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PLANNING DEPARTMENT

TOWN HOUSE
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Town of Somers

WESTCHESTER COUNTY, N.Y.



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

3

**SOMERS PLANNING BOARD-TOWN BOARD
JOINT MEETING MINUTES
SEPTEMBER 24, 2012**

ROLL:

PLANNING BOARD

MEMBERS PRESENT: Chairman Currie, Mr. Keane, Ms. Gerbino,
Mr. Foley, Mr. Goldenberg, and Ms. Gannon

ABSENT: Mrs. DeLucia

TOWN BOARD:

MEMBERS PRESENT: Supervisor Murphy, Councilman Benedict
Councilman Morrissey, Councilman Clinchy,
and Councilman Garrity

ALSO PRESENT:

Town Planner Syrette Dym
Consulting Town Planner Sarah Brown
Consulting Engineer Joseph Barbagallo
Town Attorney Joseph Eriole
Planning Board Secretary Marilyn Murphy

The meeting commenced at 7:30 p.m.

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

1 Chairman Currie noted that this is a special joint meeting with the Planning
 2 Board and Town Board to discuss The Green at Somers Amended Site
 3 Plan, Wetland, Steep Slopes and Stormwater Management and Erosion
 4 and Sediment Control Permits.

5
 6 Linda Whitehead, the applicant’s attorney, noted that she has been before
 7 both Boards on this project and has been working with the Planning Board
 8 for over a year. She explained that the plan has been modified to now
 9 contain four (4) two-story buildings. Attorney Whitehead said that the Town
 10 Board a few years ago added into the Zoning Code an affordable housing
 11 incentive which with permission of the Town Board would permit a three
 12 story building provided at least 50% was affordable housing. She
 13 explained that a lot of time was taken with the Planning Board reviewing
 14 three story buildings but there was concern about the visual impact.
 15 Attorney Whitehead indicated that the applicant came up with a plan that
 16 utilizes two story buildings. She commented that the three buildings
 17 located to the rear of the property have a 10,000 SF footprint that is
 18 permitted by Code in the Neighborhood Shopping (NS) Zone, and will have
 19 two stories of all residential units. Attorney Whitehead explained that the
 20 building closest to Route 6 will have an 8,000 SF footprint with the proposal
 21 to have retail on the first floor with apartments on the second floor.

22
 23 Attorney Whitehead mentioned that the applicant has worked for several
 24 months with the Planning Board on the parking layout, circulation,
 25 stormwater basins, and the green space in the middle. She stated that she
 26 appreciates the Planning Board’s hard work and good comments to get to
 27 this point.

28
 29 Attorney Whitehead indicated that she is here this evening because the
 30 current language of the NS Zone has the permitted use of apartments over
 31 stores. She explained that this would result in 38,000 SF of retail space on
 32 this site. Attorney Whitehead noted that this is the largest NS site in Town
 33 but has a very small piece of frontage on Route 6. She mentioned that
 34 there is a very large regional shopping center across the street. Attorney
 35 Whitehead said that the applicant is concerned that the retail demand is
 36 very limited in terms of market and does not want to end up with a lot of
 37 empty stores. She opined that empty stores are not good for the applicant
 38 or the Town. She said that the purpose of the NS Zone is to have
 39 economically healthy environmentally sound development. She noted that
 40 the need for retail was the force driving the three story building. Attorney

1 Whitehead said that retail along the Route 6 frontage is the only feasible
2 retail. She noted that she provided a Market Study, a history of the NS
3 Zone, as well as a listing of all the NS Zone properties in Town. Attorney
4 Whitehead commented that when you look at all the NS properties you
5 realize that this site is unique. She mentioned that there is no other
6 property in the NS Zone that is this large with such a small frontage.
7 Attorney Whitehead noted that the Towne Centre property is the only other
8 large NS property. She mentioned that the Towne Centre property has
9 over 800' of total frontage with good visibility. Attorney Whitehead said that
10 the Retail Study indicated that the marketability of retail that does not have
11 visibility is very low and has a high vacancy rate. She said that the
12 proposed plan will require a Zoning Amendment from the Town Board.

