

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 14, 2012**

4

5

6

7 **ROLL:**

8

9 **PLANNING BOARD**

10 **MEMBERS PRESENT:**

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

11

12

13

14 **ABSENT:**

Mr. Foley

15

16 **ALSO PRESENT:**

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

17

18

19

20

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

24

25 **MINUTES**

26

27 **APPROVAL OF JANUARY 11, 2012 AND JANUARY 25, 2012 MINUTES**

28

29 Chairman Currie noted that Planning Board Secretary Marilyn Murphy
30 prepared and submitted for the Board's consideration the approval of the
31 draft minutes of the Planning Board meeting held on January 11, 2012

1 consisting of five (5) pages and draft minutes from the January 25, 2012
2 meeting consisting of nine (9) pages.

3 Chairman Currie asked if there were any comments or questions from
4 members of the Board on the draft minutes of January 11, 2012 and no one
5 replied.

6
7 The Chair asked if there was a motion to approve the January 11, 2012
8 draft minutes.

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

12
13 Chairman Currie asked if there were any comments or questions from
14 members of the Board on the draft minutes of January 25, 2012 consisting
15 of nine (9) pages and no one responded.

16
17 The Chair asked if there was a motion to approve the January 25, 2012
18 draft minutes.

19
20 On motion by Ms. Gannon, seconded by Ms. DeLucia, and unanimously
21 carried, the minutes of January 25, 2012 were approved.

22
23 **TIME-EXTENSION**

24
25 **MERRITT PARK ESTATES SUBDIVISION**

26 **[TM: 5.20-1-1]**

27
28 Chairman Currie noted that Geraldine Tortorella, Esq. of Hocherman,
29 Tortorella & Wekstein LLP, the applicant's attorney, provided the Board
30 with a letter asking for consideration for a seventh 90-day time-extension
31 for the Merritt Park Estates Subdivision.

32
33 The Chair asked if there were any comments from staff regarding the time-
34 extension.

35
36 Town Planner Hull and Consulting Engineer Barbagallo responded that
37 they had no objection to the Planning Board issuing the requested time-
38 extension.

39

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

3
4 Ms. DeLucia mentioned that the letter from Attorney Tortorella is self-
5 explanatory and she noted that the legal instruments have been approved
6 by the Town Board.

7
8 On motion by Ms. DeLucia, seconded by Ms. Gannon, and unanimously
9 carried, the Board moved to grant a seventh 90-day time-extension to
10 Mancini Building Corp. for Merritt Park Estates Subdivision to the period of
11 Conditional Final Subdivision Approval from April 9, 2012 to and including
12 July 9, 2012.

13
14 **INFORMAL DISCUSSION**

15
16 **IPP SOLAR LLC @ SOMERS COMMONS**
17 **[TM: 4.20-1-11]**

18
19 Chairman Currie noted that the Planning Board will be having an informal
20 discussion to explain the project so a determination can be made as to
21 whether or not a Site Plan application is needed.

22
23 The Chair asked the applicant's representative to give a brief summary
24 regarding this application.

25
26 Paul Jeuri, applicant and partner at IPP Solar LLC, said that IPP Solar is a
27 solar development company interested in pursuing an installation of an
28 array of solar photovoltaic panels over the roof of the New York Sports
29 Club located at the Somers Commons Shopping Center. He noted that the
30 installation includes 182 Sharp solar modules on the roof with associated
31 wiring, conduits, meters and an inverter that will be installed on a concrete
32 pad at the back of the building. Mr. Jeuri explained that the installation is
33 100% ballasted and will not involve any roof penetration. He said that the
34 array will not be visible from the ground or alter any structural elements of
35 the building. Mr. Jeuri noted that the panels are installed at a 10 degree tilt
36 and the highest point will be approximately 2.75 feet. He said that the
37 inverter is about the size of a refrigerator and will be placed on a concrete
38 pad. Mr. Jeuri explained that the inverter will be placed against the back
39 wall.

40

1 Town Planner Hull said that she asked the applicant to come before the
2 Board in an informal capacity. She commented that other than the inverter
3 on the ground there is no visible impacts from this project. Town Planner
4 Hull said she asked for clarification as to the location of the inverter in
5 relation to the existing shrubbery. She opined that the applicant should be
6 directed to obtain approval from the Architectural Review Board (ARB) and
7 pursue the necessary building permits. Town Planner Hull said that in her
8 opinion the proposed installation does not rise to the level of requiring site
9 plan approval.

