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PLANNING DEPARTMENT

TOWN HOUSE  
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SOMERS, NY 10589

**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  
DECEMBER 19, 2012**

4

5

6

**ROLL:**

8

**PLANNING BOARD**

**MEMBERS PRESENT:**

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

13

**ALSO PRESENT:**

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

18

19

Chair Currie offered a moment of silence for the residents of Connecticut in light of the school tragedy.

22

Chair Currie explained that this is a special meeting of the Somers Planning Board.

25

Planning Board Secretary Marilyn Murphy called the roll. She noted that a required quorum of four members was present in order to conduct the business of the Board.

29

30

**APPROVAL OF OCTOBER 10, 2012 MINUTES**

32

1 Chair Currie noted that Planning Board Secretary Marilyn Murphy prepared  
2 and submitted for the Board's consideration approval of the draft minutes of  
3 the Planning Board meeting held on October 10, 2012.

4  
5 The Chair asked the Board if there were any comments or questions from  
6 the minutes of October 10, 2012.

7  
8 Ms. Gannon noted that the word *familial* was misspelled on Page 2, Line 5.

9  
10 On motion by Ms. Gannon, seconded by Mr. Goldenberg, and unanimously  
11 carried, the minutes of October 10, 2012, were approved.

12

13 **RECOMMENDATION TO TOWN BOARD**

14

15 **SOMERS ESTATES SUBDIVISION**  
16 **PERFORMANCE BOND REDUCTION**

17

18 Chairman Currie noted that this is a request for a second bond reduction of  
19 the Performance Bond for the roadway improvements of the extension of  
20 Florence Drive and the installation of two private common driveways and  
21 associated infrastructure. He said that the request is to reduce the current  
22 performance bond held in the amount of \$695,540 by \$206,826 to  
23 \$488,714 for remaining work related to the road extension.

24

25 The Chair asked the applicant's representative to explain the performance  
26 bond reduction.

27

28 Timothy Allen, the applicant's engineer, noted that when speaking to  
29 Consultant Engineer Barbagallo, he was informed by Consultant Engineer  
30 Barbagallo he had not reviewed the request for the bond reduction. He  
31 explained that Principal Engineering Technician Woelfle has been  
32 reviewing the work related to the roadway improvements and the  
33 installation of the two common driveways for over a year. Engineer Allen  
34 said that the work has been done to his and Mr. Woelfle's satisfaction. He  
35 asked the Board to consider the reduction on condition of Consultant  
36 Engineer Barbagallo's satisfaction. Engineer Allen said that he is  
37 concerned because there is a timing issue as the recommendation from the  
38 Planning Board has to be sent to the Town Board for their approval.  
39 Consultant Engineer Barbagallo noted that he spoke to Engineering  
40 Technician Woelfle and he is satisfied that the work has been completed

1 successfully but his review will make sure that the items to be addressed  
2 have been completed in accordance with the original approval.  
3 He indicated that he will issue a memo to the Planning Board on his  
4 findings. Consultant Engineer Barbagallo said that he can work with Chair  
5 Currie on his recommendation or the Board can work on this issue at the  
6 next meeting in January.

7  
8 Mr. Keane stated that the Board has to follow the Code and the Town has  
9 to conduct the process according to Town Code. He noted that the Board  
10 should not be put in the position of making a decision when the Code has  
11 not been followed. He opined that the Code does not reference  
12 Engineering Technician Woelfle as the person to determine the work has  
13 been done in accordance with the Code. Mr. Keane noted that if  
14 Consultant Engineer Barbagallo hasn't reviewed the project he has not  
15 followed the Code.

16  
17 Mr. Foley explained that the Board is required by Code to make a  
18 recommendation on the bond reduction to the Town Board but to do as  
19 Engineer Allen is suggesting is to cede that authority to the Consultant  
20 Town Engineer and the Chairman.

21  
22 Ms. Gerbino commented that the Town Board decided not to have a  
23 full-time Town Engineer and Town Planner. She opined that this would not  
24 be a problem if we had full-time staff.

25  
26 Ms. Gannon opined if the Board goes along with Engineer Allen's  
27 suggestion the Board would preempt their opportunity for discussion and  
28 that is not good for the Planning Board and the Town. She said that she  
29 values the opinion of the Consultant Engineer. She said that the bond  
30 reduction should be held over to the next meeting when Consultant  
31 Engineer Barbagallo can review the issue and consult with Engineering  
32 Technician Woelfle.