13
14 Attorney Whitehead mentioned that changes to the NS Zone from the 1994
15 Comprehensive Plan was intended to support the concept of adding
16 residential in with retail and emphasize the placing of multi-family in this
17 area. She noted that the Comprehensive Plan specifically talks about the
18 Baldwin Place area for multi-family residences. Attorney Whitehead said
19 that this site was previously zoned General Business (GB) and it was
20 thought that the Town has too many sites zoned for retail that could not be
21 supported. She explained that in 1996 this property was rezoned from GB
22 to NS. She also noted that the Planned Hamlet Zone has strict limitations
23 on the amount and size of retail stores.

24
25 Attorney Whitehead noted that there will be approximately 70 affordable
26 units with parking underneath for the three buildings in the back of the
27 property. She said that parking has been revised around the central
28 portion of the site and the green space has been increased with part
29 serving as a stormwater function and part as recreational space.

30
31 Bryan McClure, applicant's developer, explained that a pedestrian friendly
32 environment has been created with a center courtyard.

33
34 Councilman Clinchy asked what has been done to create the pedestrian
35 environment.

36
37 Mr. McClure said that there will be sidewalks connecting to the green area
38 and a potential for a putting green.

39

1 Attorney Whitehead said that the building fronting on Route 6 will have two
2 fronts which is an important element for people in the inside of the building
3 and people on the outside of the building. She explained that the building
4 design will be the same on both sides.

5

6 Councilman Clinchy asked what type of business will be in the
7 development.

8

9 Mr. McClure noted that there is room for a 2,000 SF restaurant and maybe
10 a mail box or copy store.

11

12 Andy Pecunia, resident, asked if the entrance on the other side of Route 6
13 can be changed.

14

15 Attorney Whitehead explained that the applicant worked with the
16 Department of Transportation (DOT) on the entrance and that is not likely
17 to change. She said that changing the entrance will also affect the entire
18 design of the Planned Hamlet. Attorney Whitehead noted that the safest
19 spot for crosswalks is at the lights.

20

21 Mr. Pecunia asked if there will be an emergency entrance at the site.

22

23 Mr. McClure explained that the entrance road is designed wide enough for
24 emergency access.

25

26 Attorney Whitehead mentioned that the improvements have been moved
27 away from the wetland. She said that no activities will be in the
28 Department of Environmental Conservation (DEC) wetland; therefore no
29 DEC wetland permit will be necessary.

30

31 Councilman Morrissey mentioned that the proposal stated that 40,000 SF
32 of retail cannot be supported; however, 8,000 SF of retail can be
33 supported. He asked if there is a middle ground.

34

35 Attorney Whitehead stated that without visibility from Route 6 it would be
36 difficult to have 40,000 SF of retail. She suggested that a deli or dry
37 cleaner would be a neighbor convenience use.

38

39 Councilman Garrity noted that there are now more two bedroom units than
40 that was originally proposed.

1 Councilman Benedict asked about the parking.

2

3 Attorney Whitehead said that non-residential parking is one space per 200
4 SF for retail which equals 30 spaces and spaces for the restaurant equals
5 27 spaces.

6

7 Mr. McClure indicated that 65% will be one-bedroom units and 35% will be
8 two bedroom units and potentially all will be affordable.

9

10 Councilman Clinchy said that there should be demographic projections on
11 school age children.

12

13 Attorney Whitehead noted that there will be approximately 8 school age
14 children. She said that Somers Code limits occupancy in affordable units.

15

16 Councilman Benedict commented that the estimate that 8 school age
17 children will attend school is low.

18

19 Ms. Gerbino said that she supports affordable housing but would like to see
20 more affordable housing for families. She indicated that this is an
21 opportunity for affordable housing for families and she would like the Town
22 to move forward.

23

24 Councilman Clinchy said that someone growing up in Somers has the
25 opportunity to live in Somers as a young working professional and then
26 move on by buying a home in Somers and maybe ending up in Senior
27 Affordable Housing. He noted that a person can spend his whole life in
28 Somers.

