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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 MINUTES
SPECIAL MEETING
JANUARY 17, 2013**

4

5

6

7

8 **ROLL:**

9

10 **PLANNING BOARD**

11 **MEMBERS PRESENT:**

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

12

13

14

15 **ALSO PRESENT:**

Town Planner Syrette Dym
Consultant Engineer Joseph Barbagallo
Town Attorney Joseph Eriole
Planning Board Secretary Marilyn Murphy

16

17

18

19

20 The meeting commenced at 7:35 p.m. Planning Board Secretary Marilyn
21 Murphy called the roll and noted that a required quorum of four members
22 was present in order to conduct the business of the Board.

23

24 **APPROVAL OF NOVEMBER 14, 2012 MINUTES**

25

26 Chairman Currie noted that Planning Board Secretary Marilyn Murphy
27 prepared and submitted for the Board's consideration the approval of the
28 draft minutes of the Planning Board meeting held on November 14, 2012.

29

30

31 On motion by Mrs. DeLucia, seconded by Mr. Goldenberg, and
32 unanimously carried, the minutes of November 14, 2012 were approved.

1
 2 The Chair noted that the DVD of the November 14, 2012 Planning Board
 3 meeting is made a part of the approved minutes and is available for public
 4 viewing at the Somers Public Library. The text of the approved minutes are
 5 also on the Town’s website www.somersny.com and is available for public
 6 review at the Planning & Engineering office at the Town House.

7
 8 **PROJECT REVIEW**

9
 10 **SOMERS REALTY PLANNED HAMLET**
 11 **FINAL SUBDIVISION APPROVAL AND LOT LINE CHANGE;**
 12 **WETLAND, TREE PRESERVATION AND STORMWATER**
 13 **MANAGEMENT AND EROSION AND SEDIMENT CONTROL PERMITS**
 14 **[TM: 4.20-1-15, 18]**
 15

16 Ms. Gannon disclosed that Seth Mandelbaum, who is representing the
 17 applicant, is known to her because of her position at the Pace University
 18 Law Library where she was his supervisor when he was a student. She
 19 stated that this does not affect her ability to make a fair decision on this
 20 application.

21
 22 Chairman Currie said that this is the project review of the Somers Realty
 23 Planned Hamlet for Final Subdivision Approval, Lot Line Change and
 24 related permits.

25
 26 The Chair asked the applicant’s representative to give a brief presentation
 27 regarding this application.

28
 29 Seth Mandelbaum, the applicant’s attorney filling in for Attorney Whitehead,
 30 indicated that along with Attorney Whitehead he reviewed the draft
 31 Resolution of Approval. He mentioned that Engineer Gregory and
 32 Consulting Engineer Barbagallo have been coordinating regarding the
 33 outstanding issues on the plans.

34
 35 Attorney Mandelbaum noted that he realizes because of open issues that
 36 the draft resolution cannot be approved this evening. He stated that he
 37 feels that the issues can be worked out before the Planning Board meeting
 38 on January 23, 2013.

39 The Chair asked Town Planner Dym to review the draft Resolution with
 40 staff, applicant and the Planning Board.

1
2 Town Planner Dym noted the she will discuss the status of the Final
3 Subdivision. She explained that she received the revised subdivision plan
4 dated January 7, 2013 on January 15, 2013. Town Planner Dym said that
5 the application is incomplete because 14 copies of the plat were not
6 received by the Planning Board or staff. She explained that in accordance
7 with Section 150-13F.(2) the Planning Board can waive the final plat Public
8 Hearing if the plat is in substantial agreement with the approved
9 Preliminary Subdivision plat and this can take place at the next Planning
10 Board meeting.

11
12 Consultant Engineer Barbagallo noted that conditions of Preliminary
13 Subdivision Approval were organized into three categories. He said that
14 first, conditions have to be addressed prior to approval of Conditional
15 Subdivision Approval, second, those that will remain as conditions of Final
16 Approval prior to the signing of the plat; and third, those that will remain
17 after signing of the plat.

