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4 **SOMERS PLANNING BOARD MINUTES**  
5 **APRIL 14, 2010**  
6

7  
8 **ROLL:**  
9

10 **PLANNING BOARD**

11 **MEMBERS PRESENT:** Chairman DeLucia, Mr. Keane,  
12 Mr. Goldenberg, Mr. Foley and Ms.  
13 Gannon  
14

15 **ALSO PRESENT:** Town Planner Charney Hull  
16 Consulting Town Engineer Barbagallo  
17 Town Attorney Joseph Eriole  
18 Planning Board Secretary Murphy  
19

20 **ABSENT:** Ms. Gerbino  
21

22 The Meeting commenced at 7:30 p.m. Planning Board Secretary  
23 Marilyn Murphy called the roll. Chairman DeLucia said that a  
24 required quorum of four members of the Board were present and  
25 called the meeting to order.  
26

27 **PROJECT REVIEW**  
28

29 **SUSSMANN MOBIL STATION APPLICATION FOR**  
30 **AMENDED SITE PLAN, WETLAND AND STEEP SLOPES**  
31 **PERMITS [TM: 17.18-1-2]**

32 Chairman DeLucia said that this is the project review of the  
33 application of Paul and Juliette Fourgeot Sussmann for Site Plan  
34 Approval, Wetland and Steep Slopes Permits and Groundwater  
35 Protection Overlay District Special Exception Use Permit for an  
36 expansion of an existing 880 square foot convenience store and a  
37 reconfiguration of the parking area and new stormwater management  
38 basin. She explained that the property is located at the Mobil  
39 Gasoline Service Station at 291 NYS Route 100 on a .8660 acre

1 in the Neighborhood Shopping (NS) Zoning District and Groundwater  
2 Protection Overlay District. She noted that a significant portion of the  
3 site is located within a 100-foot wetland buffer which includes an  
4 adjacent pond and stream that drains directly to the Muscoot  
5 Reservoir. The Chair mentioned that the applicants previously  
6 submitted three development schemes illustrating various scenarios  
7 with a Traffic and Parking Evaluation by John Collins Engineers, P.C.  
8 She commented that under Scheme A, the existing 880 square foot  
9 convenience store would be expanded to 3,200 square feet and  
10 under Scheme B, the convenience store would be expanded to 2,600  
11 square feet, and under Scheme C it would be expanded to 2,772  
12 square feet. The Chair said that the applicants were directed to work  
13 with Scheme A as the worst case scenario regarding circulation,  
14 traffic, parking and safety to present to the Board. She mentioned  
15 that this application was last discussed at the October 7, 2009  
16 Planning Board meeting whereby the Board moved to engage Traffic  
17 Consultant Frederick P. Clark Associates, Inc. to review the  
18 applicant's previous and current site plans and the traffic report  
19 submitted by John Collins Engineers, P.C. and to send the Planning  
20 Board his report and recommendations. The Chair stated that on  
21 March 12, 2010, applicant's engineer, Timothy S. Allen, P.E. of Bibbo  
22 Associates, LLP, submitted copies of a response letter dated  
23 February 25, 2010 and plans dated February 9, 2010 from John  
24 Collins Engineering, a long form EAF dated November 27, 2007,  
25 revised February 12, 2010, and a Stormwater Pollution Prevention  
26 Plan (SPPP) prepared by Timothy S. Allen, P.E.

27  
28 The Chair acknowledged for the record: a letter dated February 9,  
29 2010 from the Board's Traffic Consultant Michael A. Galante,  
30 Executive Vice President of Frederick P. Clark Associates, Inc., who  
31 is present this evening, with his review comments and report on the  
32 traffic access and internal circulation, the reports by applicant's  
33 consultants and comments from members of the Board and staff  
34 regarding this project. The Chair said that since Mr. Galante is  
35 expected to attend another meeting this evening, the Board will  
36 discuss his report at this time. She noted that for the public's benefit,  
37 she suggested that the applicant's representative, staff, and Board  
38 interject their comments of questions in an open forum. The Chair  
39 said that Town Planner Hull may wish to include comments contained

1 in her memo during this discussion and later bring up the balance of  
2 her memo with the Board.

3  
4 Michael Galante, Planning Board's Traffic Consultant, referred to his  
5 February 9, 2010 memo and explained that he reviewed a few steps  
6 in the process. He noted that he reviewed the Traffic Study prepared  
7 by the applicant's traffic consultant, site plan, issues related to access  
8 and the traffic that is generated from the station, parking layout and  
9 the internal circulation. Mr. Galante opined that the key issue is the  
10 delivery of fuel to the site but he feels that this issue can be  
11 addressed. He explained that an 880 square foot convenience store  
12 is currently on site with the applicant proposing to construct a new  
13 convenience store comprising of approximately 3,200 square feet  
14 which is the worst case scenario. Mr. Galante said that the 12  
15 existing vehicle fueling positions and the two existing access drives to  
16 Route 100 will remain. He mentioned that the northerly drive is an  
17 entrance only and the southerly drive is an exit only. He noted that  
18 currently the site provides 19 parking spaces and this will be reduced  
19 to 16 spaces.

20  
21 Mr. Galante said that the 250 vehicle trips are generated during the  
22 morning peak hour which is the busiest time. He noted that the  
23 station generates a high volume of traffic during the morning peak  
24 hours. Mr. Galante said that a comparison of the results of this  
25 analysis indicated that the existing site traffic levels are substantially  
26 higher when compared to expected levels based on ITE trip rates.  
27 Mr. Galante said that this gas station is already generating a high  
28 level of site traffic and by increasing the floor area of the convenience  
29 store will not result in a substantially higher volume than it is currently  
30 generating today. He noted that the 12 fueling positions are  
31 generating the traffic at the gas station today.

32  
33 Ms. Gannon said that there is something fundamentally wrong about  
34 Mr. Galante's assertion that the gas station with its 12 pumps and the  
35 880 square foot convenience store does a better business than the  
36 normal stats. She said that she questions the assertion that  
37 increasing the footprint of the building will not bring in more business.  
38 She feels that making the site more convenient for the customer will  
39 bring in more business. Mr. Galante opined that the gas pumps are  
40 already generating a higher level of service and a larger convenience

1 store will serve the customer better and can show an increase in  
2 traffic but the traffic report has accounted for the additional traffic.

3

4 The Chair asked if Mr. Galante is using the standards.

5

6 Mr. Galante stated that he is using the standards that are provided.  
7 He was asked if the traffic volume will be higher with the larger store  
8 and the same 12 pumps; he opined that is doubtful. Mr. Galante said  
9 that the analysis that does bump up the traffic is a reasonable  
10 assessment for the purpose of the analysis itself. He indicated that  
11 the assessment is based on the data that is used by ITE which the  
12 New York State Department of Transportation (DOT) also uses to  
13 estimate traffic for this type of facility. He said that the floor area at  
14 the current gas station is very small. Mr. Galante explained that he is  
15 making a comparison for the Planning Board as far as the level of  
16 traffic the station is generating today and how it relates to the  
17 standards.

18

19 Mr. Galante said that he also looked at the accident data that was  
20 obtained from the New York State Department of Transportation  
21 (DOT) and provided by the applicant. He said that one of the  
22 concerns is how are the driveways operating today. Mr. Galante said  
23 that the report also indicates that the available intersection sight  
24 distance looking to the north from the southerly exit drive from the site  
25 does not have a negative impact. He noted that the driveway was  
26 approved by the DOT some years ago based on the available  
27 intersection sight distance and stopping sight distance. Mr. Galante  
28 said that the accident data indicates no issues with traffic and no  
29 accidents at the location of the gas station. Mr. Galante opined that  
30 the driveway as it is located today is functioning appropriately. He  
31 asked if there is room for improvement and increased sight distance;  
32 he explained not at this location as you do not start rebuilding Route  
33 100 at this location.

34

35 Mr. Galante said that the next step in the process was the review of  
36 the internal circulation and parking with regard to the access to the 12  
37 pumps and access to the parking spaces. He noted that under typical  
38 conditions and without any fuel deliveries occurring on the site, this  
39 activity would be acceptable. He mentioned that the site itself, as far  
40 as the pavement and the circulation within the parking lot and pumps

1 within the three different islands within the parking lot, functions quite  
2 well. He explained that this does not mean that there is no traffic  
3 congestion during the morning peak hours. He said that he has been  
4 at the gas station during the peak hours and saw not only cars,  
5 SUV's, suburban's but there are environmental landscapers that are  
6 there with their trucks and trailers. Mr. Galante stated that this has an  
7 impact on the internal circulation in the parking lot. He explained that  
8 the circulation works today until you add the fuel truck. He said that  
9 the fuel deliveries are located on the north side of the parking lot near  
10 the northerly property line. Mr. Galante noted that there has been a  
11 lot of discussion on the size and location of the truck and where the  
12 valve is located (northerly side of truck) and how the truck impacts  
13 circulation within the parking lot. He said that if a fuel truck made a  
14 delivery at 8 A.M. there would be an impact on the internal circulation  
15 and could restrict flow into the driveway from Route 100. Mr.  
16 Galante questioned that a 60-foot tractor trailer type truck making the  
17 fuel delivery, how far will it be from the curb and can vehicles pass on  
18 the right side of the fuel truck. He stated that this would be an unsafe  
19 condition. He explained that the latest plan from the applicant shows  
20 that cones will be placed to direct traffic away from the fuel truck. Mr.  
21 Galante said that he recommended and the applicant agreed that no  
22 fuel deliveries will be permitted from 7 A. M. to 9 A. M. which is the  
23 busiest time. He explained that the station receives from 20 to 23  
24 fuel deliveries per month with half of the deliveries taking place  
25 overnight. Mr. Galante said that he is concerned with the fuel  
26 deliveries and the circulation of the fuel truck. He opined that the  
27 elimination of fuel deliveries during the peak hours will address his  
28 biggest concern. He said that this will also affect access and internal  
29 circulation. Mr. Galante indicated that another concern is cars  
30 coming in from Route 100, passing the fuel truck and vehicles at the  
31 pumps, and access in the rear parking spaces. He opined if the fuel  
32 truck is not on-site there will be sufficient pavement for all vehicles  
33 entering the property and passing the gas islands to access the  
34 parking area.

