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PLANNING DEPARTMENT

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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 23, 2013**

4

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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 Planner Joanne Meder
Consultant Engineer Joseph Barbagallo
Town Attorney Gerald Reilly
Planning Board Secretary Marilyn Murphy

16

17

18

19

20

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

24

25 **PROJECT REVIEW**

26

27 **SOMERS REALTY PLANNED HAMLET**

28 **FINAL SUBDIVISION APPROVAL AND LOT LINE CHANGE;**

29 **WETLAND, TREE PRESERVATION AND STORMWATER**

30 **MANAGEMENT AND EROSION AND SEDIMENT CONTROL PERMITS**

31 **[TM: 4.20-1-15, 18]**

1 Chairman Currie said that this is the project review of the Somers Realty
2 Planned Hamlet for Final Subdivision Approval, Lot Line Change and
3 related permits. He noted that the Board will be reviewing the Resolution
4 for Final Subdivision Approval.

5

6 The Chair asked Town Planner Dym to give the Board an overview
7 on the progress made since the last meeting.

8

9 Town Planner Dym indicated that she has been working on revisions and
10 comments from the Board. She noted that today she received a copy of
11 the Final Plat. Town Planner Dym mentioned that she had discussions with
12 the applicant's engineer in reference to acreage on the plat. She said that
13 she worked with Consultant Engineer Barbagallo's office with respect to the
14 permit language in the Resolution that was suggested by Mr. Keane. Town
15 Planner Dym noted that she passed out to the Board tonight a redlined
16 version of the Somers Realty Subdivision 2 Resolution.

17

18 Consultant Engineer Barbagallo stated that the primary concern at the last
19 meeting focused on the sewage collection and pump station. He
20 mentioned that he met with the applicant's engineer and Adam Smith, the
21 Somers Water and Sewer Superintendent, to focus on the design
22 standards that were established early on in the process. Consultant
23 Engineer Barbagallo said that there was a general agreement with the
24 concept that included the language in the conditions in the draft Resolution.
25 He noted that the Resolution on Page 15, Number 8, explains that the
26 pump station is designed as a terminal pump station for the Town's force
27 main that will convey existing and projected flows from the Planned Hamlet,
28 Somers Commons Shopping Center, The Preserve housing development
29 and the Shenorock neighborhood. Consultant Engineer Barbagallo said
30 that the parcel is sufficiently large enough to accommodate the pump
31 station and he is comfortable working out the rest of the details prior to
32 signing of the plat.

33

34 Consultant Engineer Barbagallo said that another item listed under his
35 action items was to address the environmental permits and prepare and
36 incorporate Whereas clauses into the document that reference the process
37 and the Town Code. He indicated that the Whereas clauses are shown on
38 Page 12 and 13 of the Resolution. Consultant Engineer Barbagallo stated
39 that he worked closely with the Town Planner on the Resolution. He

1 opined that he is comfortable moving forward with the Conditional
2 Resolution of Approval.

3
4 Mrs. DeLucia asked about how rock removal and blasting will be handled.

5
6 Consultant Engineer Barbagallo referred to Page 19, No. 11 of the
7 Resolution that states, *The final construction drawings for the subdivision*
8 *shall include the following note: "Construction Activities, with the exception*
9 *of rock removal, shall be limited to Monday through Saturday from 7am to*
10 *6pm. Rock removal activities shall be limited to Monday through Friday*
11 *from 8am to 6pm. No construction activity shall occur on Sundays or legal*
12 *holidays."* He indicated that the purpose of this condition is to limit the
13 noise activity on weekends.

14
15 Consultant Engineer Barbagallo referred to Page 18, No. 12 of the
16 Resolution, *The Final Subdivision Plat shall be revised as follows:*

- 17
18 a. *The Temporary Stockpile Easement shall be added to the Plat.*
19 b. *The tabulation of site areas shall be revised to include the entire*
20 *site area that was included as part of the Master Plan and*
21 *represented on the Phase 1 Subdivision Plat filed in the*
22 *Westchester County Clerk's office as Filed Map 28375 on*
23 *June 10, 2010 (79.3354 acres). Also, the Applicant shall rectify a*
24 *0.0001 acre (4.4 SF) discrepancy in the total site as to be*
25 *consistent with the previously Filed Map 28375.*
26 c. *The following notes shall be added to the Plat:*
27 *The Applicant shall obtain the variance from the NYCDEP relative*
28 *to Section 18-39(8)(a)(6)(ii) of the Watershed Rules and*
29 *Regulation for the connection of the Clayton Boulevard to Route 6*
30 *prior to any further development on Lot 3. Consultant Engineer*
31 *Barbagallo stated that the DEP will require a variance and this*
32 *note states that no further development can occur on Lot 3 until*
33 *the variance is in place.*
34 *The existing Note 2 shall be modified to reference the specific*
35 *maintenance agreements included in this resolution of approval.*
36

37 Attorney Whitehead opined that construction notes belong on construction
38 drawings and she is not comfortable having construction notes on the Plat.
39 She indicated that the plat should have notes on it that someone looking at
40 the plat in 10 years would want to know about.

