

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 NOVEMBER 12, 2014

4

5

6

ROLL:

8

PLANNING BOARD

9
10 **MEMBERS PRESENT:** Chairman Currie, Ms. Gerbino,
11 Mr. Goldenberg and Mr. Foley

12

13 **ALSO PRESENT:** Consultant Town Engineer Joseph Barbagallo
14 Town Attorney Roland Baroni
15 Planning Board Secretary Marilyn Murphy

16

17 **ABSENT** Mr. Keane, Mrs. DeLucia and Ms. Gannon

18

19 The meeting commenced at 7:10 p.m. Planning Board Secretary Marilyn
20 Murphy called the roll. She noted that a required quorum of four members
21 was present in order to conduct the business of the Board.

22

APPROVAL OF DRAFT SEPTEMBER 10, 2014 MINUTES

23

24
25 Chair Currie noted that Planning Board Secretary Marilyn Murphy prepared
26 and submitted for the Board's consideration approval of the draft minutes of
27 the Planning Board meeting held on September 10, 2014.

28

29 The Chair asked the Board if there were any comments or questions on the
30 draft minutes of September 10, 2014 and no one replied.

31

1 On motion by Mr. Goldenberg, seconded by Ms. Gerbino, and unanimously
2 carried, the draft minutes of September 10, 2014 were approved.

3
4 The DVD of the September 10, 2014 Planning Board meeting is made a
5 part of the approved minutes and is available for public viewing at the
6 Somers Public Library. The text of the approved minutes is also on the
7 Town's website www.somersny.com and is available for public review at
8 the Planning & Engineering office at the Town House.

9 10 **POWER POINT PRESENTATION**

11
12 Chairman Currie noted that Heidi Dudek, construction project manager for
13 the Department of Environmental Conservation (DEC), conducted a power
14 point presentation on the Granite Pointe off-site remediation work.

15
16 Engineer Dudek stated that she is an engineer with New York State
17 Department of Environmental Conservation (DEC) in the division of
18 environmental remediation and the construction project manager for the
19 Granite Pointe off-site remedial action. She said that the update is just on
20 the off-site portion and not the Granite Pointe Subdivision as that is a
21 separate project. Engineer Dudek said that she will explain the summary of
22 the remedy, what work will be completed this winter and the tentative
23 construction schedule for the remainder of the project.

24
25 Engineer Dudek said that the off-site remedy is the excavation and off-site
26 disposal of soil exceeding unrestricted soil cleanup objectives. She
27 explained that the DEC will be remediating all the lead contamination that is
28 present on the off-site portion of the DEP property and that the offsite
29 portion will be backfilled with clean fill and the off-site will be restored
30 according to the DEP forestry requirements.

31
32 Engineer Dudek's power point presentation showed the Amawalk Reservoir
33 in relation to the Granite Pointe Subdivision. She explained that the DEP
34 property is along the buffer zone of the Amawalk Reservoir where there is
35 hazardous and non-hazardous levels of lead in the surface and subsurface
36 soils that will be excavated as part of the off-site remedy. She mentioned
37 that the Department of Health (DOH) stated that the level of lead in the soil
38 is a significant health threat and will be remediated. Engineer Dudek noted
39 that the DEC under the State Super Fund Program is cleaning up the off-
40 site project. She explained that the trees have to be cleared during the

1 winter months because of the Indiana Bats so there is no issue that the
2 bats will come into the property during their nesting season. Engineer
3 Dudek explained that the Fish and Wildlife regulate the timeframe when the
4 work can be performed.

5

6 Engineer Dudek said that in order to bid the job under the State Super
7 Fund it has to be done now so when the rest of the bid goes out it will not
8 be held up. She mentioned that the work has to be done quickly so the site
9 can be re-vegetated and stabilized. Engineer Dudek noted that if
10 everything goes according to plan a construction road with a gate will be
11 put in within the next few weeks. She commented that there will be a
12 limited removal of contamination in the construction road bed. Engineer
13 Dudek said that the DEC will be clearing the remedial area but will not be
14 grubbing so all the tree stumps will be left in place as well as any dead
15 wood left in the soil. She stressed that the goal is not to disturb the actual
16 site until it is time to do the remedy. Engineer Dudek indicated that she is
17 working closely with the DEP on the installation of erosion controls and
18 surface water control requirements.

