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PLANNING DEPARTMENT

TOWN HOUSE
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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
NOVEMBER 10, 2010**

4

5

6

ROLL:

8

PLANNING BOARD

MEMBERS PRESENT:

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

11

12

13

ABSENT:

Mr. Keane

15

ALSO PRESENT:

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

17

18

19

20

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

24

APPROVAL OF OCTOBER 13, 2010 MINUTES

26

Chairman DeLucia noted that Planning Board Secretary Murphy prepared
and submitted for the Board's consideration the approval of the draft
minutes of the October 13, 2010 Planning Board meeting consisting of
seventeen (17) pages.

31

1 The Chair asked if there were any comments or questions from members
2 of the Board.

3
4 Ms. Gannon made a correction on page 17, line 11 as shock-clock
5 should be *shot*-clock.

6
7 The Chair asked if there was a motion to approve the October 13, 2010
8 draft minutes, as amended.

9
10 On motion by Ms. Gerbino, seconded by Ms. Gannon, and unanimously
11 carried, the minutes of October 13, 2010, as amended, were approved.

12
13 The Chair noted that the DVD of the October 13, 2010 Planning Board
14 meeting is made a part of the approved minutes and is available for public
15 viewing at the Somers Public Library. The text of the approved minutes are
16 also on the Town's website www.somersny.com and is available for public
17 review at the Planning & Engineering office at the Town House.

18
19 **PUBLIC HEARING**

20
21 **BVS ACQUISITION CO., LLC AMENDED SITE PLAN,**
22 **STEEP SLOPES, WETLAND AND STORMWATER MANAGEMENT**
23 **AND EROSION AND SEDIMENT CONTROL PERMITS**
24 **[A/K/A CHASE BANK]**

25
26 Chairman DeLucia mentioned that this is the project review of the
27 application of BVS Acquisition Co., LLC Amended Site Plan Approval,
28 Steep Slopes, Wetland and Stormwater Management and Erosion and
29 Sediment Control Permits for a proposed Chase Bank for property located
30 in the Somers Commons Shopping Center at 80 Birdsall Road, U.S. Route
31 6, Baldwin Place in the Community Shopping (CS) Zoning District. The
32 Chair explained that BVS Acquisition Co., LLC, the owner and the
33 applicant, received Amended Site Plan Approval to permit demolition of a
34 former gas station and construction of a Bank of America branch on the
35 property which was conditionally granted by the Planning Board by
36 Resolution No. 2008-13 on October 15, 2008. The Chair said that Bank of
37 America did not proceed with the construction and on September 2, 2010
38 BVS submitted a new application for an amendment to the approved Site
39 Plan proposing to construct a new one-story Chase Bank with two drive-
40 thru lanes and parking spaces on the property. The Chair noted that the

1 applicant is represented by the law firm of Hocherman, Tortorella &
2 Wekstein, LLP and Bohler Engineering. She said that this application was
3 last discussed at the October 13, 2010 Planning Board meeting whereby
4 the Board scheduled a Public Hearing for this evening and directed the
5 applicant to revise the plans and respond to the comments made by staff,
6 the Board and others.

7
8 The Chair acknowledged for the record receipt of the following: a letter
9 dated and received on October 28, 2010 from attorney Noelle V. Crisalli of
10 Hocherman, Tortorella & Wekstein enclosing revised Site Plan drawings
11 and supporting materials and responding to all of the outstanding traffic,
12 stormwater management, on-site circulation, and site planning issues
13 raised by the Town Planner, Consulting Town Engineer, members of the
14 Board and agencies; a memo dated and received on November 5, 2010
15 from the Architectural Review Board (ARB) commenting that at its October
16 28, 2010 meeting the ARB unanimously approved the proposal as
17 submitted; a letter dated and received on October 22, 2010 from Acting
18 Commissioner Edward Buroughs, AICP, of Westchester County Planning
19 Board commenting on three remaining recommended key features for the
20 Board to consider; a memo dated October 20, 2010 received on October
21 25, 2010 from the Conservation Board (CB) revising its October 8, 2010
22 memo; a memo dated November 5, 2010 received on November 9, 2010
23 from the Conservation Board with concerns and recommendations; a
24 memo dated November 5, 2010 from Consulting Town Engineer Barbagallo
25 with discussion comments regarding traffic and stormwater issues; and a
26 memo dated November 5, 2010 from Town Planner Hull with her review
27 comments.

