

Telephone 1
(914) 277-5366₂

FAX
(914) 277-4093

PLANNING DEPARTMENT

TOWN HOUSE
335 ROUTE 202
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 MARCH 12, 2014

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ROLL:

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PLANNING BOARD

MEMBERS PRESENT:

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

12

ALSO PRESENT:

Director of Planning Syrette Dym
Town Consultant Engineer Joseph Barbagallo
Planning Board Town Attorney Joseph Eriole
Planning Board Secretary Marilyn Murphy

17

ABSENT:

Mr. Goldenberg

19

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

23

APPROVAL OF DRAFT MINUTES FOR MEETING HELD ON JANUARY 8, 2014

26

Chairman Currie noted that Planning Board Secretary Marilyn Murphy
prepared and submitted for the Board's consideration approval of the draft
minutes of the Planning Board meeting held on January 8, 2014.

29

Chairman Currie asked if there were any questions or comments on the
draft minutes of January 8, 2014 and no one responded.

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2 On motion by Chair Currie, seconded by Ms. Gannon, and unanimously
3 carried, the draft minutes of January 8, 2014, were approved.

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5 **TIME-EXTENSION**

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7 **MERRITT PARK ESTATES FINAL SUBDIVISION APPROVAL**
8 **[TM: 5.20-1-1]**

9
10 Chairman Currie noted that the applicant requested a 90-day time-
11 extension to the period of Final Subdivision Approval from March 31, 2014
12 up to and including June 30, 2014.

13
14 Chair Currie acknowledged receipt of a letter from the applicant's attorney
15 Geraldine Tortorella, Esq. dated February 28, 2014 requesting a 90-day
16 time-extension and a memo from Director of Planning Dym dated
17 March 5, 2014 stating that she had no objections to the extension of
18 subdivision approval.

19
20 On motion by Chair Currie, seconded by Ms. Gerbino, and unanimously
21 carried, the Board moved to grant a fifteenth request for a 90-day time-
22 extension to the period of Final Subdivision Approval from March 31, 2014
23 up to and including June 30, 2014 to Mancini Building Corp. for Merritt Park
24 Estates Conditional Final Subdivision Approval in accordance with §150-
25 13.M. of the Code of the Town of Somers

26
27
28 **PROJECT REVIEW**

29
30 **HIDDEN MEADOW AT SOMERS [TM: 15.07-1-6]**

31
32 Chairman Currie said that this is a project review for Hidden Meadow at
33 Somers.

34
35 Chair Currie asked the applicant and his representative to update the
36 Board on the application.

37
38 Kenneth Kearney, applicant, said that there was a meeting with Supervisor
39 Morrissey, Director of Planning Dym, Town Consulting Engineer
40 Barbagallo, members of the Open Space Committee, Parks and

1 Recreation, members of the Planning Board and others to discuss some of
2 the issues pertaining to the proposed project. Mr. Kearney noted that
3 based on that meeting he will be submitting the preferred alternative which
4 is that the recreation for this development will be handled on site. He
5 mentioned that some day the Town will look to access the adjoining
6 property for active, passive recreation or a combination thereof. Mr.
7 Kearney indicated that his alternative plan will show an easement where
8 the road will go up to the property line with the water and sewer lines
9 extended. He stated that he will also finish the road. Mr. Kearney
10 explained that if the easement area with the utilities under it should not be
11 improved at this time that is another alternative.

12
13 Mr. Kearney mentioned that Insite Engineering responded to the comments
14 of the Watershed Inspector General (WIG). He explained that there was a
15 conversation with the Engineers from Insite Engineering and the WIG and it
16 was decided to have a meeting in Albany next week. He said that he is
17 optimistic that there will be a common ground on all of the outstanding
18 issues.

19
20 Richard Williams, the applicant's engineer, said that he wants to talk about
21 the recreation alternatives. He explained that the preferred alternative is to
22 provide the required recreation on site under the MFR-BP Floating Zone.
23 He noted that he also wants to speak about the conversations with the WIG
24 and his comments in reference to phosphorous loading, stormwater
25 modeling and erosion control. Engineer Williams commented that he also
26 wants to talk about Part 2 and Part 3 of the EAF.