1 Town Attorney Reilly advised that the notes on the plat are for agreements
 2 and variances that are different from construction notes. He opined that
 3 construction activities should be on the construction drawings and
 4 Resolution and not on the Plat.

5
 6 Mr. Keane changed the language on Page 13, the third Whereas clause to
 7 read, *The Consulting Town Engineer recommended to the Planning Board*
 8 *that the Subdivision Application and associated documents meet all*
 9 *requirements for issuance of environmental permits by the Planning Board*
 10 *subject to the conditions of this Conditional Final Subdivision Plat Approval*
 11 *Resolution; and*

12
 13 Mr. Keane noted that the Resolution has to state that the Stormwater
 14 Prevention Pollution Plan (SPPP) was approved by the Planning Board.

15
 16 Attorney Whitehead noted that all approvals are listed under the “Be It
 17 Further Resolved” paragraph on Page 16.

18
 19 Town Attorney Reilly stated that once the Planning Board approves the
 20 SPPP the only time it should come back to the Board is if the applicant
 21 amends the SPPP.

22
 23 Attorney Whitehead mentioned that revisions and additional information are
 24 needed to address DEP’s comments.

25
 26 Consultant Engineer Barbagallo indicated that the only issue with the SPPP
 27 is the Land Disturbance Phasing Plan to make sure that no more than five
 28 (5) acres of land is disturbed at any one point in time.

29
 30 Mr. Keane said that the DEC MS4 Permit requires the Town to have its
 31 own SPPP. He noted that he just wants to make sure that the SPPP is
 32 correct.

33
 34 Consultant Engineer Barbagallo noted that the Town’s review of the SPPP
 35 is separate from the DEP in the Resolution. He explained that the final
 36 version of the SPPP is submitted with the Notice of Intent (NOI) and the
 37 SPPP acceptance form which is signed by the Town Consulting Engineer.
 38 He said that this is listed under “On-going Conditions Required After
 39 Signing of Plat” and will read *The Applicant shall obtain coverage under the*
 40 *NYSDEC General Permit No. GP-0-10-001 with a copy of the NOI, SPPP*

1 *acceptance form executed by the Consulting Town Engineer in accordance*
 2 *with the Town’s MS4 manual, and final SPPP provided to the Town Clerk*
 3 *prior to issuance of a Building Permit. The Applicant shall implement*
 4 *construction activities in accordance with the approved SPPP and the*
 5 *requirements of GP-0-10-001.*

6
 7 Consultant Engineer Barbagallo changed the language under “Be It Further
 8 Resolved” to read *that the application for Conditional Final Subdivision*
 9 *Plat Approval, including a lot line change, creation of a road extension*
 10 *parcel, and all other associated applications including the Wetland and*
 11 *Watercourse Protection Permit (§167), Tree Removal Permit (§156) and*
 12 *Stormwater Management and Erosion and Sediment Control Permit (§93),*
 13 *and the approval of the SPPP, in accordance with §93-5(B), for the Somers*
 14 *Realty Planned Hamlet as shown and described by the materials*
 15 *enumerated herein including Modification of the Somers Realty Planned*
 16 *Hamlet Master Plan, Are Hereby Conditionally Granted.*

17
 18 The Chair noted that it was a consensus of the Board to waive the Public
 19 Hearing.

20
 21 On motion by Mrs. DeLucia, seconded by Mr. Goldenberg, (Mr. Keane
 22 voting nay) and carried, the Planning Board moved in accordance with
 23 §150-13F.(2) to waive the final plat Public Hearing because the plat is in
 24 substantial agreement with the approved preliminary subdivision plat.

