

1
2

**SOMERS PLANNING BOARD MINUTES
APRIL 8, 2009**

ROLL:

PLANNING BOARD

MEMBERS PRESENT: Chairman DeLucia, Mr. Knapp,
Ms. Gerbino and Ms. Gannon

ALSO PRESENT: Town Engineer Gagné
Town Planner Charney Hull
Town Attorney Holt-Cinque
Planning Board Secretary Murphy

ABSENT: Mr. Keane, Mr. Goldenberg
and Mr. Foley

The Meeting commenced at 7:35 P. M. Planning Board Secretary Marilyn Murphy called the roll. Ms. Gerbino filling in for Chairman DeLucia noted that a required quorum of four members of the Board being present called the meeting to order.

Ms. Gerbino noted that Planning Board Secretary Murphy prepared and submitted for the Board’s consideration the approval of the draft minutes of the February 25, 2009 Planning Board meeting consisting of thirty-two (32) pages.

Ms. Gerbino asked if there were any comments or questions from members of the Board and no one replied.

On motion by Ms. Gannon, seconded by Mr. Knapp, and unanimously carried, the minutes of February 25, 2009 were approved.

The Chair noted that the DVD of the February 25, 2009 Planning Board meeting is made a part of the approved minutes and is available for public viewing at the Somers Public Library and on the Town’s website www.somersny.com. She said that the approved

1 minutes are also available for public review at the Planning &
2 Engineering office at the Town House.

3

4 **PUBLIC HEARING**

5

6 **ROCHE WETLAND PERMIT**

7 **[TM: 6.16-2-18}**

8

9 Chairman DeLucia noted that this is the application of Michael and
10 Jaime Roche for a Wetland Permit for property located at 5 Butlerville
11 Road in a Residential R-40 Zoning District. She said that the land is
12 encumbered by steep slopes and Town regulated wetlands. The
13 Chair mentioned that the applicants are represented by Architect
14 Edwin O. Elliott, Jr. She indicated that this application was last
15 discussed on February 11, 2009 whereby it was the consensus of the
16 Board that Town Engineer Gagné with Planning Board
17 representatives conduct a site walk and report to the Board.

18

19 The Chair acknowledged receipt of the following: revised plans
20 received on March 20, 2009 as submitted by the applicants' Architect
21 Edwin O. Elliott, Jr.; a memo dated February 25, 2009 from Town
22 Engineer Gagné to the Board with his report of the site walk
23 conducted on February 17, 2009 and listing 3 items to be addressed;
24 a memo dated February 6, 2009 from the Conservation Board with
25 concerns regarding Green Roofs with recommendations; and a
26 memo dated April 3, 2009 from Town Engineer Gagné to the Board
27 commenting that his office determined that the proposed action is a
28 Type II Action and therefore no further review in accordance with
29 SEQRA is necessary.

30

31 The Chair asked if there was a consensus of the Board to declare the
32 proposed action a Type II Action.

33 On motion by Ms. Gannon, seconded by Ms. Gerbino, and
34 unanimously carried, the Board moved to declare the proposed action
35 a Type II Action under SEQRA as per Chapter 92 of the Code of the
36 Town of Somers and therefore no further review is necessary.

37

38 The Chair commenced with the Public Hearing. She asked Planning
39 Board Secretary Murphy if prior to the Public Hearing had the

1 required legal notice been published and the adjoining property
2 owners notified.

3
4 Planning Board Secretary Murphy replied that the notice was
5 published in the North County News on March 30, 2009 and the
6 notice of the Public Hearing was mailed to the adjoining property
7 owners on March 30, 2009.

8
9 The Chair asked the applicant's representative to give a brief
10 presentation for the benefit of the public.

11
12 Edwin O. Elliott, Jr., the applicant's architect, said that Mr. Roche's
13 home is located just off Route 100 on Butlerville Road. He
14 mentioned that the house was built in 1960 and has wetlands on the
15 left side and steep slopes on the right side of the property.
16 Architect Elliott said that the house is too small for the Roche's and
17 they are proposing an addition on the second floor for a bathroom
18 and turning a one car garage that is located at the rear of the house
19 into a two car garage adjacent to the existing driveway. He noted
20 that the driveway will be shortened and widened in order to make the
21 turn into the driveway. Architect Elliott mentioned that driving on the
22 gravel driveway over the years spread the gravel out. He showed the
23 Board a picture of Mr. Roche's house and the location of the garage.
24 He said that the existing stone wall will have a garden on it. Architect
25 Elliott mentioned that some of the plants that are on the slope area
26 will be put on the roof with approximately 6 inches of soil. Architect
27 Elliott indicated that he will submit details of the green roof to the
28 Town Engineer. He noted that the green roof will stop about a foot
29 short of the roof boundary in order to have a gravel path around the
30 roof. He indicated that there will be a flat roof with the curve height
31 that is needed to retain the gravel with gutters in the front and back of
32 the house which will tie into the existing leader drain system. He said
33 that a Cultec infiltrator drywell system will be added to each corner of
34 the house. He explained that the infiltrator that will be placed on the
35 lowest part of the ground behind the new garage requires two bays of
36 that system. Architect Elliott noted that the entire run-off from the
37 roof, some absorbed by the plants and materials on the roof, will
38 determine the calculations on the dry wells. He said that the drywell
39 at the driveway level requires two drywell points because the
40 percolation levels were not as good in that location.

1 The Chair said that this is the Board's first green roof submission.

2

3 Architect Elliott said that he provided the Board the calculations on
4 the dry wells.

5

6 The Chair asked Town Engineer Gagné to summarize his memo to
7 the Board dated April 3, 2009 with recommendation for the benefit of
8 the public.

9

10 Town Engineer Gagné asked that the drawing clearly delineate the
11 proposed width of the driveway at the garage entrance. He said that
12 he is concerned about the garage floor elevation and that has to be
13 clarified and that the proposed regrading be shown on the plan.