29

30 Attorney Whitehead specified that this proposal offers housing for teachers,
31 firemen and policemen.

32

33 Councilman Garrity asked if this proposal would give priority to Somers
34 residents.

35

36 Attorney Whitehead stated that Somers residents are not given priority but
37 they have a better opportunity than they had today.

38

39 Mr. Goldenberg noted that there are 20 less students in Somers schools
40 this year.

1 Chair Currie explained that the Planning Board approved this project in
2 concept but realized that it needs more tweaking. He said that this meeting
3 is to help the Town Board understand the project and to answer any
4 questions the Town Board may have.
5

6 Supervisor Murphy said that she read that petroleum odors were detected
7 during soil borings. She asked if it has been determined that the soil will be
8 able to hold up the buildings. Supervisor Murphy stated that there have
9 been issues in this area and this bears serious review.
10

11 Consultant Engineer Barbagallo explained that an initial Geotech report
12 was provided knowing the history of this area with concern that the site
13 could have soft material and may be difficult to support buildings and would
14 result in putting buildings on piles. Consultant Engineer Barbagallo
15 indicated that a detailed Geotech report was done to assess that situation.
16 He stressed that the Geotech report indicated that materials on site can
17 support the buildings. He mentioned that the report shows two different
18 types of soils and warrants further investigation.
19

20 Consultant Engineer Barbagallo said that petroleum odors were detected
21 by the parking lot and the applicant has agreed to prepare a more detailed
22 investigation and to determine what the environmental condition associated
23 with that is.
24

25 Consultant Engineer Barbagallo noted that understanding of the site soils is
26 necessary to determine appropriate measures for soil excavation and
27 handling. He noted that the Geotech report identifies that an existing layer of
28 fill material was encountered at depths ranging between 1 foot and 6 feet
29 below surrounding grade. Consultant Engineer Barbagallo asked that the
30 applicant perform test pits as part of the approval process and the applicant
31 has agreed. He stressed that a final review and plan have not been
32 provided but the Planning Board wanted input from the Town Board
33 because of the overlying implications of the Zoning changes before going
34 ahead with additional efforts.
35

36 Supervisor Murphy mentioned that PCE was detected in a water test at a
37 house on Mahopac Avenue. She said if this site is another source this is an
38 important issue.
39

1 Consultant Engineer Barbagallo said that because he knows the level of the
2 groundwater is elevated the amount of excavation dewatering will be
3 involved. He noted that he asked the applicant to prepare a layout to
4 describe the proposed dewatering system that includes the proposed
5 collection and conveyance routes of proposed groundwater as well as
6 discharge points and proposed erosion control measures.

7
8 Attorney Whitehead stated that the applicant has retained Geotech
9 structural engineers and an environmental consultant to see if there are any
10 contaminated soils. She said that any contaminated soils on site will be
11 removed.

12
13 Supervisor Murphy opined that the Market Study did not explore the issues
14 in any great depth. She said that parking under the buildings is a great idea
15 and she understands the idea to separate the residential and commercial
16 components. Supervisor Murphy commented that this is a Neighborhood
17 Shopping (NS) Zone. She explained that when the Town re-zoned this site
18 from General Business (GB) to NS Zone it was done because the Town did
19 not want Big-Box stores. Supervisor Murphy said that the residential
20 component came later in order to create an opportunity for affordable
21 housing.

22
23 Supervisor Murphy said that not all the commercial components should be
24 eliminated. She would like to see a 50-50 mix. She said that the ideas of a
25 90% residential and 10% commercial is not what a NS Zone should be.
26 She mentioned that the way the Towne Centre gets visibility is the road that
27 runs through the middle of the site.

28
29 Attorney Whitehead stated that the history she presented came from Town
30 documents. She said that the Master Plan talks about multi-family housing
31 in the Route 6 area. She noted that in 1996 some properties were rezoned
32 from GB to NS and the text of the NS Zone was amended.