25
 26 On motion by Mr. Currie, seconded by Mr. Goldenberg, (Mr. Keane voting
 27 nay) and carried, the Board moved to grant Conditional Final Subdivision
 28 Plat Approval, Lot Line Change, Creation of Roadway Extension Parcel,
 29 Modification of Somers Realty Planned Hamlet Master Plan, Wetland and
 30 Watercourse Protection Permit, Tree Removal Permit, and Stormwater
 31 Management and Erosion and Sediment Control Permit, as per Resolution
 32 2013-01, as amended, for Somers Realty Corp. for Further Subdivision of
 33 Somers Realty Planned Hamlet as proposed for modification, Town Tax
 34 Number: Section 4.20, Block 1, Lot 15 and Lot 18 for the Chairman’s
 35 signature.

36
 37 **THE MEWS AT BALDWIN PLACE PHASE 2 SITE PLAN APPROVAL,**
 38 **WETLANDS, STEEP SLOPES, TREE PRESERVATION AND**
 39 **STORMWATER MANAGEMENT AND EROSION AND SEDIMENT**
 40 **CONTROL PERMITS [TM: 4.20-1-15]**

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

5
6 The Chair asked Town Planner Dym and Consultant Engineer Barbagallo
7 to review the Draft Resolution for Conditional Site Plan Approval and
8 associated permits.

9
10 Town Planner Dym noted that she provided a redlined version of the Draft
11 Resolution. She said that the Resolution contains the same permit
12 language as the Subdivision Resolution.

13
14 Consultant Engineer Barbagallo indicated that he has no outstanding
15 comments.

16
17 Consultant Engineer Barbagallo said that on Page 8 of the Draft Resolution
18 the last Whereas Clause, first bullet, will read *Disturbance in excess of*
19 *5,000 SF of land*. He suggested changes to the "Be It Further Resolved"
20 paragraph on Page 12 of the Resolution to read, *that the applications for*
21 *conditional site plan approval, steep slopes protection permit (§148), tree*
22 *removal permit (§156), and the approval of the SPPP in accordance with*
23 *§93-5(B), submitted by the Housing Action Council, Inc. and the Kearney*
24 *Realty and Development Group, Inc. for The Mews at Baldwin Place Phase*
25 *2 as shown and described by the materials enumerated herein, Are Hereby*
26 *Conditionally Granted*.

27
28 Consultant Engineer Barbagallo added condition 8 under Conditions
29 Required Prior to Signing of Site Plan to read, *A note shall be added to the*
30 *Site Plan that states, "All construction activities, with the exception of rock*
31 *removal, shall be limited to Monday through Saturday 7AM to 6PM. Rock*
32 *removal shall be limited to Monday through Friday 8 AM to 6 PM. No*
33 *construction activities shall occur on Sundays or legal holidays."*

34
35 Consultant Engineer Barbagallo changed Condition 2, under "On-going
36 Conditions Required After Signing of Site Plan" to read, *The Applicant shall*
37 *obtain coverage under the NYSDEC General Permit No. GP-0-10-001 with*
38 *a copy of the NOI, SPPP acceptance form executed by the Consulting*
39 *Town Engineer in accordance with the Town's MS4 manual, and final*
40 *SPPP provided to the Town Clerk prior to issuance of a Building Permit*.

1 *The Applicant shall implement construction activities in accordance with the*
 2 *approved SPPP and the requirements of GP-0-10-001.*

3
 4 Mr. Foley suggested changing the fifth Whereas clause on Page 5 to read,
 5 *It came to the attention of the Planning Board that the subject action was a*
 6 *Type 1 action based on Town of Somers thresholds for Type 1 actions*
 7 *pursuant to SEQR and Chapter 92 “Environmental Quality Review”, of the*
 8 *Code of the Town of Somers, and a revised notice of acceptance of Lead*
 9 *Agency for a Type 1 action dated November 14, 2012 was circulated; and*

10
 11 Ms. Gannon pointed out that the date of the New York State Stormwater
 12 Design Manual on Page 14, Number 3, under On-going Conditions
 13 Required After Signing of Site Plan, should be *August 2010*.

14
 15 The Chair asked staff and the Board if they had any more comments or
 16 changes and the Board replied that they are ready to vote on the
 17 Resolution.

18
 19 On motion by Chair Currie, seconded by Mrs. DeLucia, (Mr. Keane voting
 20 nay), and carried, the Board moved to approve Conditional Site Plan
 21 Approval, Steep Slopes, Tree Removal and Stormwater Management and
 22 Erosion and Sediment Control Permits as per Resolution No. 2013-2, as
 23 amended, to the Housing Action Council, Inc. and The Kearny Realty and
 24 Development Group, Inc., as amended, for The Mews at Baldwin Place 2, a
 25 portion of the Somers Realty Planned Hamlet, for the Chairman’s
 26 signature.