10
11 Maziar Dalaeli, applicant and partner at IPP Solar LLC, explained that there
12 is a racking system that holds the panels. He noted that his company has
13 worked predominately in New Jersey.

14
15 Mr. Keane asked how the ballast material is held in place so it does not
16 vibrate. He said that his concern is safety.

17
18 Mr. Dalaeli approached the Board and showed them the ballast blocks and
19 how the frames are connected. He indicated that a licensed engineer will
20 handle all the calculations such as wind calculations.

21
22 Mr. Jeuri acknowledged that he will be submitting full engineering drawings
23 to the Building Department for approval.

24
25 Consulting Engineer Barbagallo said that concrete blocks will be used for
26 the ballast and he asked if they will be attached to the frame.

27
28 Mr. Dalaeli said that the ballast is fixed to the frame.

29
30 Ms. Gannon asked the expected life time of the installation and how often
31 inspections are conducted.

32
33 Mr. Dalaeli said that the frame will last for 25-30 years and is made out of
34 galvanized steel so they do not rust. He noted that there is ongoing
35 maintenance to ensure that the system continues to operate and is
36 inspected twice per year.

37
38 Mr. Jeuri explained that there is a web based monitoring system that tracks
39 the performance of the solar array.

40

1 Consulting Engineer Barbagallo asked if this is the first phase of a multi
2 phased project at the Somers Commons Shopping Center.

3
4 Mr. Jeuri stated that he is looking to do similar projects at the Somers
5 Commons Shopping Center.

6
7 Ms. DeLucia asked if shrubbery will be removed.

8
9 Mr. Dalaeli said that no shrubbery will be removed.

10
11 Consulting Engineer Barbagallo questioned if the roof will be visible or if
12 there will be glare when you come down the hill from the A&P location on
13 Route 6. He said that this information will be helpful when the applicant
14 appears before the ARB.

15
16 Mr. Jeuri said if there is reflection of light then the solar panel is not doing a
17 good job.

18
19 Consulting Engineer Barbagallo asked if the ARB requested screening
20 would the applicant object.

21
22 Mr. Jeuri indicated that he had no objection to screening.

23
24 Ms. DeLucia said that the minutes from this meeting should be sent to the
25 ARB and the Building Inspector.

26
27 Consulting Engineer Barbagallo asked the applicant to provide a copy of
28 the Green House omissions.

29
30 Town Planner Hull suggested sending a memo to the ARB and the Building
31 Inspector noting the Planning Board's concerns.

32
33 The Chair asked the Board if the proposed installation rises to the level of
34 requiring a Site Plan.

35
36 The Chair noted that the consensus of the Planning Board is that this
37 proposal does not rise to the level requiring a Site Plan.

38

1 The Chair directed the applicant to appear before the ARB and that a
2 memo be prepared for the ARB and the Building Inspector regarding the
3 discussion tonight and the Board's concerns.

4

5 **PROJECT REVIEW**

6

7 **THE GREEN AT SOMERS AMENDED SITE PLAN**
8 **WETLAND, STEEP SLOPES AND STORMWATER**
9 **MANAGEMENT AND EROSION AND SEDIMENT CONTROL**
10 **PERMITS [TM: 4.20-1-3.1]**

11

12 Chairman Currie said that this is the project review of the application of
13 National Golfworx/Rick Van Benschoten, owner, for The Green at Somers
14 for Amended Site Plan, Wetland, Steep Slopes and Stormwater
15 Management and Erosion and Sediment Control Permits. The proposal is
16 for a mixed use development consisting of five buildings with a combination
17 of retail and residential uses. He noted that the site is proposed to be
18 serviced by public water and sewer. The Chair said that this application
19 was last discussed at the December 14, 2011 Planning Board meeting.

20

21 The Chair acknowledged receipt of minutes from Town Clerk Kathleen
22 Pacella dated March 14, 2012 for review and comment for The Green at
23 Somers Site Plan held at the Regular Meeting of the Town Board on
24 March 8, 2012.

