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PLANNING DEPARTMENT

TOWN HOUSE
335 ROUTE 202
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Town of Somers

WESTCHESTER COUNTY, N.Y.



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

3

**SOMERS PLANNING BOARD MINUTES
FEBRUARY 23, 2011**

4

5

6

7 **ROLL:**

8

9 **PLANNING BOARD**

10 **MEMBERS PRESENT:**

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

11

12

13 **ABSENT:**

Mr. Goldenberg

14

15 **ALSO PRESENT:**

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

16

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20 The meeting commenced at 7:30 p.m. Planning Board Secretary Marilyn
21 Murphy called the roll. Chairman DeLucia noted that a required quorum of
22 four members was present in order to conduct the business of the Board.

23

24 Chairman DeLucia noted that there are no minutes to consider approving at
25 this time since the January 12, 2011 and January 26, 2011 meetings were
26 cancelled due to the snowstorms. She said that the Board will now review
27 the items on the agenda.

28

29

30 **PROJECT REVIEW**

31

32

1 **METROPCS NEW YORK, LLC**
2 **[TM: 17.15-1-13]**

3
4 Chairman DeLucia mentioned that this is the application of MetroPCS New
5 York, LLC for Amended Site Plan Approval, Wetland and Stormwater
6 Management and Erosion and Sediment Control Permits and Special
7 Exception Use Permit for activity in the Groundwater Protection Overlay
8 District to co-locate a wireless telecommunications facility on the existing
9 103' tall stealth flagpole tower with associated unmanned equipment to be
10 located at grade within an expansion of the existing fenced compound.
11 The Chair explained that the existing tower is located at the Somers Towne
12 Centre property, 325 Route 100, in the Neighborhood Shopping (NS)
13 Zoning District. She noted that MetroPCS has entered into a
14 Communications Site Lease Agreement with Urstadt Biddle Properties,
15 Inc., the owner of the property, and with T-Mobile Northeast, LLC, owner of
16 the existing tower. The Chair said that the applicant is represented by
17 Anthony B. Gioffre III, of the law firm Cuddy & Feder LLP of White Plains,
18 N.Y. and Scott M. Chasse, P.E. of the engineering firm All Points
19 Technology Corp. of Killingworth, Connecticut.

20
21 The Chair acknowledged for the record, receipt of the following: a
22 submission by cover letter dated January 27, 2011 received on January 28,
23 2011 and related documents, and a revised submission under cover letter
24 dated February 15, 2011 received on February 16, 2011; a memo dated
25 February 17, 2011 received on February 18, 2011 from the Somers Bureau
26 of Fire Prevention having no objections; a memo from Consulting Town
27 Engineer Joseph C. Barbagallo, P.E. dated February 18, 2011 giving 6
28 review summary comments; and a memo dated February 18, 2011 from
29 Town Planner Sabrina Charney Hull, AICP, with 4 project review comments
30 and recommendations.

31
32 The Chair asked the applicant's representative to give a brief presentation
33 regarding the submission.

34
35 Anthony Gioffre, the applicant's attorney, noted that MetroPCS is a
36 licensed wireless carrier by the Federal Communications Commission
37 (FCC) similar to AT&T Wireless and Sprint and Nextel. He explained that
38 MetroPCS is a new entry into the wireless market in this area and recently
39 advertised on radio, newspapers and TV. Attorney Gioffre mentioned that
40 there are a number of permits that have to be obtained in order to co-locate

1 within the existing flagpole at the Towne Centre. He said that the flagpole
 2 is 103' tall and currently services the need of T-Mobile which has two (2)
 3 interior slots with vertical real estate for its antennas. Attorney Gioffre
 4 commented that MetroPCS is preparing to co-locate on the tower similar to
 5 T-Mobile and will be providing three antennas, one vertical slot of real
 6 estate, as opposed to six (6) antenna and two (2) slots of vertical real
 7 estate that T-Mobile has. He explained that at the base of the tower T-
 8 Mobile has an existing fenced compound and exterior equipment cabinets
 9 and MetroPCS is proposing to extend the compound. Attorney Gioffre
 10 indicated that the extension of the compound will be 16'X11' with a
 11 concrete pad for communication equipment to enable the facility to operate.