19

20 Engineer Dudek explained that a construction road will be put in that
21 follows the line of the Granite Pointe Subdivision and the lead
22 contamination in that area will be remediated. She mentioned that the tree
23 cutting equipment is designed not to create any ruts. Engineer Dudek
24 mentioned that there will be erosion and sediment control along the
25 construction road and the Amawalk Reservoir. She noted that when this is
26 done the job can be put out to bid and her hope is that the bid notice will go
27 out in late winter or early spring with the intent to award in the Spring of
28 2015 and the notice to proceed in early summer of 2015.

29

30 Engineer Dudek noted that the remedial action schedule for the entire site
31 is summer and fall of 2015 with final site restoration in the Spring of 2016.
32 She stressed that the removed vegetation will be replaced with trees and
33 vines per the DEP regulations with a one year monitoring program.

34

35 Engineer Dudek mentioned that the stone wall on the property will be
36 replaced.

37

38 Ms. Gerbino asked where the construction road will come out.

39

40 Engineer Dudek said that the construction road will come out north of the

1 Granite Springs garage.

2

3 Mr. Goldenberg asked who will be supervising the project.

4

5 Engineer Dudek said that she will be supervising the project as well as
6 Matthew Sausville of CBI, project engineer, as well as the contractor.

7

8 Mr. Goldenberg asked when was the last time the DEC looked at the
9 project to make sure the lead is in the same place.

10

11 Engineer Dudek said that the DEC took soil samples to determine the
12 location of the lead this summer. She noted that confirmation sampling will
13 be done during remediation.

14

15 Mr. Goldenberg asked how many trees will have to be removed.

16

17 Engineer Dudek stated that 4 acres of trees will have to be removed from
18 the site.

19

20 Mr. Goldenberg asked how the site was delineated.

21

22 Engineer Dudek noted that there was a decision document in 2013 that
23 was part of the Brownfield Program.

24

25 Ms. Gerbino said that the dam was drained down to 12 feet to look for
26 leaks.

27

28 Engineer Dudek noted that is the jurisdiction of the NYCDEP. She said
29 that when the DEC is doing the remedy for the DEP property she will ask
30 that the reservoir be lowered as low as possible.

31

32 Olga Shamraj, resident, asked what will happen to the trees that are cut
33 down.

34

35 Engineer Sausville said that the trees will be chipped and sent to an
36 approved off site disposable facility.

37

38 Timothy Allen, Granite Pointe engineer, said that there will be grubbing on
39 the Granite Pointe site.

1 Engineer Dudek explained that grubbing cannot take place on the DEP
2 property until it is remediated because of the Indiana and Long Ear Bats.
3 She said that the trees have to be cut during the winter months.

4 Engineer Dudek stated that once the contract is in place the contractor will
5 be grubbing.

6
7 Olga Shamraj, resident, asked about the bats and the meaning of grubbing.

8
9 Engineer Dudek said that US Fish and Wildlife requires that when you cut
10 down trees that you do a Bat Survey. She explained that the trees will be
11 cut to a certain level above ground which is one half the tree diameter. She
12 indicated that the root balls and any dead wood that is in the soil will not be
13 removed.

14
15 Mr. Goldenberg asked the reason for leaving the tree stumps.

16
17 Engineer Dudek said if there is a shaggy barked tree the bats will roost in
18 those trees. She indicated that the bats go to their hibernation area around
19 October 1st.

20
21 Engineer Dudek explained that in order to expediate everything the
22 construction road will be installed which will include grubbing of some trees
23 and erosion controls will be used. She mentioned that per US Fish and
24 Wildlife the trees can only be taken down from October 1st through March
25 31st. Engineer Dudek said that the entire site will be replanted with trees
26 and native shrubs and vines. She commented that 100 trees will be
27 planted per acre.

28
29 Consultant Town Engineer Barbagallo stated that the applicant for Granite
30 Pointe spent a lot of time updating the Stormwater Pollution Prevention
31 Plan (SWPPP) and he is curious if the DEC is doing the same.

32
33 Engineer Dudek stressed that the SWPPP for the DEC property was just
34 approved last week in accordance with the updated regulations.

35
36 Consultant Town Engineer Barbagallo asked Engineer Allen if he approved
37 the use of the construction road and Engineer Allen said that he approved
38 the use of the construction road.

39

1 Mr. Foley said that there is an understanding that the remedy was
2 approved, but for purposes of educating some that believe this is overkill,
3 he asked for a brief comment on other methods that were rejected as
4 inadequate.