27
 28 **PROJECT REVIEW**

29
 30 **THE GREEN AT SOMERS AMENDED SITE PLAN, WETLAND,**
 31 **STEEP SLOPES AND STORMWATER MANAGEMENT AND EROSION**
 32 **AND SEDIMENT CONTROL PERMITS [TM: 4.20-1-3.1]**

33
 34 Chair Currie said that this is the Project Review of The Green at Somers
 35 Amended Site Plan, Wetland, Steep Slopes and Stormwater Management
 36 and Erosion and Sediment Control Permits.

37
 38 The Chair asked the applicant’s representative to update the Board on the
 39 application.

40

1 Attorney Whitehead, the applicant's attorney, indicated that at the last
2 meeting the Board reviewed Part 2 of the EAF where the Board asked the
3 applicant to provide additional information. She explained that when there
4 is a potential large impact a Part 3 must be prepared to help the Board
5 make a determination if the impacts are significant. Attorney Whitehead
6 mentioned that Engineer Holt submitted a narrative description on how the
7 SPPP will work, the type of practices that will be used, sequestering and
8 erosion control methods. She indicated that a revised EAF was also
9 provided addressing concern raised by F. P. Clark. Attorney Whitehead
10 said that the discussion should be on the Determination of Significance
11 based on the additional information that has been provided.

12

13 The Chair asked Joanne Meder, representing F P Clark, for her comments
14 on the EAF.

15

16 Mr. Keane asked if there is anything in the F P Clark memo that is so
17 substantial as to raise issues to a level of significance that the Board has to
18 do an Environmental Impact Statement (EIS).

19

20 Consultant Planner Meder indicated that there are no substantial issues
21 that would trigger an EIS; however, the Board has to finalize Part 2 and
22 Part 3 of the EAF. She noted that discussion at the last meeting resulted in
23 some issues not being discussed or clarified. Consultant Planner Meder
24 said that she would like to fine-tune the Board's responses in order to
25 finalize Part 2 of the EAF. She opined that the Board should review the
26 EAF in context of F. P. Clark's supplementary comments in order to provide
27 clarification.

28

29 Attorney Whitehead noted that the Board marked as a potential large
30 impact the construction of land where the depth to the water table is less
31 than 3 feet. She stated that there will be no construction where the depth
32 to groundwater is less than 3 feet; therefore, the impact should be changed
33 to "small to moderate."

34

35 Consultant Planner Meder indicated that construction of land where the
36 depth to the water table will be less than 3 feet but it will still encounter the
37 groundwater table. She noted that the applicant may want to acknowledge
38 that construction will occur where the groundwater table is encountered.

1 Consultant Planner Meder opined that if the Board wants to acknowledge
2 that construction will occur where the groundwater table is encountered it
3 could be listed under other impacts.

4
5 Attorney Whitehead said that there will be construction where the depth to
6 the water table will be less than 3 feet it can be listed under small to
7 moderate impact. She explained that when the impact is listed as
8 potentially large it should be discussed further in Part 3 of the EAF to
9 determine if it is important.

10
11 Consultant Planner Meder stated that she is comfortable with listing the
12 impact as “small to moderate.”

13
14 Consultant Planner Meder explained that Part 2 of the EAF was filled out
15 based on conversation at the last meeting. She noted that more
16 information has been supplied since the last meeting that will allow the
17 Board to make adjustments to Part 2 of the EAF.

18
19 Attorney Whitehead noted that the applicant provided supplemental
20 information regarding specific identified impacts under the EAF Part 3. She
21 said that under construction on slopes greater than 15% that there will be
22 work on a limited amount of areas of slopes greater than 15% towards the
23 Route 6 side of the property. She said that the type of activity was
24 discussed and the reason why it will not result in a potential significant
25 impact and therefore is not important. She commented that the Board has
26 to review this to see if anything should be added because this is the basis
27 of the Board’s decision.

28
29 Mr. Keane said that if the Board realized that the slope category of 15% to
30 25% is located at the base of the “tee boxes” to create elevation the impact
31 would have been small to moderate.

32
33 Attorney Whitehead noted that she did not originally have a problem
34 leaving the impact as potential large with the explanation in Part 3 of the
35 EAF. She said that after discussion the Board agreed that after reviewing
36 the actual plan and proposed activity, the construction on slopes in excess
37 of 15% does not result in a potential large impact.