27
28 Engineer Williams indicated that he wants to talk about the four alternatives
29 for recreation. He noted that one alternative is to provide access to the
30 Town parcel with a recreation area located on the Town property. He said
31 that recreation would be used for the benefit of the residents of Hidden
32 Meadow but also the residents of the entire Town. Engineer Williams
33 explained that after the meeting with the Town it was clear that it is
34 beneficial to provide the required recreation on site.

35
36 Engineer Williams said that the applicant has been listening and provided
37 all the alternatives but the preferred alternative is to comply with Code and
38 not seek a Code change.

39

1 Engineer Williams noted that 8,700 SF of recreation on site is required per
2 the MFR-BP Zone. He said that all the alternatives show 1,400 SF to be
3 provided in the cul-de-sac of the road and consists of the playground and
4 gazebo. Engineer Williams indicated that the Site Plan now shows the
5 balance of the recreation area off site. He explained that the first
6 alternative shows the 7,300 SF on site in addition to the 1,400 SF which
7 consists of a grass turf field and a multi purpose sports court.

8
9 Engineer Williams said that the first option is without the adjacent Town
10 property with no easement or access. He noted that the second alternative
11 shows the access to the Town parcel with construction of the access road
12 with water and sewer utilities with the required recreation on site.
13 Engineer Williams mentioned that 7,300 SF will be located between the
14 access road and Route 6 and 1,400 SF located in the cul-de-sac.

15
16 Engineer Williams said another option has access to the Town property,
17 construction of the access road with water and sewer, playground, gazebo
18 with 7,300 SF in the back of the property as opposed to Route 6 and the
19 access to the Town park.

20
21 Engineer Williams said that the applicant prefers the alternative that has
22 the access to the Town park with the recreation between Route 6 and the
23 access road to the park. He stated that unless the Board says otherwise
24 that is the alternative that will be shown on the next submission.

25
26 Ms. Gannon asked why this is the preferred alternative.

27
28 Engineer Williams noted that it splits the recreation between the rear and
29 the front of the site. He mentioned that there will be the playground and
30 gazebo in one portion and the more active sports will be played farther
31 away from the units. He indicated that screening can be provided on Route
32 6 and the recreation area.

33
34 Mrs. DeLucia asked if there will be fencing.

35
36 Mr. Kearney said there will be fencing but his concern is the aesthetics.
37 Engineer Williams noted that he will provide details on the layout of the
38 recreation area.

39

1 Engineer Williams mentioned that the tree survey will be included in the
2 next submission so you will see the level of trees between Route 6 and the
3 recreation area.

4
5 Ms. Gerbino said when you work out the access road and bring the sewer
6 and water line to the town's property she is not sure how this can be done.
7 She mentioned that during the site walk she remembers a high rock wall
8 and asked if the wall will be accessed for the water and sewer lines.

9
10 Engineer Williams explained that based on the existing grades and the
11 grades that will bring the access into the Town property there will be cut
12 below the wall so part of the wall will be removed. He indicated that there
13 are ways that this can be addressed by keeping the wall or leaving a
14 distance to the wall and then cut slope with additional excavation.
15 Engineer Williams indicated that an easement can be provided and not
16 construct the road at this time.

17
18 Town Consultant Engineer Barbagallo said there are three options for the
19 Board's consideration. He said that one is that the road is not constructed
20 at this time; two, the field stone wall remains in place, and if the utilities are
21 brought to the property line it will require the sloping to occur on the Town
22 property and will require a grading easement from the Town, and third,
23 keep the easement in place for the future.

24
25 Engineer Williams noted that the WIG's comments break down into three
26 categories: erosion control, stormwater modeling and phosphorous. He
27 said that he has no issue with the WIG's comments on erosion control. He
28 indicated that he will be able to address the stormwater modeling on the
29 next submission but with respect to phosphorous there was discussion on
30 the loading coefficients and the removal rates and he believes that some of
31 the new techniques that are being applied in the watershed as it relates to
32 the Stormwater Retrofit program were not realized and that will be part of
33 the discussion with the WIG next week.