5
6 Engineer Sausville indicated that stabilization measures were reviewed but
7 because concentration was elevated it did not work.

8
9 Engineer Dudek stated that there is a lot of hazardous lead on the property.

10
11 Mr. Goldenberg asked what protection will take place if storms occur.

12
13 Engineer Dudek said that there will be erosion and sediment controls on
14 the site as well as weekly monitoring of the site. She said that there will be
15 a phased approach when the remediation takes place.

16
17 **PUBLIC HEARING**

18
19 **HAUSER WETLAND PERMIT**
20 **[TM: 17.11-1-16]**

21
22 Chairman Currie said that this is a Public Hearing on the application for
23 Michael and Randi Hauser for a Wetland Permit for the construction of a
24 single story frame garage for property located at 7 Scott Drive.

25
26 Chair Currie asked Planning Board Secretary Murphy if the legal notice
27 was published and the adjoining property owners notified.

28
29 Planning Board Secretary Murphy stated that the legal notice was
30 published in the Somers Record on October 30, 2014 and the adjoining
31 property owners were notified via mail on October 29, 2014.

32
33 Chair Currie asked the applicant's representative to explain the application
34 for the benefit of the Board and the public.

35
36 William J. Hauser, the applicant's engineer, noted that the applicant is
37 looking to construct a 24'X23' single story garage adjacent to their home at
38 7 Scott Drive and indicated the buffer area that extends to the rear of the
39 home on the plan.

1 Chair Currie asked Consultant Town Engineer Barbagallo to review his
2 memo for the benefit of the Board and the public.

3
4 Consultant Town Engineer Barbagallo said that he prepared a memo dated
5 October 30, 2014 and a draft Resolution of Approval to be reviewed by the
6 Board after the close of the Public Hearing. He mentioned that he
7 incorporated into the Resolution the two remaining items that have to be
8 addressed as conditions of approval. He indicated that he asked that an
9 acceptable flow dissipation device be incorporated at the proposed
10 stormwater system overflow outlet location adjacent to the proposed
11 garage and that the plans be revised to include a summary of routine
12 maintenance and inspection procedures for the proposed drywell infiltration
13 system, during and following the completion of construction.

14
15 Consultant Town Engineer Barbagallo stated that he is comfortable with the
16 Board moving forward and reviewing the Resolution.

17
18 Chair Currie asked if anyone from the public would like to speak on the
19 application and no one responded.

20
21 On motion by Mr. Goldenberg, seconded by Mr. Foley, and unanimously
22 carried, the Board determined that pursuant to 6NYC RR Part 617 of the
23 implementing regulations pertaining to Article 8 (SEQRA) of the
24 Environmental Conservation Law and Chapter 92 of the Town of Somers
25 Code, the Planning Board determined that the proposed activity is a Type II
26 Action, in accordance with 6NYCRR 617.5 (c)(10) & §92-6(B)(8) of the
27 Somers Town Code and therefore, no further environmental review in
28 accordance with SEQRA is necessary.

29
30 On motion by Mr. Goldenberg, seconded by Ms. Gerbino, and unanimously
31 carried, the Board moved to close the Public Hearing on the Hauser
32 Wetland Permit.

33
34 Chair Currie directed the Board and the applicant to review the Resolution.

35
36 Mr. Foley changed the third paragraph on Page 3 of the Resolution to read
37 *in accordance with 6NYCRR 617.5 (c)(10) & §92-6(B)(8) of the Somers*
38 *Town Code.*

39

1 Engineer Hauser asked if a bed of crushed stone as an erosion control will
2 be adequate.

3
4 Consultant Town Engineer Barbagallo asked that bigger stone be used.

5
6 On motion by Chair Currie, seconded by Mr. Goldenberg, and unanimously
7 carried, the Board moved to approve Resolution No. 2014-04, as amended,
8 for the Hauser Wetland Permit.

9
10 **PUBLIC HEARING**

11
12 **SOMERS REALTY PHASE 3 [TM: 4.20-1-15]**

13
14 Chairman Currie explained that this is the Public Hearing on the application
15 for Preliminary Subdivision Approval, Steep Slopes and Stormwater
16 Management and Erosion and Sediment Control Permits for Somers Realty
17 Phase 3 Subdivision.

18
19 Chair Currie asked Planning Board Secretary Murphy if the legal notice
20 was published and the adjoining property owners notified.

