

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
MAY 9, 2012**

4

5

6

7 **ROLL:**

8

9 **PLANNING BOARD**

10 **MEMBERS PRESENT:**

Chair Currie, Mr. Keane, Ms. Gerbino,
Mr. Goldenberg, Mr. Foley and Ms. Gannon

11

12

13 **ALSO PRESENT:**

Consulting Engineer Joseph Barbagallo
Town Attorney Joseph Eriole
Planning Board Secretary Marilyn Murphy

14

15

16

17 **ABSENT:**

Ms. DeLucia

18

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

22

23 **APPROVAL OF MARCH 14, 2012 MINUTES**

24

25 Chairman Currie noted that Planning Board Secretary Marilyn Murphy
26 prepared and submitted for the Board's consideration the approval of the
27 draft minutes of the Planning Board meeting held on March 14, 2012.

28

29 Chairman Currie asked if there were any comments or questions from
30 members of the Board on the draft minutes of March 14, 2012 and no
31 one responded.

1 The Chair asked if there was a motion to approve the March 14, 2012 draft
2 minutes.

3
4 On motion by Chair Currie, seconded by Ms. Gannon, and unanimously
5 carried, the minutes of March 14, 2012 were approved.

6
7 **TIME-EXTENSION**

8
9 **SUSAN HAFT/RIDGEVIEW DESIGNER BUILDERS, INC.**

10 **FINAL CONSERVATION SUBDIVISION**

11 **[TM: 16.12-1-41 & 42]**

12
13 Chairman Currie said that this time-extension request relates to the
14 application of Susan Haft/Ridgeview Designer Builders Inc. for a five lot
15 Conservation Subdivision for property located east of Lovell Street,
16 north of where Lovell Street and Benjamin Green Lane meet. He noted that
17 this application received conditional subdivision approval on August 5,
18 2010.

19
20 Chair Currie acknowledged for the record receipt of a letter dated
21 May 4, 2012 from Geraldine Tortorella of the law firm Hocherman,
22 Tortorella & Wekstein, LLP requesting a sixth time-extension from the
23 current deadline of May 21, 2012. He mentioned that the request for a
24 time-extension is based on the economy and in the past the time-
25 extensions have been granted for this reason to other applicants.

26
27 The Chair asked if there were any comments or questions from members of
28 the Board.

29
30 Mr. Goldenberg referenced the May 4, 2012 letter from Attorney Tortorella,
31 *“As was explained to your Board when the prior extensions were sought,*
32 *and granted, there are a few conditions of approval that require the*
33 *payment of funds and/or posting of security which our clients are not*
34 *prepared to undertake at this time given current economic conditions that*
35 *are outside our clients’ control. This continues to be the case. We*
36 *respectfully remind the Board that to the extent our clients’ inability to*
37 *satisfy the conditions of Final Approval are based upon economic factors,*
38 *there is no legal basis for the Board to deny this extension request on that*
39 *ground. There have been no changes in the law nor any change in*
40 *circumstances surrounding the property that would justify denial of the*

1 *extension. The potential impacts of the proposed subdivision are*
2 *unchanged and, therefore, an extension will not have a detrimental effect*
3 *on public health, safety and general welfare. Indeed, were our clients to*
4 *make a “new” application for final subdivision approval tomorrow, there*
5 *would be no basis to deny such application. Thus, we believe it would be*
6 *arbitrary and capricious for the Board to deny the extension request”.*

7
8 Mr. Goldenberg said that he questioned the remark in reference to a “new”
9 application would be arbitrary and capricious and he would like to state that
10 the reason for economic conditions can be used without clarification by an
11 applicant at any time for a time-extension. He commented that fees have to
12 be paid for this subdivision and if these fees are not paid the Town of
13 Somers will have problems. He mentioned that the Town does not have an
14 in-house planner or an in-house engineer. Mr. Goldenberg stated that he
15 was dismayed that the letter came in only five days ago requesting the
16 extension and the applicant is not present to discuss the request.

17
18 Chair Currie clarified that when the project starts all funds have to be paid
19 to the Town and the applicant feels that economic conditions are not
20 favorable to start this project at this time. He said that all fees have been
21 paid to get this application to this point. Chair Currie mentioned that he
22 decided that the applicant did not have to appear before the Board because
23 there have been time-extensions granted for economic conditions.

24
25 Mr. Goldenberg stressed that the applicant should state what the problem is
26 not just say economic reasons.

27
28 Mr. Foley opined that the applicant does not want to move forward on the
29 project because the economy is such that it is not a good time to build.

30
31 *At this time Mr. Keane joined the meeting.*

32
33 Ms. Gerbino said that by the Board granting the time-extension there is no
34 expense to the Town or the taxpayer and if the Board denies the extension
35 they will be creating a hardship for the applicant.

36
37 Chair Currie noted that there was a consensus of the Board to grant the
38 sixth request for a time-extension.