12
 13 Attorney Gioffre stated that he provided documentation and materials in
 14 compliance with the Wireless section of the Ordinance. He mentioned that
 15 before and after photos with respect to the tower were submitted and he
 16 explained that basically what you see today will be the same because the
 17 antennas will be mounted internal to the tower. Attorney Gioffre indicated
 18 that the base of the tower will have a minor bump-out of the existing
 19 compound and landscaping will be relocated to mitigate any visual impacts.
 20 He noted that an emissions analysis was provided which demonstrates
 21 compliance with the FCC requirements for radio frequency emissions.
 22 Attorney Gioffre stated that the emissions analysis that was conducted was
 23 a worst case scenario and took into consideration the T-Mobile operation
 24 as well as the proposed MetroPCS operation. He stressed that the
 25 cumulative analysis complies with the Federal Guidelines and is less than
 26 1% of those guidelines.

27
 28 Attorney Gioffre commented that he received correspondence from the
 29 Town Planner and Consulting Town Engineer requesting clarification and
 30 additional materials and he will respond to these requests. He said that he
 31 will have this team available at the Public Hearing to answer technical
 32 questions.

33
 34 The Chair asked Consulting Town Engineer Barbagallo to summarize his
 35 memo to the Board for the benefit of the public.

36
 37 Consulting Town Engineer Barbagallo said that before he discusses his
 38 memo he is curious as to why MetroPCS technology requires one (1)
 39 vertical space with the existing carrier requiring multiple vertical spaces.
 40 He asked if it is technology or is it a function of height and location.

1 Attorney Gioffre explained that some carriers have two (2) license bands
2 while MetroPCS has only one (1) licensed frequency. He noted that this is
3 a streamlined tower with internally mounted antennas and there can only
4 be three (3) antennas at one slot of vertical real estate. Attorney Gioffre
5 said that when you build a tower like this one you try to get as much co-
6 location as possible with MetroPCS taking one slot with another carrier in
7 the future taking the last slot.

8
9 Consulting Town Engineer Barbagallo noted that the Site Plan shall include
10 topography on the drawings within the area of the proposed improvements.
11 He indicated that it is his understanding that the existing landscaping is not
12 in compliance with the approved Site Plan for the existing tower. He
13 anticipates that the Principal Engineering Technician, Steve Woelfle, will
14 issue a memorandum in this regard. Consulting Town Engineer Barbagallo
15 stated that the applicant shall coordinate on these issues when preparing
16 their landscaping plan. He mentioned that the Planning Board should
17 consider whether additional buffer wetland mitigation is necessary to
18 account for impacts/disturbances to the wetland buffer. Consulting Town
19 Engineer Barbagallo said that the applicant should clarify, via hatching or
20 other identifiable key, all proposed surface types, including the limits of the
21 proposed gravel compound area. He mentioned that a note shall be added
22 to the Site Plan Drawings indicating that any change in surface materials
23 (i.e. gravel to impervious) is not permitted and an enlarged Site Plan of the
24 existing condition identifying existing surface types shall be included as
25 well. Consulting Town Engineer Barbagallo noted that the applicant shall
26 provide for stormwater treatment for all new impervious surfaces to be
27 installed and that they may be required due to change in surface type as
28 part of this application. He also recommended that the applicant submit
29 stormwater calculations of the pre and post conditions to size any required
30 improvements to treat runoff. Consulting Town Engineer Barbagallo said
31 that the Erosion Control Plan shall include locations of all temporary and
32 permanent erosion and sediment control measures that comply with the
33 most current version of the New York State Standards and Specifications
34 for Erosion and Sediment Control, including areas used for temporary
35 access, storage of construction materials, or stockpiling.

36
37 The Chair asked Town Planner Hull to share her project review memo to
38 the Board for the benefit of the public.

