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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
MARCH 25, 2014**

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:

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

19

The special 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
FEBRUARY 12, 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 February 12, 2014.

30

Chair Currie asked if there were any comments or corrections from the
Board on the February 12, 2014 Planning Board minutes.

32

1 Ms. Gerbino said that she mentioned that there were a lot of subjects being
2 discussed concerning work that might be done by the applicant on the
3 Town’s park property. She said these discussions are a “stumbling block”
4 that needs to be resolved before the Planning Board can review the actual
5 application.

6
7 Chair Currie explained that some Board members have not reviewed the
8 minutes so they will be held over until the next meeting.

9
10 **PROJECT REVIEW**

11
12 **HIDDEN MEADOW AT SOMERS [TM: 15.07-1-6]**

13
14 Chairman Currie noted that this is an application for Preliminary
15 Subdivision Approval, Site Plan Approval, Steep Slopes, Wetland and
16 Stormwater Management and Erosion and Sediment Control Permits
17 relative to application of the Multifamily Residence Baldwin Place District
18 (MFR-BP) under consideration by the Town Board.

19
20 Chair Currie acknowledged memos from Director of Planning Dym dated
21 March 20, 2014 and March 24, 2014, Insite Engineering dated March 24,
22 2014 and the Open Space Committee dated March 21, 2014.

23
24 Chair Currie asked the applicant’s representative to update the Board on
25 the application.

26
27 Richard Williams, the applicant’s engineer, said that he wants to inform the
28 Board about the meeting that was held with the Watershed Inspector
29 General (WIG). He opined that it was a very positive meeting where they
30 spoke about the pollutant loading analysis and the rainfall data and the type
31 of modeling that should be used and the erosion control comments.
32 Engineer Williams said that the group came to a resolution with all the
33 issues. He mentioned that SEQRA was discussed and WIG acknowledged
34 that he understands the need for affordable housing and the negative
35 impacts associated with a Positive Declaration in reference to funding
36 sources with affordable housing. Engineer Williams said that the WIG is
37 more concerned that the technical comments are addressed than how this
38 project proceeds with respect to SEQRA. He stated that he will address all
39 the WIG’s comments.

40

1 Consultant Town Engineer Barbagallo said that he attended the meeting
2 with WIG and agreed that the meeting was positive. He concurred that the
3 issues were discussed at length with WIG who was curious about funding
4 sources. Consultant Town Engineer Barbagallo said that WIG defined his
5 role in the process and explained that he is parallel with the DEC and they
6 both report to the Governor. He explained that Don Lake provided revised
7 calculations and because off site mitigation is taking place as part of the
8 project that mitigates the increase in phosphorous. Consultant Town
9 Engineer Barbagallo mentioned that he received an e-mail from Mr. Lake
10 showing his calculations. He said that Mr. Lake agrees with the applicant's
11 pollutant loading analysis so that issue is settled with WIG. Consultant
12 Town Engineer Barbagallo said that there was discussion on the rainfall
13 data with the applicant arguing that the regulations allow the designer to
14 choose the rainfall data that they will use and certify. He stated that the
15 applicant's rainfall data results in higher water quality treatment volumes.
16

17 Engineer Williams interjected that WIG asked him to use the new rainfall
18 data, NRCC data from Cornell, and WIG will continue to comment and
19 review that data. He said that he uses TP40 and the Northeast Climate
20 Center which provides annual updates and has taken TP40 data from 1966
21 forward. Engineer Williams explained that when he models stormwater he
22 not only looks at how much it rains in 24 hours but he looks at the intensity
23 of the rainfall.
24

25 Consultant Town Engineer Barbagallo indicated that WIG requested that
26 the applicant clarify changes in soil data and that they use website
27 references. He noted that WIG spoke about climate change and pointed
28 toward more precipitation in the future.
29

30 Consultant Town Engineer Barbagallo said he asked WIG to provide a
31 letter resolving the issues. He said that WIG noted that the pathogens
32 *Cryptosporidium* is not specific to this project but he explained that the
33 Board is concerned that it may be in Somers drinking water and that has to
34 be addressed. Consultant Town Engineer Barbagallo mentioned that WIG
35 is not against the project but just wants everything done technically correct
36 and is not against a Negative Declaration for this project.
37