14 Town Engineer Gagné strongly suggested that a low fence be
15 installed along the south side of the driveway at the edge of the
16 proposed driveway to reduce the potential expansion of the driveway
17 beyond the approved limits. He noted that the gravel driveway may
18 not be paved and further that the small green roof proposed and
19 approved as part of the wetland permit be documented in the
20 property deed as a restrictive covenant with an alternative treatment
21 to the green roof should it fail. Town Engineer Gagné said that he
22 hopes that the green roof is successful. He requested that the source
23 of the car turning radius be shown on the plan and verify that the
24 vehicle overhang is included. He asked that a single overhead
25 garage door be considered. Town Engineer Gagné requested that a
26 note be added to the plan that excavated material must be properly
27 disposed of off site. He also requested that a detail of the gravel
28 driveway be provided.

29

30 The Chair asked Town Engineer Gagné if the conditions are
31 significant.

32

33 Town Engineer Gagné replied that the major part of his conditions
34 have already been addressed.

35

36 The Chair commenced with the Public Hearing. She asked if there
37 was anyone present from the public who wished to be heard on this
38 application and no one replied.

39

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

3

4 Mr. Knapp asked the weight of the roof garden material.

5

6 Architect Elliott said that the weight of the roof garden material is 40-
7 50 pounds per square foot based on 6-8 inch plant material. He
8 noted that if the plants are heavier the square footage will be greater.

9

10 Town Engineer Gagné asked if 6 inches of soil is enough for the
11 plants to survive.

12

13 Architect Elliott said that the plants will survive with 6 inches of soil for
14 the extensive type system but if you use shrubs you may need 20-
15 inches of soil. He explained that he may put some of the existing
16 plants in some type of a basin or build up a lip to hold additional soil.

17

18 Town Engineer Gagné asked what will be used for irrigation.

19

20 Architect Elliott said that a hose will be used for irrigation.

21

22 Mr. Knapp asked what the ground water depth is where the Cultec
23 units will be. He suggested using an H2O Cultec unit.

24

25 Architect Elliott said he dug a little deeper than where the proposed
26 Cultec system would be and the ground water depth was about 2
27 inches below the Cultec system.

28

29 Architect Elliott said that instead of a low fence along the driveway he
30 would like to use curbing material, such as a series of stones with
31 gaps between the stones so water can maintain its flow.

32

33 Town Engineer Gagné said that unless the stones are set in a
34 concrete base he does not think the series of stones will work.
35 He opined that he prefers the fence with curbing but that can be
36 discussed with Architect Elliott.

37

38 Mr. Knapp asked what will happen to the stockpile material.

39

1 Architect Elliott said that where the drainage is being put in at the
2 back of the driveway there will be a temporary stockpile.

3

4 Mr. Knapp asked if the driveway will always be gravel.

5

6 Michael Roche, the applicant, said that in the future he would like to
7 put in pervious pavers.

8

9 Town Engineer Gagné said that the driveway can be either gravel or
10 pervious pavement and that will be mentioned in the Resolution.

11

12 The Chair mentioned that Town Engineer Gagné commented that he
13 has no objection to the Board closing the Public Hearing and issuing
14 the wetland permit with the 8 conditions listed in his April 3, 2009
15 memo.

16

17 The Chair asked if there is a consensus of the Board to close the
18 Public Hearing, granting the wetland permit conditions and prepare a
19 Conditional Resolution for the Chairman's signature.

20

21 On motion by Ms. Gannon, seconded by Mr. Knapp, and
22 unanimously carried, the Board moved to close the Public Hearing on
23 the application of Michael and Jaime Roche for a Wetland Permit and
24 prepare a Resolution Granting Conditional Approval with the standard
25 conditions and conditions as listed in Town Engineer Gagné's April 3,
26 2009 memo to the Board for the Chairman's signature.

27

28 **PROJECT REVIEW**

29

30 **OMNIPOINT COMMUNICATIONS, INC.**
31 **SOMERS COMMONS 80 ROUTE 6**
32 **[TM: 4.20-1-11]**

33

34 Chairman DeLucia said that this is the project review of the
35 application by Omnipoint Communications, Inc. at Somers Commons
36 for Amended Site Plan Approval. She noted that the owner of the
37 property is U. B. Somers, LLC and the applicant is Omnipoint
38 Communications, Inc. The Chair mentioned that the property is
39 zoned Community Shopping (CS) District and is located at Somers
40 Commons, 80 Route 6, in the southeast corner of the building

1 occupied by tenants Home Goods, Goodwill and Half Pints. She
2 mentioned that the applicant proposes to install a wireless
3 telecommunications facility with three unmanned equipment cabinets
4 at grade and six panel antennas within a proposed 120' monopole.
5 She noted that this application was last discussed at the February 25,
6 2009 Planning Board meeting whereby, after a detailed presentation
7 of the proposed facility was made to the Board by Michael Musso, the
8 Town's consultant to the Zoning Board of Appeals (ZBA), the
9 applicant was directed to submit revised plans and respond to Town
10 Planner Hull and Town Engineer Gagné's written comments.

11
12 The Chair asked the Board if they would like to have a discussion
13 regarding future cell towers after the two Omnipoint project reviews.
14 She noted that the ZBA's April 21, 2009 Agenda shows that they will
15 be reviewing another cell tower proposal. The Board agreed to hold
16 the discussion on cell towers after the project review is completed on
17 the Omnipoint applications.

