9
10 The Chair indicated that on November 18, 2011 the Board received a
11 memo dated November 17, 2011 from the Bureau of Fire Prevention
12 inquiring if any of the five buildings will allow for underground parking.

13
14 Linda Whitehead, the applicant's attorney, using a 3D computer modeling,
15 demonstrated the visual impact of the proposed buildings being considered
16 for this project. She noted that the proposed buildings are approximately
17 50-feet in height. Attorney Whitehead explained that buildings 1, 2, 3 and 4
18 are proposed to have a combination of retail and residential uses with
19 building 5 proposed to have a restaurant use.

20
21 Attorney Whitehead explained that the northern portion of the property
22 consists of a wetland with an existing watercourse. She noted that there is
23 also a wetland area on the adjacent southwesterly property and the
24 wetland buffer associated with the wetlands extends onto the property.

25
26 Mr. Keane said that the view that has the most concern is looking west
27 from Route 6.

28
29 Daniel Holt, the applicant's engineer, explained that landscaping will break
30 the line between the street, the buildings and the parking lots.

31
32 Mr. Keane said that there should be enough landscaping that it blends in a
33 tiered way upward toward the higher point of the building. He indicated that
34 the buildings should look like they have landscaping around them.

35
36 Attorney Whitehead noted that the applicant proposes to make at least 50
37 percent of the proposed 72-74 units affordable and seeks to avail itself of
38 all three (3) of the discretionary incentives per §170-20.4, an increase in
39 the minimum floor ratio, permission to increase building heights to three
40 stories or 50 feet and a reduction in the required number of parking spaces.

1 Attorney Whitehead mentioned that the applicant would like to locate
2 residential uses on the first floor of the proposed three story buildings. She
3 noted that the Neighborhood Shopping District (NS) allows for “living above
4 the store” and limits first floor uses to retail. She asked that the Planning
5 Board recommend to the Town Board to allow a mixture of residential and
6 retail uses on the first floor, on a case by case basis.

7
8 Attorney Whitehead suggested that the Planning Board make a
9 recommendation to the Town Board to support these requests. She
10 mentioned that there is a concern about empty retail as a good reason to
11 reduce the extent of retail. She explained that the Town Board will have to
12 amend the Town Code. Attorney Whitehead explained that the Town
13 Board amended the Code if you provide 50% affordable units to increase
14 the Floor Area Ratio (FAR) for a three story building.

15
16 Attorney Whitehead passed out to the Board additional language to be
17 added to §170-20.4 for their consideration to allow the placement of
18 residences on the first floor of the proposed project.

19
20 Town Planner Hull stated that the applicant is looking for the Board to make
21 a recommendation to the Town Board to allow the increase in the FAR
22 because of the 50% affordable units and to allow the reduction in the
23 parking requirements and allow the increase in the maximum height to 3
24 stories.

25
26 Town Planner Hull said that she would like to do calculations to determine
27 what 25% residential will look like on the first floor. She commented that
28 she is hesitant to make a recommendation for a Code change without
29 further analysis. She noted that this is a very broad interpretation of the
30 Neighborhood Shopping Zone.

31
32 Attorney Whitehead noted that the architect prepared sketches of what
33 approximately 25% residential will look like showing the floor plan and
34 elevations.

35
36 Mr. Keane suggested 25% of the total first floor area in each building be
37 residential.

38
39 The Chair explained that Consulting Town Engineer Barbagallo submitted a
40 memo to the Board dated December 9, 2011 but he will not summarize it

1 this evening but instead will give his comments to be included in the
2 Planning Board's recommendations to the Town.

3
4 The Board agreed to make a positive recommendation to the Town Board
5 to authorize the increase in the FAR and allow the increase in the
6 maximum height of the buildings to 3 stories.

7
8 The Chair said that there was a consensus of the Board to send a memo to
9 the Town Board that the Planning Board at its December 14, 2011 meeting,
10 and after a computer generated modeling presentation by applicant's
11 representatives and discussion, by unanimous consent and with no
12 objection by Town Planner Hull and Consulting Town Engineer Barbagallo,
13 recommends and supports a positive recommendation to the Town Board
14 to authorize the increase in the FAR and allow the increase in the
15 maximum height of the buildings to 3 stories and to authorize the Planning
16 Board to reduce the required number of parking spaces and recommends
17 approval by the Town Board as required under Town Code §170-20.4.B.
18 (Affordable dwelling units) in the Neighborhood Shopping NS Zoning
19 District.