28
29 The Chair asked the applicant's representative to give a brief presentation
30 regarding the recent submission.

31
32 Adam Wekstein, the applicant's attorney, said that he received all the
33 correspondence that was just mentioned by the Chair and he introduced
34 Kristin DeLuca, the applicant's engineer, to describe the changes to the
35 plan.

36
37 Engineer DeLuca noted that this was a previously approved application that
38 proposed a 3,755 SF Bank of America. She explained that the current
39 application proposes a 3,819 SF Chase Bank. Engineer DeLuca said that
40 the square footage of the building does increase slightly with the Chase

1 application. She explained that the site layout is generally the same with a
 2 few changes. Engineer DeLuca said that the doors were facing Route 6
 3 under the Bank of America plan but the building now has been rotated 90°
 4 and faces west towards the parking lot. She mentioned that the entrance
 5 was reconfigured and allows right turns into the site as well as right turns
 6 out of the site. Engineer DeLuca indicated that the current application
 7 shows 28 parking spaces with two land banked stalls which meets the
 8 requirement of the 30 stalls. She noted that there will be two employee
 9 spaces and the drive-thru has two lanes with a four car stacking for each
 10 lane which equals a total of eight cars. Engineer DeLuca mentioned the
 11 20-foot landscape buffer along the front roadway with the ZBA granting
 12 approval for the front yard setback for the Bank of America. She
 13 commented that the screening will be evergreen shrubs along the Route 6
 14 frontage and two to four rows of shrubs with a minimum of 30 inches in
 15 height along the whole frontage of the site.

16
 17 Ms. Gannon asked that the landscaping be described.

18
 19 Engineer DeLuca said that shrubs are proposed to screen the building with
 20 a rain garden to collect the stormwater runoff.

21
 22 John Harter, the applicant’s traffic engineer, said that he is a licensed
 23 engineer in the State of New York, and worked on the traffic issues related
 24 to this project. He noted that on October 25, 2010 he submitted a Traffic
 25 Letter Report. Engineer Harter said that his focus was on the drive-thru,
 26 the queuing and traffic concerns for this project. He indicated that Bohler
 27 Engineering provided a site access exhibit which shows the full-movement
 28 driveway and the right-in/right-out driveway which is the easterly access to
 29 the Somers Commons Shopping Center. He noted that the westerly access
 30 is signalized. Engineer Harter said that he reviewed traffic counts for the
 31 right-in/right out driveway by going back and looking into traffic counts that
 32 were conducted by his office in 2007. He indicated that he looked at three
 33 peak hours; midday week day, lunch time and evening and Saturday
 34 midday. He noted that based on the count the peak hour volume was very
 35 low turning right into the site off eastbound Route 6. Engineer Harter
 36 indicated that most traffic makes a right at the signal at the westerly
 37 access. He explained that the 2007 counts indicate that only 5 to 11 right
 38 turns were made from eastbound US Route 6 into the easterly access
 39 during any of the peak hours studied. Engineer Harter said that as
 40 recommended by the Planning Board professionals he updated traffic

1 counts at the two intersections on the following days during the following
2 time: Saturday midday, October 16, 2010-12:00 P.M to 2:00 P.M.;
3 Tuesday, weekday midday, October 19, 2010-12:00 P.M. to 2:00 P.M.;
4 and on October 19, 2010, weekday evening, 4:00 P.M. to 6:00 P.M. He
5 said that there was very little volume. He mentioned that under trip
6 generation there were approximately 50 vehicles entering the site during
7 each of the study peak hours. Engineer Harter said that under distribution
8 approximately 10 vehicles will be added to the movement turning right into
9 the site and right into Somers Commons to access the bank. He said that
10 together the volumes will be 20 trips per peak hour.

11
12 Engineer Harter said to enhance the design there will be a slight widening
13 along the westerly side of the access into the Shopping Center so there will
14 not be an issue with traffic as it enters the bank and an island separating
15 the right-in/right-out movement with striping which will enhance the design.
16 He said that for the full-movement driveway this is recommended because
17 it will limit any queuing on site and he recommended a right only exit lane.