33  
34 Engineer Allen opined that Engineering Technician Woelfle is a vital part of  
35 this Town. He does all the day to day inspections and is the go-between  
36 the engineers and applicants in Town.

37  
38 Consultant Engineer Barbagallo said that in previous instances when the  
39 Town had a full time Engineer the role of the Engineering Technician has  
40 remained the same. He noted that Mr. Woelfle was the one collecting all

1 the data and preparing the recommendation for the Town Engineer's  
2 approval.

3  
4 Mr. Keane stated that this is an internal issue that has to be resolved by  
5 whoever is managing the administrative people.

6  
7 The Chair directed that the bond reduction be carried over to the next  
8 meeting.

9  
10 Engineer Allen said if the Board at their next meeting agrees to the bond  
11 reduction that the memo can be delivered the next day for the Town  
12 Board's meeting.

13  
14 **PROJECT REVIEW**

15  
16 **SOMERS REALTY PLANNED HAMLET**  
17 **PRELIMINARY SUBDIVISION APPROVAL AND LOT LINE CHANGE;**  
18 **WETLAND, TREE PRESERVATION AND STORMWATER**  
19 **MANAGEMENT AND EROSION AND SEDIMENT CONTROL PERMITS**  
20 **[TM: 4.20-1-15, 18]**

21  
22 Chairman Currie said that this is the project review of the Somers Realty  
23 Planned Hamlet for Preliminary Subdivision Approval, Lot Line Change and  
24 related permits. He explained that the Board will be considering a Negative  
25 Declaration and draft Resolution of Approval.

26  
27 The Chair asked the applicant's representative if she had any comments on  
28 the Negative Declaration and draft Resolution of Approval.

29  
30 Linda Whitehead, the applicant's attorney, asked about condition No. 22 in  
31 the Resolution, *The applicant shall provide an updated Master Plan*  
32 *Conformance drawing prior to Final Subdivision Plat approval.*

33  
34 Attorney Whitehead said that the Master Plan Conformance drawing has  
35 already been updated and she just wants to make sure everyone looks at it  
36 the same way.

37  
38 Peter Gregory, the applicant's engineer, said that with the first and second  
39 phase of the Mews he was asked to demonstrate what was being proposed  
40 is in conformance with the Master Plan. He noted that his drawing shows

1 water use, sewage, parking spaces, stormwater and impervious surfaces.  
2 He explained that this has been updated as changes were made and is  
3 more of tabulation than a plan.

4  
5 The Chair asked Consultant Engineer Barbagallo for his comments.

6  
7 Consultant Engineer Barbagallo said that he received an updated  
8 Stormwater Pollution Prevention Plan (SPPP). He noted that the final item  
9 that has to be addressed is related to the construction sequence and the 5  
10 acre maximum exposure rule. Consultant Engineer Barbagallo indicated  
11 that the plans for the sewer have not been received. He mentioned that the  
12 Resolution includes a pull off along Route 6 to offload the chemicals into  
13 the pump station and the access issue will be discussed at a meeting with  
14 the Department of Protection (DEP) to resolve that issue.

15  
16 Consultant Engineer Barbagallo stated that he is comfortable with the  
17 Resolution and Negative Declaration.

18  
19 The Chair asked Town Planner Dym to review the Resolution and Negative  
20 Declaration with the Board and the applicant.

21  
22 Town Planner Dym noted that she provided the Board with the redlined and  
23 final version of the draft Negative Declaration and the Resolution. She  
24 explained that a check was received from the applicant for the Stormwater  
25 Management and Erosion and Sediment Control application therefore that  
26 condition is eliminated.

27  
28 The Chair asked the Board for their comments.

29  
30 Chair Currie acknowledged receipt of a letter from the NYS Department of  
31 Transportation (DOT) dated December 17, 2012.

32  
33 Town Attorney Roland Baroni explained that the letter from the DOT relates  
34 to permitting factors but does not change the Board issuing a Negative  
35 Declaration.

36  
37 Mrs. De Lucia noted that the reference throughout the Negative Declaration  
38 should be Somers Realty *Corp.*, not Somers Realty Corporation.

39

1 Mr. Foley said that the reference throughout the documents should be  
2 Housing Action Council, Inc. and the Kearney Realty & Development  
3 Group, Inc.