33
34 Councilman Benedict said that Attorney Whitehead said “the past is the past
35 and the NS Zone was put in with a purpose and changed with a purpose”.
36 He said the change is what it is and we have to deal with it. He said the
37 question is can the plan be tweaked to make it more commercial.

38
39 Attorney Whitehead said that the purpose of the NS Zone is to provide
40 housing opportunities for small households. She noted that 8,000 SF is as

1 big as the building can be because of the limited amount of frontage and
 2 having the parking up front. Attorney Whitehead mentioned that the Market
 3 Study states that there is not a lot of demand for retail.

4
 5 Mr. Keane mentioned that the Planning Board has the obligation to enforce
 6 the Code in regard to Neighborhood Shopping. He indicated that the
 7 current market place is changing. Mr. Keane noted that more people are
 8 renting homes instead of buying homes because they can't get a loan. He
 9 said new development has to be economically healthy, functionally efficient,
 10 environmentally sound and visually attractive. Mr. Keane stated that the two
 11 primary functions that have to be served are local convenience retail and
 12 personal services and to provide alternative housing for small households.
 13 He explained that the Code mentions principal use as retail stores, banks,
 14 medical and professional offices and child and adult day care. He said that
 15 retail and professional offices will go in across the street in the Planned
 16 Hamlet and retail will go in the Camarda development. Mr. Keane indicated
 17 that there are very few use options available in this location for principal
 18 uses. He said that it is more rational to accenuate the residential, and make
 19 the project economically sound. Mr. Keane stressed that there is nothing
 20 worse than empty stores. He said that if we abide by the absolute letter of
 21 the Code we will have many dark retail stores. Mr. Keane mentioned that
 22 the applicant has now reduced the total number of buildings from five to four
 23 and all buildings will be two stories in height. Mr. Keane explained that the
 24 Planning Board suggested placing the residential in three buildings and
 25 retail should be placed where it is maximized in the best location. He
 26 stressed that this is not about a determination that this project complies with
 27 Code but is about putting something that is viable in Somers that will be
 28 around for a long time.

29
 30 Supervisor Murphy suggested that maybe the Zone should be called multi-
 31 family residential zone and not NS Zone.

32
 33 Attorney Whitehead noted that when the NS Zone was created it allowed
 34 very little residential which was changed as the zoning was changed. She
 35 reiterated what Mr. Keane said that it has to be economically healthy,
 36 functionally efficient, environmentally sound and visually attractive
 37 neighborhood business areas. She said that it also says to serve local
 38 convenience retail and personal services as well as housing opportunities.

1 Councilman Clinchy opined that you don't change good laws for a particular
2 project but because it has good effects. He asked how this change in zoning
3 will affect other parts of Town and along Route 6.

4

5 Town Planner Dym asked how you maintain the integrity of the NS Zone.

6 She said that there are limited areas in Town zoned NS that serve the

7 neighborhood retail commercial needs of different parts of the Town. She

8 said that she was concerned about the global integrity of the NS Zone and

9 its purpose. Town Planner Dym suggested language that could be added to

10 the proposed amendment: *On any property zoned NS which contains more*

11 *than eight (8) acres as of the date of enactment of this amendment and*

12 *provided there will be at least one building along the road frontage which will*

13 *contain first floor retail uses with a minimum square footage of 20 percent of*
14 *the total square footage of residential uses.*

15

16 Town Planner Dym stated that 90% residential and 10% commercial is

17 probably not the right balance but if it is only applied to a very limited

18 amount of sites and if the Town Board and Planning Board are in favor of

19 this development with the caveat of limiting this to current parcels. She said

20 that if the Board agrees she can work with the applicant and their attorney to

21 script the appropriate language.

22

23 Councilman Garrity said that if the Town Board will be changing the Code

24 for this one property he feels that this is spot zoning.

25

26 Town Attorney Eriele asked how it can be limited without spot zoning and

27 tying in with precedent on the actual use of the site. He explained that the

28 best limiting factor in the proposed language is the affordable component

29 because that has to do with how the applicant proposes to use the site.