18
19 Engineer Harter noted that when the new counts were conducted during
20 the Saturday peak hour there was up to 360 two-way volume during a peak
21 hour and considering that volume and that most of the traffic will exit the
22 westerly signalized access he opined that the right turn out will be
23 beneficial. He opined that the new design is an improvement on what was
24 originally proposed.

25
26 Engineer Harter said that another aspect of his study was the drive-thru
27 vehicle queuing. He said that 4 cars in each lane are depicted on the plan
28 but he looked at the drive-thru queuing in three aspects. He mentioned
29 that the first section in the report talks about traffic data which was
30 collected at banks and drive-thru's which comprised 12 sites in New York
31 with a minimum of 5 vehicles queued at any one time. He reviewed the
32 publication in the Institute of Transportation Engineers (ITE) Journal which
33 provides articles on current topics. He noted that in August 2010 there was
34 an article that looked at drive-thru banks and discussed how the industry
35 has changed since 2000. He said that there is more on-line banking, more
36 competition and trip generation has decreased, as well as drive-thru
37 volumes. He said that based on this article with 24 bank sites studied the
38 research indicates that a maximum of five (5) total queued vehicles can be
39 expected at the Chase Bank drive-thru and the drive-thru stacking area is
40 deemed more than sufficient as it can accommodate up to eight (8)

1 vehicles. Engineer Harter indicated that a Planning Board member asked
2 about the service rates and if the drive-thru demand could be predicated
3 that way. He said that in an ITE publication in 1988 estimated that 55% of
4 traffic will use the drive-thru during peak hours and using that with a 2 ½
5 minute service time resulted in a 4 vehicle queue. Engineer Harter said that
6 looking at the three methods he believes an 8 car storage will clearly serve
7 the maximum five (5) car demand.

8
9 Ms. Gerbino asked if the drive-thru has an ATM machine and what services
10 are provided in the bank and if there will be safe deposit boxes. She said
11 the reason she is asking is why will people park to go into the bank other
12 than to get a mortgage.

13
14 Chris Eskom, from the real estate department of Chase, stated that there is
15 an ATM machine in the outside lane and there will not be safe deposit
16 boxes. He said that Chase prefers customers coming into the bank with
17 the drive-thru being a convenience that Chase offers.

18
19 Ms. Gannon said that the plan shows an interior and drive-thru ATM.

20
21 Mr. Goldenberg said that there are no problems with the local Chase banks
22 when it comes to drive-thru's.

23
24 The Chair asked Consulting Town Engineer Barbagallo to summarize his
25 memo to the Board for the benefit of the public.

26
27 Consulting Town Engineer Barbagallo said that he reviewed the Atlantic
28 Traffic Report. He noted that he asked that the applicant review the traffic
29 counts anticipated after the Planned Hamlet is fully developed. He said
30 that the data provided by the applicant states that trips will increase by only
31 an additional 1% turning into the easterly access point. He said that he is
32 comfortable that traffic from the Planned Hamlet will not exacerbate traffic.

33
34 Consulting Town Engineer Barbagallo said that from a traffic perspective at
35 the main entry/exit point, given the level of traffic circulating within the
36 proposed lot, and the multiple exit opportunities provided, he does not see
37 a need for a separate right hand turning exit lane. However, if the Board
38 agrees that the additional lane will not have an impact on the pedestrian
39 traffic or the land banked parking space, he has not objection to approving
40 it as is.

1 Ms. Gannon asked Consulting Town Engineer Barbagallo what his concern
2 is.

3
4 Consulting Town Engineer Barbagallo said that there will be more traffic
5 with two lanes exiting and one lane entering. He noted that there are
6 sidewalks in the area and he wants this to be done in a safe fashion.

7
8 Ms. Gerbino said as a pedestrian she can be coming to the bank from The
9 Mews and when she reaches the driveway she is concerned that she will
10 be sharing the driveway with automobiles.

11
12 The Chair said that there is a consensus of the Board to approve the right
13 hand turning exit lane and Consulting Town Engineer Barbagallo opined
14 that he has no problem approving the right hand turning lane.