39

1 Town Planner Hull said that the applicant should provide written
 2 confirmation that Urstadt Biddle approves of moving/relocation of the
 3 landscape plantings. She also recommended that the applicant provide
 4 larger scale drawings concerning the area of the property that is subject to
 5 this application. Town Planner Hull indicated that she cannot verify the
 6 zoning conformance table setbacks at the scale provided. She mentioned
 7 that the approved setback/height distance variances, as referred to in the
 8 Zoning Conformance Table, should be incorporated into the table and not
 9 listed as a footnote reference to the table. Town Planner Hull noted that the
 10 applicant has not provided any wetland mitigation for further disturbance
 11 within the wetland buffer.

12
 13 The Chair asked if there were any comments or questions from members
 14 of the Board.

15
 16 Mr. Keane asked if co-location is a fait accomplis and how will the applicant
 17 justify the necessity requirement under Town Code as to why MetroPCS
 18 should be allowed to co-locate on this tower.

19
 20 Attorney Gioffre said that he provided radio frequency data which
 21 demonstrates that there is a critical gap in coverage in this area and co-
 22 location on this tower will provide coverage in this area. He stressed that
 23 co-location is preferred under the Ordinance and this is the least intrusive
 24 means to provide coverage in this area. Attorney Gioffre noted that a new
 25 tower may be required if this application is denied. He said that when this
 26 tower was approved co-location was contemplated by the Zoning Board of
 27 Appeals (ZBA) and the Planning Board.

28
 29 Mr. Keane noted that without a doubt co-location would be favored. He
 30 said that according to the necessity standard the applicant must
 31 demonstrate that within and outside the borders of Somers how the gap is
 32 justified. Mr. Keane said that he wants to understand from a marketing
 33 perspective and engineering perspective relating to the marketing where
 34 the need is to provide this service and how is that gap created by virtue of
 35 the applicant not being able to co-locate on this tower.

36
 37 Attorney Gioffre said that he is not sure he follows Mr. Keane's logic but
 38 marketing has nothing to do with zoning requirements with respect to the
 39 FCC requirements to provide coverage. He said that if there are no
 40 customers yet because there are no towers or co-location sites do you get

1 customers first and then build the tower. He stressed that the FCC has
2 granted license to MetroPCS and requires them to build out its coverage in
3 this specific area. Attorney Gioffre said that it was demonstrated in the
4 radio frequency report that there is no coverage in Somers and coverage
5 has to be provided to customers who live and travel in this area.

6
7 Mr. Keane said that what Attorney Gioffre is saying is that Federal Law lets
8 the applicant co-locate and then wait to see what type of response you get
9 from your customers.

10
11 Attorney Gioffre responded that Federal Law requires that the applicant
12 build out coverage in this area.

13
14 Mr. Foley said that what has to be demonstrated is that there is an area
15 that does not have coverage and that is called a gap and that allows an
16 application for co-location or a tower.

17
18 Consulting Town Engineer Barbagallo noted that the spots on the towers in
19 Town are limited and the Board wants to make sure it gets the best use of
20 the towers. He asked if the applicant looked at co-locating on another
21 tower in Town to fill the gap in coverage.

22
23 Mr. Keane explained that if tomorrow an applicant came in that had three
24 times the need as this applicant what would happen.

25
26 Mr. Foley said this is hypothetical and has not occurred.

27
28 Ms. Gannon stressed that the Board should address the application that is
29 before the Board presently.

30
31 Attorney Gioffre replied that this is not a requirement in the Town Code.
32 He stressed that the Telecommunications Act of 1996 states that there can
33 be no discrimination against wireless carriers.

34
35 Mr. Keane said that Town Code states *constituting a significant gap*
36 *demonstrated by standard engineering practices, prevailing industry*
37 *service standards and the standards hereof.*

38

1 Attorney Gioffre opined that has been provided with the submission
2 materials. He said if there is any ambiguity it must be weighed in favor of
3 the applicant.

