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PLANNING DEPARTMENT

TOWN HOUSE
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Town of Somers

WESTCHESTER COUNTY, N.Y.



John Currie, *Chairman*
Fedora DeLucia
Christopher Foley
Vicky Gannon
Nancy Gerbino
Eugene Goldenberg
John Keane

3

**SOMERS PLANNING BOARD MINUTES
DECEMBER 4, 2012**

4

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6

7

8 **ROLL:**

9

10 **PLANNING BOARD**

11 **MEMBERS PRESENT:**

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

12

13

14

15 **ABSENT:**

Chair Currie

16

17 **ALSO PRESENT:**

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

18

19

20

21 The meeting commenced at 7:30 p.m. Acting Chair Gerbino explained that
22 this is a special meeting of the Somers Planning Board. She noted that the
23 Planning Board used to meet twice per month but with the downturn in the
24 economy the meetings are now once per month. Acting Chair Gerbino
25 mentioned that occasionally the Board holds additional meetings.

26

27 Planning Board Secretary Marilyn Murphy called the roll.

28

29 Acting Chair Gerbino noted that a required quorum of four members was
30 present in order to conduct the business of the Board.

31

32

1 **APPROVAL OF SEPTEMBER 24, 2012 MINUTES**

2
3 Acting Chair Gerbino noted that Planning Board Secretary Marilyn Murphy
4 prepared and submitted for the Board's consideration the approval of the
5 draft minutes of the Planning Board meeting held on September 24, 2012.

6
7 On motion by Ms. Gannon, seconded by Mr. Goldenberg, and unanimously
8 carried, the minutes of September 24, 2012, were approved.

9
10 Acting Chair Gerbino noted that the DVD of the September 24, 2012
11 Planning Board meeting is made a part of the approved minutes and is
12 available for public viewing at the Somers Public Library. The text of the
13 approved minutes is also on the Town's website www.somersny.com and is
14 available for public review at the Planning & Engineering office at the Town
15 House.

16
17 **ESCROW ACCOUNTS FOR SOMERS REALTY SUBDIVISION AND THE**
18 **MEWS PHASE 2 AT BALDWIN PLACE SITE PLAN**

19
20 Acting Chair Gerbino said that the Board will be discussing the escrow
21 accounts for Somers Realty Subdivision and The Mews Phase 2 Site Plan
22 and asked Town Planner Dym to explain the escrow accounts.

23
24 Town Planner Dym said that pursuant to the Somers Town Code the
25 escrow accounts should be discussed with the Planning Board. She noted
26 that based on the work to date the original escrow deposits were based on
27 the first phase of the work. She mentioned that based on the continued
28 work on the Somers Realty Subdivision and The Mews 2 Site Plan by the
29 Town Planner and Consultant Town Engineer additional funds are required.
30 Town Planner Dym noted that the additional funds have to be in place prior
31 to the next Planning Board meeting.

32
33 Attorney Whitehead said that she did not realize that the escrow account
34 was low on funds but the account is not negative as the applicant had not
35 received all the bills for payment.

36
37 Consultant Engineer Barbagallo explained that he just gave an estimate
38 to complete the project.

39

1 Attorney Whitehead stated that the escrow law allows the applicant 30 days
 2 to pay the consultant's bills.

3
 4 Mr. Goldenberg suggested that the Towns' consultants and the applicant
 5 work together to understand the vouchers for the consultant's services and
 6 it was agreed to by the applicant and the Town's consultants.

7
 8 **SOMERS REALTY PLANNED HAMLET**
 9 **PRELIMINARY SUBDIVISION APPROVAL AND LOT LINE CHANGE;**
 10 **WETLAND, TREE PRESERVATION AND STORMWATER**
 11 **MANAGEMENT AND EROSION AND SEDIMENT CONTROL PERMITS**
 12 **[TM: 4.20-1-15, 18]**

13
 14 Acting Chairman Gerbino said that this is the project review of the Somers
 15 Realty Planned Hamlet for Preliminary Subdivision Approval, Lot Line
 16 Change and related permits. She noted that the Board has set aside
 17 additional dates for special meetings on the Somers Realty Planned
 18 Hamlet for Preliminary Subdivision Approval and for The Mews at Baldwin
 19 Place Phase 2.