38
39 Town Planner Meder indicated that the Board under “Impact on Water”,
40 Question 3, initially determined that the response to this question should be

1 “No”, then the Board decided that the response should be changed to
2 “Yes”. She said that the Board should indicate that there will be impacts to
3 Town-regulated wetlands. She noted that the impacts are not large. She
4 said that the reason the applicant needs a Town Wetland Permit is the
5 impact to the local wetland. Consultant Planner Meder said that under
6 “Impact on Water”, Question 4, the Planning Board determined that the
7 response to this question should be “No”. She noted that this question is
8 typically used to document potential impacts on locally-regulated wetlands
9 in contrast to Question 3, which pertains to potential impacts on State-
10 regulated wetlands. Consultant Planner Meder explained that a “Yes”
11 response should be indicated if there will be any impact and F. P. Clark
12 recommends that the response be changed from “No” to “Yes” and that
13 potential impacts be described under “Other Impacts” that will include a
14 narrative that identifies what the potential impacts are.
15

16 Mr. Keane said that it is important for the applicant’s engineer to address
17 any impact that may result from stormwater management practices in
18 regard to the water table and its height in reference to a wet pond. He
19 noted that if the water table is rising and lowering does the wet pond have
20 the capacity to handle the design storms that will enter the wet pond.
21

22 Dan Holt, the applicant’s engineer, indicated that the only place that will
23 encounter a wetland is behind the wall outside the wetland buffer. He said
24 that in order to construct a wet pond there has to be a permanent standing
25 body of water. He said that he will excavate down to the water table to
26 allow the pond to be created that will be a deep pond with a standing
27 elevation equal to what the groundwater elevation is at that time. He stated
28 that there will be an outlet control structure at the groundwater table
29 elevation. Engineer Holt said that even with the groundwater table
30 fluctuating there will be the right volume of water within the pond for all the
31 stormwater attenuation.
32

33 Mr. Keane said that the water table will not have any effect on the
34 stormwater management practices and can be answered as a “small to
35 moderate impact”.
36

37 Consultant Planner Meder asked if the Stormwater Management Plan only
38 retains the one-year storm event.
39

1 Engineer Holt noted that the pond will handle up to the 100-year storm
2 events in terms of its volume and capacity.

3
4 Consultant Planner Meder asked about the stone rip-rap that will be used
5 that is discussed in the supplementary narrative and is relying on a
6 construction detail but the location of the stone rip-rap is not identified on
7 the plan. She asked if the Board wants the Site Plan to be updated to
8 show the location of the stone rip-rap.

9
10 Attorney Whitehead indicated that the stone rip-rap will be shown on the
11 Site Plan Detail but she asked if the Board wants to see that before making
12 a determination.

13
14 Consultant Planner Meder suggested that the stone rip-rap be shown on
15 the plan for the next meeting and the applicant agreed.

16
17 Consultant Planner Meder mentioned the removal of the existing drainage
18 pipes that are located in the State wetland buffer and plantings that will be
19 installed in the State wetland buffer. She indicated that these are positive
20 changes to the site. She explained that the Determination of Significance is
21 a tool that notes the mitigation measures and the enhancements that are
22 being made to improve the existing conditions. Consultant Planner Meder
23 asked that the applicant make adjustments in responding to Question No.
24 3.

25
26 Engineer Holt explained that the removal of the pipe, foundation and
27 fencing will be removed as part of the permit process.

28
29 Mr. Keane said that the removal of the pipe and replacing it with a
30 vegetated swale is a beneficial effect.

31
32 Consultant Planner Meder suggested calling the impacts “small to
33 moderate” and elaborate on them in the Negative Declaration.

34
35 Consultant Planner Meder noted that Impact on Water, Question 5, relates
36 to Proposed Action Will Require a Discharge Permit, and after discussion
37 the Planning Board changed the classification from “Potential Large” to
38 “Small to Moderate.”