21
22 Planning Board Secretary Murphy stated that the legal notice was
23 published in the Somers Record on October 30, 2014 and the adjoining
24 property owners were notified via mail on October 29, 2014.

25
26 Chair Currie asked the applicant's representative to explain the application
27 for the benefit of the Board and the public.

28
29 Linda Whitehead, the applicant's attorney, commented that the Phase 3
30 Subdivision application in accordance with the Planned Hamlet Master Plan
31 was approved in 2009 and said that the proposed subdivision is for 7 lots
32 and the proposed town road right-of-ways consistent with the Master Plan.
33 Attorney Whitehead mentioned that previously lots 1 and 2 created the
34 Mews I and the Mews II and a portion of Clayton Boulevard. She continued
35 that with this subdivision the remaining parcel that was Lot 3 on the last
36 subdivision will be further subdivided and said that this should be the final
37 subdivision phase of the Planned Hamlet. Attorney Whitehead mentioned
38 that the water tank lot was created and will be dedicated to the Town and
39 that the pump station is currently under construction and when finished will
40 also be dedicated to the Town. She noted that lots 3a, b, c, d are proposed

1 to be conveyed to AvalonBay to develop their site plan application.
2 Attorney Whitehead said that Lot 4 is for future commercial development on
3 the east side of the Village Green, Lot 5 is to be dedicated to the Town for
4 the future firehouse and Lot 6 is marketed for an assisted living facility. She
5 said that a right-of-way will be provided on Town Road B to the property
6 line so eventually it can tie into the property to the south.

7
8 Attorney Whitehead stated that based on the comments from the last
9 meeting the site easements and the additional one at the Mahopac Avenue
10 intersection have been added. She noted that the majority of the
11 comments from Woodard & Curran relate to details of the Stormwater
12 Prevention Pollution Plan (SWPPP) that are still being finalized and will not
13 affect the subdivision and will be addressed as the project moves forward.

14
15 Attorney Whitehead noted that the sight distance information for the
16 internal roads that was requested by Woodard & Curran will be provided.
17 She said that a question was raised on how to anticipate stormwater
18 management for the future construction of Road B to the property line and
19 that area slopes to the south so the runoff from that section of the road can
20 be accommodated on the property to the south but she will confirm that.

21
22 Attorney Whitehead mentioned that a comment was raised in reference to
23 the water system. She said she would like to meet with Adam Smith,
24 Water Superintendent, to talk about bringing the water line from Yorktown
25 and tie it into the Somers water line so that the idea is looping and to tie
26 into Route 6.

27
28 Attorney Whitehead stressed that a water tank for this project will not
29 happen as this project never required a water tank. She noted that what
30 was proposed was an underground storage system as a backup. She
31 explained that the water tank parcel will be dedicated to the Town and they
32 can build the tank if they feel it is necessary.

33
34 Consultant Town Engineer Barbagallo said that he recommended a
35 meeting with Adam Smith and the applicant to study the entire water
36 system.

37
38 Mr. Foley asked where the access point to the future assisted living will be
39 located.

40

1 Attorney Whitehead said that she is working with Avalon on some
2 alternatives. She mentioned that there are three alternatives which will all
3 be an easement over the Avalon property as they are not proposed to be
4 Town roads.

5

6 Attorney Whitehead explained the three alternative:

7

8 1. Separate road access that will come off Clayton Boulevard behind the
9 existing Avalon layout and go to Lot 6 and access that way.

10

11 Engineer Williams opined that this alternate will not work because of the
12 additional wetland buffer disturbance which will expand the stormwater
13 and push the grading toward the wetland in order to provide the second
14 access. He indicated that the amount of fill will have to be increased
15 because the alignment of the road has to be changed creating a second
16 platform. He mentioned that the Town Code requires an intersection to be
17 leveled out. He said because a second roadway is proposed the
18 phosphorous numbers do not work and that will be a problem.

19

20 2. Re-design of the AvalonBay layout which would provide a joint
21 access that is part of Avalon's loop but there cannot be units on the
22 road that are also going to access Route 6. Things will have to be
23 shifted around on the Avalon layout to provide a joint access road
24 that would serve as the back part of the Avalon loop instead of adding
25 a second road.

26

27 3. Direct access to Mahopac Avenue that will provide a walking path
28 connection to the Planned Hamlet. It would have a single curb cut
29 but the setback will be maintained on Mahopac Avenue. This has the
30 least environmental impact because it reduces the amount of
31 impervious surface. The Fire Department can use this as an access
32 and not have to use Route 6.