35

36 Mr. Galante said that the applicant provided information and a video  
37 of the turning radius of a truck traveling through the parking lot. He  
38 indicated that the truck will have to use the left side of the aisle where  
39 the gas pumps are located to make sure that the truck can make the  
40 turn. He noted that the fuel truck will take 10-15 minutes to provide

1 delivery. He indicated that gas attendants can place cones and  
2 assist in the gas delivery. Mr. Galante said that there was concern  
3 about the fuel truck making the swing and effecting vehicles parked  
4 along the westerly curb. He indicated one plan that shows the truck  
5 going over the back of the parking spaces and another plan showing  
6 that the truck does not go over the parking spaces. Mr. Galante  
7 mentioned that the video shows the truck making the maneuver by  
8 backing up to complete the turn. He suggested that this is typical of  
9 gas stations and some stations are tighter than this station and fuel  
10 deliveries are part of the everyday of a gas station. Mr. Galante said  
11 that the applicant has indicated that they can control the delivery of  
12 gas.

13

14 The Chair asked if there were any questions in relation to Mr.  
15 Galante's report.

16

17 Mr. Foley asked about the zebra striping on Route 100 in front of the  
18 gas station. He indicated that there is a zebra strip and not a double  
19 yellow line. Mr. Foley said that he is concerned about the north  
20 bound traffic turning into the gas station and vehicles exiting the gas  
21 station going north bound and asked if this is a legal maneuver.

22

23 Mr. Galante said that he will have to check if there is a zebra strip in  
24 front of the gas station.

25

26 Mr. Keane mentioned that he is concerned about the tanker when it is  
27 parked off loading that vehicles will not pass on the right side of the  
28 fuel truck and drive over one to two discharge pipes filling the tank.  
29 He said that the issue is vehicles going to the left on the pump side of  
30 the tanker. Mr. Keane mentioned being at the gas station and three  
31 landscape trucks were all parked in the wrong direction and that  
32 caused traffic to be backed up onto Route 100. He said that if you  
33 have 20 vehicles entering the gas station the vehicles go left to park  
34 between Route 100 and the building to access the convenience store  
35 or they go straight into one of the pump stations. Mr. Keane  
36 mentioned that the issue has not been discussed when all the cars  
37 that go to the left to access the store will go to the rear now and park  
38 in the parking areas and probably will park facing west and if the fuel  
39 truck pulls in and a vehicle is at the westerly pump station the truck  
40 will not be able to get out of the station. Mr. Keane stressed that

1 there has not been a sufficient amount of information as to what  
2 happens when the cars that are parked in the rear versus that no cars  
3 that will be parked up front anymore in terms of accessing the  
4 building. He questioned the ITE numbers and if they relate to a true  
5 measure of the actual circumstances and opined that it is not  
6 absolutely certain what the real numbers are in terms of the number  
7 of vehicles that come and go. Mr. Keane said that if the size of the  
8 building is being increased he asked how many people will not be  
9 purchasing gas but utilizing the convenience store. He noted that  
10 there has not been a viable explanation of what the traffic pattern will  
11 look like internally with or without the fuel truck. He indicated that if  
12 the fuel truck is on-site all the cars will be going to the rear of the  
13 building to access the store, as the cars cannot park up front as there  
14 will not be parking there now, and the cars will have to pass the cars  
15 parked at the pump stations. Mr. Keane said that the drawings do not  
16 appear to show more than 8 feet of clearance between the fuel truck  
17 and the back of the closest trailer. He asked if this is safe. He noted  
18 that the scale of the drawings is incorrect.

19

20 Mr. Galante said that an 8-foot travel lane between a tanker and a  
21 vehicle waiting to pump gas is not an ideal situation and it could  
22 create a problem if a vehicle decides to back up.

23

24 Mr. Keane asked if the 8-foot travel lane is safe and Mr. Galante  
25 replied that it is potentially not safe.

26

27 Mr. Keane said that the 8-foot travel lane has been the Board's  
28 concern and has not been adequately addressed.

29

30 Mr. Galante mentioned another comment how much more traffic will  
31 be generated when the store is expanded.

32 Mr. Keane said that the past does not speak for the future. He noted  
33 that it would if nothing was going to change.

34

35 Philip Grealy, the applicant's traffic engineer, said the most important  
36 issue relative to trip generation is what is seen for the same size store  
37 at other locations. He said that an increase of traffic is anticipated on  
38 a daily basis which has been included in his analysis. Engineer  
39 Grealy noted that another 28 vehicles are shown entering the gas  
40 station during rush hour with 28 vehicles exiting the site within a one-

1 hour period. He explained that he did not just rely on the ITE  
2 numbers but did surveys of other gas stations at similar corridors. He  
3 mentioned a station on Route 202 in Yorktown that has a similar size  
4 store, similar number of pumps and a road that has higher volumes of  
5 traffic in the morning. He said that he increased the volume of traffic  
6 in the morning hours at the Sussmann station. Engineer Grealy  
7 opined that the volume of traffic during the peak hour does not  
8 change because the store is larger.

9  
10 Mr. Keane clarified that the issue is not the volume of traffic entering  
11 the site but what happens to the traffic on-site.

12  
13 Engineer Grealy said that he is not saying that there will not be more  
14 traffic as he included more traffic in and out of the driveways. He  
15 explained that he is trying to answer two questions: the first being  
16 what is the traffic generation and second do the numbers make sense  
17 based on his experience, and the ITE numbers and other stations of  
18 comparable size. Engineer Grealy said that in terms of movement  
19 the site plan proposal eliminates the spaces between the front of the  
20 store and Route 100. He noted that the spaces are being removed  
21 because of a conflict point at the exit point. He explained that  
22 vehicles will now have to utilize the parking spaces in the back.  
23 Engineer Grealy stated that this will clean up the exit movement and  
24 eliminate conflicts. He indicated that there is 23 ½ feet from the end  
25 of the island to where the fuel trucks makes its delivery which is 11 ½  
26 feet off the existing curb line. Mr. Grealy recommended to stripe out  
27 the area so the fuel truck will position itself at that location.

28  
29 Mr. Keane noted that it is 11 ½ feet to the center line of the filler ports  
30 and the width of the vehicle is 8 feet.

31  
32 Engineer Grealy said that the plan is to limit the hours of fuel  
33 deliveries. He noted that there is room to maneuver on the south  
34 side of the fuel truck. He proposed to use cones so the vehicles will  
35 not enter that area. Engineer Grealy indicated that the time periods  
36 where fuel delivery will be restricted is between 7 AM and 9 AM  
37 because that is the time of the highest generation of traffic.

38 Ms. Gannon read from the minutes of August 26, 2009, "Juliette  
39 Sussmann, applicant, explained that she orders the fuel and is  
40 responsible for making sure that the fuel is there every day. She

1 noted that fuel deliveries are not always consistent because the fuel  
2 truck has to wait sometimes. She mentioned that she tries to have  
3 the fuel deliveries early in the morning or late at night to make it  
4 easier for the customers but she cannot control the delivery times as  
5 some times the truck can be delayed by traffic". Ms. Gannon asked if  
6 the situation and conditions have changed now that the applicant is  
7 committing to restrictions on fuel delivery times.

8  
9 The Chair asked if Mobil Oil can submit a letter in regard to the fuel  
10 deliveries.

11  
12 Mrs. Sussmann said if that is what the Board wants she will provide a  
13 letter from Mobil Oil in reference to the fuel deliveries.

14  
15 Mrs. Sussmann explained that fuel is scheduled to be delivered  
16 between 1 AM and 5 AM most days. She said that fuel can be  
17 delivered any time but they ask for a window. Mrs. Sussmann  
18 explained that if the gas is coming from Connecticut and there is  
19 traffic on Route 95 or the truck breaks down the delivery will be later.  
20 She stated that most deliveries do not come during the peak hours  
21 and if the Board wants she can schedule fuel deliveries at midnight, if  
22 this helps to move on about the topic of gas deliveries. Mrs.  
23 Sussmann said that there is no guarantee on fuel deliveries but she  
24 will make sure, to the best of her ability, that a fuel truck will not make  
25 deliveries during the peak hours. She mentioned that some stations  
26 have fuel deliveries whenever it is convenient for the hauler but she  
27 will never relinquish her right to schedule fuel deliveries.

28  
29 Mr. Goldenberg asked where in the traffic report under future traffic  
30 use does it mention that a church is being built with a parking lot of  
31 400 cars and most cars are travelling from the northern section going  
32 south pass the Mobil station. He said that residents of Heritage Hills  
33 will be going to Mass and he asked where is it in the traffic report that  
34 those residents will not use the station to buy gas or coffee. Mr.  
35 Goldenberg stated that there is daily Mass and the parking lot holds  
36 400 cars with 70% of the vehicles coming in the direction of the gas  
37 station.

38  
39 Mr. Grealy explained that the traffic will be on Route 100 and those  
40 people can utilize the gas station. He mentioned that as part of the

1 traffic study he included existing traffic and growth in traffic. Mr.  
2 Grealy said that traffic from other projects (Alexan Somers Woods)  
3 were included in the traffic study. He commented that in terms of a  
4 one hour period it was not segregated as to who can go to the Mobil  
5 Station.

6  
7 Mr. Goldenberg asked if the traffic report considered the proposed  
8 housing, commercial building, supermarket and the Church.

9  
10 Mr. Grealy said that the September Traffic Report included a  
11 breakdown of the projects which is called the no-build traffic.