18
19 Consultant Engineer Barbagallo said there was a long list of conditions
20 under Preliminary Approval and during discussion at the December
21 Planning Board meeting it was decided that conditions will be limited to
22 outside agencies and all other items will be addressed before approval.
23 Consultant Engineer Barbagallo said that the item that is the biggest
24 concern to him is the plans associated with the sewer pump station.
25 He mentioned that he will be in a position at the next meeting to present an
26 update on the general conformance to the design guidelines established by
27 Adam Smith, the Water and Sewer Superintendent.

28
29 Mrs. DeLucia asked what the funding deadline for the project is.

30
31 Rose Noonan, Executive Director of the Housing Action Council, said that
32 every day that approval is delayed the less chance there is to receive
33 funding. She explained that the later in the year you apply for funding less
34 funds will be available.

35
36 Consultant Engineer Barbagallo said that the following conditions of
37 Conditional Preliminary Subdivision Approval have to be met:

- 38
39 • Plans dated January 7, 2013 show the proposed gas main and
40 electric service entering the property and passing through Clayton

1 Boulevard. Consultant Engineer Barbagallo noted that there is now a
 2 plan view that represents how those lines will be coming into the site.
 3

- 4 • The standard subdivision plat notes, including references to the
 5 Planned Hamlet Master Plan Maintenance Agreements, Health
 6 Department, approval block, name of water and sewer districts
 7 serving the lots, are included on the plat as part of the final
 8 submission. Further details will be provided by the Applicant prior to
 9 signing of the plat.
- 10
- 11 • The Applicant has obtained review and approval by the Water
 12 Superintendent and the Bureau of Fire Prevention for the hydrant
 13 placement with respect to the street curbs and the sidewalk.

14
 15 *Peter Gregory, the applicant's engineer, said that the Water*
 16 *Superintendent has reviewed the number and locations of the*
 17 *hydrants proposed along Clayton Boulevard and has no objection.*
 18 *He indicated that he received the approval from the Water*
 19 *Superintendent by e-mail and will forward the e-mail to Consultant*
 20 *Engineer Barbagallo.*

- 21
- 22 • The road cross section has been revised to show where the gas
 23 main, electrical and cable conduits will be installed.

24
 25 *Engineer Gregory said that detailed sheets, road cross section*
 26 *have been provided and were updated to show where in the road*
 27 *section the gas and utility trenches will be located.*

28
 29 An updated Master Plan Conformance drawing dated December
 30 11, 2012 has been provided.

31
 32 *Consultant Engineer Barbagallo indicated that the drainage areas*
 33 *did not seem to add up and he asked that be verified.*

34
 35 Mr. Keane opined that there are missing factors in regard to conformance
 36 to local Ordinance 93-7 relating to stormwater. He explained that the
 37 Ordinance was developed to comply with the MS4 requirements under the
 38 MS4 Permit for the Town. Mr. Keane said that under the Ordinance the
 39 Stormwater Management Plan requires that the Planning Board approve
 40 the plan with the Consultant Engineer determining if the plan is complete.

1 He said that when you look at the State MS4 Permit it identifies a number
2 of practices that have to be utilized and the Town Stormwater Management
3 Plan and the Town Ordinance states that they have to be in compliance
4 with the State Stormwater Manual. Mr. Keane said if we are going to
5 mention NYC Department of Environmental Protection (DEP) we should
6 reference the separate chapter in the Manual, Chapter 10, with regard to if
7 we are in compliance with the phosphorous requirements. He noted that we
8 also should mention that we are considering low impact development and
9 green technology. Mr. Keane said that by using this technology we will be
10 enhancing the SPPP. He mentioned that it has to be determined that the
11 Planning Board is the permitting authority and list in the conditions that the
12 plan is in compliance with all that criteria. Mr. Keane said that a form has
13 to be filled out stating that the Planning Board approves the plan. He said
14 that it is not fair to the applicant if the Board does not do all that the
15 regulations require. Mr. Keane noted that the Whereas clause must show
16 recognition of these elements and the conditions also recognize those
17 elements. He also said that the Whereas clause should show compliance
18 with the NYC 18-39 Regulations. Mr. Keane indicated that the DEP Permit
19 is not the determining factor on whether the plan is approved. He said that
20 changes have to be made in the verbiage of the Resolution so there are no
21 missing factors in conforming to performance and design criteria for a
22 Stormwater Management and Erosion and Sediment Control Permit, as
23 established by Section 93-7 of the Town Code.