4  
5 On motion by Mrs. DeLucia, seconded by Mr. Goldenberg, (Mr. Keane  
6 voting nay) and carried, the Planning Board of the Town of Somers moved  
7 to approve and adopt a Negative Declaration for the Subdivision #2 for  
8 Somers Realty Corp., for the Somers Realty Planned Hamlet Master Plan,  
9 dated February 10, 2009, including amendment to the Somers Realty  
10 Planned Hamlet Master Plan, further subdivision of prior created Lot 2 and  
11 minor lot line change to previously created Sewer Pump Station Parcel with  
12 related permits and having reviewed all applicable plans and submissions  
13 determined that the Proposed Action will not have a significant adverse  
14 effect on the environment.

15  
16 On motion by Mr. Foley, seconded by Mr. Goldenberg, and unanimously  
17 carried, the Board moved to amend the Negative Declaration in  
18 reference to the wording *additional* adverse impacts to read *there will be no*  
19 *significant adverse impacts*, wherever that appears in the document.

20  
21 The Chair asked the Board if they have any comments or questions on the  
22 Resolution.

23  
24 Mr. Foley suggested changing the last paragraph on Page 12 by  
25 eliminating the words *has determined that these modifications* to read *this*  
26 *modification will not result* in any significant adverse environmental impacts  
27 not previously addressed and mitigated *as described in greater detail* by a  
28 Negative Declaration.

29  
30 Mr. Foley noted that on Page 8 reference should be that 4 trees should be  
31 removed not 1 tree.

32  
33 Mrs. DeLucia suggested changing the word *extra* meeting to *special*  
34 meeting in the Certification on the last page of the Resolution and change  
35 the wording to *granting of Conditional Final Subdivision Plat Approval to*  
36 *Somers Realty Corp. for the Somers Realty Planned Hamlet*.

37  
38 On motion by Mr. Goldenberg, seconded by Ms. Gannon, (Mr. Keane  
39 voting nay) and carried, the Planning Board of the Town of Somers moved  
40 to grant Conditional Preliminary Subdivision Plat Approval by Resolution

1 No. 2012-08 pursuant to Chapter 150 Subdivision of Land of the Code of  
2 the Town of Somers for the further subdivision of prior created Lot 2, Sheet  
3 4.20, Block 1, Lot 15, into a 7.7139 acre parcel from 70.7108 acres, minor  
4 lot line change to previously created Sewer Pump Station Parcel, Creation  
5 of a Roadway Extension Parcel and Modification of the Somers Realty  
6 Planned Hamlet Master Plan, having adopted a Negative Declaration under  
7 SEQRA Part 617.7, holding and closing a Public Hearing, considered all  
8 plans and submissions and identifying conditions to be met prior to Final  
9 Subdivision Plat Approval.

10  
11 Attorney Whitehead reminded the Board that they did not wait until Final  
12 Subdivision Approval was granted and the plat filed before The Mews was  
13 granted Site Plan Approval for The Mews Phase 1. She requested that the  
14 Board treat The Mews Phase 2 the same as the past practice.

15  
16 Town Attorney Baroni advised the Board that just because that was  
17 handled that way with The Mews Phase 1 doesn't mean the Board should  
18 make a habit of granting approvals that way. He said that he preferred that  
19 the Board handle the approvals the more ordinary way but he noted that  
20 the Board, as Attorney Whitehead suggested, can approve a Conditional  
21 Final Subdivision Approval conditioned on the Health Department, DEP  
22 and DOT Approvals.

23  
24 Attorney Whitehead stated that the Resolution requires that if DEP makes  
25 changes to the plan, the applicant has to return to the Planning Board.  
26 She said that the maintenance agreement should refer to and incorporate  
27 the SPPP.

28  
29 The Chair directed the applicant to submit Conditional Final Subdivision  
30 Approval in January.

31  
32 Mrs. DeLucia asked if there is a deadline for approval of The Mews  
33 Phase 2.

34  
35 Rose Noonan, executive director of the Housing Action Council, thanked  
36 the Board for the scheduling of the special meetings. She noted that the  
37 need for the special meetings is because of the funding. Ms. Noonan  
38 explained that if the Board grants the Negative Declaration she can go to  
39 the County Planning Board in January. She said that the next step would  
40 be the Board of Legislators which is a two to three month process. Ms.

1 Noonan noted that she cannot go to the County Board until she has  
 2 Conditional Site Plan Approval. She mentioned that funding is expected to  
 3 be approved by the end of March or beginning of April and close at that  
 4 time. She stressed that if the Site Plan Approval is not granted in January  
 5 the funding could be in jeopardy.