38 Engineer Williams said that the reason for this meeting is to review Parts
39 and 2 and 3 of the Environmental Assessment Form (EAF) so he can have
40 guidance if additional studies are needed. He noted that the new workbook

1 is helpful in answering questions. Engineer Williams explained that he
2 went page by page through the EAF and answered the questions as
3 recommended by the workbook. He stressed that when filling out Part 3
4 only the moderate to large impacts identified in Part 2 are to be filled out.
5 Engineer Williams explained that he answered every question in Part 2
6 because he wanted the Board to more efficiently review his work. He
7 indicated that he provided the page reference from the Full EAF workbook
8 to all his answers. Engineer Williams said that where there was a
9 moderate or large impact identified he provided a three part answer.

10
11 The Board reviewed Part 3 of the EAF **impact on Land b**. *The proposed*
12 *action may involve construction on slopes of 15% or greater.*
13 *A moderate to large impact may occur. The proposed action identifies*
14 *slopes in excess of 15% along the project frontage. The proposed action*
15 *proposes filling against existing slopes in excess of 15% along Route 6.*
16 *The filling is required to widen Route 6 in order to create a left turn lane into*
17 *the site.*

18
19 Engineer Williams noted that an Erosion and Sediment Control Plan has
20 been developed to mitigate impacts associated with modifying and creating
21 slopes in excess of 15%. He said that based on the mitigation the
22 potentially moderate to large impact has been mitigated and will not result
23 in a significant adverse environmental impact.

24
25 Consultant Town Engineer Barbagallo said that during the permit review
26 he might ask for a stability analysis depending on the degree of steep
27 slopes.

28
29 Engineer Williams explained that there are different levels for permits and
30 potentially significant adverse impacts. He said that the workbook looks at
31 disturbing steep slopes and the potential for erosion. Engineer Williams
32 noted that his Erosion and Sediment Plan will not design slopes that are
33 not stable.

34
35 Mr. Keane said that SEQRA states that mitigation must be addressed to
36 the maximum extent practicable.

37 Mr. Foley interjected that rule is used after a Positive Declaration is
38 determined.

39

1 Engineer Williams said that the Board must insure that the final Site Plan
2 provides mitigation.

3
4 Mr. Keane noted that with a Negative Declaration impacts must be
5 mitigated to the greatest extent practicable.

6
7 Engineer Williams asked if there is something else that has to be added to
8 the Erosion and Sediment Control Plan.

9
10 Consultant Town Engineer Barbagallo said that the stability analysis might
11 be helpful. He noted that the applicant must prepare an Earthwork
12 Management Plan for the site. The Plan shall tabulate total cut/fill
13 anticipated for the project and must be keyed to the proposed construction
14 phasing plan and the details of stockpile management. Consultant Town
15 Engineer Barbagallo said that the Earthwork Management Plan must also
16 include a description of proposed hauling operations if the export of site cut
17 soils is determined to be necessary. Consultant Town Engineer Barbagallo
18 mentioned that an estimate of total truck loads, the number of loads per
19 day and the duration of hauling should be described in the Earthwork
20 Management Plan.

21
22 Consultant Town Engineer Barbagallo said that the applicant must prepare
23 a land disturbance phasing plan/construction sequence to the Phasing Plan
24 that must be keyed to the Earthwork Management Plan and must provide
25 that no greater than 5 acres of site area are open disturbed at any given
26 point, consistent with the criteria of the NYSDEC SPEDES General Permit
27 for Stormwater Discharges from construction activity. He said that the
28 existing soils shall be inventoried and mapped and the mapping shall be
29 completed for surface soils within the entire limits of site disturbance as
30 defined by the Proposed Grading Plan. He said that he wants to know
31 what the grain size is to make sure that the Erosion and Sediment Control
32 Plan is adequately designed.

33
34 Mr. Keane asked if what is said is sufficient to mitigate the impact to some
35 level less than significant.

36
37 Consultant Town Engineer Barbagallo opined that when the supplemental
38 information he requested is completed he believes from the erosion
39 perspective it will be reduced to less than significant.