24
25 Consultant Engineer Barbagallo indicated that the Board is looking for
26 additional Whereas clauses referencing the Board's review of the SPPP.
27 He said that any reference to the Town's process should be more specific.

28
29 Consultant Engineer Barbagallo informed the Board that the SPPP
30 acceptance form along with the Notice of Intent (NOI) is a condition after
31 the signing of the plat prior to the issuance of a Building Permit. He stated
32 that he signs the acceptance form in behalf of the Town.

33
34 Mr. Keane opined that the Board has to understand that they are the
35 permitting authority and have to make a determination in regard to the
36 SPPP separately. He said that the State Construction Permit, Stormwater
37 Manual, Erosion and Sediment Control Manual should be mentioned in the
38 Whereas Clause. He stated that the primary document should be the
39 State's Stormwater Manual.

40

1 Consultant Engineer Barbagallo referred back to conditions of Conditional
 2 Preliminary Subdivision Approval that have to be met:

- 3
- 4 • That the applicant submit maintenance agreements for the
- 5 stormwater management system including stockpiling management
- 6 and sewer pump station for review and approval by the Town
- 7 Attorney prior to Final Subdivision Approval.
- 8

9 *Consultant Engineer Barbagallo said that he has to coordinate with the*
 10 *Town Attorney on the document referencing stockpiling management.*

- 11
- 12 • Since the portion of Clayton Boulevard to be constructed as part of
- 13 this subdivision application will not be dedicated as a Town Road until
- 14 some point in the future, the Applicant as owner will be obligated to
- 15 maintain the road until dedication to the Town. Upon dedication of
- 16 the road, the maintenance of the sidewalk will be the obligation of the
- 17 adjacent property owner pursuant to Somers Code Chapter 142.
- 18

19 *Consultant Engineer Barbagallo said that this condition will be moved and*
 20 *listed under Ongoing Conditions Required after Signing of Plat.*

21

22 Consultant Engineer Barbagallo noted that this is the status of items that
 23 will be addressed prior to granting of Final Subdivision Approval.

24

25 Attorney Mandelbaum said that there is no need to have a note on the plat
 26 because as a matter of law the road will have to be maintained until it is
 27 dedicated by the applicant.

28

29 Town Planner Dym said that she agrees that the note does not have to be
 30 on the plat.

31

32 Attorney Mandelbaum noted that while Town Attorney Baroni is reviewing
 33 the documents it is not necessary to have proof of recording before the
 34 signing of the plat. He stated that he spoke to Town Attorney Baroni and
 35 he was in agreement.

36

37 Consultant Engineer Barbagallo stated that he had no objection to requiring
 38 proof of recording before the signing of the plat.

39

40 Mr. Keane suggested a check list template for all applications.

1 Town Attorney Eriole stated that you cannot get to the plat until all
 2 conditions are met. He indicated that in the future if you want everyone to
 3 know about the note it should be on the plat. Town Attorney Eriole advised
 4 that more people will look at a plat than review a resolution.

5
 6 The Chair asked if there were any more comments from the Board.

7
 8 Ms. Gannon referenced Page 7 of the draft Resolution under parking *a total*
 9 *of 193 spaces potentially available on the south side of Clayton*
 10 *Boulevard...* She thought something was missing and asked that this be
 11 clarified.

12
 13 Town Planner Dym stated she will review the paragraph and will make sure
 14 it is clarified.