20
21 Town Planner Hull suggested that the Board propose that the Town Board
22 authorize the Planning Board to allow a mix of residential and retail on the
23 first floor. She suggested that she prepare a draft memo sent by
24 e-mail for the Board's consideration and the Board agreed.

25
26 Attorney Whitehead thanked Chair DeLucia for all her years of hard work
27 and service to the Town.

28
29 **PROJECT REVIEW**

30
31 **McENTERGART STEEP SLOPES, TREE PRESERVATION**
32 **AND STORMWATER MANAGEMENT AND EROSION AND SEDIMENT**
33 **CONTROL PERMITS [TM: 36.12-2-6]**

34
35 Chairman DeLucia noted that this is the project review of the application
36 of Patricia McEntergart, as applicant, and the Marino Group, LLP, as
37 owner, for Steep Slopes, Tree Preservation and Stormwater Management
38 and Erosion and Sediment Control Permits for property located on the
39 north side of Amawalk Point Road for the construction of a residence,
40 driveway, septic system and well within the very steep slopes category of

1 25-35%. She mentioned that Amawalk Point Road is to be maintained as a
 2 private road. The Chair said that this application was submitted on
 3 February 18, 2004 and last discussed at the August 25, 2010 Planning
 4 Board meeting. The Chair explained that this application was withheld due
 5 to a lawsuit brought by the neighboring property owner and subsequent
 6 improvements to Amawalk Point Road which are now completed thereby
 7 allowing the applicant to move forward with this project. The Chair
 8 indicated that the applicant is represented by Timothy S. Allen, P.E. of
 9 Bibbo Associates, LLP who is before the Board to approve the steep slopes
 10 application. The Chair mentioned that a site walk was conducted on
 11 September 25, 2010.

12
 13 The Chair acknowledged for the record receipt of the following: a letter
 14 dated November 23, 2011 received on November 29, 2011 from Timothy S.
 15 Allen, P.E. of Bibbo Associates, LLP enclosing Site Plan Drawings last
 16 revised November 23, 2011 and Stormwater Pollution Prevention Plan
 17 (SWPPP) dated November 23, 2011 with responses to comments of the
 18 Consulting Town Engineer's memoranda dated August 20 and November
 19 17, 2010.

20
 21 The Chair asked Tim Allen, the applicant's representative, to give a brief
 22 presentation of the application from the last project review on August 25,
 23 2010 to the present.

24
 25 Timothy S. Allen, the applicant's engineer, said that two house sites were
 26 discussed one on the ridge and the other tucked into the hill side. He noted
 27 that it would take ripping out the hill side to place the house in that area.
 28 Engineer Allen agreed to provide screening alongside the driveway. He
 29 mentioned that the applicant was waiting for the road to be constructed
 30 before moving forward.

31
 32 Engineer Allen explained that he would like to work with Consulting
 33 Engineer Barbagallo on his concerns before the next meeting.

34
 35 The Chair asked Consulting Engineer Barbagallo to summarize his memo
 36 for the benefit of the public.

37
 38 Consulting Engineer Barbagallo mentioned that there is a natural grass
 39 swale to be located to the east of the driveway parking area. He asked the
 40 applicant to revise the location or provide alternative practices at the

1 discharge point to prevent stormwater from entering the neighboring
2 property. He asked that Engineer Allen review the swale design.
3 Consulting Engineer Barbagallo requested that the applicant confirm that
4 depicted drainage areas are consistent with hydrologic modeling.
5 He also asked that an additional row of silt fence be placed at the toe of the
6 steep slope and that the utilities be depicted on the plan. Consulting
7 Engineer Barbagallo asked that the sight distance in both directions at the
8 driveway entrance be revised.

9
10 Consulting Engineer Barbagallo indicated that during the site walk on
11 November 17, 2010 the Board requested that a note be added to the
12 drawing that no further subdivision of the property be permitted. He asked
13 that the Board consider the applicant's response, "Although the applicant
14 has no immediate intentions of further subdividing the subject property,
15 they wish to reserve the right to explore the option of a future subdivision".
16 He noted that a note has not been added to the plan.

17
18 The Chair asked if there were any comments or questions from members
19 of the Board.