4
5 Town Attorney Eriole advised that if the opportunity presented itself that
6 there is limited capacity for co-location it would be evaluated. He said that
7 under the circumstances with this application the inquiry is valid. Town
8 Attorney Eriole said that the applicant should have investigated co-locating
9 somewhere else in Town that would serve MetroPCS needs better.

10
11 Attorney Gioffre said that the Board cannot say this site is better for Verizon
12 than MetroPCS.

13
14 Town Attorney Eriole stated that Attorney Gioffre is misunderstanding the
15 question. He stressed that what is meant is what needs may MetroPCS
16 have and if alternative co-location sites have been considered.

17
18 Ms. Gannon noted that even if MetroPCS has a need now for one slot and
19 at a future date they need two slots whose to say that space will be
20 available on another tower.

21
22 Attorney Gioffre indicated that MetroPCS business model is not to build
23 new towers but to co-locate on existing towers where feasible and to put
24 antennas on buildings where feasible. Attorney Gioffre stressed that the
25 tower at the Towne Centre is a great tower with a great location with two
26 major roads. He said that the goal for planning is to try and minimize the
27 number of towers.

28
29 Ms. Gerbino said that it was stated that there is no coverage for customers
30 who travel through the area.

31
32 Attorney Gioffre referenced Exhibit C in the January 27, 2011 submission
33 and the sub-exhibits which demonstrate the coverage that will be provided
34 by this site as well as other sites.

35
36 Consulting Town Engineer Barbagallo asked that existing sites with
37 antennas be shown.

38

1 Attorney Gioffre said that he can only show coverage for MetroPCS and not
2 other carriers. He said that sub-exhibit 5 shows a MetroPCS site located in
3 Mahopac.

4
5 Town Planner Hull said that one of the things the Board has been battling
6 with is a request for a Master Plan. She explained that a company states
7 they have gaps in service but the crux of the issue is MetroPCS is a
8 company that needs to provide service to its customers and when looking
9 at the maps MetroPCS has barely any coverage in Somers. Town Planner
10 Hull noted that the Board is asking is this the best location long term
11 knowing all the applications approved or underway in Town and will this
12 tower give you the best service you need for your Master Plan. She
13 mentioned that the tower at the Towne Centre is not very tall and the Board
14 wants to make sure that the applicant did its due diligence in identifying the
15 best co-location for the MetroPCS network.

16
17 Attorney Gioffre said that the analysis that is being referenced is completely
18 different when you are looking at providing new coverage by a new tower.
19 He indicated that it is different when you have a monopole that is
20 expandable. Attorney Gioffre mentioned that an existing site is encouraged
21 and preferred under the Town Ordinance and when you are in a high
22 impact zone you are required to co-locate. He mentioned that the Lincoln
23 Hall tower was reviewed and MetroPCS is going to make an application to
24 co-locate on that tower. Attorney Gioffre said that it is difficult to obtain
25 leases and MetroPCS was able to obtain a lease for the Towne Centre
26 tower.

27
28 Mr. Keane said that co-location should be very quick and not be a long
29 drawn out process. He noted that the Planning Board is now the prime
30 Board on this application and one of the threshold issues is the necessity
31 issue.

32
33 Attorney Gioffre reminded the Board that they have an obligation not to
34 discriminate against a carrier.

35
36 Mr. Keane noted that no one is talking about discriminating against a
37 carrier but is talking about the criteria in the Town Code and that the
38 significant gap definition is met. He opined that the Board needs someone
39 to technically review and evaluate the criteria and make sure it has been

1 met. Mr. Keane opined that the other issues are minor as the Board has
2 already reviewed the pole.

3
4 Attorney Gioffre said that when sites are identified as having a significant
5 gap what happens is that the MetroPCS team reviews the zoning code and
6 canvasses the area to find the best locations and the least intrusive area
7 for co-location. He mentioned that when you find an existing tower with the
8 ability to co-locate from an industry perspective this is a good location.

9
10 Town Planner Hull noted that if the Board wants to engage the services of
11 a wireless consultant to review this application it must be directed by a
12 majority of the Planning Board. She said that the review can be as broad
13 or narrow as the Planning Board determines.