33

34 Ms. Gerbino said that direct access to Mahopac Avenue was off the table
35 during the review of the Planned Hamlet.

36

37 Consultant Town Engineer Barbagallo asked Engineer Williams to
38 comment on Alternative 2.

1 Engineer Williams replied that the final impervious surface numbers have to
2 be run but they are similar to what is currently proposed and there will be
3 less buffer disturbance.

4
5 Attorney Whitehead stated that Alternative 2 is not AvalonBay's preferred
6 alternative as they prefer not to have traffic coming through.

7
8 Director of Planning Dym said a portion of the road can be a boulevard that
9 goes through to the proposed assisted living with the local road serving
10 AvalonBay which will give them a more enclosed development.

11
12 Attorney Whitehead said that the additional impervious surface and the
13 phosphorous and the AvalonBay parking is an issue.

14
15 Consultant Town Engineer Barbagallo interjected that the Watershed
16 Inspector General (WIG) said that if it cannot be accommodated then
17 payment can be made to provide mitigation off-site.

18
19 Mr. Foley asked for more options as only Alternative 2 may be workable.

20
21 Mr. Goldenberg said he is concerned that AvalonBay is building close to
22 the Algonquin Gas Line.

23
24 Attorney Whitehead noted that AvalonBay is 100 feet away from the
25 Algonquin Gas Line and passes through numerous areas in Town.
26 She said that Algonquin has to stay within their easement.

27
28 Town Attorney Baroni said that at the September Town Board meeting
29 Algonquin stated that they will stay within their existing easements.

30
31 Consultant Town Engineer Barbagallo asked if AvalonBay would be
32 interested in putting more homes on the south side of the gas easement.

33
34 Grant Jaber, representing AvalonBay, said that he prefers the
35 neighborhood feel with development around the Village Green and does
36 not like non-residents driving through the property on a regular basis,
37 especially visitors of the assisted living facility.

38
39 Chair Currie asked if anyone from the public would like to speak on the
40 application.

1 Robert Curtis, owner of 51 acres that connects to Road B, said he would
2 like the road paved directly to his property. He mentioned that two
3 developers are looking at his property to see what can be done with his
4 property. Mr. Curtis noted that in the past he received plans so he knew
5 what was going on.

6
7 Consultant Town Engineer Barbagallo said that there will be an easement
8 to Mr. Curtis's property and the AvalonBay project does not come close to
9 his property like the original proposal. He noted that when Mr. Curtis's site
10 is developed the developer can build the road.

11
12 Town Attorney Baroni said that it will be a Town right-of-way, paper road,
13 and the Town will allow Mr. Curtis's developer to finish the road.

14
15 Mr. Curtis said his attorney will review the documents when they are
16 available.

17
18 Attorney Whitehead said that the issue of the access road is important and
19 they will have to look at other alternatives. She asked that the Board
20 consider the Mahopac Avenue access.

21
22 Consultant Town Engineer Barbagallo asked the Board if they would re-
23 consider the Mahopac Avenue access.

24
25 Mr. Foley and Ms. Gerbino were not in favor of the Mahopac Avenue
26 access.

27
28 Peter Wise, AvalonBay attorney, said that the alternatives were developed
29 with input from AvalonBay and he concurs with everything Engineer
30 Williams and Attorney Whitehead have said. He said that Alternative 3 is
31 the preferred alternative and that is the direction AvalonBay wants to go in.

32
33 Chair Currie directed that the Public Hearing be continued at the December
34 10, 2014 Planning Board meeting.

35
36 Director of Planning Dym asked if the Board is willing to grant a waiver to
37 the 15 day applicant submittal process and the Board unanimously agreed
38 to waive the 15 day submittal process.

39
40

PROJECT REVIEW**AVALONBAY SOMERS [TM: 4.20-1-13, 14, 15, P/0 12]**

Chairman Currie said that this is an application for Site Plan Approval, Steep Slopes, Tree Removal and Stormwater Management and Erosion and Sediment Control Permits for AvalonBay Communities, Inc. for the construction of 152 residential units within 17 buildings with 23 affordable units on 53.2 acres.

Chair Currie asked the applicant's representative to update the Board and the public on the application.

Peter Wise, the applicant's attorney, said that the access issue is the most important issue for AvalonBay. He noted that he heard the Board's concerns but access from Mahopac Avenue is AvalonBay's preference.