34
35 Mr. Foley asked that the Watershed Inspector General (WIG) send a letter
36 after the meeting expressing that his concerns have been addressed.

37
38 Ms. Gerbino said that the WIG raised the issue about a pathogens
39 Cryptosporidium which is a concern in the watershed. She noted that this
40 was tied into the New York City new filtration system which is years ahead

1 of Westchester County Section 2 Filter Station. Ms. Gerbino indicated that
2 she wants to know from WIG, as he raised this issue, if Somers filtration
3 system is up to the same standard as the City of New York.

4
5 Mr. Keane stated that New York City tests for Cryptosporidium and has not
6 been successful in finding it. He opined that there may be a conflict
7 between the Department of Environmental Conservation (DEC) perception
8 and the WIG's perception.

9
10 Engineer Williams said that Cryptosporidium was not an issue that he was
11 asked to look at but is more of a regional issue. He mentioned that one of
12 the issues he will talk about at the meeting with WIG is the new standards
13 that have been issued and he believes this region should have one set of
14 values to look at in evaluating phosphorous and that methods of 20 years
15 ago may no longer be appropriate. He commented that Somers as a
16 municipality is required to implement the Retrofit Program in order to
17 demonstrate the Total Maximum Daily Load (TMDL) compliance.

18
19 Ms. Gannon mentioned that there have been comments from WIG but the
20 Board has not heard from the Department of Environmental Protection
21 (DEP) and she is concerned that they may not be thinking on parallel
22 tracks.

23
24 Director of Planning Dym said she had a conversation with Cynthia Garcia
25 of the DEP and explained where the Board is in the process and is looking
26 for input and concerns.

27
28 Director of Planning Dym mentioned that she received a call from the
29 Riverkeeper who asked to receive information on this project.

30
31 Ms. Gannon explained that she is an employee of Pace University Law
32 Library in White Plains and they have an environmental litigation clinic
33 where students work on matters that are being reviewed by the
34 Riverkeeper. She said that she let her employer know that if she is
35 approached and if she determines that there is a conflict she will politely
36 end the discussion and refer that person to someone else.

37
38 Town Consultant Engineer Barbagallo said that the DEP has regulations
39 that are now in alignment with the DEC regulations. He noted that the
40 regulations state that the applicant has to comply with Chapter 10 and their

1 design guidelines which the applicant has done. Town Consultant
 2 Engineer Barbagallo stated that the WIG has gone beyond those
 3 regulations by asking for a pollutant loading analysis for this project in the
 4 context of SEQRA and said that this is outside the framework of the DEP
 5 and DEC as it relates to stormwater but the WIG is using this in reference
 6 to SEQRA. Town Consultant Engineer Barbagallo mentioned the DEP sent
 7 a letter dated December 18, 2013 saying that this project will generate
 8 increase in both runoff and pollutant loading, as this project is located
 9 within a drainage basin that already does not meet the phosphorous TMDL.
 10 The DEP requests that the applicant conduct a pollutant loading analysis
 11 (pre and post) to demonstrate appropriate mitigation. He noted that in the
 12 context of SEQRA the DEP also asked for a pollutant loading analysis.

13
 14 Mr. Keane opined that it is unusual that the Riverkeeper and others take an
 15 interest in this project at such an early stage. He said that because the
 16 words Negative Declaration have been mentioned he wonders if someone
 17 feels that a proper SEQRA evaluation is not taking place.

18
 19 Engineer Williams said that it has been his experience that when the WIG
 20 issues comments the Riverkeeper follows suit.