30 Town Attorney Eriele explained that there will not be spot zoning because

31 the affordable issue is a different planning objective and has to do with use

32 and may be perceived by the Board as a valuable pursuit. He said that from

33 a legal perspective this is a laudable planning goal and is a limiting factor

34 that is not related to the size of a site or area requirements. Town Attorney

35 Eriele said that it is important to distinguish between what is a change in the

36 law and what is proposed with this particular site. He opined that the

37 change in zoning on this site will not have precedent over other sites and

38 will always be a case by case basis.

39

1 Councilman Benedict said that because this is affordable housing does that
 2 affect the funding source and if so does the split between residential and
 3 commercial depend on the deal.

4
 5 Ron Shulman, financier of affordable housing, said that there is a limit on
 6 how much retail can be financed in an affordable housing bond. He
 7 stressed that retail can be at 15% but not higher. He reminded the Board
 8 that residents of this complex will be making between \$45,000. to \$75,000.
 9 per year. He stated that studies show that this complex should not be a
 10 drain on the community because there will be permanent jobs created,
 11 taxes will be generated and economic generators because residents will buy
 12 goods and services. Mr. Shulman stated that studies show that people
 13 shop close to home.

14
 15 Councilman Clinchy said that if the Town Board makes the Zoning change
 16 for this project he as a Town Board member has to ask if this is a good
 17 project for Somers that will justify changing the Code.

18
 19 Councilman Clinchy suggested extending the sidewalk up to the light so
 20 residents can cross the street and do their shopping which will make this a
 21 better project for Somers.

22
 23 Attorney Whitehead explained that the applicant can consider extending the
 24 sidewalk but that will be up to the Department of Transportation (DOT).
 25 She said that the sidewalk will have to be in the right-of-way and will be a
 26 cost issue.

27
 28 Mr. Pecunia said that three new projects will be going up near Route 6
 29 and he is concerned about traffic and he also noted that it will be dangerous
 30 for pedestrians crossing Route 6. He mentioned that it will be dangerous
 31 for cars making a left hand turn out of the development. Mr. Pecunia asked
 32 when improvements will take place on Route 6.

33
 34 Attorney Whitehead said that there was a meeting with DOT in regard to the
 35 Camarda project and DOT is reviewing their options on improvement on
 36 Route 6.

37
 38 Attorney Whitehead stated that a traffic study reviewed by F. P. Clark has
 39 been submitted and is acceptable. She noted that the traffic study was
 40 done when there was much more retail being considered.

1 Mr. Foley mentioned that the Board is discussing a Zoning Amendment. He
2 said that there is a mechanism in place i.e. a variance, and that is handled
3 by the Zoning Board of Appeals. Mr. Foley opined that a code change is the
4 more difficult route versus a traditional route which is a variance.

5
6 Attorney Whitehead explained that the applicant would have to request a
7 use variance which is not traditional and the standard for a use variance is
8 very high. She commented that if the Town Board denies the zoning
9 change the use variance would be an alternative.

10
11 Mr. Goldenberg noted that the Planning Board has had many meetings on
12 this project and approves the project in concept and now it is up to the Town
13 Board to make a decision.

14
15 Chair Currie asked the Town Board for an informal poll on how they feel
16 about this project.

17
18 Councilman Garrity stated that he would like to see more retail.

19
20 Mr. McClure indicated that a lot more retail would be very challenging with
21 the affordable housing component.

22
23 Councilman Clinchy asked if this is the best plan the land can be used for.
24 He said that he is concerned because residents leaving the development
25 have to turn right.

26
27 Mr. McClure reminded the Board that there were no issues regarding the
28 right turn out of the development in the traffic study. He mentioned that the
29 DOT makes all the decisions regarding turns and lights on Route 6.

30
31 Mr. Foley indicated that this plan is unique because the Planning Board
32 usually reviews plans that are code compliant. He explained that this plan is
33 not code compliant but there is a proposal that requires the code to be
34 tweaked. He stressed that given the information that the Board has been
35 given this is the best plan but that is not to say that it should be done.