18
19 The Chair acknowledged receipt of the following: a letter dated
20 February 27, 2009 received on March 3, 2009 from the applicant's
21 attorney Snyder & Snyder, LLP submitting a revised Long
22 Environmental Assessment Form and stating that the ZBA approved
23 the Special Exception Use Permit and variances on February 17,
24 2009; a letter dated and received on March 13, 2009 from the
25 applicant's attorney Snyder & Snyder, LLP submitting revised plans
26 and supporting material in response to staff's written comments and
27 the Board's comments; a memo dated April 3, 2009 from the
28 Architectural Review Board granting Conditional Approval; a memo
29 from Town Engineer Gagné dated April 3, 2009 with concerns and
30 additional items to be addressed; and a memo dated April 3, 2009
31 from Town Planner Hull giving a project description and history, and
32 project review and recommendations.

33
34 The Chair asked Town Planner Hull to share her memo to the Board
35 for the benefit of the public.

36
37 Town Planner Hull informed the Board that on February 17, 2009 the
38 ZBA issued a decision regarding the Special Exception Use Permit
39 for this project. She noted that there were eight conditions.

40

- 1 1. That no flag/flag lighting is to be provided;
- 2 2. That the applicant will provide a statement to the Town
- 3 with regard to commitment and schedule to maintain all
- 4 visible aspects of the installation.
- 5 3. That the applicant will provide a full structural and
- 6 foundation analysis during the building permit phase of
- 7 the project.
- 8 4. That the following information be provided:
- 9 1. Documentation/survey of actual monopole height.
- 10 2. Actual centerline height of each antenna array.
- 11 3. Map of all trenches, utility runs, and utility
- 12 connections.
- 13 4. Documentation that antennas, transformers,
- 14 generator and all other equipment is properly
- 15 grounded and in compliance with all applicable
- 16 electrical codes.
- 17 5. That a Performance/Removal Bond be provided.
- 18 6. That the Applicant comply with the Town Code.
- 19 7. That operations (future) shall be maintained in
- 20 accordance with the Town Wireless Ordinance.
- 21 8. That a two year landscaping warranty be provided.
- 22

23 Town Planner Hull said that her second comment was to reconcile
24 Note #5 of Sheet C-2 with the installation of the Cultec Storage
25 Chamber, as represented on Sheet C-3.

26
27 Town Planner Hull informed the Board that the applicant met with the
28 ARB and the ARB has requested that:

- 29 • The finial ball at top of the pole be removed;
- 30 • That color samples for the pole be provided so a decision can
- 31 be made as to what color the pole should be; and
- 32 • That the slats in the gates should match the color of the slats
- 33 that already exist.

34 Town Planner Hull explained that with the submission the applicant
35 provided pictures of a white flagless flagpole, a brown flagpole and a
36 two colored flagpole. She said that the Planning Board should
37 discuss color options, and whether or not they agree with the ARB
38 regarding removal of the finial ball and matching the color of the slats
39 in the gates.

40

1 Town Planner Hull mentioned that the plans no longer contain lighting
2 which is reaffirmed in the decision by the ZBA. She noted that a two
3 year warranty has been provided for the plants, and a note on Sheet
4 C-3 indicates that the applicant will provide a statement regarding
5 maintenance of all visible aspects of the project has been included.
6 Town Planner Hull stated that all her comments have been
7 addressed.

8

9 The Chair asked Town Engineer Gagné to summarize his memo to
10 the Board for the benefit of the public.

11

12 Town Engineer Gagné said that the majority of his concerns have
13 been addressed. He noted that the excavated soils for the foundation
14 should be tested prior to disposal and should be addressed by adding
15 a note about the need to test all excavated soils prior to disposal.

16

17 Cara Bonomolo, the applicant's attorney, stated that the note is on
18 Sheet C-4 in reference to the excavated soils being tested prior to
19 disposal.

20

21 Town Engineer Gagné said that a note that the brick veneer will
22 match the existing brick should be on the plan.

23

24 Attorney Bonomolo said that on 1 A, C-4 it states that there is a note
25 that says "proposed wall to match existing wall and building." She
26 noted that she will add additional language if needed.

27

28 Town Engineer Gagné said that he will look at the note to make sure
29 that it mentions the brick veneer matches the existing brick. He noted
30 that the Landscaping Plan has been modified to add three 6-foot high
31 dogwoods and the Board should decide if this is what they want.

32

33 Town Engineer Gagné said that the installation of the Cultec Unit has
34 not been adequately addressed. He noted that it is not clear how the
35 stormwater will enter the system.

36

37 Attorney Bonomolo said that there is a drain in the middle of the
38 compound.

39

1 Town Engineer Gagné indicated that with a drain on a gravel surface
2 there is no way the water will get to it. Town Engineer Gagné
3 indicated that he will review this with the applicant's engineer. He
4 mentioned that it is a minor detail that can be incorporated in the
5 Resolution.

6

7 Attorney Bonomolo noted that she will discuss the details with Town
8 Engineer Gagné.

9

10 Town Engineer Gagné asked that the "flag/flag lighting" be eliminated
11 from Sheet C-3. He requested that a maximum six-foot high cabinet
12 be provided so as not to project above the wall.

13

14 Attorney Bonomolo explained that the standard size for the cabinets
15 is 6 ½ feet and 6-foot cabinets are not available.

16

17 Town Engineer Gagné suggested that the height of the wall be
18 raised.

19

20 Attorney Bonomolo advised that the Code requires a six-foot wall.

21

22 Town Engineer Gagné said that he would be in favor of a variance
23 from the ZBA for a higher wall but that is a decision of the Planning
24 Board.

25

26 The Chair referenced Town Engineer Gagné's concern about *the*
27 *orientation of the enclosure that should be reconfigured to allow the*
28 *existing view from under the building overhang to continue. The pole*
29 *would need to be relocated to the cabinet location. The proposed*
30 *block wall will interrupt the existing open viewshed under the covered*
31 *sidewalk, shifting the cabinet equipment east of the tower which may*
32 *reduce the impact.*

33

34 Town Engineer Gagné mentioned that he met with the applicant's
35 engineer and he was going to look into the particulars in order to shift
36 the cabinets adjacent to the cell pole tower. He said that he did not
37 hear from the applicant's engineer and asked for an explanation.