15
16 Consulting Town Engineer Barbagallo noted that the applicant should
17 provide field testing data to support the design of the proposed drywells
18 and rain garden.

19
20 Engineer DeLuca said that the material that was found was a lot of fill and
21 the details for the stormwater treatment, drywells and rain garden proposes
22 a sand column around the drywells and material under the rain garden to
23 allow for leech ability down to the groundwater.

24
25 Consulting Town Engineer Barbagallo said that he wants to make sure that
26 there is a separation from the infiltration practice to either the groundwater
27 or bedrock.

28
29 Engineer DeLuca said that she has the borings that show the groundwater
30 elevations and the 4 foot separation distance being provided between the
31 drywells and the groundwater.

32
33 Consulting Town Engineer Barbagallo said that the applicant has
34 demonstrated through design calculations that they are achieving water
35 quality benefits through the installation of a rain garden, drywells, and
36 Baysaver Unit which is beyond what is required under State regulations. He
37 said that in reference to the MS4 obligations that a calculation summary be
38 provided of the net reduction in phosphorous loading.

39

1 Engineer DeLuca explained that the drywell and the rain garden are a form
2 of treatment for the phosphorous removal with the water quality volume
3 giving an increase from the water quality volume that is treated for standard
4 practices. She explained that it is a 2.8 inch rainfall and she is treating
5 27% of the water quality volume within those practices.

6
7 Consulting Town Engineer Barbagallo asked Engineer DeLuca to calculate
8 and show reduction in phosphorous. He mentioned that it appears that
9 grading and site work is proposed in the Department of Transportation
10 (DOT) right-of-way and outside the lot lease line and the applicant should
11 provide the appropriate documentation and permits associated with
12 completing work outside their property boundary. He said that the
13 application is pending but prior to the issuance of a Building Permit the
14 applicant shall submit the new permit to the Consulting Town Engineer.

15
16 Consulting Town Engineer Barbagallo said that the applicant should
17 provide an update on the regulatory status relative to the former gas station
18 and any residual contaminated soil that may exist on site. He said that the
19 applicant has addressed this issue but he is asking that a note be added on
20 the decommissioning process to the Removal Plan. He indicated that the
21 notes shall also state that laboratory results and the Tank Closure Report
22 shall be submitted to the Consulting Town Engineer for review prior to the
23 issuance of the Certificate of Occupancy. He asked that the CB memo also
24 be addressed.

25
26 Consulting Town Engineer Barbagallo asked that the Atlantic Traffic Report
27 be stamped and sealed.

28
29 Mr. Goldenberg asked that the lab reports be from a lab licensed in the
30 State of New York.

31
32 The Chair asked Town Planner Hull to share her project review comments
33 for the benefit of the public.

34
35 Town Planner Hull said that her only outstanding comment is in reference
36 to the Westchester County Department of Planning referral letter dated
37 September 27, 2010 which identified the inclusion of a greater number of
38 lighting poles than previously proposed. She said that the applicant should
39 explain the need for the additional poles.

40

1 Engineer DeLuca said that the lighting at the northeast corner shows spill in
2 that area. She noted that the light has been moved forward a little and the
3 levels from the property line have been reduced but because of the ATM
4 requirements the light has to stay in that area.

5

6 The Chair referred to the Conservation Board (CB) memo dated November
7 5, 2010 received on November 8, 2010. *There are monitoring wells on site*
8 *according to the legend.*

9

10 Consulting Town Engineer Barbagallo said that his request for notes on the
11 decommissioning process on the plan will satisfy the CB comment.

12

13 The Chair asked Planning Board Secretary Murphy if prior to the Public
14 Hearing was the required legal notice published, the adjoining property
15 owners notified and the property posted.

16

17 Planning Board Secretary Murphy stated that the legal notice was
18 published in the North County News for their October 27, 2010 issue, the
19 adjoining property owners were notified via mail on November 1, 2010 and
20 the sign was posted on October 29, 2010 stating the date and place of the
21 Public Hearing.