21
 22 Engineer Williams stated that the next tool in the Planning process is to
 23 identify potentially significant adverse impacts. He mentioned that he
 24 prepared a draft of Part 2 and 3 of the EAF and provided explanations of
 25 the answers from the workbook. Engineer Williams opined that there are
 26 not many significant adverse impacts that reports have not been submitted
 27 for. He indicated that some of the reports may have to be modified or
 28 revised pursuant to comments from the Director of Planning and the Town
 29 Consultant Engineer.

30
 31 Engineer Williams noted that draft 2 and 3 of the EAF should be used as a
 32 tool to tell the applicant if they want the applicant to look at any other
 33 potential significant impacts or studies.

34
 35 Planning Board Town Attorney Eriele clarified that it is all SEQRA. He
 36 explained that when a project first comes in it is accompanied by an EAF
 37 and the Board should determine what are the likely impact issues. He said
 38 the question becomes can those impact issues be mitigated by design such
 39 that the Board no longer has a concern or does the Board feel that a
 40 deeper study is needed that triggers a Positive Declaration. He stressed

1 that the Board is at the stage of the review of the EAF that scoping comes
2 after the Board decides that mitigation by design is not sufficient.

3
4 Director of Planning Dym explained that she met with Town Consultant
5 Engineer Barbagallo to review the EAF Parts 2 and 3 provided by the
6 applicant and made recommendations to serve as an initial basis for review
7 consideration and comment. She said that the Board has to determine if all
8 the information is available and if not identify what information is needed in
9 order to give the applicant the opportunity to make the Board comfortable
10 with the information.

11
12 Director of Planning Dym reminded the Board that the applicant has to
13 agree to an extension of the period for the Determination of Significance
14 beyond May 2014 as required by SEQRA. She asked Town Attorney
15 Eriele if something has to be done relative to this agreement.

16
17 Planning Board Town Attorney Eriele said that for the record the Board
18 needs to have the applicant agree to the extension. He advised that the
19 extension should be agreed to at the April Planning Board meeting.

20
21 Chair Currie asked the Board if they would like to meet on Tuesday, March
22 25, 2014 to discuss the EAF.

23
24 Town Consultant Engineer Barbagallo said that the March 25, 2014
25 meeting should be used to specifically review the EAF and tonight the
26 Board should focus on the plan and the use of recreation.

27
28 Ms. Gerbino said that she has a concern about the floating zone and she
29 asked that the Town Attorney provide a memo stating that the MFR-BP
30 Floating Zone can be applied to this property. She noted that on Page 6 of
31 the Master Plan it gives the borders of Baldwin Place and they do not
32 match this project.

33
34 Director of Planning Dym mentioned that at an early meeting of the Town
35 Board, Town Attorney Baroni, said that as long as the property was fronting
36 on Route 6 it can be applied to the MFR-BP Floating Zone. She indicated
37 that Town Attorney Baroni asked the Town Board if this project met the
38 threshold of the MFR-BP Floating Zone. She said that there was a
39 Resolution dated October 11, 2013 stating that this zone could be
40 applicable to this site.

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Mr. Foley interjected that the property has to be in or adjacent to the Baldwin Place designation.

Engineer Williams showed the Board the alternatives for recreation. He explained that Figure 2A is the applicant's preferred alternative. He explained that it provides 1,400 SF of recreation with a playground and gazebo in the cul-de-sac and a grass playing field. He indicated that 7,300 SF is the balance of recreation and he prefers it located in between Route 6 and the proposed access road to the Town Park. He noted that the grass playing field and multi purposed sports court will be located in that location.

Mrs. DeLucia said that a fence should be considered for that area.

Town Consultant Engineer Barbagallo noted that the applicant is proposing a gazebo, a playground for small children, sports court and open lawn area. He said that the Board has to decide if the recreation should be split up or in one compound area.

Engineer Williams explained that there is a method behind splitting up the recreation that is used by young children and older children. He noted that parking spaces can be easily provided for the playground and gazebo.

Ms. Gerbino asked if sidewalks can be provided.

Engineer Williams said if the Board wants sidewalks they can be incorporated into the plan.

Ms. Gannon asked what type of fence will be used for the playground.