38

39 Attorney Bonomolo said that she is not sure how much of a difference
40 it will make if the equipment cabinets are moved as space is needed

1 for maintenance. She indicated that the Code requires a 500-foot
2 setback from residences and if the compound is expanded out further
3 it will not comply with the setback.

4
5 Town Planner Hull mentioned that the Board should decide on the
6 color for the pole.

7
8 Town Planner Hull stated that the conditions in the ZBA Resolution
9 will be made part of the Planning Board's Resolution.

10
11 The Chair asked if there were any comments or questions from
12 members of the Board.

13
14 Mr. Knapp asked that a note be put on the plan showing that the
15 surrounding pavement during excavation be maintained in a clean
16 state. He asked where the excavated soil will be stockpiled and how
17 will it be protected.

18
19 Attorney Bonomolo explained that the soil has to be tested and
20 disposed of in accordance with DEC requirements. She said that a
21 letter has been submitted from NYSDEC explaining that there is no
22 soil contamination in the vicinity of the proposed tower but a plan
23 regarding the excavated soils should be provided.

24
25 Mr. Knapp asked that a trench and footing detail be provided. He
26 said that he did not see the detention basin calculations and the
27 depth of the groundwater and the percolation rate calculations.

28
29 Attorney Bonomolo indicated that the drainage questions were raised
30 by the Town Engineer and Town Planner and were answered to their
31 satisfaction.

32
33 Town Engineer Gagné said that the trench details and depth of the
34 water table in reference to where the Cultec unit is proposed will be
35 provided.

36
37 Mr. Knapp said that there is a note that states that a 7-foot minimum
38 distance will be maintained from all antennas. He asked if this is
39 because of a health problem.

40

1 Attorney Bonomolo explained that if you are directly in front of the top
2 of the antenna it would be a problem, however, the antenna will be
3 120' in the air.

4

5 Town Engineer Gagné stated that the note is a reminder for the
6 person who will service the tower.

7

8 Mr. Knapp said that there is a reference to hay bales on Sheet C-3
9 and that has to be removed.

10

11 Attorney Bonomolo indicated that the hay bales were replaced with a
12 filter fabric fence detail but all references to hay bales will be
13 removed.

14

15 Mr. Knapp asked that a legend (stockpile and type of soil) be
16 provided on Sheet C 3A. He requested that the silt fence detail be
17 the same as the one provided in the NYS Erosion Control Manual.

18

19 The Chair reviewed the photos and colors of the monopole with the
20 Board.

21

22 Ms. Gerbino said that she would like to have the input on the color of
23 the monopole from the ARB.

24

25 Ms. Gannon noted that it would be your perspective in looking at the
26 pole, with one perspective to fade in the background, one to match
27 the building, one that matches the sky or one that blends with the
28 woods. She suggested that the one that fades away so you do not
29 really see the pole is the best solution. Ms. Gannon said that in order
30 for her to make a decision on the color of the monopole she would
31 have to see the monopole at the site.

32

33 The Chair noted that the back of the building is red brick. She
34 mentioned that white comes in various shades and she would like to
35 see an off-white shade for the monopole.

36

37 Mr. Knapp said that he prefers the brick color half way and then white
38 to the roof line. He asked if other companies can be added to the
39 monopole.

40

1 Attorney Bonomolo said that there are spaces within the monopole
 2 where other companies can be added to the monopole.

3
 4 Town Planner Hull indicated that the ARB requested color samples
 5 for the monopole from the applicant. She stated that the Board can
 6 choose to go along with the choice of the ARB or the Board can make
 7 its own decision.

8
 9 The Chair said that the ARB granted conditional approval until the
 10 color samples are received.

11
 12 The Chair noted that she cannot find any instance where the ZBA,
 13 instead of the Planning Board, was Lead Agency. She opined that
 14 because the Planning Board reviews site plans they should have
 15 been Lead Agency. She opined that the Planning Board will not give
 16 up Lead Agency on the next wireless facility that is proposed.

17
 18 Attorney Bonomolo advised that the Planning Board already
 19 consented to the ZBA being Lead Agency on this project by not
 20 objecting to them being Lead Agency.

21
 22 Attorney Bonomolo requested that the Public Hearing on the
 23 application of Omnipoint Communications, Inc. at Somers Commons
 24 be waived in accordance with the Town Code based on the
 25 many months of Public Hearings at the ZBA level.

26
 27 Town Planner Hull said that this application was a coordinated review
 28 under SEQRA. She noted that the Public Hearing was not a Site
 29 Plan hearing but the Planning Board has the ability to waive the Site
 30 Plan Public Hearing. She noted that the Board has to decide on the
 31 color of the monopole and decide on waiving the Public Hearing on
 32 the Site Plan.

33 Ms. Gerbino informed the applicant that residents in the Somers
 34 Commons areas have expressed their concerns to the Board in
 35 regard to lighting, viewshed and a proposed water tower.

36
 37 Attorney Bonomolo stated that the residents of Route 118 were
 38 notified about the Public Hearing at the ZBA and it was determined by
 39 the ZBA under SEQRA that this facility would not have an adverse

1 environmental impact on the surrounding area. She said that the
2 ZBA as Lead Agency adopted a Negative Declaration.

3
4 The Chair asked if there was a consensus of the Board to schedule a
5 Public Hearing on the application of Omnipoint Communications, Inc.
6 at Somers Commons.

7
8 On motion by Ms. Gannon, seconded by Mr. Knapp, and
9 unanimously carried, the Board moved to schedule a Public Hearing
10 on Omnipoint Communications, Inc. at Somers Commons for May 13,
11 2009 at the Somers Town House at 7:30 P.M.