22

23 The Chair asked if anyone was present who wished to be heard regarding
24 this application and no one responded.

25

26 The Chair indicated that there was a consensus of the Board to close the
27 Public Hearing.

28

29 On motion by Mr. Goldenberg, seconded by Ms. Gannon, and unanimously
30 carried, the Board moved to close the Public Hearing on the application of
31 BVS Acquisition Co., LLC.

32

33 The Chair said that Town Planner Hull has no objection to preparing a draft
34 resolution of approval for the Board's consideration at the December 8,
35 2010 Planning Board meeting. She asked Consulting Town Engineer
36 Barbagallo if he had any objection.

37

38 Consulting Town Engineer Barbagallo stated that he had no objection to
39 the preparation of a draft Resolution of approval.

40

1 The Chair indicated that there is a consensus of the Board to direct the
 2 Town Planner to prepare a draft conditional resolution of approval for
 3 consideration at the December 8, 2010 Planning Board meeting.

4
 5 On motion by Mr. Goldenberg, seconded by Ms. Gannon, and unanimously
 6 carried, the Board moved to direct Town Planner Hull to prepare a draft
 7 conditional resolution for BVS Acquisition Co., LLC Amended Site Plan
 8 Approval, Steep Slopes, Wetland and Stormwater Management and
 9 Erosion and Sediment Control Permits for a proposed Chase Bank for the
 10 Board’s consideration for approval at a meeting to be held on Wednesday,
 11 December 8, 2010 at 7:30 P.M. at the Somers Town House.

12

PROJECT REVIEW

13

**SUSSMANN MOBIL STATION-ROUTE 100 REALTY, LLC
 14 APPLICATION FOR AMENDED SITE PLAN, WETLAND,
 15 STEEP SLOPES, AND STORMWATER MANAGEMENT AND
 16 EROSION AND SEDIMENT CONTROL PERMITS [TM: 17.18-1-2]
 17**

18

19
 20 Chairman DeLucia noted that this is the project review of the application of
 21 Route 100 Realty LLC for amended Site Plan approval, Wetland and Steep
 22 Slopes Permits, Groundwater Protection Overlay District Special Exception
 23 Use Permit and Stormwater Management and Erosion and Sediment
 24 Control Permit for the proposed alterations and additions of an existing 880
 25 square foot convenience store, a reconfiguration of the parking area and
 26 new stormwater management basin. The Chair said that the owners of the
 27 property are Juliette Fourgeot Sussmann and Paul Sussmann. She
 28 mentioned that the property is located at the Mobil Gasoline Service
 29 Station, 291 NYS Route 100 on .8660 acres in the Neighborhood Shopping
 30 Zoning District and Groundwater Protection Overlay District. The Chair
 31 explained that a significant portion of the site is located within a 100-foot
 32 wetland buffer which includes an adjacent pond and stream that drains
 33 directly to the Muscoot Reservoir. She indicated that the applicants are
 34 proposing to expand the existing 880 square foot convenience store
 35 located at that site to approximately 3,057 SF and a reconfiguration of the
 36 existing parking lot with additional parking spaces and a stormwater
 37 management basin. The Chair noted that the applicants are represented
 38 by Architect Roy van Lent of Van Lent Architects and Planners and
 39 Engineer Timothy S. Allen of Bibbo Associates, LLP.

40

1 The Chair said that the square footage of the convenience store increased.

2

3 Timothy S. Allen, the applicant's engineer, stated that the square footage of
4 the convenience store is 3,057 which is a reduction.

5

6 The Chair noted that this application was last discussed at the September
7 22, 2010 Planning Board meeting whereby the Board declared itself Lead
8 Agency under SEQRA, and after its project review, the applicant was
9 directed to revise the plans, obtain confirmation from the Westchester
10 County Health Department regarding concerns in its May 14, 2010 letter,
11 and address the outstanding comments contained in the staff's memoranda
12 and the Board and that an action letter be sent to the applicant, which was
13 sent on September 28, 2010.