14
15 Town Attorney Eriole said that the Board wants the methodology confirmed
16 that determined that the Towne Centre is the best co-location site to meet
17 MetroPCS needs. He said that this is a valid inquiry.

18
19 Mr. Currie opined that the applicant has to demonstrate that they have a
20 need because of a gap in coverage.

21
22 Attorney Gioffre said that among other things the applicant has to
23 demonstrate that there is a need for coverage. He reiterated that the
24 applicant's team canvassed the area and the tower at the Towne Centre
25 meets their needs.

26
27 Mr. Keane noted that it is not impossible for a mistake to be made and the
28 Board needs confirmation of what the necessity elements calls for.
29 He said that the file should have technical confirmation as to the accuracy
30 of the documentation and what the Town Code calls for.

31
32 Attorney Gioffre said that he has never seen a Board ask for a wireless
33 consultant to confirm that an emissions analysis is correct.

34
35 Mr. Keane stated that the emissions analysis is not relevant in relation to
36 necessity.

37
38 Mr. Foley asked where MetroPCS's nearest pole is located.
39 Attorney Gioffre explained that the nearest pole is located at Crosby Road
40 which is north of 684.

1 Ms. Gerbino mentioned the cell tower on Route 100 (Majestic) and
2 questioned why MetroPCS wants to locate on the Towne Centre pole and
3 not on the cell tower at the Majestic location.

4
5 Town Planner Hull said that the Town's goal is to reduce the number of
6 towers. She noted that thinking of the Town as a whole and a Master Plan
7 discussion, the question is, is this the best location for this particular
8 applicant. Town Planner Hull explained that if going on a taller pole
9 provides greater coverage that is something the Board may want to know.

10
11 Ms. Gannon said that there is another cell tower collocation application
12 where the ZBA is Lead Agency and she does not recall that the ZBA
13 requested an expert review on necessity. She said that this does not mean
14 the Planning Board should not request the review but she is asking if this is
15 a common practice.

16
17 The Chair asked for a poll of the Board to retain an outside consultant to
18 confirm necessity under Town Code §170-129.7(A) on a limited basis for
19 this co-location.

20

21 Ms. Gerbino Yes

22 Mr. Keane Yes

23 Mr. Currie No

24 Mr. Foley No

25 Ms. Gannon Yes, provided only the gap data is confirmed

26 Chair DeLucia Yes

27 On motion by Chair DeLucia, seconded by Mr. Keane, and carried, the
28 Board moved to retain consultant Michael Musso, HDR, to confirm the
29 necessity for this co-location.

30

31 Town Planner Hull advised that Mr. Musso will have to submit a scope and
32 estimate for his work and the Planning Board and the applicant must agree.

1
2 The Chair asked Attorney Gioffre if he had any objection to Mr. Musso
3 reviewing the necessity for the co-location.
4
5 Attorney Gioffre stated that he has no objection to Mr. Musso reviewing the
6 necessity for the co-location and he requested permission to correspond
7 with Mr. Musso. He asked that the process be expedited.
8
9 The Chair directed the applicant to adequately address the outstanding
10 issues and comments by staff and the Board and submit larger scale
11 drawings for the Town Planner's review.

12
13 **PROJECT REVIEW**

14
15 **HOMELAND TOWERS, LLC, NEW CINGULAR WIRELESS PCS,**
16 **LLC (AT&T) SITE PLAN AND WETLAND PERMIT**
17 **(SANTARONI PROPERTY) [TM: 37.13-2-3]**
18 **2580 ROUTE 35**

19
20 Chairman DeLucia mentioned that this is an application of Homeland
21 Towers, LLC/New Cingular Wireless (AT&T) for property located at 2580
22 Route 35 owned by Umberto and Carol Santaroni for a wireless
23 communications facility in an R-120 Residential Zoning District. The Chair
24 explained that an E-mail sent by Robert D. Gaudio, attorney for
25 Homeland Towers, was received on Monday, February 21, 2011 requesting
26 that this matter be taken off the Planning Board agenda since the Zoning
27 Board is still in the process of adopting the request for additional
28 information regarding scoping and the applicant has not submitted new
29 documentation at this stage.