20
 21 Town Planner Dym explained that she prepared a detailed timeline with
 22 proposed meeting dates. She noted that Negative Declarations have to be
 23 done under SEQRA for the Subdivision and Site Plan along together with
 24 Final Subdivision Approval and Site Plan Approval. Town Planner Dym
 25 mentioned that the Site Plan cannot be approved until Final Subdivision
 26 Approval is granted.

27
 28 Town Planner Dym said that the Board tonight will review the Draft
 29 Negative Declaration and the Resolution of Preliminary Subdivision
 30 Approval. She noted that if these documents are in good order the Board
 31 will be prepared to approve those documents at the December 12, 2012
 32 meeting. Town Planner Dym mentioned that the Resolution of Approval for
 33 Final Subdivision and Site Plan Approval can both happen at the same
 34 meeting.

35
 36 On motion by Ms. Gannon, seconded by Mr. Foley, and unanimously
 37 carried, the Board moved to accept tentative meeting dates for
 38 Wednesday, January 2, 2013, Thursday, January 17, 2013, Wednesday,
 39 January 23, 2013 and Thursday, January 24, 2013, Tuesday,

1 January 29, 2013, Wednesday, January 30, 2013, Thursday, January 31,
2 2013 to be held at the Somers Town House at 7:30 P.M.

3
4 The Acting Chair asked the applicant's representative to give a brief
5 presentation regarding this application.

6
7 Linda Whitehead, the applicant's attorney, indicated that an application was
8 made for the previously approved Master Plan. She noted that Lot 2 which
9 is North of Clayton Boulevard was originally proposed to have an 80,000
10 SF Assisted Living Facility and 30,000 SF of retail/professional
11 office/restaurant. Attorney Whitehead explained that those uses will be
12 replaced with The Mews 2 which is 75 units of affordable housing. She
13 noted that the applicant is willing to bank those uses for a future location.
14 She said that an application for Subdivision Approval was made to create a
15 lot which is approximately 7 acres together with a portion of the Clayton
16 Boulevard right-of-way to provide access and frontage to the lot. Attorney
17 Whitehead stated that in conjunction with the application a wetland permit
18 will be needed for the construction of the sewer pump station and the
19 access road to the sewer pump station, as well as piping connections and
20 trenching for the pipes. She noted that a Tree Removal Permit and a
21 Stormwater Management and Erosion and Sediment Control Permit are
22 needed.

23
24 Attorney Whitehead explained that a stormwater analysis has been
25 reviewed with the NYC Department of Environmental Protection (DEP) in
26 terms of the overall watershed analysis for the future. She indicated that
27 the applicant will return to the DEP to answer some questions that there
28 may be an issue with the main access road from Route 6 as it crosses a
29 DEP watercourse. She stated that the access road has always been
30 shown on the plan and the DEP never commented until now. Attorney
31 Whitehead noted that the Planning Board sent a letter to the DEP stating
32 that the access road is necessary for access to the site.

33
34 Attorney Whitehead said that the applicant was asked to submit information
35 on comparative impacts to the modification to the Master Plan in terms of
36 traffic and fiscal impacts and community character. She noted that under
37 SEQRA you review the modifications and determine if those modifications
38 will result in potential significant adverse impacts not previously addressed
39 and mitigated. Attorney Whitehead opined that after the review of the

1 modifications it was determined that there are no new potential significant
2 adverse environmental impacts.

3
4 Attorney Whitehead said that Steve Marino, the applicant's wetland
5 consultant, sent a letter to the DEP with a response and a summary on the
6 impacts to the wetland functions.

7
8 Attorney Whitehead also said that some issues are the banking of the uses
9 and the stockpile. She noted that additional information on alternatives for
10 the stockpile have been provided. She explained that the banking of uses
11 gives the applicant the right to relocate those uses at another location on
12 the site. She noted that the changes in the stormwater regulations require
13 more room for stormwater management.

14
15 Town Planner Dym mentioned that the Planning Board has to determine
16 what course of action to take. She noted that the assisted living facility and
17 the 30,000 SF of uses from the conceptual Master Plan can be eliminated.
18 She indicated that the Board can eliminate only one use, presumably the
19 Assisted Living Facility, and retain the 30,000 SF of mixed uses to be
20 included on parcels south of Clayton Boulevard. She explained that the
21 Board can retain both uses for future consideration and acknowledge there
22 will be a change of mix and magnitude of uses south of Clayton Boulevard
23 under any scenario and that such mix will be determined upon future
24 subdivision application.