14

15 The Chair acknowledged for the record receipt of the following: a letter
16 dated October 26, 2010 received October 28, 2010 from the applicant's
17 representative Timothy S. Allen, P.E., of Bibbo Associates submitting
18 project drawings and a Stormwater Pollution Prevention Plan (SPPP)
19 both revised October 14, 2010 in response to the September 28, 2010
20 action letter and including responses to recent Town staff memoranda and
21 Board's comments; a letter dated September 22, 2010 received September
22 29, 2010 from Edward Buroughs, AICP, Acting Commissioner of the
23 Westchester County Planning Board commenting that untreated runoff be
24 minimized by shrinking the parking area to meet actual parking demand; a
25 memo dated and received October 4, 2010 from the Architectural Review
26 Board (ARB) approving the project; a memo dated October 22, 2010
27 received October 25, 2010 from the Conservation Board (CB) commenting
28 that trees have been cut down and the applicant needs to adapt the plan to
29 what is taking place on the property and should be accurate; a memo dated
30 November 5, 2010 received November 8, 2010 from the Conservation
31 Board with concerns regarding the cutting of trees in the wetland buffer and
32 permit; a letter dated September 22, 2010 received November 4, 2010 from
33 Michelle Paul of Apache Oil regarding oil deliveries; a memo dated
34 November 9, 2010 from the Somers Fire Bureau stating that the SP5-
35 Basement Plan be forwarded to the Building inspector as it is not a Bureau
36 issue; a memorandum just received from the Building Inspector dated
37 November 10, 2010, which the Board will review at another time; a memo
38 dated and received November 5, 2010 from Consulting Town Engineer
39 Barbagallo with his project review comments; additional comments and
40 other outstanding items not included in the Action Letter one of which

1 remains unaddressed; and a memo dated November 4, 2010 from Town
2 Planner Hull with her project review comments, related Action Letter
3 comments, and comments from the Town Planner's September 17, 2010
4 memo to the Board.

5

6 The Chair noted that she spoke to Steve Woelfle, the Principal Engineering
7 Technician, and no permit was necessary for the cutting of the trees as the
8 trees were not regulated.

9

10 The Chair asked the applicant's representative to give a brief presentation
11 regarding the revised submission and related materials.

12

13 Tim Allen, the applicant's engineer, said that the plan has not changed
14 substantially from the last meeting. He mentioned that the building size
15 has been reduced allowing more room for the trucks to pull out of the
16 property. Engineer Allen noted that there are a few items that are
17 outstanding which he has begun to address. He indicated that the
18 Westchester County Health Department has to sign off on the project.
19 He said that he met with the Health Department and they are considering
20 this project as a change of use. Engineer Allen said that the original gas
21 station approval was very conservative in terms of the sewage flow and
22 discharge. He said that the proposed building has more than enough
23 capacity to handle the sewage flow. Engineer Allen stated that the Health
24 Department is comfortable with the proposal. He explained that the Health
25 Department wants an assessment of the existing system. He said that he
26 received a letter from the New York State Department of Environmental
27 Conservation (DEC) regarding the wetland, which is a pond, in back of the
28 building. He noted that the applicant has hired Beth Evans to work with the
29 DEC and she will provide a mitigation plan. Engineer Allen said that a
30 parking space is proposed along Route 100. He mentioned that the traffic
31 consultant noted that even without the parking space along Route 100 the
32 parking is sufficient

33

34 Town Planner Hull said that if the applicant is asking the Board to waive the
35 requirement for the 17th parking space documentation has to be put
36 together with the rationale of why that space should be waived. She stated
37 that the size of the building, regardless of the Building Inspector's
38 interpretation, of the office in the basement has to be considered in the
39 square footage and will require 17 parking spaces. Town Planner Hull

1 noted that if the land banked space is becoming a formalized space it has
2 to be shown on the plan.

3
4 Engineer Allen stated that it is up to the Board to decide if the parking
5 space is needed. He indicated that the office in the basement is for one
6 more employee.

7
8 Town Planner Hull explained that the Town Code in reference to parking
9 allocation does not rely on the number of employees but is based on
10 square footage. She said if the applicant is asking for interpretation of
11 whether or not that use is considered square footage because it is a
12 basement is a different question than what you would ask the Building
13 Inspector. She said that the applicant may want a legal interpretation of the
14 Town Code in relation to the proposed plan.

15
16 Ms. Gannon said if the applicant is asking that the calculation be based on
17 actively used retail space which may be a true representation of actual
18 need that documentation should be presented for the Planning Board's
19 consideration.