12  
13 Mr. Goldenberg said he would like to see the percent of the change in  
14 traffic and that the Board has the correct figures.

15  
16 Mr. Grealy said that the Traffic Report shows the no-build traffic  
17 volumes with the increase in traffic.

18  
19 Mr. Galante noted in reference to the Church the analysis is based on  
20 weekday morning and afternoon peak hours. He explained that the  
21 Church does not necessarily fill up 400 parking spaces on a weekday  
22 morning. Mr. Galante said that on Sunday morning the spaces may  
23 be filled. He stated that it would not be proper to say that because of  
24 the Church it will generate more traffic to the gas station. Mr. Galante  
25 said that the traffic that is generated is based on the gas station itself.  
26 He explained that the traffic report takes into consideration the traffic  
27 that will be generated by the proposed projects. He commented that  
28 traffic that is generated by a gas station is not considered new traffic  
29 meaning the people already on the road may decide to get gas.

30  
31 Mr. Keane asked about the filling of the propane tanks under the new  
32 conditions and if there is an impact with traffic and safety. He also  
33 asked how convenient will it be to off-load the propane into the tank.

34  
35 Engineer Grealy indicated that the truck will use the area that is  
36 shown as parking spaces and the tank will be sub-surface and the  
37 frequency to refill the tank will be less than what it is now.

38

1 Mr. Keane opined that it is not the frequency of the delivery but the  
2 presence. He asked what measures should be taken to safely off-  
3 load the propane into the tank from the truck.

4  
5 Mrs. Sussmann indicted that propane is delivered once per week  
6 during season and once every two weeks off season. She noted that  
7 the delivery takes about 15 minutes.

8  
9 Mr. Keane stated that he has been in the insurance business for 40  
10 years and the axiom "What can happen will happen" is true. He  
11 noted that every client that has told him that they never had a loss  
12 have had a loss. He said that it is simply the issue of knowing what  
13 the safety issues are. Mr. Keane noted that the past history of the  
14 station is not indicative of what will happen in the future because  
15 things are being changed and it is the changes on site that he is most  
16 concerned about. Mr. Keane said that it is not impossible that a  
17 driver of a Toyota can come into the station and have its pedal stick  
18 while the tanker is off-loading and knock off the filler pipes on the  
19 right side and cause a fuel spill.

20  
21 Mrs. Sussmann asked if the accident can happen if you have a 400  
22 sq. ft. store or a 2,800 sq. ft. store.

23  
24 Mr. Keane stressed that the size of the store doesn't matter; he is just  
25 concerned that an accident can happen. He said that he is just  
26 thinking about what is proposed and what can go right and what can  
27 go wrong with some weight given to what happened in the past but  
28 also that the Board cannot figure out what is going to happen in the  
29 future.

30  
31 Engineer Grealy said that in terms of safety the propane truck can  
32 pull into an area that is away from the other activities and make the  
33 delivery. He suggested coning off the area, which is one or two  
34 spaces, when the delivery is being made.

35  
36 Mr. Keane asked why he thought cones make things safe.

37  
38 Engineer Grealy stated the cones are used on highways for  
39 maintenance and protection of traffic. He said that cones are a safe

1 method of isolating an area. He indicated that striping is used in  
2 addition to the cones.

3

4 The Chair asked who will be responsible for putting out the cones.  
5 Mrs. Sussmann said that Paul Sussmann will be responsible for  
6 putting out the cones when the propane truck makes deliveries and  
7 her manager will be responsible when the fuel truck makes deliveries.

8

9 Ms. Gannon noted that the EAF shows an increase of two  
10 employees.

11

12 Mrs. Sussmann said that she will not be increasing staff at this time  
13 as there is a lot of upper management.

14

15 In response to Mr. Sussmann's comment from the audience, the  
16 Chair said that the questions that are being asked are because this is  
17 a process and not a witch hunt. She explained that the Board has to  
18 make sure that the operation is very safe.

19

20 Mr. Goldenberg mentioned that he received a Deed Title and he  
21 asked if the applicant is still the owner of the property.

22

23 Mrs. Sussmann stated that the deed owner is Paul and Juliette  
24 Sussmann with the previous owner being her sisters. She said that  
25 she and her husband are the sole owners of the property and are  
26 Route 100 Realty LLC.

27

28 Mr. Goldenberg asked if the people who signed the original  
29 application are the same.

30

31 Tim Allen, the applicant's engineer, said that the owner is Route 100  
32 Realty LLC and the application will be corrected.

33

34 The Chair mentioned that the plans and application should have the  
35 name Route 100 Realty LLC.

36

37 Mr. Foley explained that when someone signs for a Corporation or  
38 entity they must identify who they are and are authorized to sign for  
39 the Corporation.

40

1 The Chair said that for the record she also acknowledged receipt of  
2 the following: a letter dated March 29, 2010 from Westchester County  
3 Planning Board Acting Commissioner Edward Buroughs, AICP  
4 continuing to encourage the Town to give further consideration to  
5 their comments included in previous letters; a memo dated April 9,  
6 2010 from Town Planner Hull with a Project History, Project Review,  
7 and attaching a draft Notice of Intent to be Lead Agency if the  
8 Planning Board decides to classify this action as an Unlisted Action,  
9 or the Board considers a Type II Action; and a memo dated April 9,  
10 2010 from Town Consulting Engineer Joseph C. Barbagallo, P.E.,  
11 BCEE of Woodard & Curran with a comment that once a satisfactory  
12 layout of the site plan is acceptable to the Board, a review of the  
13 documents will be made relative to the final site plan configuration.  
14

15 The Chair asked Town Planner Hull to share her review memo for the  
16 benefit of the Board and the public.  
17

18 Town Planner Hull referred to comment no. 1. in her memo, *The*  
19 *Planning Board directed the Applicant to proceed with proposed*  
20 *scheme A, the 3,200 sq. ft. building.*  
21

22 Ms. Gannon said that the Planning Board directed the applicant to  
23 proceed with scheme A for the purpose of looking at the worst case  
24 scenario with the footprint that will take up the most amount of  
25 pavement. She noted that reading Town Planner Hull's comment it  
26 sounds like the Planning Board likes the largest size building and this  
27 should be clarified.  
28

29 Town Planner Hull commented that comment no.1 was just a  
30 statement that the Planning Board directed the applicant to plan  
31 everything around 3,200 sq. ft. and is not meant to be a judgment as  
32 to why or how.  
33

34 The Chair said that the statement should be clarified by saying  
35 scheme A is the worst case scenario.  
36

37 Town Planner Hull explained that originally the applicant asked that a  
38 new parking formula be used that 3.4 parking spaces per 1000 sq. ft.  
39 of floor area be considered based on the ITE Parking Generation  
40 Handbook. She said that the Planning Board has not decided if they

1 want to follow that formula. Town Planner Hull noted that Town Code  
2 requires 10 parking spaces for the pumps and one space for every  
3 200 sq. ft. of floor area for the convenience store. She said that the  
4 Planning Board has reviewed previous convenience store  
5 applications and has in the past gone with 1 space for every 200  
6 sq. ft. of floor area for the store operation given that the nature of the  
7 gas station is no longer used for mechanical purposes. Town  
8 Planner Hull said that the Town Code looked at a gas station as a  
9 mechanical and filling operation not a convenience and filling  
10 operation. She explained that in the past the parking spaces at the  
11 pumps were never considered parking spaces but pump spaces so  
12 there is a difference that the Board has to be aware of. Town Planner  
13 Hull indicated that the plans now for a 3,200 sq. ft. building reflect 28  
14 spaces, 16 parking, 12 gas pump spaces and 3 banked spaces. She  
15 said that given the size of the convenience store a total of 16 parking  
16 spaces will be required and given the 3,200 sq. ft. building the Board  
17 is over-counting parking.

18  
19 The Chair asked how many spaces are being over-counted.

20  
21 Town Planner Hull said that 3 spaces are being over-counted.

22  
23 Town Planner Hull referenced her memo no. 3. *Plan "CCCP-2 Truck*  
24 *Turning Diagram WB-50G" depicts a 60' truck/trailer's turning radius*  
25 *which impacts cars parked in parking spaces 9, 10, 11 & 12 and cars*  
26 *at the two south western most pump islands. The applicant has*  
27 *proposed two options to alleviate this condition. This first option is to*  
28 *establish restricted use areas (coning) while delivery trucks are on*  
29 *site. This option does not seem to be easy to implement given that*  
30 *the attendant must place the cones and may or may not need to wait*  
31 *for customers to circulate through the site. In addition, the drawing*  
32 *does not depict a vehicle at the southern most spot of the eastern*  
33 *pump station of the westerly most pump island. She said that a truck*  
34 *may hit a car if the islands are full. Town Planner Hull stated that it is*  
35 *important to address the turning issues as its effects the parking*  
36 *spaces and the cars at the pump station. She asked that the*  
37 *applicant consider a smaller footprint on the building as the actual*  
38 *scenario and a 2,600 sq. ft. building which will require 13 spaces*  
39 *which will give flexibility for the truck to turn without impacting a*  
40 *parking space.*

1 Town Planner Hull said that comment no. 4 states the revised EAF  
2 depicts 15 parking spaces, not 16.

3  
4 Town Planner Hull noted comment No. 5. *that this application can be*  
5 *considered a Type II action, however, given the history of the*  
6 *previous groundwater contamination, located within the groundwater*  
7 *protection overlay zone, construction within the wetland buffer, the*  
8 *Board may want to consider this an Unlisted Action.* She said that  
9 she has prepared a Lead Agency Notice for the Unlisted Action for  
10 the Board's review.