36
37 Town Attorney Eriole said that no action can be taken tonight but asked if
38 the Town Board is comfortable with reduced retail on this site.

39

1 Rick Van Benschoten, applicant, noted that some of his employees at the
2 Golf Range live a distance away because they can't find affordable housing
3 in this area. He indicated that he can look at 15% retail which amounts to
4 1,700 SF. He said that he doesn't want it to be overlooked that this project
5 is good for the Town.

6
7 Councilman Benedict said that the decision has to be is this the best project
8 for this property.

9
10 Attorney Whitehead suggested putting this project on the Town Board
11 October Work Session.

12
13 Supervisor Murphy asked if there are any site conditions that will reduce the
14 development potential.

15
16 Attorney Whitehead stated that she is comfortable that there is no site
17 condition that will reduce the development potential of this site. She
18 explained that Consulting Engineer Barbagallo is asking how things will be
19 done. She mentioned that contaminated soil will have to be removed but
20 this will not make the project economically unfeasible.

21
22 Consulting Engineer Barbagallo noted that if economics change and it is
23 costly to make those changes you will be looking at a changed project.

24
25 Mr. McClure said that if residential units have to be reduced the applicant
26 would have to review the matrix but he is doubtful that will happen.

27
28 Consulting Engineer Barbagallo indicated that the applicant only wants to go
29 as high as 15% retail and he suggested that a plan showing 15% retail be
30 submitted.

31
32 Mr. Keane said that the Planning Board worked on visual impacts and its
33 context in the neighborhood.

34
35 Supervisor Murphy stated that she did not suggest changing the height of
36 the front building but suggested eliminating the nine (9) housing units on the
37 second floor and replacing them with retail.

38

1 Attorney Whitehead explained that the applicant has struggled with parking
 2 close to the retail building and if that has to be increased it will increase the
 3 parking requirement.

4
 5 Councilman Morrissey indicated that the project that is in the NS Zone now
 6 has more residential and less retail. He said that this is nonconforming and
 7 does not fit in the NS Zone. Councilman Morrissey said he would be more
 8 comfortable if there was more retail. He indicated that the Town Board is
 9 here to enforce Code not to change Code and his preference is a variance
 10 rather than a Code change.

11
 12 Mr. Keane said that originally 50-foot buildings were considered and the
 13 Planning Board changed that but the applicant has the right to go back to
 14 50-foot three story buildings. He said the Planning Board has tried to
 15 balance everyone’s needs. Mr. Keane asked where the Town is in regard
 16 to Westchester County and HUD in regard to affordable housing.

17
 18 Town Planner Dym noted that this project now shows 12% retail and 15%
 19 equals just one more retail store.

20
 21 Ms. Gannon indicated that this plan tries to balance parking, aesthetics
 22 visibility of retail and landscaping.

23
 24 Attorney Whitehead said that she will work on the text amendment
 25 language and she hopes this project will be heard at the October Town
 26 Board meeting.

27
 28 **DISCUSSION**

29
 30 **GRANITE POINTE SUBDIVISION FSEIS**
 31 **COMPLETENESS REVIEW**

32
 33 Chair Currie said that the Board will discuss fees for professional consulting
 34 services in connection with the Planning Board’s completeness review of
 35 the Final Supplemental Environmental Impact Statement for the Granite
 36 Pointe Subdivision.

37
 38 Chair Currie mentioned that the Board and the applicant have received
 39 proposals from Frederick P. Clark, Woodard & Curran and EA Engineering
 40 to review the document.

1 Timothy Allen, representing the applicant, explained that the applicant met
2 with the consultants and from that meeting the applicants were able to
3 prepare their proposals for the completeness review. He said that the
4 applicant was surprised at the cost of the review and would like to resolve
5 the issue.