30
31 **PROJECT REVIEW**

32
33 **HERITAGE HILLS OF WESTCHESTER**
34 **SEWAGE TREATMENT PLANT SUBDIVISION**
35 **RE-SUBDIVISION APPLICATION FOR ABBREVIATED**
36 **APPROVAL PROCESS [TM: 17.10-10-18]**

37
38 Chairman DeLucia said that this is an application of Heritage Hills of
39 Westchester Limited Partnership by General Partner Henry Papparazzo for
40 Abbreviated Approval Process under Section 150-15 for a two-lot

1 subdivision of an approximately 18.582 acre parcel located at the
 2 intersection of Heritage Hills Drive and Route 202. The Chair noted that
 3 this application meets the criteria to be reviewed under Town Code Section
 4 150-15 Abbreviated Approval Process. The Chair mentioned that
 5 according to a letter dated February 11, 2011 received on February 14,
 6 2011 by Attorney Linda B. Whitehead of the law firm McCullough,
 7 Goldberger & Staudt, LLP of White Plains, NY, representing the applicant,
 8 a portion of this parcel is improved with the Heritage Hills Sewage
 9 Treatment Plant. She noted that the property is located in the DRD Zoning
 10 District and the R-40 Residential Zoning District. The Chair explained that
 11 the purpose of this subdivision is solely to provide for the transfer of
 12 ownership of an approximately 9 acre portion of the parcel containing the
 13 sewage treatment plant to the Heritage Hills Sewage-Works Corporation
 14 and that no new improvements are proposed in relation to the subdivision.
 15 She said that the applicant requests that the Board waive the requirement
 16 for a topographic map and for a constraints and soils map.

17
 18 The Chair acknowledged for the record, receipt of the following: letters
 19 dated February 11, 2011 from attorney Linda B. Whitehead of McCullough,
 20 Goldberger & Staudt LLP enclosing a submission, and a letter dated
 21 February 18, 2011 regarding the SEQRA issues that this application does
 22 not qualify as a action and that no further environmental review is required;
 23 a letter dated February 17, 2011 to Town Planner Hull from Marc A.
 24 Brassard, AIA, Vice President and Director of Architecture & Planning of
 25 Heritage Development Group, Inc. enclosing copies of the East Hill Design
 26 Residential District Boundary Map, sheet one of two; a memo dated
 27 February 18, 2011 from Consulting Town Engineer Joseph C. Barbagallo,
 28 P.E. commenting that it is not clear what the overall purpose of the
 29 subdivision is; and a memo dated February 18, 2011 from Town Planner
 30 Sabrina Charney Hull, AICP with project review and recommendations and
 31 comments.

32
 33 The Chair asked the applicant's representative Linda B. Whitehead, Esq. to
 34 give a brief presentation on matters that have not been covered regarding
 35 this application.

36
 37 Linda Whitehead, the applicant's attorney, explained that this parcel of land
 38 is still owned by Heritage Hills of Westchester, however, the sewage
 39 treatment parcel should really be owned by the Sewage Works
 40 Corporation. She noted that the proposal is to subdivide the parcel so the

1 portion containing the treatment plant including all of its stormwater
2 improvements be transferred to the Heritage Hills Sewage Works
3 Corporation. Attorney Whitehead stated that there will be no new
4 improvements or construction proposed in relation to the subdivision and
5 that it will just be to transfer ownership of that portion of the property. She
6 explained that this is a re-subdivision, and that in 1973 the lot was created
7 as Lot 1 and the reason for the plan titled "Re-Subdivision of Parcel 1".
8 Attorney Whitehead provided the DRD Map to show the zoning boundary
9 line which cuts through the middle of the parcel.

10
11 Ms. Gerbino noted that DRD zone was created in 1972 and the sewer and
12 water works were separate and privately owned.