11  
12 Town Planner Hull mentioned comment No. 7 under the Stormwater  
13 Pollution Prevention Plan; *The Permit Status on Page 3 should*  
14 *include the SEUP for the Groundwater Protection Overlay District as*  
15 *well as the Approval of a SPPP as part of a Stormwater Management*  
16 *and Erosion and Sediment Control Permit pursuant to Town Code.*

17  
18 Town Planner Hull referred to comment No. 11. Page 6, *Water*  
19 *Quality Volume-reference should be made to GP-0-10-002 if you are*  
20 *referring to the permit. If you are referring to the manual take out the*  
21 *permit reference.*

22  
23 Town Planner Hull noted that page 7, *Short Term Maintenance,*  
24 *correct 1<sup>st</sup> line, third paragraph, change "homeowner" to "property*  
25 *owner".*

26  
27 Ms. Gannon said that the Site Plan dated November 18, 2009 shows  
28 two parking spaces but they are not shown on the stacking plan.

29  
30 Town Planner Hull said that the parking spaces are the land banked  
31 parking spaces that will be used in the future if they are needed.

32  
33 Mr. Keane explained that the Board has not decided what the action  
34 is.

35  
36 Town Planner Hull said that the difference between an Unlisted action  
37 and a Type II action is given the environmental sensitivity on the  
38 location, the Board may want to make it an Unlisted action to give the  
39 Board the opportunity to explore if there will be a significant impact.

40

1 The Chair noted that it is the consensus of the Board that the Notice  
2 of Intent is an Unlisted action.

3  
4 Mr. Foley stated that the site is located in the Groundwater Protection  
5 Overlay District and Town Code has prohibited uses and one is a  
6 gasoline fueling station. He explained that the Code in the context of  
7 a non-conforming use prevents any change, extension or  
8 enlargement. Mr. Foley said that what is being proposed is at least a  
9 change, extension or enlargement. He noted that the gas station  
10 must be a non-conforming use.

11  
12 Engineer Allen argued that the applicant is not adding more pumps  
13 but is enlarging a convenience store.

14  
15 Town Attorney Eriole said that the gas station is a prior non-  
16 conforming use. He explained that it is established in the law that  
17 when there is a bifurcating use of property and the prior non-  
18 conformity is with respect to one of the uses and not the other and  
19 that one use is not being expanded it is not prohibited by the general  
20 prohibition against expanding a non-conforming use. Attorney Eriole  
21 stated that the question is what is being expanded and the law does  
22 allow for an expansion of the prior non-conformity.

23  
24 Mr. Foley said that he realizes that this debate will not be finished  
25 tonight but there are two components; a pump and a place to pay for  
26 the gas. He opined that a non-conformity is not a gas pump but is a  
27 filling station. He noted that a filling station comprises two  
28 components; the pump and a place to pay for the gas. Mr. Foley  
29 mentioned that a filling station is prohibited in the Code.

30  
31 The Chair read from Section 32.7D of the Town Code, *gasoline*  
32 *service of filling stations, service and repair facilities.*

33  
34 Town Attorney Eriole said the definition is the key and as an  
35 interpretation a filling station is more narrowly defined because filling  
36 stations used to mean mechanical work and now the convenience  
37 store is a secondary use. He agreed that the definition is the issue  
38 and he will respond formally.

39

1 Mr. Keane mentioned the use and said that first you have a defined  
 2 property line and he asked if you segregate the activities that are  
 3 taking place within that defined property line. He asked if there are  
 4 no new tanks or pumps is that considered a prior non-conforming use  
 5 and if the building is increased five fold that is not a change in use of  
 6 the entire property.

7  
 8 Town Attorney Eriole stated that it is an aspect of the law with respect  
 9 to non-conforming uses. He said that it is not about having two uses  
 10 on the property that is a different prohibition. He advised that it is  
 11 specific jurist prudence on the question of prior non-conforming uses.

12  
 13 Mr. Keane asked Town Attorney Eriole if this is a Type II action.

14  
 15 Town Attorney Eriole said that this project is consistent with Land Use  
 16 and the determination has to be consistent with State Law and its  
 17 categorization.

18  
 19 Town Planner Hull said that there is a provision under SEQRA that if  
 20 there are issues of concern about an action, such as the  
 21 Groundwater Protection Overlay District, previous contamination of  
 22 site and the impact to the wetland buffer, it is up to the Lead Agency  
 23 to make a determination.

24  
 25 Mr. Keane commented that under SEQRA Type II action,  
 26 construction or expansion of a primary or assessorly/apartment non-  
 27 residential structure or facility involving less than 4,000 sq. ft. of gross  
 28 floor area and not involving a change in zoning or a use variance and  
 29 consistent with local land use controls but not radio communication or  
 30 microwave transmission facilities, if the project fits into that  
 31 description it is Type II.

32  
 33 Town Attorney Eriole stated that if the project fits the description just  
 34 described it can be a Type 2 action. He said that there is some  
 35 discretion between an Unlisted Action and a Type 2 action.

36  
 37 The Chair said that by consensus, the Board determined that this  
 38 project is an Unlisted Action.

39

1 The Chair asked if the applicant and representatives reviewed the  
2 draft Notice of Intent and has any comments or questions.

3

4 Engineer Allen stated that he reviewed the Notice of Intent and does  
5 not have any questions.

6

7 On motion by Mr. Goldenberg, seconded by Mr. Foley, and  
8 unanimously carried, the Board moved to determine that the  
9 proposed action is an Unlisted Action under the procedures and  
10 requirements of SEQRA and Chapter 92 of the Code of the Town of  
11 Somers in conjunction with Article 24 of the NYS Environmental  
12 Conservation Law and declared its intent to be Lead Agency with  
13 regard to this proposed action and to circulate a Notice of Intent to be  
14 Lead Agency to all involved and interested agencies, together with  
15 Part I or the Full Environmental Assessment form and a copy of the  
16 plans.

17

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

20

21 The Chair made a correction to the Lead Agency notice as the  
22 applicant is Route 100 Realty LLC.

23

24 Mr. Keane said that the Board will review the stormwater and wetland  
25 issues and the applicant's engineer should use the 2008 Better Site  
26 Design Practices Manual, de-compaction which is important on the  
27 banking going downhill to the pond, and the applicant must use the  
28 2005 Erosion and Sediment Control standards and Chapter 10 of the  
29 Updated 2008 Stormwater Management Manual updated in 2008.

30

31 Engineer Allen said that he believes that this project falls under  
32 Chapter 8 "a re-development site" but he will clarify it.

33

34 Mr. Keane said that he does not see this as re-development. He said  
35 that the stream is classified as C. He noted that the Board cannot  
36 decide on which scheme they prefer until you see all the stormwater  
37 practices that need to be employed. He said that this project is  
38 located in an environmental hot spot with its proximity to the stream  
39 and the reservoir stem.

40

1 Engineer Allen said that Scheme A and Scheme C are the only  
2 schemes the applicant wants to pursue. He reminded the Board that  
3 there will be stormwater treatment to the system where it does not  
4 exist today. Engineer Allen said that he will meet with the Town  
5 Consulting Engineer and then return to the Board.

6  
7 Mr. Keane asked about the snow and where will it be placed as he  
8 does not want the snow dumped into the pond.

9  
10 Engineer Allen said that he will address the snow issue in the SPPP.  
11 He said that he hopes that the traffic issue is finished.

### 12 13 **APPROVAL OF MINUTES**

14  
15 Chairman DeLucia noted that Planning Board Secretary Murphy  
16 prepared and submitted for the Board's consideration the approval  
17 of the draft minutes of the March 10, 2010 Planning Board meeting  
18 consisting of twenty-eight (28) pages.

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

22  
23 Ms. Gannon suggested that a change be made on page 8, line 2,  
24 *there will be zero increase **from** should be **of***. She also mentioned  
25 on page 11, line 9 *that a comma be added after lots, and also after*  
26 *knowing*.

27  
28 The Chair asked if there was a motion to approve the March 10, 2010  
29 draft minutes, as amended.

30  
31 On motion by Ms. Gannon, seconded by Mr. Goldenberg, and  
32 unanimously carried, the minutes of March 10, 2010, as amended,  
33 were approved.

34 The Chair noted that the DVD of the March 10, 2010 Planning Board  
35 meeting is made a part of the approved minutes and is available for  
36 public viewing at the Somers Public Library. The approved minutes  
37 are also on the Town's website [www.somersny.com](http://www.somersny.com) and are available  
38 for public review at the Planning & Engineering office at the Town  
39 House.

1 Planning Board Secretary Murphy noted that the Board meetings are  
2 now available on the website using your computer.

3

4 **PROJECT REVIEW**

5

6 **HOMELAND TOWERS, LLC/NEW CINGULAR WIRELESS PCS**  
7 **(AT&T) SITE PLAN AND STEEP SLOPES PERMIT (AMATO**  
8 **PROPERTY)**

9

**[TM: 38.17-1-5] 121 ROUTE 100**

10

11 Chairman DeLucia said that this is the project review of the  
12 application of Homeland Towers, LLC/New Cingular Wireless PCS  
13 LLC (AT&T) collectively referred to as the applicants, for Site Plan  
14 Approval and Steep Slopes Permit and Stormwater Management and  
15 Erosion and Sediment Control Permit (requested but not yet  
16 provided) for property owned by Michael P. Amato and Alice T.  
17 Amato located at 121 Route 100 for the installation of a public utility  
18 wireless telecommunication facility consisting of a 140' monopole with  
19 antennas mounted thereon, with related equipment at the base  
20 thereof in the R-80 Residential Zoning District and Westchester  
21 County Agricultural District. The Chair explained that the Zoning  
22 Board of Appeals (ZBA) is Lead Agency under SEQRA in a  
23 coordinated review with the Planning Board. She noted that  
24 Homeland Towers is presently before the ZBA for a Special  
25 Exception Use Permit, and height, rear and side yard variances. The  
26 Chair stated that Homeland Towers is represented by Robert D.  
27 Gaudioso, Esq. of Snyder & Snyder, LLP and AT&T is represented by  
28 Neil Alexander, Esq. of Cuddy & Feder, LLP. She explained that this  
29 application was submitted on December 8, 2010 and was first and  
30 last discussed at the January 13, 2010 Board meeting whereby the  
31 applicants were directed to respond to staff's memos and comments  
32 by the Board. The Chair noted that Town Planner Hull was directed  
33 to send an action letter to the applicants to be success fully  
34 addressed for the next Board meeting which was sent on January 19,  
35 2010 containing 21 items.