25
26 Town Planner Dym said that by considering the 75 units of housing the
27 Master Plan is being modified.

28
29 Town Planner Dym said that the implications for SEQRA of any of the
30 changes to the Master Plan cannot result in any impacts that would be
31 greater than those analyzed and mitigated as part of the Master Plan
32 SEQRA process.

33
34 Town Planner Dym mentioned that a finding can be made to support any
35 scenarios the Board chooses. However, retention of both uses provides
36 the Board and the applicant the widest flexibility for consideration of uses
37 south of the Boulevard as market conditions continue to improve over the
38 next several years. She noted that since the amount and mix of uses will
39 change in any event due to stormwater regulations, as long as future site
40 plan applications propose a mix of uses that meet the purpose of the PH

1 District and do not relate impacts greater than those analyzed for the
2 original conceptual plan, site specific negative declarations can be issued
3 based on information prepared as part of the review record.

4 Town Planner Dym indicated that the applicant will have to submit a new
5 plan and a revised conceptual plan.

6
7 Attorney Whitehead said that she does not understand the difference
8 between the applicant's plan and a revised conceptual plan. She explained
9 that the next site plan that is submitted will be part of the new conceptual
10 Master Plan.

11
12 Town Planner Dym said that if the applicant's plan does contain the 40,000
13 SF that is currently identified on the south side of Clayton Boulevard and if
14 the application also includes the 30,000 SF that had been located, it would
15 meet the requirement of the plan the Board wants to see. She explained
16 that if the applicant's plan only includes the 40,000 SF and some other
17 combination of uses, the applicant must provide a plan showing the
18 equivalent of 70,000 SF.

19
20 Attorney Whitehead said that the 40,000 SF will remain. She asked if the
21 Board wants to see a new plan showing the current location of the 40,000
22 and 30,000 SF and the multi-family. She stressed that the 40,000 SF is
23 remaining and she hopes that will not require the submission of a new
24 Master Plan.

25
26 Attorney Whitehead said that the PH Zone requires a 0.04 floor area ratio
27 (FAR) minimum for the multi-family residential.

28
29 Mr. Keane stated that the linchpin for the Master Plan was the village
30 green. He said to accommodate the stormwater regulations and the multi-
31 family residence, the 30,000 SF may have to be eliminated. Mr. Keane
32 said that the plan eliminates the assisted living and replaces it with the
33 affordable housing units. He asked if there is a problem if the Master Plan
34 stays in place.

35
36 Town Planner Dym stated that by preserving the 30,000 SF doesn't mean it
37 will be there but just that it could be there.

38
39 Polly Kune, resident of Heritage Hills, said that it is her understanding that
40 this matter is before the Board for a modification of the lot line to further the

1 application of The Mews Phase 2 and the Board has been discussing the
2 future of the property. She stressed that the Site Plan for The Mews Phase
3 2 is time sensitive and the Board should be discussing that application.
4 Acting Chair Gerbino said that the subdivision application has to be
5 completed before Site Plan approval.

6
7 Consultant Engineer Barbagallo said that his thought process is that when
8 the Master Plan was created there was a balance between uses on the
9 site. He noted that everything has been impacted by the new stormwater
10 regulations. He indicated that the assisted living and the retail/office
11 were non-residential uses that were put there to balance the residential
12 uses on the remaining portion of the Planned Hamlet. Consultant Engineer
13 Barbagallo noted that as non-residential uses are replaced with residential
14 it would make sense that the Board would want to reconsider the balance
15 of what is left on the project and if that balance can be achieved from what
16 was sought when the Master Plan was being prepared. Consultant
17 Engineer Barbagallo said that it makes sense to not walk away from the
18 non-residential uses but to create an opportunity for the balance to be
19 reconsidered in the future.

20
21 Consultant Engineer Barbagallo opined that instead of waiting for the next
22 application the Board can proactively seek the creation of that balance on
23 the remaining portion of the Planned Hamlet to guide the applicant on the
24 types of uses that they should be seeking in order to maximize their
25 approval ability in the future.

26
27 Attorney Whitehead said that the applicant is not willing to do that because
28 of the significant cost, as the plan will always be changing.