6

7 Engineer Allen explained that the impact statement is based on the
8 Brownfield approval with the Department of Environmental Conservation
9 (DEC) which are found in Volumes 2 and 3. He noted that Volume 1
10 references comments from the Planning Board, their consultants and
11 residents' comments. He mentioned that the SEQRA process has to be
12 closed with the Planning Board. Engineer Allen said that the documents in
13 Volume 2 and 3 should not be changed but incorporated into the plan. He
14 noted that Paul Muessig of EA Engineering will be reviewing the technical
15 part of the documents.

16

17 Mr. Keane commented that Volumes 2 and 3 relate to the Remedial Action
18 that has been approved by the DEC to resolve the lead problem on the site.
19 He questioned if it is necessary to review Volumes 2 and 3 which have
20 already been approved by the DEC. He explained that if DEC has
21 approved Volumes 2 and 3 that removes those issues from an
22 environmental impact.

23

24 Engineer Allen indicated that Mr. Muessig will review the testing criteria in
25 order to close the SEQRA process.

26

27 Consulting Engineer Barbagallo said that after the meeting with the
28 consultants they compartmentalized the issues into three parts. He
29 explained that he will be reviewing the Stormwater Pollution Prevention
30 Plan (SPPP) and the access. He noted that making sure all the comments
31 that were received during the SEQRA process were adequately addressed.
32 Consultant Engineer Barbagallo said the F.P. Clark will verify that the
33 FSEIS Volume 1 includes copies of all correspondence submitted in DSEIS
34 in Section 5 and all Public Hearing transcripts in Section VI. He explained
35 that F.P. Clark will color-code a version of those pages to identify F.P.
36 Clark's, EA Engineers and Woodard & Curran's review responsibilities and
37 coordinate in regard to review assignments.

38

1 Mr. Keane stressed that this is about the removal of lead from the site and
2 very little planning is involved. He said that if the site is remediated it can
3 be developed.

4
5 Sarah Brown, representing F. P. Clark, stated that the Lead Agency has to
6 ensure that all comments are answered in the FSEIS portion of the
7 document.

8
9 Mr. Keane asked if there is any legal requirement that every question has
10 to be answered that was raised at the Public Hearing or do you just have to
11 meet the criteria that there is no significant impact.

12
13 Town Attorney Eriole advised that he will research the legal requirements
14 and will attend the meeting with the consultants.

15
16 Engineer Allen stated that all relevant questions have to be answered.

17
18 Town Attorney Eriole advised that all comments have to be acknowledged.
19 He noted that the important question is “have you done the appropriate
20 review”.

21
22 Chair Currie suggested that the consultants rework their estimates.

23
24 Mr. Goldenberg asked if environmental groups can challenge the DEC
25 Brownfield document.

26
27 Engineer Allen noted that the DEC held a Public Hearing on the Remedial
28 Plan.

29
30 Town Attorney Eriole advised that what gives rise to a challenge is a new
31 decision by any discretionary Board. He indicated that relevant questions
32 and comments should be answered to protect the record.

33
34 Mr. Muessig stated that the FSEIS is the Board’s document and needs to
35 be complete according to SEQRA. He said that the Board has to make
36 sure that the comments in the record are addressed. He noted that some
37 comments may be grouped and not answered individually. Mr. Muessig
38 stressed that if DEC did their homework the document should be good and
39 he will only have to do a cursory review.

40

1 Mr. Keane asked what the Department of Environmental Protection (DEP)
2 was doing about a small portion of lead on their property.

3
4 Engineer Allen explained that a letter of intent was given to the DEP to
5 allow them on the applicant's property but the DEP never contacted them.

6
7 Engineer Allen stated that he would like to schedule a meeting with the
8 three consultants, Planning Board representative and Town Attorney to
9 rework their proposals.

10
11 There being no further business, on motion by Ms. Gannon, seconded by
12 Mr. Goldenberg, and unanimously carried, the meeting adjourned at 10:45
13 P.M. and the Chair noted that the next Planning Board meeting will be held
14 on Wednesday, October 10, 2012 at 7:30 P. M. at the Somers Town
15 House.

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25

Respectfully submitted,

Marilyn Murphy
Planning Board Secretary