40

1 Engineer Williams explained that he identified a couple of possible
2 significant impacts such as traffic, stormwater and he wants to mitigate
3 those by design by providing reports up front and provide additional
4 information if needed to ultimately result in a Negative Declaration.
5

6 Mrs. DeLucia said that Engineer William's comments are geared toward a
7 Neg Dec.
8

9 Director of Planning Dym asked if a Soil Stability Analysis is needed to
10 make a determination.
11

12 Consultant Town Engineer Barbagallo said that the widening plan is
13 needed before he can definitely determine if a Soil Stability Analysis is
14 necessary.
15

16 Mr. Keane noted that his concern is has the applicant provided enough
17 data for the Board to reach a conclusion.
18

19 Engineer Williams referred to question **d** *The proposed action may involve*
20 *the excavation of more than 1,000 tons of natural material.* He explained
21 that he converted cubic yards into tonnage and 14,000 yards are being
22 excavated from the site. He noted that moderate to large impact was
23 checked because there may be issues with erosion as a result of the cut
24 and there is an issue with truck traffic that will be generated as a result of
25 the need to export material.
26

27 Engineer Williams referred to question **f**. *The proposed action may result in*
28 *increased erosion, whether from physical disturbance or vegetation*
29 *removal.* He said that moderate to large impact may occur and it will rely
30 on the Erosion and Sediment Control Plan. He acknowledged that more
31 information has been requested by the Town Consulting Engineer.
32

33 Ms. Gannon indicated that in Part 2 of the EAF it says *the proposed action*
34 *may involve application of pesticides or herbicides in or around any water*
35 *body.* She noted that there will be a Homeowners Association that will be
36 doing lawn maintenance and she asked if there will be restrictions on
37 pesticides or herbicides.
38

39 Engineer Williams said that Part 2 and Part 3 do not mirror each other. He
40 mentioned that the workbook talks about commercial and recreational

1 applications as being potential significant impacts. Engineer Williams
2 noted that the workbook is referring to golf courses.

3
4 Consultant Town Engineer Barbagallo said that even if the pesticides and
5 herbicides applications reach a level of concern the Board can request a
6 Chemical Management Plan. He stated that bigger projects usually have
7 the Integrated Pest Management Plans.

8

9 *At this time Town Attorney Roland Baroni joined the meeting.*

10

11 Engineer Williams mentioned that inspections take place on the site and
12 are made by Insite Engineering as well as the Consultant Town Engineer's
13 office and the Principal Engineering Technician to make sure everything is
14 done correctly. He said that if there is erosion and sediment control issues
15 on the site a Site Plan violation can be issued.

16

17 Consultant Town Engineer Barbagallo stated that it can be in the SWPPP
18 that when inspections are conducted the report be submitted immediately
19 to the Town's Principal Engineering Technician. He noted this will give the
20 Town the ability to review the issue immediately and if it is determined
21 there is a violation a Stop Work Order can be issued.

22

23 Engineer Williams said that he will send e-mails to the Town Consultant
24 Engineer and the Town's Engineering Department with the results of
25 inspections taking place on the project.

26

27 Engineer Williams referenced question **d. Impacts on Surface Water: the**
28 *proposed action may affect one or more wetlands or other surface water*
29 *bodied. The proposed action may involve construction within or adjoining a*
30 *freshwater or tidal wetland, or in the bed or banks of any other water body.*

31 He said that this may be a moderate or large impact. Engineer Williams
32 commented that the existing wetland is located along the toe of the fill
33 slope creating Route 6. He noted that in order to widen Route 6 the fill
34 slope must be expanded resulting in impacts to the adjacent wetland.

35 Engineer Williams referred to question **e. Impacts on Surface Water: the**
36 *proposed action may affect one or more wetlands or other surface water*
37 *body. The proposed action may create turbidity in a water body, either from*
38 *upland erosion, runoff or by disturbing bottom sediments.* He said that he
39 listed this as a moderate or large impact that may occur. Engineer Williams

1 indicated that this is similar to what he has been talking about under
2 erosion control.

3

4 Engineer Williams referenced question **h.** *the proposed action may cause*
5 *soil erosion, or otherwise create a source of stormwater discharge that may*
6 *lead to siltation or other degradation of receiving water bodies.* He listed
7 this as a moderate or large impact. Engineer Williams indicated that this
8 also can be mitigated under the Erosion and Sediment Control Plan.