29
30 Mr. Keane noted that there was not much consideration about balance but
31 was more on a plan based on the uses and fitting it into the Planned
32 Hamlet Zoning constraints. He indicated that if the green stays where it is
33 nothing will change and that nothing changes without the approval of the
34 Board.

35
36 Consultant Engineer Barbagallo suggested a guide so the applicant knows
37 what direction they are going in.

38

1 Ms. Gannon said that there is a concern because of the constraints of the
2 stormwater regulations and how that will remove buildable area from the
3 lot.

4
5 Attorney Whitehead said that stormwater constraints have to be considered
6 when laying out any residential plan.

7
8 Town Planner Dym said that the Board seems to be going in the direction
9 of reserving the uses and making sure that they are available for
10 consideration on the southern side of Clayton Boulevard. She indicated
11 that if the Board wants to make sure that these uses are part of the mix
12 they have to decide how they want the uses considered. Town Planner
13 Dym suggested that the Board make a decision after an application for use
14 is submitted.

15
16 On motion by Mrs. DeLucia, seconded by Ms. Gannon, and unanimously
17 carried, the Board moved to retain both uses for future consideration and
18 acknowledge there will be a change of mix and magnitude of uses south of
19 Clayton Boulevard under any scenario and that such mix will be determined
20 upon future subdivision application.

21
22 Consultant Engineer Barbagallo said an item that remains outstanding is
23 the Stormwater Pollution Prevention Plan (SPPP). He noted that he needs
24 information on the sewer and the pump station and how they will be built.
25 He mentioned that he has a meeting Friday with the Water Superintendent
26 and by the next meeting will have information in that regard. Consultant
27 Engineer Barbagallo indicated that he is waiting for a response on the
28 Chairman's letter dated November 16, 2012 to the Department of
29 Environmental Protection (DEP) on the access road. He commented that
30 he needs details on the way the gas and electric utilities will be brought into
31 the site as part of the road construction.

32
33 Consultant Engineer Barbagallo said that the stockpile plan shows a rough
34 cut of 35,000 cubic yards of fill. He noted that originally the stockpile was
35 shown in one location and that area will result in a very large stockpile that
36 may have impacts of a visual nature. He mentioned that the applicant has
37 now split the stockpile into two locations. Consultant Engineer Barbagallo
38 said the Board should look at the visual impact of the stockpile in the two
39 new locations. He indicated that once a decision is made on the location of

1 the stockpile the stormwater plan must address the disturbance and the
2 protection of the wetlands and the environment.

3
4 Ms. Gannon said that it may be a few years before the whole site is built
5 out, and she asked how temporary is the stockpile. Ms. Gannon asked for
6 an explanation on short term and long term stockpiles and how they will be
7 successfully managed.

8
9 Consultant Engineer Barbagallo said that the term temporary stockpile is
10 used because eventually the development will be completed. He noted
11 that you have to look at the stockpiles as features that will be in place for a
12 very long time. Consultant Engineer Barbagallo said that stabilization of
13 the stockpiles will be done by being vegetated and the creation of a non-
14 erodible surface. He said that it may include infrastructure associated with
15 the collection of water from that area and treatment through temporary
16 sedimentation basins or tying into the overall drainage system for the entire
17 project to make sure that we are properly attenuating and treating
18 stormwater with the applicable Codes and Regulations. Consultant
19 Engineer Barbagallo explained that in the interim the stockpiles will be
20 contained in silt fences and a monitoring maintenance plan associated with
21 the stockpiles that will be incorporated into the SPPP. He mentioned that
22 inspections will take place on a routine schedule.

23
24 Mrs. DeLucia asked who will do the monitoring and inspections.

25
26 Consultant Engineer Barbagallo stated that there will be a Maintenance
27 Agreement in place to maintain the stockpiles until they are no longer
28 needed.

29
30 Mr. Goldenberg asked why the concern is arising now.

31
32 Consultant Engineer Barbagallo said that the Master Plan asks for a
33 balance of fill on site and did not want traffic impacts associated with the fill
34 coming off and on to the property. He said that the applicant has
35 suggested that the project across the street, The Green, can use fill. He
36 said that the Board has to consider if the stockpile is too large and in the
37 wrong location.