Attorney Wise stated that Woodard & Curran's comments are being addressed and a submission will be made addressing those comments for the December 10, 2014 Planning Board meeting.

Consultant Town Engineer Barbagallo noted that there was a meeting on the Village Green with the applicant, Director of Planning and the Superintendent of Parks and Rec. He said that there was concern about the Town maintaining the Village Green and the objective was to find something less maintenance intensive.

Attorney Wise said that AvalonBay will make the Village Green work to the satisfaction of the Town.

Director of Planning Dym mentioned that there was a subsequent meeting and the issue was reviewed and the understanding is that the Parks and Recreation Board will take the issue up at their meeting.

Attorney Wise said that he concurs with Attorney Whitehead and Engineer Williams direction in regard to Road "B" that the easement will be dedicated to the Town.

1 **PROJECT REVIEW**

2
3 **AT&T MOBILITY, LLC STEEP SLOPES AND STORMWATER**
4 **MANAGEMENT AND EROSION AND SEDIMENT CONTROL PERMITS**
5 **[TM: 17.05-20-2, 3 12]**

6
7 Chairman Currie noted that the Board will be reviewing the application of
8 AT&T Mobility c/o Bechtel (applicant) and Heritage Hills of Westchester
9 (owner) for the installation of 2-4” conduits from an existing
10 telecommunications building to an existing Verizon manhole.

11
12 Chair Currie asked the applicant’s representative to explain the application
13 to the Board and the public.

14
15 Neil Alexander, the applicant’s attorney, said that there will be
16 approximately a 1,250 foot lineal run to bring a fiber cable to West Hill Drive
17 (Heritage Hills) up the hill into the Recreation Parcel into the public utility
18 parcel where the water treatment plant is and the long standing cell tower.
19 Attorney Alexander indicated that there will be 36,000 square feet of
20 disturbance.

21
22 Attorney Alexander noted that he attended a pre-meeting with Planning
23 Director Dym and Consultant Town Engineer Barbagallo to go over issues
24 that he worked on and is prepared to go over tonight with the Board. He
25 mentioned that the review is on Steep Slopes and Stormwater
26 Management and Erosion and Sediment Control, because it is more than
27 50 cubic yards.

28
29 Mr. Goldenberg asked if this project is next to the water tower and does the
30 applicant want to run a cable to the Verizon manhole and will this take
31 place on Heritage Hills property.

32
33 Attorney Alexander explained that the cable will run across three different
34 properties: Condo 12, Recreation parcel and the Utility parcel. He said the
35 proper names are Heritage Hills of Westchester Water Works, Heritage
36 Hills Society Rec Area and Heritage Hills Condo 12.

37
38 Mr. Goldenberg said that he is concerned because there is a lot of work
39 taking place at Heritage, such as a swimming pool on steep slopes. He
40 stressed that the Heritage Hills Society is not aware of this application.

1 Attorney Alexander noted that no trees will have to be removed for the
2 installation of the cable. He said that there will be 2 fiber conduits
3 in a trench.

4
5 William Moran, applicant's engineer, said that this project is 200 feet away
6 from the construction of the swimming pool at Heritage Hills.

7
8 Chair Currie asked Consultant Town Engineer Barbagallo to review his
9 memo for the benefit of the Board and the public.

10
11 Consultant Town Engineer Barbagallo said that he spoke to Engineer
12 Moran and they have an understanding on how the stormwater will be
13 addressed. He asked Engineer Moran about protecting the trees.

14
15 Engineer Moran explained that there will be six trees on Condo 12 property
16 that should be protected and he can move the route slightly to stay away
17 from the trees.

18
19 Consultant Town Engineer Barbagallo suggested that the applicant contact
20 an arborist to find out the best way to protect the trees.

21
22 Consultant Town Engineer Barbagallo said that he is concerned about the
23 rock removal.

24
25 Engineer Moran noted that there is no visible ledge but there are 2 large
26 boulders but he can adjust the route so they will not be impacted.

27
28 Consultant Town Engineer Barbagallo suggested that the applicant check
29 the records to see when the water main was installed and if they hit any
30 rocks or verify that no rocks will be impacted.

31
32 Director of Planning Dym said that she questioned if this application
33 needed Site Plan Approval or a Special Permit renewal and based on the
34 information provided and discussions with the Town Attorney neither site
35 plan or special permit renewals are required for the application or for any
36 facility on the site due to the grandfathering status and interpretation by the
37 Building Official.