36

37 The Chair acknowledged for the record receipt this evening of the  
38 following: applicants' submission under cover letter dated March 9,  
39 2010 and received on March 10, 2010 enclosing a response to Town  
40 Planner Hull's January 19, 2010 action letter comments with Full

1 Environmental Assessment Form last revised February 24, 2010; a  
2 response dated March 5, 2010 to NYCDEP's memo dated December  
3 30, 2009, and related documents; a memo dated April 8, 2010 from  
4 Town Planner Hull with her project review and recommendations; and  
5 a memo dated April 9, 2010 from Town Consulting Engineer  
6 Barbagallo with his project review and comments; a memo dated  
7 April 14, 2010 from the Conservation Board, and a letter from  
8 NYSDEC dated April 12, 2010 received on April 13, 2010.

9

10 The Chair asked the applicant's representative to give a brief  
11 presentation regarding this application for the benefit of the Board  
12 and the public.

13

14 The Chair suggested that with the approval of representatives of the  
15 applicants, staff and the Board, that there be an open discussion.  
16 She said that staff should present their comments and  
17 recommendations according to the comments contained in their  
18 memo during this open discussion.

19

20 Robert Gaudio, the applicant's attorney, said that he made a  
21 submission on March 9, 2010 and a new submission on April 9, 2010.  
22 He mentioned that a number of Radio Frequency Engineering  
23 Reports have been provided in response to Planning Board, Zoning  
24 Board, staff and interested and involved agencies comments.  
25 Attorney Gaudio said that propagation modeling has been provided  
26 and that will be reviewed by the Town's radio frequency consultant  
27 regarding existing structures in the area and future proposed sites by  
28 AT&T, alternatives properties including the DOT property. He noted  
29 that he looks forward to receiving Mr. Musso's report. Attorney  
30 Gaudio stated that he submitted a full response to the DEP  
31 comments and he received a letter saying that no further permit  
32 review is required. He mentioned that he submitted various  
33 alternative tower designs and colors for discussion purposes. He  
34 commended that discussion with the Board lead to the conclusion  
35 that tree rendering is not favored but recent discussion shows that  
36 there is interest in the tree design. Attorney Gaudio said that he  
37 submitted photographs of existing tree facilities by a specific  
38 manufacturer that was recommended to him. He indicated that he  
39 will re-render photographs to show specific tree models. Attorney  
40 Gaudio said that he updated the second visual resource evaluation

1 as requested and revised the EAF to include reference to the  
2 Archeological Report, revised plans and color constraints maps. He  
3 indicated that the substantive change is the proposal to use the other  
4 access drive which will decrease the amount of disturbance area and  
5 will bring the access drive out of the wetland buffer located to the  
6 north.

7  
8 Mr. Keane gave the Board and Attorney Gaudioso photos and  
9 sources on cell towers from the internet. He said that his search has  
10 to do with potential alternatives that may be available to the applicant  
11 and there is one showing a cell tower using a deciduous tree.

12  
13 Mr. Keane said that he is concerned about the aesthetic issues in  
14 regard to the cell towers located in Somers. He noted that he is  
15 concerned about the depiction on the plans in reference to the stream  
16 as it is in a conduit that connects the two wetlands. He indicated that  
17 the stream meets the Somers criteria for a wetland and the 100-foot  
18 buffer. Mr. Keane commented that the crushing of the conduit with  
19 the heavy equipment that will be used to drive over the conduit will be  
20 an issue if the cell tower installation is located on the Amato property.  
21 He mentioned that the stream crossing will be made easier due to the  
22 fact that the culvert is there. Mr. Keane also noted that the DEC  
23 mentions the crossing of an intermittent stream and making  
24 application to the US Army Corp of Engineers and the need for their  
25 evaluation to see if an application is necessary. Mr. Keane said that  
26 in reviewing the submitted documents in regard to aesthetics and the  
27 placement of the cell tower he has concerns. He also has concern  
28 with the Somers procedures. He indicated that aesthetics and  
29 viewshed and impact analyses should be handled differently. He  
30 noted that for many telecommunications projects the visual impact is  
31 the most significant issue that local communities have to address.  
32 Mr. Keane stressed that the visual analysis be conducted for each  
33 project accurately to protect the impacts. He indicated that the visual  
34 impact of cell tower poles are significant because of the height of the  
35 pole relative to the location, neighborhood, local area and the  
36 community. Mr. Keane said that the impact is subjective and the  
37 degree to which it is an issue is the value placed on the landscape  
38 and viewshed by the community. He stated that it is the Planning  
39 Board and the ZBA's job to perform the following steps at a minimum  
40 to quantify the visual impacts of a project:

- 1       1. determine the viewshed
- 2       2. identify the key view points
- 3       3. access the existing conditions
- 4       4. document the project changes
- 5       5. analyze the changes
- 6       6. develop mitigation where needed, if the Board deems
- 7             appropriate

8  
9       Mr. Keane said that any applicant input, reports or statements should  
10      be taken as only a part of all the information necessary and before  
11      any credence is placed on the applicant's reports they should be  
12      verified by the Board's expert. He indicated that the expert he is  
13      talking about is a well qualified landscape architect.

14  
15      Mr. Keane indicated that there are several documents in regard to  
16      cell towers, such as: NYSDEC program policy on assessing and  
17      mitigating visual impacts and a document created by the Department  
18      of State by the Town of Pittsford that created an entire process for  
19      reviewing cell towers. He indicated that the USDA and the US Forest  
20      service also have an Agriculture Handbook 701 for scenery  
21      management. Mr. Keane noted that the zone of visual influence or  
22      the viewshed is determined based on the existing environment and  
23      land uses such as the Amato property. He indicated that the key  
24      points within the viewshed are determined by field inspection and  
25      discussions amongst the Board members, residents and others. Mr.  
26      Keane said that these points may include historical monuments,  
27      markers, high traffic routes (Route 100), dwellings in and adjacent to  
28      the project, schools, sports fields or business districts. He noted that  
29      as part of the mitigation process the potential changes to the  
30      viewshed at the key points are documented through visualization  
31      modeling which the applicant has done some of but is incomplete.  
32      Mr. Keane said that during the analysis the following steps need to be  
33      addressed:

- 34  
35      1. To what extent is the project cell tower visible.

36  
37      Mr. Keane said that there are degrees of visibility and when is the cell  
38      tower visible, season or time of the day. He mentioned that the cell  
39      tower is not as visible at night and is more visible during fall and  
40      winter.

1           2. Who sees the cell tower and under what circumstances.  
2

3           Mr. Keane said someone can be sitting at the light at the junction of  
4           Route 100/35 and sees the cell tower sticking out like a sore thumb.  
5           He noted that it has to be determined if that is objectionable.  
6

7           3. When one travels northerly on Route 100 how long will the  
8           duration of the view be. He said that the duration of the view is  
9           very important and that has not been adequately addressed in  
10          the applicant's documentation.  
11

12          4. What is the relationship of the visual impact to the Board's  
13          policies and values in that location.  
14

15          Mr. Keane said that these are the minimum questions that need  
16          answers. He said that there may be more questions and answers  
17          that are necessary for the Board to fulfill their obligations under  
18          SEQRA as Planning Board members. He opined that questions like  
19          these attempt to quantify what is often a qualitative problem, i.e., the  
20          project may be visible along a stretch of road but that impact of that  
21          visibility depends upon the surrounding environment and the land  
22          uses. Is the road a scenic road or already dotted with homes,  
23          businesses or other structures and the length of time the project is  
24          visible, such as persons travelling in a car and what time of the day  
25          the project is visible and if the tower is high it will have FAA lighting.  
26          Mr. Keane said that understanding these impacts at this level helps to  
27          quantify the impact on the community and helps the Planning Board  
28          create a project layout that is sensitive to these issues and is fair to  
29          the applicant.  
30

31          Mr. Keane noted that he has requested an expert landscape architect  
32          be hired on the Town's behalf to vet the documentation provided by  
33          the applicant and to create a visual impact scope. He noted that this  
34          will establish a visual impact analysis for the applicant to follow and  
35          as a result the Board will develop attainable mitigation requirements.  
36

37          Mr. Keane opined that the comments submitted by Attorney  
38          Gaudio in his March 9, 2010 letter are incomplete. He said that the  
39          letter stated that there is no visual impact driving south on Route 100  
40          and that is the wrong view. He said to prove this point one picture

1 was submitted and that is not sufficient and more has to be done in  
2 this regard.

3  
4 Mr. Keane indicated that this information has to be passed on to the  
5 ZBA since they are Lead Agency on this project. He said that if the  
6 viewshed analysis is not done it cannot be justified as a Negative  
7 Declaration because there would not have been a hard look.

8  
9 Ms. Gannon said that looking at the visual resource evaluation and  
10 viewshed analysis dated February 4, 2010 which is the leaf-off  
11 observation and the summary aerial site location photo log when  
12 describing the blue dots that is the range of unobstructed views going  
13 up Route 100 has coordinating numbers for where there are views.  
14 She noted that it shows a long path of unobstructed views but the  
15 Board was not supplied with photographs corresponding to the  
16 submittal. Ms. Gannon opined that this is where the bulk of the  
17 problem in terms of the view is.