9

10 Engineer Williams referred to question **i.** *the proposed action may affect the*
11 *water quality of any water bodies within or downstream of the site of the*
12 *proposed action.* He said that this is listed as a moderate or large impact.
13 Engineer Williams said that at the last few meetings the Board has been
14 talking about stormwater not only what is required with the regulations but
15 also what is being required by WIG. He indicated that the Pollutant
16 Loading Analysis in addition to the SWPPP conforms to Town, DEC and
17 the DEP Regulations and has been developed to mitigate the probability of
18 this impact occurring.

19

20 Consultant Town Engineer Barbagallo referred to page 3 of his memo
21 dated March 12, 2014. He said that his review of responses in Section 3
22 Impacts on Surface Water recommends that the majority of concerns
23 related to creation of turbidity and siltation in receiving water bodies will be
24 addressed through the investigation of existing site soil properties as
25 defined under Section 1. He noted that this will characterize the materials
26 that will be dug up and the focus will be on the erosion and siltation from
27 that. Consultant Town Engineer Barbagallo asked that an up-to-date Tree
28 Survey of the site that includes an inventory of all site trees by species and
29 caliper be provided. He also asked that design details be provided for the
30 proposed level spreader at the discharge outlets to receiving site wetland
31 areas. He said that all level spreaders must be designed to dissipate the
32 peak flow resulting from the 100 year storm and must incorporate features
33 to provide even sheet flow discharge to the wetland area. Consultant Town
34 Engineer Barbagallo said that the outlet structure can be modified or divert
35 water to the upper areas of the wetland or look at the drainage area that is
36 feeding the well.

37

38 Mr. Keane asked if it has been determined how much water is entering the
39 wetland. He said that there should be ways to maintain a certain volume of
40 water in the wetland.

1 Engineer Williams said that those calculations have not yet been done.

2

3 Consultant Town Engineer Barbagallo asked that supplemental information
4 be provided to supplement information to describe potential impacts on
5 receiving downstream water courses during and following the completion of
6 construction. He said that discussion of potential impacts shall be focused
7 on anticipated impacts to the identified trout-spawning waters of the
8 Muscoot River. He asked that the applicant provide applicable NYSDEC
9 water quality standards guidance values and thermal criterion that
10 specifically refer to trout species and associated habitat area. Consultant
11 Town Engineer Barbagallo said that the assessment should include
12 description of potential impacts due to change in water temperature, total
13 suspended solids content and increased velocity in streambeds. He said if
14 impacts are anticipated to be incurred, the applicant must describe
15 measures to provide the necessary mitigation.

16

17 Engineer Williams said that under **Impact on Groundwater:** *the proposed*
18 *action may result in new or additional use of groundwater, or may have the*
19 *potential to introduce contaminants to groundwater or an aquifer.* He said
20 that excavation will occur as a result of construction. However further
21 analysis reveals that the project will result in no or small impacts to the
22 groundwater.

23

24 Engineer Williams noted that Number 7. **Impact on Plants and Animals:**
25 *The proposed action may result in a loss of flora or fauna* and a moderate
26 or large impact may occur. He mentioned that the site does not contain
27 suitable habitat for the Bog Turtle or New England Cottontail. He said that
28 no impacts to either of those species is anticipated. He noted that The
29 Threatened and Endangered Species Habitat Suitability Assessment and
30 the Wetland Report indicates that through preservation of a significant
31 portion of the existing forest, the project will not impact forest fragmentation
32 or habitat fragmentation.

33

34 Mrs. DeLucia asked Engineer Williams to address the concerns of the
35 Open Space Committee outlined in their March 21, 2014 memo.

36

37 Engineer Williams explained that he will be working with Woodard & Curran
38 to address the concerns of the Open Space Committee.

39

1 Consultant Town Engineer Barbagallo said that the applicant has done an
2 appropriate analysis and he supports their conclusion, as it relates to State
3 and Federal regulated Endangered Species. He stated that the Open
4 Space Committee mentioned the Westchester County and Somers
5 threatened and endangered species list which was adopted by the Somers
6 Town Board on August 11, 2011. Consultant Town Engineer Barbagallo
7 said that there is no regulatory framework around the Westchester County
8 list and that is the reason that list was not addressed. He said that the
9 Planning Board can ask to have the site visits conducted as requested by
10 the Open Space Committee. Consultant Town Engineer Barbagallo said
11 that he reached out to the Open Space Committee and set up a discussion
12 to fully understand their concerns.