39

1 Consultant Engineer Barbagallo indicated that the only discharge permit for
2 this application is associated with stormwater and the applicant will comply
3 with code requirements. He agreed that the impact is “small to moderate”.
4

5 Attorney Whitehead noted that a Discharge Permit is not needed because it
6 is covered under the General Permit.
7

8 Consultant Planner Meder said that there will not be any impact as no
9 Discharge Permit is needed.
10

11 Consultant Planner Meder referenced Impact on Water, Question 5,
12 Proposed Action, will require the storage of petroleum or chemical products
13 greater than 1,100 gallons.
14

15 Attorney Whitehead explained that the proposed action will require the use
16 of Bioxide for odor control as part of the operation of the proposed Sewage
17 Pump Station but the amount of Bioxide to be stored on the site will be less
18 than 1,100 gallons and will be handled and stored in accordance with
19 Recommended Standards. She indicated that there will be no significant
20 adverse impacts associated with the storage of petroleum or chemical
21 products on the site. Attorney Whitehead stated that the Department of
22 Environmental Conservation (DEC) does not classify Bioxide as a
23 chemical.
24

25 Consultant Planner Meder mentioned Impact on Water, Question 5, “Other
26 Impacts” Site de-watering activities would need to occur during construction
27 phase. She said that the Planning Board determined that it did not have
28 sufficient information to reach a conclusion on the size of the potential
29 impact at the January 9, 2013 meeting. Consultant Planner Meder
30 explained that the applicant provided a supplementary narrative on this
31 potential impact.
32

33 Engineer Holt said that the site where it has been determined that there is a
34 shallow groundwater table is likely to be encountered during the
35 construction phase. He mentioned that the Carlin-Simpson & Associates
36 report states that its findings are based on only seven borings and that
37 additional sub-surface soil investigation will be necessary to determine the
38 elevation of the water table in all areas to be disturbed. He noted that
39 depending on the elevation of the water table, de-watering on the site
40 during construction may be required. He said that at a minimum, these

1 locations are expected to include the areas where the existing drainage
2 pipe to be removed in the central portion of the site, as well as the location
3 of one or more building foundations. Engineer Holt said that any
4 groundwater that is encountered during the normal course of construction
5 is proposed to be piped or pumped via a low head “trash pump” into the
6 temporary sediment basin. He noted that the applicant will not be
7 permitted to discharge any water associated with de-watering operations
8 into any State or Town-regulated wetlands on the site.

9

10 Mr. Keane said that the impact associated with the de-watering activities is
11 small to moderate and is not needed in Part 3.

12

13 Consultant Planner Meder mentioned that F P Clark had asked the
14 applicant to consult certain technical data that documented habitat that will
15 be used to better understand the habitat values that are present on the site
16 and to understand if some of those can be recreated as part of the planting
17 mitigation plan. She said that this has not been completed yet and it is
18 premature to answer questions 8 and 9 until the information is submitted.

19

20 Attorney Whitehead said that the site is primarily maintained lawn and the
21 wetland habitat will not be disturbed.

22

23 Mr. Keane said that the answer is “No” because it is not a substantial
24 impact.

25

26 Consultant Planner Meder noted that the question to be answered is to
27 whom are you creating the habitat for, what type of bird species.

28

29 Attorney Whitehead explained that the questions relate to impact on plants
30 and animals and will the action affect any threatened or endangered
31 species.

32

33 Consultant Planner Meder said that she will review this under the context of
34 the review of the Planting Mitigation Plan.

35

36 Consultant Planner Meder referenced Impact on Aesthetic Resources,
37 Question 11, and noted that initially the Planning Board determined that the
38 response to this question should be “No” until it was pointed out that a
39 considerable amount of time had been devoted to a discussion of potential
40 visual impacts and many significant changes had been made to the

1 Proposed Action in order to reduce impacts. Consultant Planner Meder
 2 explained that because of this reason, it was recommended that the
 3 response be changed to “Yes” and project changes that were intended to
 4 reduce potential visual impacts be described as “Other Impacts” and
 5 addressed as “Positive Impacts” in the Determination of Significance.
 6

7 Consultant Planner Meder commented that no information has been
 8 submitted on the proposed site lighting plan. She noted that in response to
 9 the Planning Board’s request on this topic, the applicant submitted a
 10 supplementary narrative that includes a conceptual discussion on the
 11 proposed site lighting. She indicated that based on the review of the
 12 applicant’s narrative, as well as the need for additional clarification, the
 13 Planning Board has to decide how it wished to address potential visual
 14 impacts in Part 2 of the Full EAF. Consultant Planner Meder said that the
 15 Board may find it helpful to review the Visual EAF Addendum before they
 16 finalize its response to Question 11. She noted that if the Planning Board
 17 acknowledged that the Proposed Action would have some visual impacts in
 18 comparison to existing conditions, those impacts should be described
 19 under “Other Impacts”.
 20