18  
19 Attorney Gaudioso explained that the views that were provided follow  
20 the process as there was a request for a viewshed analysis and that  
21 is what was submitted. He said that this is above and beyond a  
22 profile because this takes into account the entire area based on past  
23 procedure of 1 mile which was expanded to 1 ½ miles. Attorney  
24 Gaudioso indicated that the publicly noticed balloon test was done for  
25 the purpose of Board members going out to the site and reviewing  
26 the location. He said that sample viewpoints were provided in the  
27 area where the pole will be most visible. He said that there was a  
28 viewpoint in front of the Amato property, in front of 7-Eleven and on  
29 Route 35 and Route 100. He explained that he did not submit  
30 viewpoints where the pole is not visible. Attorney Gaudioso stated  
31 that there is a rule of reason that justifies what is provided and the  
32 applicant followed what was requested by the ZBA. He mentioned  
33 that in the future if there are requests for additional viewpoints he will  
34 be happy to provide them. Attorney Gaudioso indicated that the  
35 photos of alternative designs that were provided by Mr. Keane mimic  
36 what was provided by the applicant on April 9, 2010.

37  
38 Ms. Gannon said that the viewshed that was submitted by the  
39 applicant shows the corridor where most of the problem is but it does  
40 not quantify where the problem is taking place. She asked about the

1 memo from the applicant dated March 9, 2010 talking about a flagpole  
2 design. Ms. Gannon questioned if the flagpole design is really a  
3 stealth monopole.

4  
5 Attorney Gaudioso said that the proposal from the start has been for  
6 a monopole. He indicated that the applicant provided a standard  
7 monopole, internal mounted antennas that have been approved by  
8 the various Boards at three different locations in Somers, and two  
9 different color schemes. He stated that he will work with any design  
10 the Board approves. Attorney Gaudioso said that the monopole is  
11 the applicant's ideal technical solution but is willing to compromise  
12 and go with the internally mounted flag pole design with or without a  
13 flag or light. He commented that there is no FAA lighting on this  
14 tower. Attorney Gaudioso noted that he offered all the different  
15 alternatives.

16  
17 Ms. Gannon asked if there is any difference in the height of the  
18 structure based on the antennas being internal or external.

19  
20 Attorney Gaudioso said that carriers normally like additional height  
21 but have agreed to use the height of 140-feet. He said that if the  
22 Board chooses a tree design 5 feet will be added and he will show  
23 that in visual renderings.

24  
25 Ms. Gannon asked if there is a height advantage for a tree design or  
26 a monopole.

27  
28 Attorney Gaudioso said that he is willing to use the height of 140-feet.  
29 He noted that if the tree is the preferable design he will evaluate it  
30 further.

31 Mr. Keane mentioned that there are 13 possible sources of  
32 camouflage designs and his expectation goes beyond what has been  
33 provided thus far. He noted that the design should consider the  
34 context of the location and what surrounds the pole and what fits well  
35 at that location. Mr. Keane commented that Ms. Gannon  
36 is talking about duration of visibility. He noted that when you are  
37 driving along Route 100 you can see the monopole for 10 to 15  
38 seconds.

39

1 Attorney Gaudioso stated that his April 9, 2010 submittal covers the  
2 alternative design submitted by Mr. Keane and probably more. He  
3 said that aesthetics is not subjective but objective. He mentioned that  
4 the DEC document states that "visibility even startling visibility is not  
5 necessarily an aesthetic impact." Attorney Gaudioso noted that it  
6 matters which resource is being impacted. He mentioned a car sitting  
7 at the intersection at Whitehall Corners, the question is if that is a  
8 resource or not. Attorney Gaudioso stressed that he will design the  
9 tower as best he can from that viewpoint or any viewpoint that the  
10 Board deems appropriate.

11  
12 Mr. Keane said there are five things that need to be addressed and  
13 the applicant has only addressed two; all the concerns have to be  
14 addressed.

15  
16 Attorney Gaudioso said that he will reserve his response to Mr.  
17 Keane's questions because he believes that there has been a moving  
18 target. He indicated that he provided to Mr. Musso (Town's  
19 consultant) a 1 mile inventory and then that was increased to a 1 ½  
20 mile inventory, submitted rendering of trees and then the Board did  
21 not want a tree design. He said that he provided as much as is  
22 reasonable to bring this to a decision.

23  
24 Mr. Keane opined that the applicant has been part of the moving  
25 target by all definitions. He said that a checklist should be provided  
26 between the Planning Board and the ZBA so both boards are on the  
27 same page and gather the same information. Mr. Keane noted that a  
28 consultant is needed that will create the scope which will be the  
29 checklist which will enable the Board to make a quality decision.

30  
31 Attorney Gaudioso opined that has already happened and maybe the  
32 Planning Board does not agree with it but HMS, the Town's  
33 consultant, has charged significant fees and the applicant has  
34 provided everything the consultant requested.

35  
36 Mr. Keane opined that the aesthetic issues have not adequately been  
37 addressed. He indicated that the Board wants to make a proper  
38 decision and he doubts that the applicant wants the Negative  
39 Declaration overturned.

40

1 Ms. Gannon opined that the target is not moving because picture 6  
 2 shows the tower sitting below the intersection of Routes 100 and 35  
 3 and looking at an angle over the Muscoot. She said that picture 5  
 4 shows you standing in the 7-Eleven with your back to the store  
 5 looking out. She said that what you missed is the travelling corridor.

6  
 7 Attorney Gaudioso said that what he presented is the worst case  
 8 scenario. He commented that if you are in a car how can that be  
 9 rendered.

10  
 11 Mr. Keane said that HDR made the claim that there is minimal  
 12 visibility at DP-5 and he does not agree with that claim. He said this  
 13 is the reason that the Board needs an expert to give the Board  
 14 guidance.

15  
 16 Town Planner Hull suggested a video with someone driving in a car  
 17 with the camera out the window.

18  
 19 Mr. Keane said that this is dealt with in the technical literature.

20  
 21 Attorney Gaudioso said that the Planning Board should share its  
 22 opinions with the ZBA and give clear direction. He said that the  
 23 comments have to be specific and there has been plenty of time to  
 24 pick new viewpoints.

25  
 26 Mr. Goldenberg said that the process is complicated and  
 27 disorganized and he questions how proper decisions can be made.

28  
 29 Mr. Keane reiterated that a Landscape Architect is needed to write a  
 30 scope to give both Boards the guidance they need. He opined that it  
 31 is insufficient to wholly rely upon the information provided by the  
 32 applicant.

33  
 34 Town Planner Hull recommended that the Planning Board provide  
 35 direction to the ZBA, specifically, further assessment of the visual  
 36 corridor as you drive northward and further analysis based on the  
 37 Town of Pittsfield visual impact analysis. She noted that the Board  
 38 would like to hire a consultant and Town Consulting Engineer  
 39 Barbagallo has a recommendation on a visual consultant that  
 40 specializes in this type of work. She said that the Board may be able

1 to provide firms that can work from the Town of Pitts field analysis  
2 and massage pertinent points.

3

4 Attorney Gaudioso said that the consultant's scopes cannot overlap  
5 as the applicant will not pay twice for the same thing.

6

7 Ms. Gannon mentioned that she attended the January 19, 2010  
8 Zoning Board meeting and there was discussion on landscaping  
9 where Attorney Gaudioso stated that the Board will receive a  
10 supplemental landscaping plan.

11

12 Attorney Gaudioso indicated that the Landscaping Plan will be  
13 formulated during the site plan process. He said that this location  
14 lends itself to additional landscaping.

15

16 Ms. Gannon opined that the landscaping activity should be integrated  
17 and coordinated.

18

19 Attorney Gaudioso said if the Board wants to turn over the Landscape  
20 Plan to the ZBA as part of the Special Exception Use Permit he is  
21 happy to oblige.

22

23 The Chair mentioned a letter dated April 12, 2010 from the NYS  
24 Department of Conservation.

25

26 Mr. Foley mentioned the DOT property and after the applicant did its  
27 analysis at 140-feet and then provided an analysis for 200-feet, the  
28 consultant said that the site is inferior. He asked how high can you  
29 take a poll.

30

31 Attorney Gaudioso indicated that 200-feet is a common height and  
32 once you go over that height FAA lighting is necessary. He  
33 mentioned if the pole is too high it causes interference with  
34 surrounding sites. Attorney Gaudioso said the Town's consultant is  
35 reviewing the issue.

36 Mr. Foley said that he is interested in seeing the review as this site is  
37 not that far from the proposed site and is infinitely better from an  
38 aesthetic prospective. He asked how inferior is the coverage at the  
39 DOT site.

40

1 Neil Alexander, representative for AT&T, said that AT&T is exempt  
 2 from local zoning on state property and if the site worked then the  
 3 applicant would have proposed that site.

4  
 5 Attorney Gaudioso said that the applicant makes findings subject to  
 6 the Zoning Code and there is nothing in the Code that requires the  
 7 applicant to look at the DOT property. He explained that as part of  
 8 the process the ZBA asked the applicant to look at the DOT property  
 9 as well as other alternatives. He indicated that the documentation  
 10 was formulated in a manner that could be submitted to the Board and  
 11 reviewed by the Board's consultant. Attorney Gaudioso stated  
 12 that the applicant submitted a clear document that he is comfortable  
 13 with from a technical standpoint and shows that the site is not a  
 14 feasible alternative.

15  
 16 Mr. Goldenberg noted that aesthetics is very important to this Town  
 17 and the Board is looking into how many cell towers there will be in  
 18 Somers.

19  
 20 Mr. Foley asked that the consultant specifically review the DOT  
 21 property and assess how non feasible the site is as it is by far a better  
 22 site.

23  
 24 Attorney Alexander stated that site does not work for AT&T as they  
 25 cannot reach its existing pole at the Mexican Shack.

26  
 27 Town Consulting Engineer Barbagallo said that the focus is on a site  
 28 and the Code given the aesthetic impacts requires a broader look to  
 29 determine that this is the best site.