13
14 Engineer Williams asked that the meeting with the Open Space Committee
15 happen soon because there are certain times of the year to look for certain
16 species.

17
18 Mr. Goldenberg mentioned that the letter from the Open Space Committee
19 is not signed.

20
21 Ms. Gannon noted that the Board receives the minutes of the Open Space
22 Committee meetings.

23
24 Consultant Town Engineer Barbagallo said that the memo from the Open
25 Space Committee is something the Planning Board has to weigh to
26 determine if their concerns have to be addressed.

27
28 Mr. Keane said that it should be determined if a species is so depleted it is
29 endangered, therefore, the Board has to know how that impact will be
30 mitigated. He said the Board does not know what species are on the site
31 so there is no way of telling what the impact is.

32
33 Consultant Town Engineer Barbagallo indicated that the Board wants to
34 know what species are on this site and if the project will interfere with
35 nesting/breeding, foraging, or over-wintering habitat to the species on this
36 site.

37
38 Engineer Williams stressed that studies have been made on the
39 Endangered Species and US Fish and Wildlife. He said that the EAF

1 mapper on the DEC website filled out the EAF with “No” under Endangered
2 Species on the site.

3
4 Mr. Kearney asked for a reasonable scope on the endangered species on
5 the site. He asked if his engineer can be on the conference call with the
6 Open Space Committee and Woodard & Curran.

7
8 Engineer Williams referred to **g.** under **Impacts on Plants and Animals,**
9 *the proposed action may substantially interfere with nesting/breeding,*
10 *foraging, or over-winterizing habitat for the predominant species that*
11 *occupy or use the project site.* He indicated that a moderate or large
12 impact may occur. Engineer Williams explained that the removal of a large
13 percentage of the vegetation and replacing it with lawns or other cover
14 types for the predominant species that occupy the site is an impact. He
15 said that any loss of habitat will not result in forest or habitat fragmentation
16 that would affect the predominant species.

17
18 Engineer Williams referenced Number **9, Impact on Aesthetic Resources**
19 and his answer was “No” impact.

20
21 Director of Planning Dym noted that Mahopac Avenue is a designated
22 scenic roadway. She said that it is designed locally; however, the criteria is
23 a 30 foot buffer, therefore it will not impact the aesthetic resources.

24
25 Engineer Williams referred to Number **11. a.** *The proposed action may*
26 *result in a loss of recreational opportunities or a reduction of open space*
27 *resource as designated in any adopted municipal open space plan.* He said
28 that he answered this as a moderate to large impact because the proposed
29 action may result in an impairment of natural functions, or ecosystem
30 services, provided by an undeveloped area, including but not limited to
31 stormwater storage, nutrient cycling and wildlife habitat. Engineer Williams
32 said that vegetation will be disturbed on the site and is a potential impact
33 that should be studied. He noted that the Threatened and Endangered
34 Species Habitat Suitability Assessment has been provided which starts the
35 framework for mitigation for the potential impact.

36 Consultant Town Engineer Barbagallo mentioned that this question will be
37 modified to include any studies that come out of the discussion with the
38 Open Space Committee.

39

1 Director of Planning Dym suggested that item **e. Other impacts:** *If Town*
2 *elects to pursue the development of a park on the adjacent property this*
3 *project will assist the Town with the opportunity to develop the adjacent*
4 *recreation parcel with a Town Park is a potential moderate to large impact.*
5 She said that this is a positive impact because of the inclusion of the
6 roadway which will allow the development in the future of the adjacent
7 parkland even though those impacts are not being evaluated at this time.

8

9 Mr. Foley asked why positive impacts are being identified.

10

11 Director of Planning Dym indicated that she always identifies positive
12 impacts.

13

14 Planning Board Town Attorney Eriole advised that under a Negative
15 Declaration a positive impact supports that determination.