20
21 Engineer Allen stated that documentation has been provided early on in the
22 process with John Collins Engineering concluding that parking is adequate
23 for what is being used.

24
25 Town Planner Hull opined that information has to be repackaged in relation
26 to the Board's question.

27
28 The Chair stated that the applicant is aware that another parking space is
29 needed. She noted that the office in the basement requires another
30 parking space and along with the two land banked parking spaces should
31 be shown on the plan.

32
33 Engineer Allen said that there are two striped parking spaces on Route 100
34 and he will put one of these spaces on the plan.

35
36 Consulting Town Engineer Barbagallo asked if the Board had any
37 comments on the location of the parking spaces.

38
39 Mr. Currie said that he prefers a land banked space.

1 The Chair mentioned that Town Planner Hull suggested that the building be
2 made smaller so the parking will fit.

3
4 Town Planner Hull said that there is a provision in §170-41 that allows the
5 parking to be reduced based on the information submitted by the applicant.
6 She explained that this information may lead to the Planning Board waiving
7 the requirement for the 17th space.

8
9 Town Attorney Eriole said that the discussion tonight is sufficient for the
10 Board to consider the 17th parking space.

11
12 Mr. Foley mentioned that the problem is that cars are parking in spaces
13 that they shouldn't and if that is going to continue it should be incorporated
14 into the plan to stop this from happening. He said that the Board is trying to
15 make this project aesthetically pleasing.

16
17 Engineer Allen said that reality is cars park adjacent to Route 100 because
18 it is convenient and it should be noted on the plan.

19
20 Town Planner Hull explained that in order to waive the requirement for the
21 parking space documentation has to be provided that states that if
22 sometime in the future the spaces are needed there is a process to put the
23 space back. She questioned why the spaces should be land banked when
24 people are using those spaces today. She indicated that the safe measure
25 is to identify the parking spaces on the plan.

26
27 Consulting Town Engineer Barbagallo said that if the Board is in agreement
28 the spaces should be striped as one space and not two.

29
30 Mr. Goldenberg opined that he rather have customers park at those spots
31 to get their coffee and not park at the gas pumps.

32
33 Town Attorney Eriole said that there is a consensus of the Board to identify
34 the space adjacent to Route 100 on the plan.

35
36 The Chair said that Engineer Allen suggested that the Planning Board
37 respond to the DEP letter because they are Lead Agency and the letter
38 was sent to the Planning Board. She opined that it is Engineer Allen's
39 responsibility to respond to the DEP.

40

1 Engineer Allen agreed to respond to the DEP letter but opined that legally it
2 is not correct. He said that the DEP commented on a SEQRA action and
3 he feels it is correct to respond to the Planning Board because they are
4 Lead Agency.

5

6 Town Planner Hull said that question is whether the letter went to the
7 section of the DEP that handles SEQRA.

8

9 Ms. Gannon asked about the wetland plantings that were noted in the DEC
10 letter of November 8, 2010.

11

12 Engineer Allen said that Beth Evans will be handling the wetland plantings
13 down slope of the sand filter and will submit a mitigation plan.

14

15 The Chair asked if the applicant needs an action letter and Engineer Allen
16 said he is sure he knows what the Board wants.

17

18 Engineer Allen asked if the Board can schedule a Public Hearing for this
19 project. He suggested scheduling the Public Hearing for the first January
20 meeting which will give the applicant time to wrap up the loose ends. He
21 indicated that if the concerns are not addressed by the first meeting in
22 January, then the Public Hearing can be scheduled for the second January
23 meeting.

24

25 The Chair said if the information is provided a Public Hearing can be
26 scheduled. She noted that a Negative Declaration will be provided
27 simultaneously with the approving Resolution.

28

29 The Chair stated that she is concerned about the Health Department and
30 needs something in writing from the Health Department.

31

32 Ms. Gannon asked Engineer Allen when he will have all the information
33 that is outstanding.

34

35 Engineer Allen said that all the information will be provided by the middle of
36 December.

37

38 Ms. Gerbino clarified that the Planning Board has to schedule a Public
39 Hearing at a meeting.

40

1 Town Planner Hull said that the applicant is asking the Board to commit to
2 a Public Hearing provided all the information is submitted and she asked if
3 the Board is comfortable with that approach. She noted that the applicant
4 is asking the Board to predict the future and commit to something without
5 all the information.