21 The Board requested brochures for the type of lighting fixtures that will be
 22 used on the site. They suggested using fixtures to match the architecture
 23 that will be LED, downward facing to reduce light spread, and between 12
 24 and 16 feet in height.
 25

26 Consultant Planner Meder said that photometrics should be provided so
 27 you can see the distribution of light.
 28

29 Consultant Engineer Barbagallo suggested looking at the lighting that will
 30 be used at Reis Park.
 31

32 Engineer Holt stated that he will provide more details on the lighting for the
 33 next meeting.
 34

35 Attorney Whitehead commented that at the last meeting the question was
 36 “Will the proposed action affect aesthetic resources”. She said that the
 37 Visual EAF Addendum under visibility asked where the project will be visual
 38 from. She noted that on the list the only one where the project will be
 39 visual is from the local and state road.

1 Consultant Planner Meder reviewed the EAF Addendum with the Board
2 and suggested attaching the completed Visual EAF Addendum to the form
3 as it will justify the Board's decisions.

4
5 Consultant Planner Meder mentioned the aerial photographs that were
6 displayed at the last meeting were photographs from off-site locations
7 looking into the site and outside the site from surrounding properties. She
8 noted that the Board was willing to work with this information to gain insight
9 into the potential impacts to decide if they are significant.

10
11 Ms. Gannon said that she did not find the aerial photographs that helpful as
12 they were from a distance. She noted that at the site walk she remembers
13 looking up and seeing clearly the backs of the buildings. She opined that
14 there will be impact as there will be people who liked the green lawn
15 instead of a building. Ms. Gannon said that in some people's eyes this
16 change cannot be mitigated but she feels if the Board did its job correctly it
17 will not rise to significance. Ms. Gannon explained that if the purpose of
18 the photos was to show that the project was not visible from all the
19 residences it did not prove that. She opined that she does not think this is
20 a problem.

21
22 Attorney Whitehead mentioned that what Ms. Gannon just said is one of
23 the reasons why the focus is on Impact on Aesthetic Resources, not just
24 what you will see from a house. She said that anytime you build and there
25 are homes nearby they will see the buildings. She indicated that these
26 homes back up to a commercial strip and should not have the expectation
27 on seeing a green field forever. Attorney Whitehead commented that the
28 EAF focuses not on the view from residences but the view from important
29 aesthetic resources such as parks and historic sites.

30
31 Mr. Keane stressed that just because you see the buildings does not mean
32 there is an impact.

33
34 Consultant Planner Meder asked the Board if the impact does not belong in
35 this discussion because the Board is taking a more narrow view of what
36 aesthetic resources means.

37
38 Mr. Keane opined that taking the narrow review is supported by Case Law,
39 Bureau of Land Management, Forest Service and the Army Corps of
40 Engineers.

1 Consultant Planner Meder indicated that she has no problem answering
 2 question 11 with a “No” but assumes the conversation will be continuing
 3 about adequacy of site lighting.

4
 5 Consultant Planner Meder referred to Question 13, Impact on Open Space
 6 and Recreation. She indicated that the Planning Board determined that the
 7 response should be “Yes” based on the prospective loss of an existing golf
 8 range, and further noted that the additional text entered under “Other
 9 Impacts” should mention that it is a privately-owned facility. She said that
 10 “Small to Moderate” would be the appropriate classification but that should
 11 be confirmed by the Board. Consultant Planner Meder suggested that
 12 discussion of the applicant’s payment of a recreation fee be removed from
 13 Part 2 of the Full EAF, and addressed instead as part of the narrative to be
 14 included in the Determination of Significance. She explained that the
 15 payment of a recreation fee is intended to offset the potential impacts
 16 associated with an increased demand on community services and for that
 17 reason F P Clark believes it would be more appropriate to consider that
 18 payment a form of mitigation for “Impacts on Growth and Character of
 19 Community and Neighborhood”, rather than mitigation for “Impacts on
 20 Open Space and Recreation.”

21
 22 Chair Currie indicated that the Board agreed to the changes suggested by
 23 Consultant Planner Meder.

24
 25 Consultant Planner Meder referenced Impact on Transportation, Question
 26 15, she noted that the Planning Board determined that the response to this
 27 question should be “Yes” based upon the projected increase in traffic
 28 associated with future occupancy of the proposed development, as well as
 29 the increase in traffic during construction.

30
 31 Attorney Whitehead said that the applicant estimates 25,000 cubic yards of
 32 fill material will be imported into the site to create the proposed finished
 33 grades. She indicated that no more than 40 truckloads of fill per day would
 34 be imported to the site; a total of 80 truck trips per day could be expected to
 35 result from filling operations, probably over the course of an 8 hour work
 36 day. She noted that this will be a short term moderate construction impact,
 37 lasting approximately 5 weeks.