16

17 Engineer Williams mentioned question **12, Impact on Critical**
18 **Environmental Areas**, *the proposed action may be located within or*
19 *adjacent to a critical environmental area (CEA)* He indicated he answered
20 “yes” because of an area at Baldwin Place that is a critical environmental
21 area and this project is adjacent to this area. He noted that the critical
22 environmental area was developed because of difficulty developing a
23 portable water supply. He explained that this project will use the Windsor
24 Farm Water District (public water).

25

26 Consultant Town Engineer Barbagallo said that Engineer Williams
27 indicated that there will be no Impact to Transportation but Route 6 is being
28 modified and that is mitigating something. He noted that it can be said that
29 the impact was mitigated and the Department of Transportation (DOT)
30 agrees.

31

32 Engineer Williams noted that a left turn lane will be provided so as not to
33 impact Route 6.

34

35 Mr. Foley suggested that the problem, left turn lane, should be mentioned
36 with the mitigation added.

37 Engineer Williams referred to question 14, **Impact on Energy-***The*
38 *proposed action may cause an increase in the use of any form of energy.*

39 He said yes there will be energy, and all the sub-questions will have a
40 potential small impact.

1 Engineer Williams referenced question 17, **Consistency with Community**
2 **Plans**, *The proposed action is not consistent with adopted land use plans.*
3 He said that the answer is “yes” but potential small impacts may occur.
4

5 Planning Director Dym said that 17 c, *The proposed action is inconsistent*
6 *with local land use plans or zoning regulations.* She said that the answer
7 should be a moderate to large impact may occur. She said that the action
8 based on the 1994 Master Plan is not consistent with the recommendations
9 of the Land Use Plan and an interpretation of the zoning is needed.

10 Planning Director Dym opined that there needs to be modifications to the
11 Master Plan in order for this project to proceed. She said that a supporting
12 text amendment is also needed and will be decided by the Town Board and
13 referred officially back to the Planning Board. She said that there will be a
14 need for additional meetings because of the timeframe between the
15 Planning Board and the Town Board. Planning Director Dym mentioned
16 that any modification to the Master Plan has to be referred to the County
17 Planning Board. She clarified that this does not mean that the process
18 stops, the Planning Board can continue with this application while these
19 issues are being considered.
20

21 Town Attorney Baroni noted that the Board asked for an option but he has
22 been reluctant because it is not his job to interpret the Code. He said that
23 the Code is interpreted by the Building Inspector and on appeal to the
24 Zoning Board of Appeals. Town Attorney Baroni explained that there is an
25 issue if this property can be applied to the MFR-BP Zoning District. He
26 said that the Town Board has to clarify the Code to decide if this zone
27 applies to this property.
28

29 Town Attorney Baroni said that he does not disagree with the statement
30 from Insite Engineering that the language of the Code as written is to be
31 construed strictly against a municipality and in favor of the property owner,
32 and that any ambiguity based on the language is required to be resolved in
33 favor of the property owner. He said that the Town Board has to decide if
34 the floating zone can be applied to this property. Town Attorney Baroni
35 noted that the project should move forward while the concern about the
36 application of this zone to this property is eliminated.
37

38 Ms. Gerbino said that part of the process will be that this project goes back
39 to the County for their recommendation.
40

1 Town Attorney Baroni indicated that the language that will be inserted into
2 the Master Plan will have to be reviewed by the Westchester County
3 Planning Board.

4
5 Mr. Keane said that the Master Plan shows the Baldwin Place District on
6 the map and it appears that its western border is Mahopac Avenue. He
7 noted that the MFR-BP District description states what can be in that
8 district is if it is adjacent to a business center at Baldwin Place. Mr. Keane
9 noted that it appears that this application is not in or adjacent to the
10 business center unless you stretch the meaning of adjacent.

11
12 Town Attorney Baroni indicated that a text amendment is needed. He said
13 that adjacent means “near by”.

14
15 Director of Planning Dym said that the word adjacent under definition 1. in
16 the dictionary means “near by” and definition 2 means “next to”. She
17 indicated that if the word adjoin was used that means specifically next to a
18 land.

19
20 Mr. Foley said that between Hidden Meadow and the District there are one
21 or two lots that have to be crossed before you get to Hidden Meadow. He
22 opined that Hidden Meadow is not adjacent because the lots that are not
23 part of the District separate Hidden Meadow from what is called the
24 Baldwin Place District.