25

26 The Chair asked the applicant's representative to update the Board on the
27 application.

28

29 Linda Whitehead, the applicant's attorney, explained that per the Planning
30 Board referral she went to the Town Board for their January work session.
31 She said that she showed the Board a 3D presentation that was prepared
32 by the County Planning department. Attorney Whitehead indicated that the
33 Town Board was not prepared to act on applying the incentives that were
34 written into Zoning for Affordable Housing. She mentioned that the
35 Planning Board asked the Town Board to authorize the Planning Board to
36 reduce the required number of parking spaces and allow the increase in the
37 maximum permitted building height to three stories and authorize the
38 Planning Board to allow a mixture of residential and retail uses on the first
39 floor due to the concern about a lack of market for retail. Attorney
40 Whitehead explained that the Town Board would like the Planning Board to

1 be further in its review before the Town Board was comfortable in taking
2 action. She stated that the Town Board was also not prepared to entertain
3 a Zoning Amendment with respect to retail. Attorney Whitehead noted that
4 the Planning Board did not want to go further in its review until the Town
5 Board approved the three incentive items. She noted that the applicant
6 had no choice but to come back to the Planning Board to proceed further
7 and hopefully get to a point where the Town Board feels that the Planning
8 Board has done enough of a review to move forward.

9
10 Attorney Whitehead said that the comments from staff and the Planning
11 Board have been addressed, revised plans, updated traffic study, updated
12 wetland report and an updated preliminary stormwater analysis
13 have been submitted. She mentioned that the applicant is working on
14 hiring an engineering firm to do the soil borings which will take place once
15 the location of the buildings is definite. Attorney Whitehead mentioned that
16 the drawings show a different approach to retail. She explained that both
17 Boards were concerned with mixing commercial and retail on the first floor.
18 She commented that the revised plan reflects retail in Buildings 1 and 2
19 across the entire front of the first floor. She said that visually it will appear
20 that it is all retail on the first floor. Attorney Whitehead noted that the
21 applicant would like to move forward with the retail in Buildings 1 and 2
22 because there is no interest in a project that has retail on the first floor of all
23 the buildings. She stated that the applicant is willing to apply for a variance
24 if the Town Board is not willing to amend Zoning. She mentioned that with
25 the reduction in the amount of retail the parking will be reduced from 296
26 spaces to 234 spaces. Attorney Whitehead commented that this will
27 reduce the impervious surface on the site. She noted that because of the
28 reduced amount of retail shared parking is not appropriate. Attorney
29 Whitehead explained that with the reduced amount of retail there will now
30 be 82 residential units, consisting of 61 one bedroom and 16 two bedroom
31 units. She noted that the revised plan shows minor adjustments in the
32 location and origination of the buildings. She said that the disturbance in
33 the steep slopes along the easterly side of the property will be reduced and
34 the separation will be increased between buildings 3 and 4. Attorney
35 Whitehead noted that Building 1 has been rotated which will reduce the
36 linear look and will give that building a softer shape. She mentioned that
37 because of the reduced parking the stormwater mitigation area has been
38 moved further from the edge of the Department of Conservation (DEC)
39 wetland. Attorney Whitehead said that stormwater improvements are
40 shown within the wetland buffer as have been permitted by this Board and

1 the DEC. She stressed that stormwater improvements are not prohibited
2 but require a permit. She opined that by putting in stormwater mitigation
3 you improve the function of the buffer. Attorney Whitehead said that the
4 quantity of stormwater runoff will be reduced by the reduction of impervious
5 surfaces.

6
7 Attorney Whitehead addressed the memo that was received from Town
8 Clerk Kathleen Pacella. She said that she had no idea why the application
9 of The Green at Somers was on the Town Board agenda. She opined that
10 it was inappropriate to discuss an application without advising the applicant
11 or his representative.

12
13 Ms. DeLucia said that The Green at Somers was on the Town Board
14 agenda for review and comment.

15
16 Attorney Whitehead said she would like to clarify some of the statements in
17 the Town Clerk's minutes. She said the statement about Norma
18 Drummond from the County saying that this project was not the one she
19 spoke about in her address with regard to Affordable Housing is confusing
20 because a formal application cannot be made to Westchester County for
21 funding for an affordable housing project until the applicant has municipal
22 approvals. She noted that there have been informal discussion with the
23 County and Ms. Drummond may not have been involved in those
24 discussions. Attorney Whitehead opined that the discussion at the Town
25 Board meeting leaves out an important factor because Somers modified its
26 code for a prior application on this site by adopting incentives for affordable
27 housing which included the increased FAR for the third floor and shared
28 parking. She said for the Town Board to take credit by saying that the
29 Town of Somers was ahead of the curve in terms of modifying legislation
30 for Affordable Housing and then not being willing to apply the legislation by
31 making comments that a third story would be detrimental to the Town.
32 Attorney Whitehead stated that the Town Board put the legislation in their
33 zoning and is taking credit as a zoning amendment that promotes
34 affordable housing. She also questioned the comment that there are
35 several affordable housing projects in the hopper as this is the only project
36 before the Planning Board. Attorney Whitehead also referenced the
37 comments about the 3D visual of the project which did not work out well.
38 She noted that the Planning Board also viewed the 3D visual which was not
39 prepared by the applicant but was prepared by the County. She also was
40 concerned with the statement that the applicant was asking for