39

1 On motion by Ms. Gannon, seconded by Ms. Gerbino, (Mr. Goldenberg
2 voting nay) and carried, the Board moved to grant a sixth 90-day time-
3 extension to Susan Haft and Ridgeview Designer Builders, Inc. to the
4 period of Conditional Final Subdivision Approval from May 21, 2012 to and
5 including August 20, 2012.

6

7 **DECISION**

8

9 **CVS PHARMACY PARKING AMENDED SITE PLAN [TM: 17.15-1-13]**

10

11 Chairman Currie noted that the Planning Board will be reviewing the draft
12 Resolution of Approval and making a decision on the application of Urstadt
13 Biddle (owner) and CVS Pharmacy (applicant) for Amended Site Plan
14 Approval for property located at the Somers Towne Centre, 325 Route 100,
15 for the alteration to the parking area and walkway in front of the CVS Store.
16 He mentioned that additional accessible parking spaces will be created
17 from three (3) existing.

18

19 Chair Currie asked the applicant's representative if he had any comments
20 on the draft resolution.

21

22 John Montalto, the applicant's architect, said that he submitted revised
23 plans addressing the comments of the Town Planner and Consulting Town
24 Engineer. He reviewed the draft resolution and found the resolution
25 acceptable.

26

27 Architect Montalto indicated that the Consulting Town Engineer requested
28 that General Note No. 3 indicated that no stockpiling of material will be
29 permitted on site and that will be done. He said that haybales or sandbags
30 will be installed surrounding the parking lot drain inlet downgradient of the
31 work area. Architect Montalto said that he made the revision that the
32 depicted depths of parking spaces are shown on the drawings to measure
33 the parking space depth from the existing bollards. He explained that the
34 original submission contained wheel stops but there will be bollards in front
35 of the drop curb for protection to the sidewalk area instead of wheel stops.
36 Architect Montalto said that CVS does not have a contractor yet but he will
37 obtain the construction sequence as soon as the contractor is selected. He
38 requested that the construction sequence be submitted with the request for
39 a building permit.

40

1 Consulting Engineer Barbagallo explained his request for the construction
2 sequence was to see how CVS will maintain access to the facility during
3 construction while protecting the public's safety.

4
5 Architect Montalto said that when the sidewalk is dropped there will be
6 exposure to the existing building which is brick and he does not know how
7 far down the brick goes and hopefully there is an expansion joint between
8 the two and when that is removed the brick can be cleaned. He stated that
9 if there is an exposed foundation wall it will be provided with a concrete
10 finish with the same around the existing columns.

11
12 Consulting Engineer Barbagallo said that he wants to make sure the Board
13 is comfortable with the depicting of the exterior building façade surface
14 treatment. He said that this is a visual item that he wants the Board to be
15 aware of and not surprised at the way it looks.

16
17 Ms. Gerbino indicated that the Architectural Review Board may want to
18 weigh in on the exterior building façade surface.

19
20 Consulting Engineer Barbagallo said that the area is only 20-30 feet and 6
21 inches in height.

22
23 Architect Montalto opined that there probably is a brick shelf with the ramps
24 on either side with the brick line being consistent. He opined that there will
25 be no impact on appearance.

26
27 The Chair asked if there were any comments or questions from members of
28 the Board.

29
30 Mr. Goldenberg asked if there has been a study of accidents at the CVS
31 location. He said that he is concerned that the Board is disturbing
32 something that does not have to be disturbed. Mr. Goldenberg asked why
33 if there are no problems in the parking lot does the Board want to make
34 changes. He noted that when CVS originally went into the building there
35 was a sign asking the workers to use the proper gear because there was
36 asbestos.

37
38 Mr. Keane asked if there is an ADA requirement for parking.

39

1 Architect Montalto said that CVS meets the ADA requirement but residents
2 asked that CVS provide additional handicap spaces. He mentioned that
3 the curb has to be lowered so the handicap spaces can be accessed.
4 Architect Montalto stated that he is not aware that CVS has done safety
5 studies. He mentioned that CVS is upgrading their 7,000 stores to be
6 100% ADA compliant. He noted that in regard to structural integrity the
7 scope of work for this project is very simple and will not have any impact on
8 the structural integrity of the building. Architect Montalto stated that CVS
9 will provide a safety plan and there will not be any danger to customers or
10 the building.

11
12 The Chair said that there was a consensus of the Board to use the
13 concrete finish for the exterior building façade surface treatment.

14
15 Consultant Engineer Barbagallo said that he is comfortable that his
16 comments have been addressed.

17
18 Ms. Gannon said that the building analysis in the parking conformance
19 table does not match. She asked the applicant to revise sheet "T1" to
20 number spaces by type and to correct inconsistencies in the conformance
21 tables.

22
23 Architect Montalto said that he will also revise "ES1" as well as "T1".

24
25 The Chair asked Consultant Engineer Barbagallo and the Board if they had
26 any comments on the draft Resolution.

27
28 Mr. Goldenberg mentioned the Whereas clause on Page 3 of the
29 Resolution where it states that the Planning Board has reviewed the site
30 and its surroundings. He said that sounds like a site walk and that never
31 took place.