6
7 Mr. Goldenberg asked what is wrong if the information comes in and is
8 reviewed by the Chair and staff and they decide all the information is
9 complete and call for a Public Hearing in January and if all the information
10 is not submitted you carry the Public Hearing forward.

11
12 Town Attorney Eriole advised that there is nothing wrong with Mr.
13 Goldenberg's approach. He explained that if the Board schedules a Public
14 Hearing for January and insufficient information was provided the Public
15 Hearing could be withdrawn and never opened. He indicated another
16 option is that the Public Hearing can be opened and not closed. Town
17 Attorney Eriole explained that the reasoning for this is that from a public
18 perspective the application will not change but there will be technical review
19 by outside agencies and if the record is not entirely complete the Public
20 Hearing can remain open.

21
22 The Chair commented that this approach has never been done before.

23
24 Town Attorney Eriole said that some members of the Board wanted to
25 explore these options.

26
27 Town Planner Hull noted that it comes down to if the Board is confident that
28 all the information will be provided.

29
30 Consulting Town Engineer Barbagallo said that the Health Department and
31 the DEC relative to mitigation are a concern.

32
33 Engineer Allen noted that the DEC can take up to six months for a decision
34 and can be a condition of the Resolution.

35
36 Town Attorney Eriole commented that the involved agencies do not give
37 preliminary approval and a condition of approval is you must have your
38 agency approvals. He said that the Board may get feedback from an
39 involved agency but it is a long shot that the Board will receive a definitive
40 letter.

1 Engineer Allen stressed that DEP and DEC cannot grant approval until they
2 receive a Negative Declaration from the Lead Agency. He withdrew his
3 request for a Public Hearing and said that he will get feedback from DEP
4 and DEC and if it is not received he will explain why.

5

6 Town Planner Hull explained that if all the information is provided for the
7 first meeting in January with the expectation of having a Public Hearing at
8 the second meeting in January the timing procedure does not
9 accommodate the Public Hearing being held at that time. She noted that if
10 the Public Hearing is to be held in January the information must be
11 provided for the December meeting.

12

13 Consulting Town Engineer Barbagallo said that the Beth Evans report is
14 important as well as showing the parking space on the plan.

15

16 Consulting Town Engineer Barbagallo brought up the issue of the trash
17 enclosure.

18

19 The Chair read from the minutes of September 22, 2010, *Consulting Town*
20 *Engineer Barbagallo said that the trash enclosure is proposed across the*
21 *sidewalk directly adjacent to a ramp and in close proximity to the building*
22 *entrance and he suggested that this be relocated to an area that provides*
23 *better access for trash disposal where the truck would not have to traverse*
24 *the sidewalk and block the pedestrian entrance during trash removal.*

25

26 Engineer Allen indicated that the trash enclosure will remain as shown on
27 the plan. He said that trash is picked up at 5 A.M. and will not be a
28 problem.

29

30 Consulting Town Engineer Barbagallo said that he reviewed the updated
31 turning radius that reflects the new layout of the building and finds that it
32 can accommodate the expected turning radius of a tractor trailer up to 60'
33 in length.

34

35 Town Attorney Eriole reiterated that if by December the concerns can be
36 responded to and the only outstanding item is the sign-off from involved
37 agencies the Board may be able to schedule a Public Hearing.

38

39 The Chair directed the applicant to revise the plans, obtain confirmation
40 from the Westchester County Health Department regarding concerns in its

1 May 14, 2010 letter, and address outstanding issues and comments
2 contained in the staff's memoranda to the Board and the Board's
3 comments.

4
5 There being no further business, on motion by Ms. Gerbino, seconded by
6 Mr. Goldenberg, and unanimously carried, the meeting adjourned at 9:20
7 P.M. and the Chair noted that the next Planning Board meeting will be held
8 on Wednesday, December 8, 2010 at 7:30 P. M. at the Somers Town
9 House.

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16

Respectfully submitted,

Marilyn Murphy
Planning Board Secretary