38
39 Attorney Whitehead said that the applicant was asked to address all the cut
40 materials from the subdivision and site plan and provide information on

1 stockpile sizes and locations. She noted that originally the stockpile
2 location was in close proximity to where the work is being done but the
3 concern is will the stockpile be too large. Attorney Whitehead explained
4 that Peter Gregory, the applicant's engineer, provided soil stockpile
5 elevation data. She said that there is another option to split the pile and
6 move it to another location where the fill is eventually intended to go, but
7 that will require additional disturbance to clear the area for the stockpile.
8 Attorney Whitehead said that another option is to split the pile and keep
9 some of the stockpile but reduce the size by trucking some of it off site.
10 The other option is to truck all the fill off site.

11
12 Engineer Gregory said that the plan will implement vegetating, landscaping,
13 and silt fences.

14
15 Consultant Engineer Barbagallo noted that there has to be a balance
16 between the length of the slope, the vegetation and erosion matting that
17 may be required along the slope to prevent erosion.

18
19 Engineer Gregory referred to his stockpile elevation data that shows
20 stockpile 1 with the bottom of the stockpile elevations, the 19 -20' height of
21 the stockpile and top of the stockpile elevation. He described the stockpile
22 elevation on stockpile 2 with the height of the stockpile at approximately 16-
23 20 feet. He explained that if some of the fill was trucked off site, the height
24 of the stockpile could be reduced by 5 feet.

25
26 Mr. Keane asked what type of soils will be in the stockpile as that will
27 determine how that will be dealt with from a stormwater perspective.

28
29 Engineer Gregory said that he can work with the materials in the stockpile
30 to stabilize the slopes.

31
32 Consultant Engineer Barbagallo noted that the Board has to decide on one
33 bigger stockpile or two small stockpiles.

34
35 Attorney Whitehead said that the applicant would like one stockpile so the
36 area does not have to be disturbed.

37
38 Acting Chair Gerbino said that it was the consensus of the Board to have
39 one stockpile in the original location, option #2.

40

1 Town Planner Dym reviewed the Negative Declaration with the Board.

2

3 Consultant Engineer Barbagallo changed the wording under “Impact on
4 Geology and Soils” based on discussion tonight to read, *A location of*
5 *102,883 square feet for the temporary stockpiling of excess soil...*

6 He also eliminated the wording from currently identified to the bottom of the
7 paragraph.

8

9 Mr. Foley asked that the word *minimal* be eliminated in the sentence, *these*
10 *minimal disturbances...*

11

12 Mr. Keane commented that the Negative Declaration has to satisfy the
13 Town Wetland Regulations for the permit to be issued. He opined that
14 every single element of a SEQRA impact does not have to be addressed if
15 they do not rise to a level of significance. He indicated that you can explain
16 how the impact was reduced and is not significant.

17

18 Town Planner Dym stated that compliance to the Town Wetland
19 Regulations will be reserved for the Resolution.

20

21 Attorney Whitehead opined that it is a good idea in the Negative
22 Declaration to go through all the impact areas and state that there is no
23 significant impact.

24

25 Town Planner Dym indicated that she based the Negative Declaration
26 on how it was done in the past. She suggested taking out the paragraph
27 on “Impact on Community Character”.

28

29 Town Planner Dym reviewed with the Board the Resolution Granting of
30 Conditional Subdivision Plat Approval, Lot Line Change, Modification of
31 Somers Realty Planned Hamlet and associated permits. She said that
32 given the limited time for this application she would like comments from the
33 Board on the Resolution and Negative Declaration, as soon as possible.

34

35 Acting Chair Gerbino asked the representative from The Mews at Baldwin
36 Place Phase 2 to give a brief summary of the application.

37

38 Richard Williams, the applicant’s engineer, said there were minor
39 outstanding technical comments that were answered. He indicated that
40 revised plans and revised SPPP were submitted.

1 Consulting Engineer Barbagallo asked that the Site Plan be updated to
2 show how electric, gas and telecommunications will be located at Phase 2
3 of The Mews.

4
5 There being no further business, on motion by Mr. Foley, seconded by Mrs.
6 DeLucia, and unanimously carried, the meeting adjourned at 10:30 P.M.
7 and the Acting Chair noted that the next Planning Board meeting will be on
8 Wednesday, December 12, 2012 at 7:30 P. M. at the Somers Town House.

9

10

11

12

Respectfully submitted,

13

14

Marilyn Murphy
Planning Board Secretary

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17