1 authorization for a third story, for a reduction in parking, a change in the
 2 Code to permit residential on the first floor and a lot of different things. She
 3 stressed that the applicant was not looking for a lot of different things but
 4 only for the three incentives listed in zoning and the amendment the
 5 Planning Board asked the Town Board to consider. She said that she
 6 has concerns about the comment in regard to the amount of commercial
 7 and the commercially zoned areas. Attorney Whitehead noted that
 8 looking at the Planned Hamlet Zoning a concern was to restrict the amount
 9 of retail because of concerns about the heavy commercial traffic on Route
 10 6. Attorney Whitehead opined that the concern in the Town Board minutes
 11 in reference to commercially zoned areas is inaccurate. She mentioned
 12 that when the zoning was adopted to allow the third story residential in the
 13 Neighborhood Shopping (NS) Zone for affordable housing they said that
 14 they were allowing more residential in the NS Zone to encourage affordable
 15 housing. Attorney Whitehead said there were misconceptions on why the
 16 applicant was at the December Planning Board meeting. She said that the
 17 Planning Board sent a memo to the Town Board asking them to consider
 18 some things before the Planning Board spent additional time without having
 19 input from the Town Board. She felt that a part of the Town Board minutes
 20 reads like the applicant was misleading the Town Board when the Planning
 21 Board sent the request for input from the Town Board. Attorney Whitehead
 22 said that the Town Board Minutes also say that they will continue to go
 23 through the normal Planning process that the Town did with every building
 24 that goes up and go from there. She explained that the normal planning
 25 process does not always require approval from the Town Board; however,
 26 this project does because that is the way the Town Board wrote the zoning.
 27 Attorney Whitehead commented that the Town Board minutes state that
 28 Neighborhood Shopping allows businesses other than retail but the actual
 29 language in the Code says apartments over stores, so it is limited to retail.
 30 She said that she spoke to the Town Board in January and they said that
 31 they would be willing to modify the Code to allow other types of commercial
 32 uses. Attorney Whitehead indicated that because the applicant did not
 33 know about the discussion at the Town Board meeting they were not
 34 allowed to address the misstatements.

35
 36 Ms. Gannon noted that she attended the Town Board meeting and she felt
 37 that the Town Board did not have enough information on this project.

38
 39 Mr. Keane said that the Town Board rejected the recommendations of the
 40 Planning Board. He noted that the revised plans change things.

1 Attorney Whitehead corrected Mr. Keane and said that the Town Board
2 decided it was not ready to act yet.

3
4 Mr. Keane opined that under SEQRA a substantive alternative should be
5 provided. He suggested that a substantive alternative would be meeting
6 the design criteria guidelines under Section 170-21 before you get to the
7 affordable housing alternatives.

8
9 Attorney Whitehead said that at this point in the SEQRA process it does not
10 require alternatives. She said that a determination of significance
11 does not ask to analyze alternatives.

12
13 Mr. Keane noted that the applicant is seeking a Negative Declaration that
14 demonstrates that there are no significant environmental impacts. He said
15 that 3 stories changes the visual impact.

16
17 Attorney Whitehead said that the proposed action is the three story action.
18 She noted that the applicant provided information on the impact of the third
19 story (height of tree line) that the buildings will not come up higher than the
20 tree line.

21
22 The Chair asked Town Planner Hull to summarize her memo dated March
23 9, 2012.

24
25 Town Planner Hull said that she submitted a request to Michael Galante of
26 Frederick P. Clark regarding the estimated cost of his review of the updated
27 traffic analysis. She noted that she would like the Board to declare its
28 intent to be Lead Agency once the plans are in form and substance to be
29 circulated. She mentioned that the Board will have to determine if this is a
30 Type I action or an unlisted action under SEQRA.

31
32 Attorney Whitehead noted that she will revise the EAF and plans so Lead
33 Agency can be circulated.

34
35 The Chair asked Consultant Town Engineer Barbagallo to summarize his
36 memo dated March 8, 2012.