12
13 Town Planner Hull suggested that the applicant get the color samples
14 of the monopole to the ARB and revised plans before the Public
15 Hearing.

16
17 **PROJECT REVIEW**

18
19 **OMNIPONT COMMUNICATIONS, INC.**
20 **TOWNE CENTRE AT SOMERS**
21 **325 ROUTE 100**
22 **[TM: 17.15-1-13]**

23
24 Chairman DeLucia noted that this is the project review of the
25 application of Omnipoint Communications, Inc. at the Towne Centre
26 for Amended Site Plan Approval, Wetland Permit, Groundwater
27 Protection Overlay District, Special Exception Use Permit to install a
28 wireless telecommunication facility consisting of a 103-foot stealth
29 monopole with six panel antennas therein and related equipment at
30 its base located in the southwest corner of the Towne Centre, 325
31 Route 100, in the Neighborhood Shopping (NS) Zoning District. The
32 Chair mentioned that the owner of the property is Urstadt Biddle
33 Properties, Inc. and the facility is proposed in the southwestern part
34 of the parking lot at the far rear of the shopping center property. She
35 said that the wetland permit is required since the facility is proposed
36 to be located within the 100-foot wetland buffer of the Town's
37 regulated wetlands. The Chair noted that the property is being
38 proposed for a zoning change before the Town Board by Alexan
39 Woods Development and the monopole is located in the middle of the
40 Alexan Woods proposed access road and parking area. She

1 indicated that this application was last discussed at the February 25,
 2 2009 Planning Board meeting whereby a detailed presentation of the
 3 proposal was made by Michael Musso, the Town's consultant to the
 4 Zoning Board of Appeals (ZBA) including alternative locations, and
 5 mentioning that moving the monopole to a central location may have
 6 some aesthetic impacts and logistic issues, and moving the
 7 monopole closer to Route 100 and Route 202 will provide more of a
 8 visual impact to St. Luke's Church and the Somers Town Hall. The
 9 Chair stated that after a discussion, the Board directed Town Planner
 10 Hull to send a letter to the ZBA outlining the Planning Board's
 11 concerns of what was discussed.

12

13 The Chair acknowledged receipt of the following: a letter dated
 14 February 27, 2009 received on March 3, 2009 from the applicant's
 15 attorney Snyder & Snyder, LLP submitting a revised long
 16 environmental assessment form; a letter dated and received on
 17 March 13, 2009 from the applicant's attorneys Snyder & Snyder, LLP
 18 submitting revised plans and supporting material in response to
 19 staff's written comments and the Board's comments; a memo dated
 20 March 4, 2009 from the Conservation Board (CB) with suggestions
 21 regarding planting of trees and a question regarding different
 22 locations of the utility transformer on two different plans (revised
 23 plans submitted); a memo dated April 3, 2009 from the Architectural
 24 Review Board giving Conditional Approval; a memo dated April 3,
 25 2009 from Town Planner Hull giving a project description and history,
 26 and project review and recommendations; and a memo from Town
 27 Engineer Gagné dated April 3, 2009 with concerns and additional
 28 items to be addressed.

29

30 The Chair asked Town Planner Hull to share her memo to the Board
 31 and any other information for the benefit of the public.

32

33 Town Planner Hull said that the Zoning Board of Appeals (ZBA) made
 34 a decision on this application at their last meeting but the decision
 35 has not been provided.

36

37 Attorney Bonomolo indicated that the ZBA granted the Special
 38 Exception Use Permit, variances and a Negative Declaration.

39

1 Town Planner Hull noted that the Zoning Conformance Table now
 2 includes the total building coverage as well as the site coverage for
 3 the subject parcel. She said that, however, given that this structure is
 4 considered a principal structure, there should be a change in total
 5 building coverage. Town Planner Hull mentioned that the ZBA
 6 granted an area variance pertaining to the building but the zoning
 7 table does not reflect this.

8
 9 Attorney Bonomolo stated that the ZBA determined that since the
 10 applicant is not proposing a building that the building coverage is not
 11 applicable. She said that the ZBA granted an area variance for site
 12 coverage which is reflected in the bulk table. She noted that she will
 13 add an asterisk to indicate that a variance was granted.

14
 15 Town Planner Hull said that she has no knowledge about the
 16 discussion when the ZBA decided that the structure was not a
 17 building. She indicated that she wants to see what the ZBA decision
 18 is based on. Town Planner Hull opined that the wireless facility is a
 19 principal structure and she would like an interpretation from the Town
 20 Attorney.

21
 22 Town Planner Hull noted that this property contains two front yards
 23 and the remaining yards are to be considered side yards. She said
 24 that the Zoning Conformance Table should be amended and should
 25 also reflect the need to establish a 20' landscaped buffer when
 26 adjacent to a residential district (western property line) adjacent to the
 27 property known as Alexan Somers Woods. Town Planner Hull
 28 indicated that this comment has been around for several meetings,
 29 and the Plans now indicates that the western and southern property
 30 lines are rear lot lines, not side lot lines. She asked what basis this
 31 determination was made on. Town Planner Hull opined that these lot
 32 lines should be treated as side lot lines, not rear yard lot lines.

33
 34 Attorney Bonomolo said that she reviewed the original plans and that
 35 the western and southern property lines were always considered rear
 36 lot lines and this is not a new note. She stated that this issue was
 37 discussed with the ZBA and they did not have an opinion on the
 38 property lines being rear or side lot lines but the required rear yard
 39 setback is greater than the required sideyard setback so the ZBA
 40 granted the greater variance. Attorney Bonomolo said that this is an

1 issue for the ZBA because they interpret the Code. She mentioned
2 that the definition of rear lot line is a line that is opposite the front lot
3 line and a side lot line is a lot line that connects the front and rear lot
4 line. She said if you have two front lot lines what is opposite those
5 are rear lot lines. Attorney Bonomolo stated that the ZBA granted the
6 greater variance because the rear yard setback is greater, this should
7 not be an issue.