20
21 Mr. Keane asked how stormwater will be dealt with as he does not like the
22 idea of stormwater running down the driveway and dumping into the
23 detention basin.

24
25 Engineer Allen explained that there will be a basin on the eastern side with
26 another basin within 10 feet of the road.

27
28 The Chair explained that under Town Code Section 148-8.H Waiver of
29 Public Hearing, the Board may, in its discretion, dispense with the Public
30 Hearing. She asked if there was a consensus of the Board to waive the
31 Public Hearing.

32
33 Consulting Engineer Barbagallo indicated that he does not have an
34 objection to waiving the Public Hearing.

35
36 Mr. Foley asked about the adjoining property owner that is close to the
37 driveway. He suggested that that property owner has a right to weigh in on
38 the issue and if the Board has mitigated the driveway as much as possible.
39

1 Engineer Allen stated that the driveway is in the best location and will be
2 landscaped.

3
4 Mr. Keane stated that the steep slopes on this property in the absence of
5 mitigation qualify as a problem. He opined that the adjoining property
6 owners should be given the right to be heard.

7
8 Ms. Gerbino said that the driveway is a major change and a Public Hearing
9 on this application is important.

10
11 On motion by Ms. Gannon, seconded by Mr. Keane, and unanimously
12 carried, the Board moved to schedule the Public Hearing on the
13 McEntergart Steep Slopes application for Wednesday, January 25, 2012 at
14 7:30 p.m. at the Somers Town House and requested Consultant Engineer
15 Barbagallo to prepare a Conditional draft Resolution granting the Steep
16 Slopes Permit under Chapter 148 of the Somers Town Code for the
17 Chairman's signature.

18
19 **DISCUSSION**

20
21 **PLANNING BOARD CALENDAR FOR 2012**

22
23 Chairman DeLucia said that the Board will consider adoption of the
24 Planning Board's meeting dates for calendar year 2012. She noted that not
25 on the agenda is a brief discussion on the changes to be made regarding
26 the Planning Board for next year.

27
28 Mr. Keane suggested meeting once a month on the fourth Wednesday of
29 the month.

30
31 Ms. Gannon asked if there is one meeting a month why is it on the fourth
32 Wednesday and not the second Wednesday of the month. She indicated
33 that there are times when the meeting has to be on the second
34 Wednesday.

35
36 Town Attorney Eriole commented that if you meet on the last Wednesday
37 of the month there will be problems with Thanksgiving and Christmas.

38
39 The Chair indicated that it was the consensus of the Board to meet once a
40 month on the second Wednesday of the month except for this January

1 where the Board will meet on the second and fourth Wednesday of the
2 month to accommodate the Public Hearing on the McEntergart Steep
3 Slopes application.

4
5 On motion by Ms. Gerbino, seconded by Mr. Currie, and unanimously
6 carried, the Board moved to adopt the 2012 Planning Board calendar.

7
8 The Chair said that the Planning Board has to discuss the new procedures
9 for the staff of the Planning Board.

10
11 Planning Board Secretary Murphy explained that the position of Planning
12 Board Secretary full time has been eliminated and now is a part time
13 position consisting of two days per week. She said that it was decided that
14 the best use of her time is to cover the office, the financial aspects and the
15 minutes of the Planning Board meetings.

16
17 Town Planner Hull indicated that Supervisor Murphy feels that if the Board
18 cannot pick up their material during business hours she can arrange for
19 lockers and keys to the building.

20
21 The Chair opined that this is not a good idea as it is difficult for Board
22 members who are all volunteers.

23
24 Town Planner Hull said that the minutes will not be in the form that they are
25 currently prepared. She noted that the Board can review the meeting with
26 the DVD of the meeting.

27
28 The Chair explained that because the minutes were done in their present
29 form she was able to know exactly what transpired on the McEntergart
30 application. She said that if the Board agrees to continue the minutes as
31 they are currently presented the Town Board may change their mind.

32
33 Town Planner Hull explained that she will be working four days a week for
34 the Town and one day for the region.

35
36 There being no further business, on motion by Ms. Gannon, seconded by
37 Mr. Keane, and unanimously carried, the meeting adjourned at 12:00 P.M.
38 and the Chair noted that the next Planning Board meeting will be held on
39 Wednesday, January 11, 2012 at 7:30 P. M. at the Somers Town House.

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Respectfully submitted,

Marilyn Murphy
Planning Board Secretary