37
38 Consultant Town Engineer Barbagallo said that at this time the Planning
39 Board should consider how it intends to proceed in the addressing of the
40 alternatives for site development such that the information requested by the

1 Town Board can be developed as opposed to getting into the specifics of
2 the site plan submitted prior to this meeting.

3
4 Attorney Whitehead stated that the Planning Board is supposed to circulate
5 its intent to be Lead Agency once the EAF and application are submitted to
6 start the SEQRA process.

7
8 Town Planner Hull explained that under SEQRA the first step is to declare
9 the Board's intent to be Lead Agency and then the discussion of impacts
10 and then the applicant will provide further analysis.

11
12 Town Attorney Eriole advised that there is nothing preventing the Board
13 tonight from declaring its intent to be Lead Agency contingent upon
14 receiving revised plans and the updated EAF.

15
16 The Chair noted that there was a consensus of the Board and staff to
17 declare its intent to be Lead Agency.

18
19 On motion by Chair Currie, seconded by Mr. Goldenberg, and unanimously
20 carried, the Board moved to declare its intent to be Lead Agency on The
21 Green at Somers Site Plan and circulate the notice to interested and
22 involved agencies.

23
24 Ms. DeLucia suggested using rain gardens on this project.

25
26 Nathaniel Holt, the applicant's engineer, mentioned expanding the old
27 drainage situation into a vegetated swale along the westerly property line.
28 He said that along the northern side of the driveway there will also be
29 vegetated swales. Engineer Holt indicated that some of the topography
30 is not suitable for rain gardens but he will look at other things that will do
31 the same thing.

32
33 Ms. Gerbino said that historically this site is a swamp but she appreciates
34 that there are 62 fewer parking spaces.

35
36 Attorney Whitehead opined that you can't say we are not going to change
37 zoning you have to look at the realities of the world. She said recognizing
38 that the Town Board may not want to change zoning; the applicant is willing
39 to go to the Zoning Board of Appeals and try to get a variance. She noted

1 that if you put all the retail that is required in the Code there will be a lot of
2 empty buildings.

3
4 Mr. Keane asked that screening be used on Building 3 to address the
5 visual impact and that further analysis be done on the 3 story buildings. He
6 said that the applicant may want to change the height of the buildings.

7
8 Consultant Town Engineer Barbagallo said the Board should provide
9 guidance to the applicant on the height of the trees.

10
11 Attorney Whitehead said that she will have a landscape architect provide a
12 planting plan for the Board's review.

13
14 Ms. DeLucia suggested using brick or concrete for the walkway.

15
16 Attorney Whitehead said that when you are using public funding for
17 affordable housing they are very particular. She indicated that she will
18 consider the porous walkway.

19
20 Consulting Town Engineer Barbagallo opined that the County will fund the
21 porous sidewalk.

22
23 Ms. DeLucia noted that she got the impression that the Town Board was
24 not in favor of residential on the first floor.

25
26 Attorney Whitehead stressed that if they have 30,000 SF of retail they will
27 have a ton of parking and there will be empty stores. She said that two of
28 the buildings are shown with the first floor being partial retail, the entire
29 front and from a visual standpoint it is a full row of stores. Attorney
30 Whitehead explained that two buildings will be all residential.

31
32 Mr. Keane agreed that retail will be a problem and will be economically
33 infeasible. He said that if the applicant is successful in getting a variance
34 why not reduce the buildings to 2 stories. He said that he is concerned
35 visually with Building 4.

36
37 Town Planner Hull said documentation should be provided justifying retail
38 versus residential on the first floor.

39

1 Consultant Town Engineer Barbagallo asked about the stormwater basin in
2 the wetland buffer and asked if wetland mitigation will be provided.

3
4 Attorney Whitehead stated that wetland mitigation will be provided.
5 Ms. Gannon asked about scheduling a site walk of the property.

6
7 The Chair directed that a site walk be scheduled for Saturday, April 14,
8 2012 at 7:30 AM with walkers meeting at the site. He said that the site
9 must be flagged.

10
11 There being no further business, on motion by Ms. Gerbino, seconded by
12 Mr. Goldenberg, and unanimously carried, the meeting adjourned at 9:30
13 P.M. and the Chair noted that the next Planning Board meeting will be held
14 on Wednesday, April 11, 2012 at 7:30 P. M. at the Somers Town House.

15
16
17
18 Respectfully submitted,

19
20
21
22 Marilyn Murphy
23 Planning Board Secretary
24
25