8
9 Town Planner Hull opined that this is an issue of consistency
10 between the plans the Planning Board approves and the way an
11 application is handled. She said that when this site was originally
12 planned the consideration was side lot lines, primarily given their
13 relationship to the neighboring properties and as approved back in
14 the 70's with the Towne Centre Site Plan. She said that now this is
15 located in an R-80 residential property. She stated that Town Code
16 specifies that a Shopping District next to a residential district requires
17 a landscape buffer so that there is screening between a commercial
18 activity and a residential activity. Town Planner Hull explained that
19 the Planning Board has historically treated the western and southern
20 property lines as side-yard setbacks. She said that this issue can be
21 referred to the Town Attorney for a determination but she believes the
22 western and southern property lines should be treated as a sideyard
23 instead of a rear yard.

24
25 Town Engineer Gagné agreed with Town Planner Hull and indicated
26 that this property has no rear yard.

27
28 Attorney Bonomolo stressed that the Zoning Code weighs in favor of
29 the applicant and the way the lot lines are defined it is a rear lot line.

30
31 Town Engineer Gagné questioned that if the property line in question
32 is a rear lot line how could that same line on an adjacent property on
33 Route 202 or Route 100 become a side lot line, not a rear lot line.

34 Attorney Bonomolo stated that the property has frontage on two
35 street lines. She said with respect to the 20' landscape buffer the
36 application is not encroaching in the existing 20' buffer area. She
37 explained that the property is already improved and developed.

38 Attorney Bonomolo said that this issue was discussed with the ZBA
39 and they agreed that no additional buffering is required. She
40 indicated that landscaping is proposed to screen the compound.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

Town Planner Hull stressed that the ZBA through the Special Exception Use Permit has made certain decisions and she does not know if that is a correct decision or just based on the information that was provided to them on behalf of this application. She said that she would like the Town Attorney to review the issue.

Town Planner Hull noted that where variances are sought from the ZBA, the applicant should include notations on the site plan. She said that reference to the resolution number as well as to the specific variances should be provided on the plan. Town Planner Hull mentioned that the Omnipoint sign detail is currently within code compliance; however, the applicant should be referred to the ARB for further review and approval of the sign.

Attorney Bonomolo stated that the applicant met with the ARB and they sent a memo to the Planning Board granting conditional approval until the color samples are received.

Town Planner Hull indicated that the application materials indicate that Omnipoint employees will utilize an existing parking space in the Towne Centre parking lot when maintenance and operational activities are necessary at the site. She mentioned that the applicant should provide a letter of agreement or other such documentation indicating that this is agreeable to the property owner, Urstadt Biddle. She commented that a note to this effect should also be included on the plans.

Town Planner Hull commented that a note should be provided on the plan regarding the nitrogen-based fertilizer restriction. She said that this note was a recommendation in the Groundwater Protection Plan Report.

Attorney Bonomolo indicated that the note in reference to the restriction regarding nitrogen-based fertilizer restriction is on Note 4, Sheet D-2.

Town Planner Hull said that the applicant has provided a wetland permit; however, the applicant should discuss mitigation for further disturbance of the wetland buffer and discussion of future access for

1 maintenance of the stormwater basin. She noted that the applicant
2 provided alternative pole treatment which should be discussed by the
3 Planning Board.

4
5 Town Planner Hull mentioned that the Planning Board requested an
6 alternative location for the proposed facility which has been depicted
7 along the southern property line adjacent to Route 100. She noted
8 that it appears that this secondary location is further removed from
9 the residential units proposed as part of the Alexan Woods
10 Development, and does not impact the wetlands and is further away
11 from the St. Luke's property line. Town Planner Hull explained that
12 the bulk requirements table for the secondary location depicts no
13 increase in total building coverage which would need to be
14 addressed. She said that additionally the total site coverage appears
15 to have increased. Town Planner Hull stated that this should be
16 explained in relation to the fact that this new location would occur
17 within an existing parking lot. She indicated that the rear yard lot
18 lines should be side yard lot lines. She stressed that the applicant
19 provided this alternative location for a conceptual review.

20
21 The Chair asked the applicant's attorney if she had any comments on
22 the alternative location.

23
24 Attorney Bonomolo said that the alternative location was discussed
25 with the ZBA and considered as part of SEQRA. She stated that to
26 move the facility closer to Route 100 would have a greater visual
27 impact on the surrounding area, therefore it was determined that the
28 original location is the best location. The ZBA after determining the
29 original location to be the best location granted the Special Exception
30 Use Permit and area variances.

31
32 Attorney Bonomolo stated that she went out to the site and looked at
33 the original location and the alternative location and she did not think
34 that the alternative location would be set at a ground elevation about
35 15 feet higher than the original location. She mentioned that the
36 original location is on the flat area in the parking lot. Attorney
37 Bonomolo indicated that Michael Musso, the Town's consultant,
38 indicated that the original location may result in a 5 foot reduction but
39 that has not been verified by the radio frequency engineer. She
40 explained that the sight line will be the same for the proposed and

1 alternative location because the top of the tower will be the same
2 height above sea level. She explained that if you are driving down
3 Route 100 it will appear at the same height above the top of the
4 parking lot. She opined that the ZBA, when issuing the Special
5 Exception Use Permit, has the authority to determine that the original
6 proposed location is the best location and that is the location the
7 applicant is moving forward with for Site Plan approval purposes.

8
9 The Chair reminded the applicant that the Planning Board approves
10 site plans and that there is a difference between site plan, special
11 exception use permits and variances.

12
13 The Chair asked Town Engineer Gagné to review his memo for the
14 benefit of the public.