38

1 Ms. Gerbino mentioned that the Open Space Committee in their memo
2 dated October 22, 2014 said that the application did not provide a list of the
3 type of trees to be removed and a tree removal permit was not submitted.

4
5 Attorney Alexander explained that no trees will be removed but because
6 the route will be close to some trees he will contact an arborist.

7
8 Attorney Alexander said that this project is allowed because of the right of
9 utility and the right to amend and expand.

10
11 Town Attorney Baroni agreed with Mr. Goldenberg that property owners
12 should be notified but suggested that if that does not happen that the
13 Condo 12 President and the President of Heritage Hills Society be notified.

14
15 Attorney Alexander asked if the Board is willing to grant a waiver to the 15
16 day applicant submittal process and the Board unanimously agreed to
17 waive the 15 day submittal process.

18 19 **PROJECT REVIEW**

20 21 **HIDDEN MEADOW AT SOMERS [TM: 15.07-1-6]**

22
23 Chairman Currie noted that this is an application for Preliminary
24 Subdivision Approval, Site Plan Approval, Steep Slopes, Wetland and
25 Stormwater Management and Erosion and Sediment Control Permits
26 relative to application of Multifamily Residence Baldwin Place District
27 (MFR-BP) for the proposed development of 53 units of housing, sixteen of
28 which would be affordable, within 45 townhouse buildings on 45 fee simple
29 lots plus one lot for lands to be owned in common by a Home Owners
30 Association.

31
32 Chair Currie asked the applicant's representative to update the Board on
33 the application.

34
35 Richard Williams, the applicant's engineer, indicated that he submitted
36 updated Site Plans and an updated Stormwater Pollution Prevention Plan
37 (SWPPP). He stated that he focused on comments relative to SEQRA as
38 opposed to comments on construction details. Engineer Williams noted that
39 he submitted an alternative layout that shows parallel parking for the school
40 bus stop parking. He asked for feedback from the Board on their

1 preference on head-in parking, parallel parking or based on comments from
2 the County no parking. Engineer Williams said that he provided the
3 Biodiversity Study. He mentioned that the biodiversity assessment was
4 performed according to protocol and was worked on with the Open Space
5 Committee. Engineer Williams explained that additional site visits were
6 conducted beyond what was requested by the protocol. He mentioned that
7 an advanced copy was provided to Woodard & Curran and he would like to
8 set up a meeting with them on the Biodiversity Assessment.

9
10 Engineer Williams mentioned that the Town Board adopted the Master Plan
11 Amendment and Zoning Change and he would like to focus on SEQRA.
12 He explained that there has to be a SEQRA review with the Planning Board
13 and then the applicant has to go back to the Town Board to have the
14 overlay applied to this site and then back to the Planning Board for Site
15 Plan review.

16
17 Chair Currie asked Consultant Town Engineer Barbagallo his ideas about
18 the school bus parking.

19
20 Consultant Town Engineer Barbagallo said he understands that the County
21 does not want parking but he prefers the parallel parking spaces. He also
22 suggested having parking spaces in the development for the school
23 children and parents walking a short distance to the bus stop.

24
25 Engineer Williams said that the County has an anti-idling law and they
26 encourage green design, walking communities, and a parking area to wait
27 for a school bus is contradictory to that. He stated that the applicant is
28 willing to do whatever the Board wants but he is more comfortable with the
29 head-in parking.

30
31 Director of Planning Dym noted that her concern is what happens after
32 people park and what do they do to get back into the development. She
33 opined that the less problematic is the head-in parking which offers the
34 opportunity to back out and get into the community again.

35
36 Ms. Gerbino asked why the school bus can't come into the site.

37
38 Director of Planning Dym asked if the school bus stops on Route 6, she
39 would like an opinion from the applicant's traffic engineer regarding which
40 layout has less of an internal as well as any potential external traffic impact.

1 Engineer Williams said that the school bus has to stop on Route 6 because
2 it is a private development and the school district does not come into the
3 site.

4
5 Ms. Gerbino said that Heritage Hills is a private development but the school
6 bus picks up the children at locations in Heritage Hills.

7
8 Engineer Williams mentioned that his traffic engineer reached out to the
9 school district to understand their bus patterns in the area. He said that he
10 can ask if the school district will come into the site.

11
12 Town Attorney Baroni advised that there is a distinction between school
13 districts that have their own buses and those that have contractual
14 transportation, which means if there is contractual transportation there can
15 be an agreement to transvers private roads. He noted that Somers has
16 contractual transportation.