Ken Kearney, applicant, indicated that a 3 ½ -4 foot high wrought iron fence will be used in the playground area.

Planning Director Dym asked that pictures of the playground with fencing from one of Mr. Kearney's other projects be provided.

Mr. Foley opined that recreation should be as far away from Route 6 as possible. He suggested putting the recreation at the two fields in the rear of the property.

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Ms. Gannon opined that the barbeque area was not necessary as she is concerned about barbequing in the woods. She noted that most people have their own barbeques in their backyard or porch but she will go along with what the Board wants.

Mr. Kearney stated that in one of his other developments he built a large playground area with barbeques and picnic area. He commented that each home had a deck where they could barbeque but the neighbors still from time to time got together to do a communal barbeque.

Engineer Williams said that Mr. Keane suggested eliminating the barbeque area and take that portion and add it to the field to make it bigger and leave the sports court the same size.

Mr. Keane said that he was not suggesting eliminating the barbeque area.

Mrs. DeLucia suggested eliminating unit 22 which will add more area for recreation.

Engineer Williams replied that he is confident that he can expand the recreation and add buffer to the units.

Mrs. DeLucia asked if there will be a Home Owners Association.

Mr. Kearney said there will be a Home Owners Association who will provide rules for the development.

Planning Director Dym said the Board should focus on the concept of the facilities, sports court, barbeque area, and field and how they will fit.

Engineer Williams reiterated that the Board would like the picnic area eliminated, add that area to the field but have the sports court the same size.

Chair Currie said that the consensus of the Board is that Alternative 2B with recreation in the rear of the property is the Board's choice.

Mr. Kearney clarified that the Board wants to see the access road to the Town property improved.

1 Mrs. DeLucia asked if commercial trucks will be in the development.

2

3 Engineer Williams said if the concern is the move ability through the site he
4 ran the turning template for firetrucks and moving trucks and they can
5 maneuver through Hidden Meadow.

6

7 Mrs. DeLucia asked if the Building Inspector reviewed the plans.

8

9 Engineer Williams replied that he was before the Bureau of Fire Prevention
10 and they only asked for one more fire hydrant.

11

12 Ms. Gannon asked where the trash will be picked up.

13

14 Engineer Williams stated that there will be curbside pick up for the garbage.
15 He also mentioned that there is a garage for every unit and a car can park
16 in the driveway.

17

18 Mr. Keane asked if the developer has a problem with painting the buildings
19 earth tones.

20

21 Mr. Kearney said that good quality siding will be used on the buildings.

22

23 Engineer Williams mentioned that the plan will be reviewed by the
24 Architectural Review Board (ARB).

25

26 Ms. Gannon mentioned that the school children will be picked up on Route
27 6. She noted that there will be a fence with a small sidewalk.

28

29 Planning Director Dym clarified that the bus will pick up the school children
30 on Route 6. She mentioned that it is a separate issue if the bus was
31 allowed to enter the development to pick up the school children.

32

33 Engineer Williams indicated that he will show on the revised plan a bus
34 congregation area. He explained that the minimum size requirement is 200
35 SF for a bus waiting area. He noted that the sidewalk will be expanded to a
36 rectangular area for the bus stop area. Engineer Williams explained that
37 the children will wait away from Route 6 on the Hidden Meadow property.
38 Chair Currie said that there was a consensus of the Board to review the
39 EAF on this project at a Special Meeting on Tuesday, March 25, 2014.

40

1 Ms. Gerbino asked that Planning Board Attorney Eriole provide clarification
2 on the MFR-BP Floating Zone and the wording “adjacent”.

3
4 There being no other business, on motion by Chair Currie, seconded by
5 Ms. Gannon, and unanimously carried, the meeting adjourned at
6 9:50 P.M. The Chair noted that the next Special Planning Board Meeting
7 will be held on Tuesday, March 25, 2014 at 7:30 P. M. at the Somers Town
8 House.

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12 Respectfully submitted,

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16 Marilyn Murphy
17 Planning Board Secretary
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