6  
 7 The Chair directed that The Mews Phase 2 be scheduled for the January  
 8 17, 2013 Planning Board meeting.

9  
 10 **THE MEWS AT BALDWIN PLACE PHASE 2 SITE PLAN APPROVAL,**  
 11 **WETLANDS, STEEP SLOPES, TREE PRESERVATION AND**  
 12 **STORMWATER MANAGEMENT AND EROSION AND SEDIMENT**  
 13 **CONTROL PERMITS [TM: 4.20-1-15]**  
 14

15 Chairman Currie noted that the Site Plan application is for the construction  
 16 of 75 units of senior affordable housing which will be serviced by public  
 17 water and sewer. He mentioned that the Board will be reviewing the  
 18 Negative Declaration.

19  
 20 Consultant Engineer Barbagallo indicated that the applicant has addressed  
 21 most of his comments and there will be conditions that will be carried  
 22 forward in the Resolution.

23  
 24 Consultant Engineer Barbagallo said that Ms. Gannon brought to his  
 25 attention the discussion that took place at the October 10, 2012 Planning  
 26 Board meeting where Town Attorney Eriole said *that if it is defined as a*  
 27 *driveway the Board can waive the 6% grade but can only go up to 8%. He*  
 28 *said that he will review the issue and determine if a variance is necessary.*  
 29 He explained that at that time the Board was looking at an 11% grade and  
 30 that has now been reduced to the 8% grade. He noted that the allowing of  
 31 the 8% grade falls within the purview of the Planning Board. Consultant  
 32 Engineer Barbagallo supports the Board in approving the 8% grade. He  
 33 explained that it is not the main drive but a connecting road.

34  
 35 Attorney Whitehead asked that the word *generic* be removed from Page 2  
 36 of the Negative Declaration under *Reasons Supporting the Determination.*  
 37 She asked that the paragraph on Page 8 in reference to sewer and water  
 38 be eliminated as it is not applicable to the Site Plan.

39

1 The Chair asked if the applicant's representative had any comments on the  
2 Negative Declaration.

3  
4 Richard Williams, the applicant's engineer, said that he had no corrections  
5 on the Negative Declaration.

6  
7 Mr. Keane said if the Stormwater Pollution Prevention Plan (SPPP) meets  
8 the requirements of the Stormwater Manual no other language is necessary  
9 under *Impact on Water Resources*.

10  
11 Consultant Engineer Barbagallo suggested the language read *Treatment of*  
12 *the stormwater system on this parcel will be no less protective of the*  
13 *environment than that previously approved and, due to more stringent*  
14 *regulations which were adopted after the approval of the Master Plan, will*  
15 *in fact, be more protective of the environment.*

16  
17 Mr. Foley asked that the word *additional* be eliminated in the last sentence  
18 on Page 4 and will now read; *Therefore, there will be no significant adverse*  
19 *environmental impacts.*

20  
21 Mr. Keane said that the word *additional* when relating to significant adverse  
22 environmental impacts be deleted throughout the document. He also  
23 suggested the wording on *Impact on Wetlands* to read *There are no*  
24 *significant adverse environmental impacts to wetlands.*

25  
26 On motion by Chair Currie, seconded by Ms. Gannon, (Mr. Keane voting  
27 nay) and carried, the Board moved as Lead Agency under SEQR to  
28 approve and adopt a Negative Declaration, as amended, for The Mews at  
29 Baldwin Place Phase 2 for the construction of 75 units of senior affordable  
30 housing on a newly created 7.7139 acre subdivided lot by The Housing  
31 Action Council, Inc. and The Kearney Realty & Development Group, Inc.  
32 having reviewed all applicable plans and submissions and having  
33 determined that the Proposed Action will not have a significant adverse  
34 effect on the environment.

35  
36 Ms. Gerbino asked about the location of the cottonwood trees because she  
37 read that they are detrimental to sewer lines.

38 Engineer Williams indicated that the eastern cottonwood trees are not in a  
39 location or vicinity of the water and sewer line.

40

1 There being no further business, on motion by Chair Currie, seconded by  
2 Mrs. DeLucia, and unanimously carried, the meeting adjourned at 9:50  
3 P.M. and the Chair noted that the next Planning Board meetings will be on  
4 Wednesday, January 9, 2013 and Wednesday, January 17, 2013 at 7:30  
5 P. M. at the Somers Town House.

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8  
9  
10  
11  
12  
13  
14

Respectfully submitted,

Marilyn Murphy  
Planning Board Secretary