15
16 Town Engineer Gagné explained that the majority of his memo
17 relates to the alternative location. He said that the ZBA reviewed the
18 alternative location and deemed it inappropriate. He said that by
19 raising the ground elevation on the base of the tower by 15 feet there
20 should be a reduction in the overall height of the pole. He noted that
21 by locating the pole closer to Route 100 warrants a site visit to verify
22 the fact that the original location is the best location. He indicated
23 that there is a line of trees along Route 100 that will buffer the area.

24
25 Attorney Bonomolo stressed that the Planning Board's concerns
26 regarding the Alexan Woods Development were heard by the ZBA
27 and they also considered the alternative location under SEQRA and
28 they determined that the original location is the best location and will
29 not have an adverse environmental impact.

30
31 Town Engineer Gagné advised that the Planning Board has the right
32 to review this application under the Wetland Ordinance. He
33 explained that part of the Wetland Ordinance allows for alternatives to
34 be considered and if an alternative is not reviewed the Planning
35 Board is not doing its job.

36
37 The Chair said that the pole will be located in the middle of the
38 access road at the Alexan Woods Development.

39

1 Attorney Bonomolo stressed that the Alexan Woods Development
2 application is speculative. She said that Alexan Woods is in the
3 process of making changes to their project. She noted that this
4 applicant has approval from the ZBA for their location and the Alexan
5 Woods application is in the very beginning stages and they do not
6 know if they will receive approvals.

7
8 Town Engineer Gagné asked if the Alexan Woods Development is
9 going to redesign their project around the cell tower location.

10
11 David Weinpahl, the applicant's engineer, met with the Alexan Woods
12 engineer and was told that they will rework the access road and
13 parking areas.

14
15 The Chair referenced the February 25, 2009 Planning Board minutes,
16 *Mr. Keane mentioned that the Board suggested that the applicant*
17 *speak to the owner of the property as he is a co-applicant of the*
18 *Alexan Woods application. Robert Gaudio, the applicant's attorney,*
19 *said that he had preliminary discussions with the Towne Centre*
20 *owner to come to a solution on not having a conflict on the access*
21 *drive situation. He noted that a solution may be to shift the*
22 *compound a few feet to deal with the situation. Attorney Gaudio*
23 *said that the applicant has a valid lease agreement which entitles*
24 *them to the proposed property but he is willing to work with the*
25 *landlord to solve the problem.* She said that the Board heard this
26 from Attorney Gaudio but the Board does not know what changes
27 Alexan Woods has agreed to doing. She said that she would like to
28 see the owner of Alexan Woods Development provide details of the
29 location of the pole in writing.

30
31 Town Planner Hull stated that the Board is looking for confirmation
32 from the Alexan Woods owner that they will redesign their project to
33 accommodate the cell tower.

34
35 Attorney Bonomolo said that she will reach out to the Alexan Woods
36 Developer to provide a written acknowledgment that they will move
37 the access road.

38 The Chair asked the Board if they had any comments or questions.

39

1 Mr. Knapp said that due to the proximity of the wetlands an erosion
2 control drawing is needed to show exactly where the filter fabric fence
3 will be located. He requested a paving restoring and curb restoring
4 detail and a construction detail fence to demark the limitation of the
5 construction activity. He asked that the stock pile area and how it will
6 be handled be shown on the plan. Mr. Knapp asked that topography
7 be provided in the area that the applicant will be working in. He
8 asked for a note on how the existing tenants will use the dumpsters
9 while construction is taking place.

10
11 Ms. Gannon said that she does not understand the note about the 20'
12 shift.

13
14 Engineer Weinpahl noted that he met with the Alexan Woods
15 engineers and he reviewed their latest conceptual plan. He
16 commented that he wants to utilize existing parking spaces that were
17 part of the Alexan Woods Plan. He said that the alternative site has
18 planting buffers around it with enough room for the Omnipoint
19 equipment, the pole and room for another carrier. He mentioned that
20 the facility has to be put in where the land currently exists. Engineer
21 Weinpahl said that the Alexan Woods engineer would make a 20'
22 shift to the parking in order to have the facility in that location.

23
24 Ms. Gannon noted that the wireless facility proposed at Somers
25 Commons will have brick to match the building whereas the facility at
26 the Towne Centre will have chain link fence with slats. She indicated
27 that she is not happy with the pole but if it is approved it should be
28 made to be the least of an eyesore as possible.

29
30 Attorney Bonomolo stated that the ARB has recommended a wood
31 stockade cedar fence.

32
33 Ms. Gannon asked why there are two different EAF forms for the
34 Omnipoint projects.

35
36 Attorney Bonomolo replied that there are two different EAF forms
37 because two different engineers are handling the projects.

38
39 Ms. Gannon asked when you talk about the height of a tower and
40 how much coverage you will get is there a map that will show

1 if the coverage is needed.

2

3 Attorney Bonomolo stated that she submitted a report in June 2008
4 with a memo from Omnipoint's frequency engineer which addressed
5 radio frequency related issues. She noted that Mr. Musso confirmed
6 the need for a facility at the Towne Centre to remedy the gap in
7 coverage in this area.

8

9 Mr. Knapp requested a diagram showing where the tower is located
10 and the frequencies and how it radiates out especially to the schools.

11

12 Attorney Bonomolo mentioned that a radio frequency report was
13 submitted which goes through the distances and shows what the
14 calculated radio emissions would be at the Towne Centre location.
15 She said that the table in the report shows the levels 20 feet out from
16 the pole to a distance of 500-feet and is less than 1% of what the
17 FCC requires.

18

19 Ms. Gannon mentioned that she listened to the ZBA meeting and
20 they were discussing extending the pole. She asked if the pole can
21 be built lower and if needed extended.

22

23 Attorney Bonomolo said that the discussion at the ZBA meeting was
24 to address the ZBA concerns in reference to co-location. She said
25 that the applicant agreed to construct the tower and its foundation to
26 accommodate an extension if in the future a carrier would like to co-
27 locate.