38
 39 Consultant Planner Meder noted that a draft construction management plan
 40 that accounts for the projected amount of delivery truck activity has not

1 been submitted and she recommended that the Consultant Town Engineer
 2 provide additional input on whether the submitted “Sediment and Erosion
 3 Control Plan” includes sufficient mitigation measures.

4
 5 The Chair acknowledged that the Board considers this a “Small to
 6 Moderate” impact.

7
 8 Consultant Planner Meder indicated that under “Land Impacts” the Board
 9 wanted to acknowledge the importation of 25,000 cubic yards of fill and the
 10 nature of the fill to be imported and the impacts related to fill.

11
 12 Attorney Whitehead mentioned that the applicant provided information in
 13 their narrative. She said that she can add to the narrative saying that it will
 14 be structural grade fill. Attorney Whitehead said that in the EAF under
 15 “Impact on Land”, “other impacts”, will be fill importation, and it will be a
 16 “Potential Large Impact” and will be addressed with additional information.

17
 18 Consultant Planner Meder references question 19, “Impact on Growth and
 19 Character of Community or Neighborhood,” the last bullet above “Other
 20 Impacts”, *Closure of existing golf-range would eliminate 3 jobs...*

21
 22 Attorney Whitehead said that there are only two large impacts and she will
 23 submit a new narrative describing those impacts.

24
 25 Consultant Planner Meder explained that F. P. Clark will finalize Part 2 of
 26 the EAF with the applicant providing information on Part 3 of the EAF and if
 27 the Board is satisfied a Determination of Significance can be submitted for
 28 the February Planning Board meeting.

29
 30 Attorney Whitehead indicated that the applicant will be submitting
 31 information on the rip-rap for the steep slopes, the cut sheet for the lighting
 32 and the revised Part 3 of the EAF.

33
 34 Attorney Whitehead asked the Board if they will send a memo to the Town
 35 Board regarding the Zoning Text Amendment. She mentioned that she is
 36 concerned that the Town Board may ask for an independent market study
 37 and the feasibility of retail and non-residential in the back of the property.

38
 39 Mr. Keane said that the Board should submit the history of where this
 40 application started and where it is now for the Town Board’s Public

1 Hearing. He indicated that he wants the Town Board to know what the
 2 Planning Board's decisions were based on. Mr. Keane suggested that the
 3 Planning Board circulate a document amongst themselves where they lay
 4 out what was done and why it was done with all the rationales and
 5 important points that brought them to their conclusions. Mr. Keane stated
 6 that he will start the process.

7
 8 Ms. Gannon commented that she has not seen the draft Local Law or the
 9 proposed Zoning Text Amendment. She mentioned that she attends the
 10 Town Board meetings and feels that the Town Board is up to date on the
 11 changes that have been made to the application.

12
 13 Mrs. DeLucia opined that Route 6 is the best location for this project.

14
 15 Mr. Foley stated that he will work with the applicant to produce the best
 16 possible project within the applicant's constraints. He indicated that those
 17 constraints do not comply with Code and that is the reason for the Zoning
 18 Text Amendment and that is the decision of the Town Board. Mr. Foley
 19 indicated that he is not ready to take the next step and say to the Town
 20 Board that they should adopt the Code change.

21
 22 Ms. Gerbino noted that the changes to the project and the problem with
 23 empty retail stores and the idea that affordable housing will not be limited to
 24 seniors is why she supports this project.

25
 26 Attorney Whitehead mentioned that the Planning Board requested the joint
 27 meeting with the Town Board to express their support for the revised plan
 28 and the Zoning Text Amendment.

29
 30 Town Attorney Reilly suggested that the Board send a Resolution to the
 31 Town Board for the Public Hearing.

32
 33 Mr. Keane said that the Planning Board can vote on the recommendation to
 34 the Town Board at the next Planning Board meeting.

35
 36 There being no further business, on motion by Mr. Keane, seconded by Ms.
 37 Gannon, and unanimously carried, the meeting adjourned at 12:00 P.M.
 38 and the Chair noted that the next Planning Board meeting will be on
 39 Wednesday, February 13, 2013 and will be held at 7:30 P. M. at the
 40 Somers Town House.

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Respectfully submitted,

Marilyn Murphy
Planning Board Secretary