15
 16 Mrs. DeLucia clarified the third Whereas paragraph on Page 4 of the
 17 Resolution to read *The Mews Phase I at Baldwin Place and associated*
 18 *requirements of the Somers Realty Subdivision approval were completed*
 19 *and such housing is now opened and occupied.*

20
 21 Mr. Foley asked about the discrepancy in the number of acres on the site.

22
 23 Town Planner Dym indicated that the acreage is from the approved
 24 Resolution.

25
 26 Town Attorney Eriole explained that if the Whereas clause relates to a past
 27 document the SIC can be used.

28
 29 Consultant Engineer Barbagallo said that the surveyor will calculate the
 30 acreage with the final plat. He indicated that the acreage in the Resolution
 31 must correspond to the acreage on the plat.

32
 33 Mrs. DeLucia asked that when doing the Resolution and giving the motion
 34 that the name of the person making the motion not be mentioned in the
 35 Resolution.

36
 37 Mr. Keane said the Planning Board should make a decision if the SPPP for
 38 the Town is approved. He stated that under Chapter 93-9 it describes
 39 procedures for the permit which the Board should follow. He said that the
 40 Board should formally know what decision they are making. Mr. Keane

1 indicated that it appears that the DEP Permit is more important than other
2 permits and that is not correct.

3
4 Consultant Engineer Barbagallo noted that this will not be a condition
5 because the SPPP will have to be approved prior to approval. He
6 mentioned this will be documented in a Whereas clause in the Resolution.

7
8 Town Attorney Eriole explained that by approving all the permits related to
9 this project when the Board votes they will be approving all the permits. He
10 stressed that there has to be reference in the Resolution that all steps have
11 been followed in respect to all permits relating to this application.

12
13 Ms. Gannon noted that for consistency to the appropriate level of detail
14 the *revised SPPP shall be prepared in accordance with the applicable*
15 *codes, addressed outstanding engineering comments* and by writing the
16 paragraph like this the Board has referred to applicable codes and it
17 incorporates everything without explicitly breaking them out. She stressed
18 that if the preference of the Board is for more detail we have to agree and
19 be more consistent so staff can have a certainty of understanding when
20 there is too much detail and when is detail not enough.

21
22 Town Attorney Eriole said that the Board wants to be comfortable that they
23 have engaged in the process that is required and the Resolution should
24 show that the required process has been completed. He mentioned that
25 under "Be It Further Resolved" in the Resolution it indicates that conditional
26 final Subdivision plat approval and all other associated approvals of the
27 application are conditionally granted.

28
29 Consultant Engineer Barbagallo said that when you deem a SPPP
30 application complete or incomplete his memoranda addresses the issues
31 with the SPPP. He said if the Board wants to take separate action he will
32 ask the Board if they agree or disagree with his recommendations relative
33 to the SPPP.

34
35 Consultant Engineer Barbagallo asked Mr. Keane if he had specific
36 comments or technical issues with the SPPP or is it more the laying out of
37 the process.

38
39 Mr. Keane said that procedurally the Board has to address what the
40 Regulations call for.

1
 2 Consultant Engineer Barbagallo stated that the Regulations have been
 3 followed and the Whereas clauses have to be more specific.

4
 5 Consultant Engineer Barbagallo brought the Board up to date on the
 6 meeting with the DEP relative to the loop road coming out onto Route 6.
 7 He mentioned that a variance will be required and will be an On-Going
 8 Condition as no future subdivision can happen without the variance being
 9 in place. He mentioned that all bonds, a blasting plan and a pre-
 10 construction notification with the Army Corps of Engineers for coverage
 11 under Nationwide Permit #18 relative to wetland disturbance must be
 12 provided prior to the issuance of a Building Permit.

13
 14 Mrs. DeLucia asked about the blasting plan and rock chipping.

15
 16 Consultant Engineer Barbagallo said that the blasting plan is very specific
 17 on the monitoring that will occur and the size of the charges that will be
 18 used. He indicated that rock chipping will occur and the plan should be
 19 called a rock removal plan inclusive of a blasting plan.