30  
 31 Attorney Gaudioso stated that this has been an ongoing process with  
 32 the Zoning Board and in his opinion has been exhausted. He noted  
 33 that the applicant has submitted four (4) Radio Frequency Reports  
 34 and reviewed alternative sites. Attorney Gaudioso documented the  
 35 Pepsi property, NYSEG towers, Billingsley property and all the  
 36 existing structures where AT&T is in the area. He opined that it is an  
 37 unfair statement that the alternative sites have not been evaluated.

38  
 39 Town Consulting Engineer Barbagallo said that his point is that it is  
 40 the Town's various Boards' opinion that matters.

1 The Chair said that the EAF comments will be discussed at the next  
2 meeting.

3

4 The Chair directed staff to send the ZBA its status report of the  
5 meeting for their information and directed the applicant to provide the  
6 additional information that was requested and answer the Town  
7 Planner’s comments. She asked for an updated survey and to show  
8 the stream and the 100-foot wetland buffer on both sides of the  
9 stream on the constraints map.

10

11 **PROJECT REVIEW**

12

13 **HOMELAND TOWERS, LLC/NEW CINGULAR**  
14 **WIRELESS PCS, LLC (AT&T) SITE PLAN APPROVAL AND**  
15 **WETLAND PERMIT (SANTARONI PROPERTY)**  
16 **[TM: 37.13-2-3] 2580 ROUTE 35**

17

18 Chairman DeLucia noted that this is the project review of the  
19 application of Homeland Towers, LLC/New Cingular Wireless PCS  
20 LLC (AT&T), collectively referred to as the applicants, for Site Plan  
21 Approval and Wetland and Steep Slopes permits, Tree Preservation  
22 permits, a SEUP permit and area variances for property located at  
23 2580 Route 35 owned by Umberto and Carol Santaroni in an R-120  
24 Residential Zoning District. The Chair indicated that the applicants  
25 propose to install a public utility wireless telecommunications facility  
26 consisting of a 130-foot tall monopole disguised as a tree, and a  
27 related 3,400 square foot equipment compound, which will be  
28 serviced by a new driveway and parking area to provide vehicular  
29 access from NYS Route 35, on a portion of the 6.4 acre residential  
30 property abutting a part of Westchester County’s 234-acre Lasdon  
31 Park. The Chair explained that the Zoning Board of Appeals (ZBA) is  
32 Lead Agency under SEQRA in a coordinated review with the  
33 Planning Board. She said that Homeland Towers is presently before  
34 the ZBA for a Special Exception Use Permit and area variances. The  
35 Chair noted that although the applicants submitted an application to  
36 the ZBA on October 6, 2009, according to Town Planner Hull’s April  
37 8, 2010 memo to the Board, under number 18 of her memo she  
38 comments that “In regards to the FCC’s 150-day ruling regarding this  
39 application, the ZBA Chairman has determined that this application is  
40 incomplete (and the Applicant has agreed to provide the missing

1 documentation) and therefore the 150-days have not yet begun to  
2 toll.”

3  
4 Town Planner Hull indicated that this application is very similar to the  
5 last application where the largest impacts are the visual analysis and  
6 the applicant has not submitted a Stormwater Pollution Prevention  
7 Plan (SPPP). She noted that the type of information that was  
8 requested for the last application should be provided.

9  
10 The Chair indicated that this application is incomplete.

11  
12 Robert Gaudioso, the applicant’s attorney, noted that the site plan is  
13 being reworked to comply with DEP and Planning Board comments.  
14 He mentioned that a variance is needed from the DEP.

15  
16 Mr. Keane said that a constraints map that shows the wetland buffer  
17 line has to be submitted. He reminded the applicant to use the State  
18 Wetland Manual, Erosion and Sediment Control Manual, Better Site  
19 Design Manual, Stormwater Management Manual and the  
20 De-ripping and De-compaction Manual for the stormwater practices  
21 design. Mr. Keane asked that site lines be addressed. He suggested  
22 that the use of porous pavement be reviewed.

23  
24 Ms. Gannon said that she read that porous pavement should be used  
25 on a flat surface.

26  
27 The Chair explained that the applicant has not yet submitted a site  
28 plan application and related applications and fees to the Planning  
29 Board and is required to make the application complete for an  
30 appropriate review and therefore, the FCC’s 150-day ruling does not  
31 yet toll.

32  
33 The Chair directed staff to send the ZBA the status report of this  
34 meeting for their information.

35  
36 **DECISION**

37  
38 **SOMERS REALTY PLANNED HAMLET SUBDIVISION**  
39 **[TM: 4.20-1-13,14,15 AND P/O 12]**

40

1 The Chair noted that a decision will be made by the Planning Board  
2 on the application of Somers Realty Corp. for Final Subdivision Plat  
3 Approval for Somers Realty Planned Hamlet Subdivision. The Chair  
4 said that the property is located on Route 6 adjacent to the Somers  
5 Commons Shopping Center and Mahopac Avenue in the Planned  
6 Hamlet Zoning District owned by applicant Somers Realty Corp. She  
7 mentioned that the applicant is represented by Linda B. Whitehead,  
8 Esq. of the law firm of McCullough, Goldberger and Staudt, LLP and  
9 Peter J. Gregory of Keane Coppelman Engineers, P.C. The Chair  
10 noted that this application was last discussed at the March 24, 2010  
11 Planning Board meeting whereby the Board reviewed the documents  
12 and materials submitted for final subdivision approval and requested  
13 the applicant to address the outstanding items to be completed prior  
14 to this meeting and directed Town Planner Hull to prepare a draft  
15 Conditional Final Subdivision Approval for tonight's meeting.

16  
17 The Chair acknowledged for the record receipt of the following: a  
18 cover letter dated April 8, 2010 received on April 9, 2010 from Peter  
19 J. Gregory, P.E. of Keane Coppelman Engineers, P.C. submitting  
20 revised plans and other documents and responding to items in the  
21 March 26, 2010 action letter; copy of a letter dated April 1, 2010  
22 received April 9, 2010 from Adam Smith, Town of Somers Water &  
23 Sewer Department, stating that the proposed placement of fire  
24 hydrants on sheet 1 of 6 of the plans prepared for the referenced  
25 property are acceptable as shown; and draft Resolution No. 2010-03  
26 Granting of Conditional Final Subdivision Plat Approval for the  
27 Board's review and approval.

28  
29 The Chair asked the applicant's representatives to give a brief  
30 presentation regarding the recent submission for the benefit of the  
31 Board and the public. She suggested that there be an open  
32 discussion with staff and the Board while the presentation is being  
33 given and that the staff and the Board members then review the draft  
34 Resolution.

35  
36 Linda Whitehead, applicant's attorney, explained that the revised  
37 plans reflect the revisions requested by staff, the Planning Board and  
38 a meeting held April 15, 2010. She explained that The Mews has  
39 relocated where they are connecting into the existing sewer force  
40 main and that has been shown on the plan. Attorney Whitehead said

1 that there were questions from Town Consulting Engineer Barbagallo  
2 in reference to the turning radius and the width of the road. She  
3 noted that a minor change was made by widening out the right-of-way  
4 on the sides to make a better turning radius around the island.

5  
6 Town Planner Hull said that the submission from the applicant has  
7 been incorporated into the resolution; however, specific changes  
8 must be approved by the Town Consulting Engineer and therefore  
9 the conditions required prior to signing the plat have yet to be  
10 changed. Town Planner Hull indicated that these conditions can be  
11 removed per the direction of the Planning Board.

12  
13 The Chair noted on Page 1 of the Resolution, line 24 add the word  
14 *Corp.*

15  
16 Attorney Whitehead commented on the last Whereas paragraph on  
17 Page 6. She stated that DEP has deemed the application complete  
18 but has minor comments on the report which will be addressed  
19 shortly by the applicant's engineer. She questioned the sentence on  
20 line 39, and suggested *upon the recommendation of the Consulting*  
21 *Town Engineer, the Planning Board shall have the authority...* The  
22 Planning Board agreed with the change.

23  
24 Mr. Keane corrected the use of SWPPP and said that it should be  
25 SPPP throughout the resolution.

26  
27 The Chair suggested that the first Whereas paragraph on Page 9 be  
28 eliminated and the Board agreed.

29 Town Planner Hull noted that the Planning Board has to approve the  
30 use of guiderails, rather than a line of bollards, to be located at the  
31 edge of the temporary cul-de-sac pavement.

32  
33 The Chair indicated that it was the consensus of the Board to make  
34 the change.

35  
36 The Chair requested that the application of Somers Realty Corp. be  
37 added to Page 9, line 41 and this was acceptable to the Board.

38

1 Town Consulting Engineer Barbagallo said that under Conditions  
2 Required Prior to Signing of Plat that condition 1. can be eliminated  
3 as that condition has been satisfied.

4  
5 Town Consulting Engineer Barbagallo said that he will confirm that  
6 condition 2 can be eliminated.

7  
8 Town Consulting Engineer Barbagallo suggested changing condition  
9 3 to read, *Add the watersheds corresponding to the design points to*  
10 *the development table located on the Master Plan Conformance*  
11 *Drawing (Sheet MP-1) dated February 21, 2010.*

12  
13 Town Consulting Engineer Barbagallo said that condition 4 and 5 is  
14 complete.

15  
16 Town Consulting Engineer Barbagallo changed condition 6. to read,  
17 *The Applicant shall demonstrate adequate turning radius into the site.*

18  
19 The Chair directed that Town Engineer be changed to *Consulting*  
20 *Town Engineer* throughout the conditions in the resolution.