17
18 Ken Kearney, applicant, agreed with Town Consultant Engineer
19 Barbagallo's suggestion if the school bus picks up on Route 6 or is able to
20 come into the development there will be parking for the school bus pick up
21 and then the parents can walk their children a short way to the bus stop.

22
23 Town Consultant Engineer Barbagallo stated that the applicant has
24 demonstrated that this site can accommodate the stormwater that will be
25 generated by the water quantity and quality perspective.

26
27 Director of Planning Dym said she is working with Frederick P Clark on a
28 draft Negative Declaration and if it is complete it will be placed on the next
29 meeting. She mentioned that an issue was raised at a meeting about the
30 potential road adjacent to the property with some members of the Parks
31 and Recreation Board. She said that an easement with utilities, water and
32 sewer may be their recommendation instead of a road.

33
34 Chair Currie said it was a consensus of the Board to waive the 15 business
35 days application submittal process.

36
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40

1 **REVIEW AND COMMENT AT THE REQUEST OF THE**
2 **CHAIRMAN OF THE ZBA**

3
4 **PAUL R. IACUONE FAST FOOD-USE VARIANCE**

5
6 Chairman Currie explained that at the request of the Chairman of the
7 Zoning Board of Appeals (ZBA) the Board will review and comment on a
8 use variance for a 1-acre parcel located at 63 Route 6 to construct a fast
9 food restaurant with a drive-through.

10
11 Mr. Goldenberg said that he went to the site and there is a closed
12 restaurant and he questioned why the Planning Board is reviewing this as
13 the ZBA issues variances.

14
15 Ms. Gerbino explained that Somers has an Ordinance that prohibits
16 Drive-through fast food. She said that Somers had a McDonald's fast food
17 restaurant and there was debris all over the place. She mentioned that the
18 ZBA is being asked for a use variance and that is a very difficult variance to
19 receive.

20
21 Town Attorney Baroni explained that the Chairman of the ZBA asked him
22 for a legal opinion on the memorandum that was submitted by the
23 applicant's attorney. He told the Chairman of the ZBA that the application
24 hit all the pertinent topics that have to be proved in order to grant a use
25 variance but the Town is looking at a Comprehensive Plan Update and he
26 advised him to get input from the Director of Planning and the Planning
27 Board.

28
29 Chair Currie asked the Director of Planning to review her memo for the
30 benefit of the Board and the public.

31
32 Syrette Dym, the Director of Planning, said that she went to Route 6 and
33 reviewed the site and the neighborhood which is in the Neighborhood
34 Shopping District (NS) that does not permit fast food restaurants. She
35 noted that across the street allows fast food restaurants but does not permit
36 drive throughs. She opined that if the ZBA finds that this application meets
37 certain criteria she hopes that they give the most minimal variance.
38 Director of Planning Dym commented that the NS District envisions
39 something that is more local even if it is along Route 6. She said that the

1 restaurant needs a lot of work and a drive-through would change the
2 character of that area and possibly set a precedent.

3

4 Mr. Foley recused himself from rendering an opinion on this matter.

5

6 Mr. Goldenberg said that he does not think it is appropriate for the Planning
7 Board to comment and that the decision was up to the Zoning Board of
8 Appeals (ZBA).

9

10 Ms. Gerbino expressed concern about the health of the businesses in the
11 corridor and is in favor of doing what is necessary to foster business
12 development along Route 6. She also suggested that during the update of
13 the Master Plan that a potential overall change in zoning that would support
14 additional business uses be considered.

15

16 Chair Currie said his concern was about the community character along the
17 corridor and did not want something like a drive-through because it would
18 change the character of the area.

19

20 Consultant Town Engineer Barbagallo indicated than an impediment to
21 business development was the lack of available sewer connections. He
22 mentioned that as part of the ongoing Lake Shenorock Sewer Study and
23 meetings with the County, he would try to develop a strategy that would
24 bring sewer service to this area.

25

26 There being no further business, on motion by Chair Currie, seconded by
27 Mr. Goldenberg and unanimously carried, the meeting adjourned at 10:40
28 P.M. The Chair announced that the next Planning Board meeting will be on
29 Wednesday, December 10, 2014 at 7:30 P. M. at the Somers Town House.

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33

Respectfully submitted,

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Marilyn E. Murphy
Planning Board Secretary

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