20
 21 **THE MEWS AT BALDWIN PLACE PHASE 2 SITE PLAN APPROVAL,**
 22 **WETLANDS, STEEP SLOPES, TREE PRESERVATION AND**
 23 **STORMWATER MANAGEMENT AND EROSION AND SEDIMENT**
 24 **CONTROL PERMITS**
 25 **[TM: 4.20-1-15]**

26
 27 Chairman Currie said that the Board will be reviewing the Draft Resolution
 28 for Conditional Site Plan Approval for The Mews at Baldwin Place Phase 2
 29 Site Plan Approval, Wetlands, Steep Slopes, Tree Preservation and
 30 Stormwater Management and Erosion and Sediment Control Permits.

31
 32 The Chair asked the applicant’s representative if he reviewed the Draft
 33 Resolution for Conditional Site Plan Approval.

34
 35 Richard Williams, the applicant’s engineer, noted that the application has
 36 reached a point where the Board can take action on approval. He noted
 37 that there are outstanding issues related to the subdivision and the Site
 38 Plan application is dependent of the subdivision application. He stated that
 39 he reviewed the draft resolution and only had one comment. Engineer

1 Williams mentioned that under “Be It Further Resolved” that the Tree
2 Removal Permit be added.

3
4 The Chair asked staff if they had any comments.

5
6 Town Planner Dym asked if there were any comments from the Board on
7 the Resolution as she would like to have the Resolution ready for the
8 January 23, 2013 Planning Board meeting.

9
10 Ms. Gannon asked about the recreation fees. She indicated that the
11 Resolution states that the applicant will be approaching the Town Board to
12 request a waiver of the recreation fees per Chapter 55.5 Recreation Fees
13 of the Code of the Town of Somers.

14
15 Rose Noonan, Executive Director of the Housing Action Council, said that
16 the applicant is requesting a reduction of the recreation fees at the Town
17 Board Work Session on February 7, 2013.

18
19 The Chair asked Consultant Engineer Barbagallo if there were any
20 outstanding engineering comments.

21
22 Consultant Engineer Barbagallo said that before the Site Plan can be
23 signed the applicant has to demonstrate how the gas and electric lines will
24 be brought into the site. He indicated that this is the only outstanding
25 engineering comment.

26
27 Town Planner Dym suggested changing number 5 under “On-Going
28 Conditions Required After Signing of Site Plan” to read *That all rock
29 removal work be limited to occur Monday through Friday.*

30
31 Mrs. DeLucia stated that rock chipping should not be under Noise in the
32 Town Code.

33
34 Engineer Williams said that under “On-Going Conditions Required After
35 Signing of Site Plan” under Town Code Section 144-7D.(13) it states that
36 construction activity shall be limited from 7:00 a.m. to 6:00 p.m. and no
37 construction activity shall occur on Sundays or legal New York State
38 holidays.

39

1 The Chair said that the Resolution will be discussed at a Special Meeting of
2 the Planning Board on January 23, 2013.

3

4 **CHANGE OF CALENDAR FOR MAY PLANNING BOARD MEETING**

5

6 Chairman Currie explained that the Town House parking lot will be closed
7 Monday May 6, 2013 through Friday May 17, 2013. He explained that the
8 Library will be available on Tuesday, May 7, 2013, but it would require
9 moving all of the television equipment and other materials which is a task
10 that is very time consuming and cumbersome. He noted that if the
11 Planning Board is agreeable, the regular Town House meeting room is
12 available Wednesday, May 1, 2013 and Wednesday May 22, 2013.

13

14 Chair Currie noted that it was the consensus of the Board to change the
15 May Planning Board meeting to May 1, 2013.

16

17 There being no further business, on motion by Mr. Keane, seconded by Mr.
18 Goldenberg, and unanimously carried, the meeting adjourned at 9:15 P.M.
19 and the Chair noted that the next Planning Board meeting will be a Special
20 Meeting on January 23, 2013 and will be held at 7:30 P. M. at the Somers
21 Town House.

22

23

24

25

Respectfully submitted,

26

27

Marilyn Murphy
Planning Board Secretary

28

29

30