13
14 Attorney Whitehead said that the lot was not created for the sewer works.
15 She explained that it was created for Heritage Hills Drive which separated
16 this lot from the Administration Building.

17
18 Marc Brassard, AIA, Vice President and Director of Architecture & Planning
19 of Heritage Development Group, said that the DRD parcel was owned by
20 Heritage Hills of Westchester.

21
22 Attorney Whitehead noted that the Sewer Works was a separate
23 corporation but did not own the land and this transfer should have been
24 made a long time ago.

25
26 Consulting Town Engineer Barbagallo said that his question is what is the
27 overall purpose of the subdivision. He noted that he now understands that
28 there will not be any construction of the lot that fronts on Route 202.

29 Consulting Town Engineer Barbagallo asked for an explanation on how the
30 line was drawn to separate the parcels. He also asked about the
31 Department of Environmental Protection (DEP) upgrades to the plant.

32
33 Attorney Whitehead indicated that a little extra area was provided for the
34 Sewage Treatment Plant in case they need it. She said that DEP upgrades
35 are on-going but there is no need for any additional structures or land area.
36 Attorney Whitehead explained that new technology with treatment
37 changes will use less space.

38
39 Mr. Keane asked if the lot closest to Route 202 is buildable.

40

1 Attorney Whitehead said that there are wetlands on the lot and the lot is
2 in the R-40 Zone and can only be used for a single family residence.

3
4 The Chair asked if there were any comments or questions from members
5 of the Board and staff.

6
7 Town Attorney Eriole said that it appears that the subdivision will leave two
8 lots that are conforming under Code. He said that with the created lot
9 something may be done with that asset. Town Attorney Eriole said his
10 concern is if this application meets the standards for the Abbreviated
11 Approval Process. He explained that one standard is that the Planning
12 Board finds no conflict with the public interest including possible future
13 subdivision of the property.

14
15 Attorney Whitehead stated that the lot that is being created can support
16 one house and if that residence was to be proposed it would have to come
17 back before the Planning Board.

18
19 Attorney Whitehead stressed that there is not much difference between the
20 Abbreviated Approval Process and Preliminary Subdivision Approval and if
21 the Board decides the application should not be processed under the
22 Abbreviated Approval Process she will apply for Preliminary Subdivision
23 Approval.

24
25 The Chair noted that if there is an objection at the Public Hearing the
26 application cannot proceed under the Abbreviate Approval Process.

27
28 Town Planner Hull said that in a letter from Attorney Whitehead it
29 says that *this action does not qualify as an action, as defined under*
30 *§617.2 of 6 NYCRR Part 617, no further environmental review is*
31 *required.*

32
33 The Chair noted that the applicant has requested that the Board waive the
34 requirement for a topographic map, constraints and soils map. She
35 mentioned that Town Planner Hull in her February 18, 2011 memo to the
36 Board states that she has no objections to the Board issuing the requested
37 waivers.

38
39 The Chair indicated that there was a consensus of the Board to grant the
40 request.

1 On motion by Ms. Gannon, seconded by Ms. Gerbino, and unanimously
2 carried, the Board moved to waive a site walk and requirement for a
3 topographic map and constraints and soils map.

4
5 The Chair noted that there is a consensus of the Board to schedule a
6 Public Hearing for March 23, 2011.

7
8 On Motion by Chair DeLucia, seconded by Mr. Keane, and unanimously
9 carried, the Board moved to schedule a Public Hearing on the application
10 of Heritage Hills of Westchester LP for a two lot subdivision for
11 Wednesday, March 23, 2011 at 7:30 p.m. at the Somers Town House.

12
13 There being no further business, on motion by Ms. Gannon, seconded by
14 Mr. Keane, and unanimously carried, the meeting adjourned at 9:15 P.M.
15 and the Chair noted that the next Planning Board meeting will be held on
16 Wednesday, March 9, 2011 at 7:30 P. M. at the Somers Town House.

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23
24

Respectfully submitted,

Marilyn Murphy
Planning Board Secretary