25
26 Director of Planning Dym interjected that those lots do not meet the
27 definition of 10 acres.

28
29 Director of Planning Dym said that the 1994 Master Plan uses the Muscoot
30 River as the dividing line defining Baldwin Place.

31
32 Planning Board Town Attorney Eriole said that the current zoning allowing
33 this project in the MRF-BP Zone are viable arguments; however, the
34 concept the Board raised are reasonable concerns. He said the question
35 is how does the project move forward and one way is to interpret the Code
36 and see where that goes or have the Town Board solve the problem by
37 clarifying the Code.

38

1 Mr. Goldenberg stressed that it is a Town Board decision to determine if
2 this project is appropriate for the MFR-BP Zone. He opined that the 1994
3 Master Plan should be updated.

4
5 Town Attorney Baroni stated that the Planning Board will be asked to give a
6 recommendation to the Town Board.

7
8 Mrs. DeLucia noted that she asked the Town Board to update the Master
9 Plan. She referred to Page 19 of the Master Plan, *a limited amount of*
10 *townhouses and garden apartments at densities of 8 dwelling units per*
11 *acre should be permitted in locations adjoining the Baldwin Place,*
12 *Lincolndale and Somers Hamlets and business areas as designated on the*
13 *Town Plan Map.* Mrs. DeLucia said that on Page 28 of the Master Plan it
14 states recommended development patterns. *These development patterns*
15 *are this Town Plan and Plan Map that establish five recommended*
16 *residential development density ranges. These ranges are based on*
17 *average gross density inclusive of areas devoted to roads and utilities.*
18 *Categories are land use recommendations not recommendations for*
19 *specific zoning district designations.* She said that *one of them is multi-*
20 *family density five to nine housing units per acre. These recommended*
21 *land use density categories have been applied to land on the Town Plan*
22 *Map based on the above descriptions in consideration of relationship to*
23 *hamlet and business centers, physical characteristics and the lands ability*
24 *to support development, the road systems ability to support additional*
25 *development, availability to support community facilities, water and sewer*
26 *systems, the existing character of residential character in the area.* Mrs.
27 DeLucia stressed that the reason we are in this predicament is because the
28 Master Plan has not been updated.

29
30 Town Attorney Baroni advised that the Master Plan has to be amended.

31
32 Ms. Gannon asked if an amendment to the Master Plan becomes folded
33 into the SEQRA process for this project or is it separate.

34
35 Town Attorney Baroni said you can fold the amendment into the process
36 going forward or the Town Board can start its own process with an un-
37 coordinated review with a Zoning Text Amendment and modification to the
38 Master Plan.

39

1 Director of Planning Dym clarified that there are a series of actions under
2 SEQRA which are: the modification of the Master Plan and the Text
3 Amendment to the Zoning. She said that if approved these actions can
4 become a part of the application and the requested action.

5

6 Mrs. DeLucia asked how far is the property from the Baldwin Place
7 Business Center.

8

9 Engineer Williams said that it depends on how you define Baldwin Place
10 which is the ambiguity we have been discussing. He said that in round
11 numbers the project is 1200 feet from Mahopac Avenue and 300 feet from
12 the Muscoot River.

13

14 Mrs. DeLucia asked how far is this property from the Somers Commons
15 Shopping Center.

16

17 Engineer Williams noted that this project is approximately 3,500 feet from
18 Somers Commons Shopping Center.

19

20 Town Attorney Baroni explained that the Code has to be clarified to make
21 sure that the Town Board's October Resolution is justified where it felt that
22 this project *could* be applicable to the MFR-BP Zoning. He mentioned that
23 the Director of Planning was asked to prepare a memo telling the Town
24 Board what has to take place in order to make this project applicable to the
25 MFR-BP Zone.

26

27 Director of Planning Dym reminded the applicant that the Tree Survey must
28 be provided.

29

30 There being no other business, on motion by Chair Currie, seconded by
31 Ms. Gannon, and unanimously carried, the Special Meeting adjourned at
32 10:00 P.M. The Chair noted that the next Regular Planning Board meeting
33 will be held on Wednesday, April 9, 2014 at 7:30 P. M. at the Somers Town
34 House.

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Respectfully submitted,

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Marilyn E. Murphy
Planning Board Secretary

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