28

29 Ms. Gannon asked if 103-feet is the minimum required height, how
30 low can the pole be, and how will it be extended if there are co-
31 locaters.

32

33 Attorney Bonomolo said that 103-feet is the minimum required height
34 for Omnipoint and that is what was approved by the ZBA. She
35 indicated that Omnipoint has agreed to over build the foundation to
36 support an extension of the tower.

37

38 Town Planner Hull asked to what height in the over building of the
39 structure.

40

1 Attorney Bonomolo said that a specific height was not discussed with
2 the ZBA but she believes that it will be 113-feet.

3

4 Town Engineer Gagné said that if a new carrier is added they will be
5 higher on the pole than Omnipont.

6

7 Ms. Gannon mentioned that there will be a two-year landscaping
8 warranty for the monopole at Somers Commons and she asked if that
9 will be the same for the monopole at the Towne Centre.

10

11 Attorney Bonomolo stated that she will change the landscaping
12 warranty to two-years for the facility at the Towne Centre.

13

14 Ms. Gannon said that the standard cabinet height is 6 ½ feet and the
15 fence is 6 feet without ZBA approval. She asked if the Planning
16 Board should request the Town Board to change the Code.

17

18 Town Planner Hull said that the language in the Cell Tower Code can
19 be amended to allow for flexibility to construct 6 ½ foot cabinets and
20 could be approved in the Special Exception Use Permit.

21

22 The Chair said that it is the consensus of the Board to schedule a site
23 walk on the application of Omnipoint at the Towne Centre for
24 Saturday, April 18, 2009 at 9:45 A.M.

25

26 Mr. Knapp mentioned that the EAF states that this project is not in the
27 aquifer.

28

29 Attorney Bonomolo asked if a Public Hearing can be scheduled for
30 this project.

31

32 The Chair said that this project is not ready for a Public Hearing at
33 this time.

34

35 The Chair directed the applicant to revise the plans and respond to
36 items in staff's memoranda and the Board's and staff's comments as
37 discussed this evening. She said that once this information is
38 received this application will be placed on the next available agenda.

39

40 **DISCUSSION**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38

Chairman DeLucia said that the Board will be discussing future cell towers in the Town of Somers. She mentioned that the Zoning Board of Appeals (ZBA) has Homeland Towers, LLC and New Cingular Wireless on their April 21, 2009 Agenda. The Chair mentioned that there is a cell tower at Majestic on Route 100.

The Chair explained that several years ago the Planning Board asked Town Planner Hull to send a memo to the Town Board requesting that a study be made in relation to the service “gaps” that exist throughout the Town.

The Chair noted that attached to the memo to the Town Board is a concept letter from HDR/LMS regarding the preparation of a Wireless Telecommunications Facility Siting Plan for the Town of Somers.

Town Planner Hull mentioned that the Town Board did not want to spend money on undertaking such a study at that time.

The Chair said that the Board is concerned about the number of antennas that are being proposed in the Town.

Town Planner Hull advised the Board that each applicant that proposed a cell tower is required to provide a coverage analysis. She indicated that the Town does not have a complete map with the coverage analysis.

The Chair indicated that she would like to know the number of towers, height, area coverage, radio frequency, gaps and the possibility of towers that may be put in Town.

Town Planner Hull asked the Board if they want to send a memo to the Town Board asking that an analysis be done to answer the Board’s questions. She mentioned that Ms. Gannon’s question about the fence height can be addressed. She suggested preparing a memo from the Planning Board to the Town Board or she can send an E-mail in reference to the two questions just mentioned.

1 The Chair suggested asking Cingular, Verizon and Omnipoint for their
 2 coverage maps including the location of the cell towers and the
 3 heights of the cell towers.

4

5 Town Planner Hull said that if a co-locator wants to be put on an
 6 existing cell tower the ZBA has to consider the radio frequency for the
 7 entire tower. She explained that there is an issue with co-locating
 8 and sometimes it is not advisable to co-locate.

9

10 Mr. Knapp said that with sensitive areas such as schools and day
 11 care centers the radio frequency should be considered in the
 12 beginning of the process.

13

14 Town Planner Hull stated that the main requirement of the Special
 15 Exception Use Permit is to prove that there is no impact through radio
 16 frequency.

17

18 Ms. Gannon noted that when a cell tower is expanded to its fullest
 19 height in a sensitive area and that by definition the tower is not co-
 20 locatable. She said that the Board would like to reduce the number
 21 of towers by having co-locators.

22

23 Town Engineer Gagné said that another factor to be considered is the
 24 number of cell phones that are in use that will affect the radio
 25 frequency. He suggested small single antennas on the utility poles.
 26 He noted the impact will be a lot less.

27

28 Town Planner Hull suggested sending a draft memo to the Town
 29 Board with specific questions regarding the number of towers, height
 30 of the towers, gap in coverage throughout the Town and the
 31 indication of how many more towers will be needed within the Town.
 32 Town Planner Hull suggested asking the Town Board for legislation
 33 changes to address the issue with the fence height in coordination
 34 with the cabinet height.

35

36 Town Planner Hull said she will draft an e-mail to the entire Planning
 37 Board on the issues in reference to the cell tower and if the Board
 38 approves she will send it to the Town Board.

1 There being no further business, on motion by Mr. Knapp,
2 seconded by Ms. Gerbino, and unanimously carried, the meeting
3 adjourned at 10:15 P. M.
4

5 Chairman DeLucia noted that the next meeting of the Planning Board
6 will be held on Wednesday, April 22, 2009 at 7:30 P.M. at the Somers
7 Town House.
8
9
10

11 Respectfully submitted,
12
13

14
15 Marilyn Murphy
16 Planning Board Secretary
17
18