21  
22 Attorney Whitehead explained that the infrastructure improvements  
23 are being constructed utilizing Housing Implementation Funding (HIF)  
24 from Westchester County. She explained that construction will be  
25 done technically by the Town with funds being provided by the  
26 County. She said that there will be an IMA and the applicant will put  
27 up an escrow account to cover additional items that may not be  
28 covered by the HIF and also to cover a gap in payments. She noted  
29 that conditions 11, 12 and 13 as written shall have added language.  
30 Attorney Whitehead suggested adding a provision that the items  
31 described in 11, 12 and 13 will not be required pursuant to funding  
32 from the HIF. *Notwithstanding the above, it is currently anticipated*  
33 *that the work authorized hereunder is to be constructed utilizing*  
34 *Housing Implementation Funding (HIF) from Westchester County.*  
35 *Pursuant thereto the work will be completed by a contractor retained*  
36 *by the Town of Somers and paid for through the HIF funding. The*  
37 *Town and the Applicant will be entering into an escrow agreement to*  
38 *cover any potential additional costs. Provided the Town and the*  
39 *Applicant have agreed upon the escrow terms, the above*

1 *bond/security or inspection fee will not be required.* The Board  
2 agreed to the language change.

3

4 The Chair recommended the word *conservation* be eliminated on  
5 page 12, line 18.

6

7 Mr. Foley corrected page 12, line 19 the subdivision plat shall expire  
8 on *October 11, 2010*.

9

10 The Chair asked if there is a consensus of the Board to approve  
11 Resolution No. 2010-03, as amended.

12

13 On motion by Mr. Goldenberg, seconded by Ms. Gannon,  
14 and unanimously carried, the Board moved to approve draft  
15 Resolution No. 2010-03, as amended, granting of Conditional Final  
16 Subdivision Plat Approval to Somers Realty Corp. for Somers Realty  
17 Planned Hamlet, as amended, for the Chairman's signature.

18

## 19 **DECISION**

20

### 21 **MERRITT PARK ESTATES SUBDIVISION**

22 **[TM: 5.20-1-1]**

23

24 Chairman DeLucia said that the Planning Board will be making a  
25 decision on the application of Mancini Building Corp. for Final  
26 Subdivision Plat Approval, Tree Preservation, Steep Slopes and  
27 Wetland Permits for Merritt Park Estates Subdivision. The Chair  
28 mentioned that the property is located on the easterly side of Lovell  
29 Street and Adson Way for 15 single family building lots on 19.99  
30 acres in a Residential R-40 Zoning District. She noted that the  
31 applicant is represented by Geraldine N. Tortorella, Esq. of  
32 Hocherman, Tortorella & Wekstein, LLP and Joseph C. Riina, P.E. of  
33 Site Design Consultants. The Chair said that this application was last  
34 discussed at the March 10, 2010 Planning Board meeting whereby  
35 the applicant was requested to provide documentation on the  
36 relocation of the stonewalls on Lots 1, 2 and 3 and the Board directed  
37 Town Planner Hull to prepare a draft Resolution for this meeting for  
38 their review and approval.

39 The Chair acknowledged for the record receipt of the following: a  
40 cover letter dated and received on April 8, 2010 from Joseph C.

1 Riina, P.E. of Site Design Consultants enclosing a revised Site Plan  
2 indicating the relocation of existing stonewalls on proposed Lots 1, 2  
3 and 3 with a request that if the Board agrees, that a notation and  
4 proposed relocation of the walls will appear on the final subdivision  
5 plan and a draft Resolution No. 2010-02 Granting of Conditional Final  
6 Subdivision Plat Approval and related permits for the Board's review  
7 and approval.

8

9 The Chair asked the applicant's representative to give a brief  
10 presentation regarding the recent submission for the benefit of the  
11 Board and the public. She suggested that there be an open  
12 discussion with staff and the Board while the presentation is being  
13 given and that staff and the Board members then review the draft  
14 Resolution.

15

16 Geraldine Tortorella, applicant's attorney, explained that there are  
17 two sides to the location of the stonewall on lots 1 and 2. She noted  
18 that there was a requirement from Preliminary Approval that the  
19 existing stonewalls stay in place and there was a question if the  
20 stonewalls can be relocated to the property line. Attorney Tortorella  
21 said that a plan showing the detail for the relocation of the stonewall  
22 was submitted. She indicated that she was asked to do research to  
23 see if the condition required the stonewall to stay in place and if so,  
24 why was that condition created. Attorney Tortorella stated that she  
25 tried to research the records but the minutes for that period of time  
26 are not available. She mentioned that the applicant's engineer  
27 searched his files and she also researched her files and could not  
28 come up with an explanation as to why that condition was in the  
29 Resolution. Attorney Tortorella said that the applicant was asked to  
30 provide a plan showing the detail for the stonewall relocation. She  
31 explained that in the course of discussion the question arose as what  
32 do you do about stormwater controls if the stonewall is relocated to  
33 the property line. She commented that the problem with coming up  
34 with meaningful stormwater controls is that we do not know how that  
35 area will be used and how it will be improved. Attorney Tortorella  
36 stated that the applicant is seeking approval to relocate the stonewall  
37 to the property line. She said that there will be very little disturbance.  
38 Attorney Tortorella advised that there will be a note on the subdivision  
39 plan and subdivision plat that provides that at the time there will be  
40 any improvement of the area between the existing stonewalls and the

1 relocated stone walls that consultation with the Consulting Town  
2 Engineer will be required and if there is an issue it will be sent back to  
3 the Planning Board for analysis. She explained that if you are  
4 clearing a small area to give a slightly larger expanse of lawn that  
5 may dictate additional treatment for stormwater flow and if a  
6 swimming pool or some other type of improvement occurs that will  
7 lead to a different type of stormwater control.

8  
9 Mr. Foley said that as part of the research the existing dilapidated  
10 stonewall was to be shown (pictures). He noted that this is not a  
11 major issue but he is not happy that this request was not provided.

12  
13 The Chair asked what the condition of the wall is.

14  
15 Joseph Riina, the applicant's engineer, stated that the wall is down in  
16 some areas and in disrepair and does not provide aesthetics.

17  
18 Attorney Tortorella said that there wasn't an argument about the state  
19 of the stonewall and her recollection is that at the time of the  
20 relocation of the wall there will be some record of the condition of the  
21 wall. She stated that reason for the relocation of the wall is that it  
22 makes no sense at the location in the middle of two lots. She  
23 mentioned that there was discussion that the wall provided some  
24 stormwater control function and that lead to the condition of the  
25 stonewall.

26  
27 Mr. Foley mentioned that there was discussion that the last Board  
28 wanted to keep the wall in place because it is a nice stonewall.  
29 He commented that he just wanted to see a picture of the stonewall  
30 and he may agree that the stonewall is in disrepair.

31  
32 Mr. Keane stated that he was on the Planning Board when the  
33 stonewall was discussed and he noted that all walls have some  
34 stormwater benefit but no one made any comments about this  
35 particular wall remaining in place. He opined that there is no problem  
36 about moving the wall to the back of the property line as it will still  
37 provide the stormwater benefits. Mr. Keane noted that the stonewall  
38 will provide more significant stormwater benefits for the Heritage Hills  
39 Condos below and very little benefit to the particular lot.

40

1 Mr. Goldenberg asked the reason for the removal of the wall.

2

3 Attorney Tortorella stated that the wall bifurcates the lot and  
4 stonewalls usually run along property lines. She noted that in the  
5 future if the owner wants to expand the yard they may be able to do  
6 so.

7

8 The Chair asked if there were any other comments or questions.

9

10 Town Planner Hull reviewed the Resolution with the track changes  
11 with the Board and the applicant.

12

13 The Chair added the words *Mancini Building Corp.* in the box on  
14 Page 1 of the Resolution and changed Town Lot to *Tax Lot* on line  
15 10, Page 10 of the Resolution.

16

17 Town Planner Hull mentioned Page 10, Line 44 eliminate the word  
18 *overall* and add *Town approved*. She changed the word *finds* to  
19 *finding* on Page 11, Line 16.

20

21 Attorney Tortorella corrected the date on Page 12, Line 28 to  
22 *September 21, 2005*.

23

24 Town Planner Hull mentioned the change on Page 15, Line 7, change  
25 *included* to *includes* and on Line 8, change *pubic sewer* to *community*  
26 *sewer*. She said that on Page 15, line 34 change *Town Engineer* to  
27 *Consulting Town Engineer*. Town Planner Hull mentioned the  
28 change on Page 16, line 12, the *impact changed* to *application fees*.

29

30 The Chair added of *Mancini Building Corp.* to Page 16, line 39.

31

32 Attorney Tortorella asked that new Number 5 on Page 17 be deleted  
33 and the Board agreed. She asked that under new condition 13 on  
34 Page 17 that *15 buildable lots* be changed to *14 buildable lots* and  
35 the Board agreed. Attorney Tortorella referred to *Number 2*, on Page  
36 18 and requested that number be *eliminated* and the Board agreed.

37

38 The Chair said that on Page 19, Line 28 change the date to *October*  
39 *11, 2010* and on Line 27 take out the word *conservation*.

1 She also added the words *to Mancini Building Corp.* to the  
2 certification.

3

4 The Chair asked if there is a consensus of the Board to approve  
5 Resolution No. 2010-02, as amended.

6

7 On motion by Mr. Goldenberg, seconded by Ms. Gannon,  
8 and unanimously carried, the Board moved to approve draft  
9 Resolution No. 2010-02, as amended, granting of Conditional Final  
10 Subdivision Approval, Tree Preservation, Steep Slopes and Wetland  
11 Permits to Mancini Building Corp. for the Merritt Park Estates  
12 Subdivision, as amended, for the Chairman's signature.

13

14 There being no further business, on motion by Ms. Gannon,  
15 seconded by Mr. Goldenberg, and unanimously carried, the meeting  
16 adjourned at 12:00 P. M.

17

18 Chairman DeLucia noted that the next meeting of the Planning Board  
19 will be held on Wednesday, April 28, 2010 at 7:30 P. M. at the  
20 Somers Town House.

21

22

23

Respectfully submitted,

24

25

Marilyn Murphy  
Planning Board Secretary

26

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