32
33 Ms. Gannon said that on Page 3 of the Resolution, the third Whereas
34 clause from the bottom of the page, that the word "surfaces" be added to
35 read *no change in the amount of impervious **surfaces***.

36
37 Ms. Gannon said that on Page 5 of the Resolution, under On-going
38 Conditions Required After Signing of Site Plan, under BE IT FURTHER
39 RESOLVED to read, *that upon determination of compliance with the*
40 *foregoing conditions required prior to signing the site plan, the Planning*

1 *Board Chairman is hereby authorized to endorse Site Plan approval upon*
 2 *all maps and drawing constituting the Site Plan.*

3
 4 Consultant Engineer Barbagallo said that in reference to Mr. Goldenberg's
 5 discussion on the Whereas clause on page 3 to read *The Planning Board*
 6 *has reviewed and is familiar with the project and the site and its*
 7 *surroundings; and;*

8
 9 Consultant Engineer Barbagallo mentioned that he will add the plans
 10 submitted on May 4, 2012 to the list of plans that were submitted.
 11 He said that he will also add the paragraph about the engineering and
 12 erosion control bond fees to the resolution.

13
 14 The Chair said that there was a consensus of the Board to Approve
 15 Resolution 2012-04, as amended.

16
 17 On motion by Chair Currie, seconded by Ms. Gannon and unanimously
 18 carried, the Board moved to adopt Resolution 2012-04 as amended,
 19 granting of Conditional Amended Site Plan approval to Urstadt Biddle
 20 (owner) and CVS Pharmacy (applicant) for the Chairman's signature.

21
 22 **PROJECT REVIEW**

23
 24 **THE GREEN AT SOMERS AMENDED SITE PLAN, WETLAND,**
 25 **STEEP SLOPES AND STORMWATER MANAGEMENT AND**
 26 **EROSION AND SEDIMENT CONTROL PERMITS**
 27 **[TM: 4.20-1-3.1]**

28
 29 Chairman Currie said that the Board will be reviewing the application of
 30 Golfworx/Rick Van Benschoten (owner) for amended Site Plan, Wetland,
 31 Steep Slopes and Stormwater Management and Erosion and Sediment
 32 Control Permits. The Chair mentioned that the application was last
 33 discussed at the March 14, 2012 Planning Board meeting, whereby the
 34 Board declared its intent to be Lead Agency under SEQRA and the Town
 35 Code and circulated a Notice of Intent to all involved and interested
 36 agencies together with Part I of the Full Environmental Assessment Form
 37 and a copy of the plans. He noted that there was no objection within 30
 38 days from the date of the notice and the 30 days have expired to object
 39 from any agency. The Chair mentioned that the Somers Planning Board
 40 assumes the role and declares itself as Lead Agency.

1 The Chair asked the applicant’s representative to give a brief description of
 2 the project.

3
 4 Linda Whitehead, the applicant’s attorney, noted that based on discussions
 5 at the March Planning Board meeting and at the site walk, revised plans
 6 were submitted. She explained that the revised architectural drawings
 7 show that the end of the building that was of concern has been reduced to
 8 two stories and the applicant has provided two alternative roof lines.

9 Attorney Whitehead said that a wetland impact evaluation with discussion
 10 of mitigation has been provided. She mentioned that the Board’s traffic
 11 consultant reviewed the applicant’s traffic study and the Board may want to
 12 hear from Michael Galante, the Board’s traffic consultant.

13
 14 Michael Galante, representative of Frederick P. Clark Associates, Inc. and
 15 the Board’s traffic consultant, said that he submitted a memorandum dated
 16 May 3, 2012 which addresses traffic issues related to the applicant’s traffic
 17 consultant, John Collins Engineers, P.C., dated January 26, 2012.

18
 19 Mr. Galante said that his first comment is that the manual turning
 20 movements counts raw data and summary sheets should be included in the
 21 Appendix. He noted that the study mentions that NYS Department of
 22 Transportation (NYSDOT) traffic counts were obtained, however, the data
 23 should be provided and the machine traffic counts conducted by the
 24 applicant should be provided and summarized graphically or in tabular
 25 format. He noted that the accident history analysis for the latest three
 26 years available for Study Area intersections and links was not completed.
 27 He stated that it should be provided and summarized for each individual
 28 node and link in tabular form. Mr. Galante also suggested that the
 29 applicant contact the NYSDOT to see if the section of U.S. Route 6 in the
 30 Study Area is part of its priority investigation locations or safety deficient
 31 locations. He explained that the no-build traffic volumes where the
 32 applicant indicated that this development will be fully built and occupied by
 33 2015. He said that the 2015 no-build traffic forecast includes an annual
 34 growth rate of one percent per year. Mr. Galante noted that the applicant
 35 should explain what the growth rate is based on and that the traffic
 36 associated with other potential developments in the vicinity of the Study
 37 Area be included. He said that a car wash was mentioned in the Grand
 38 Meadow Estates in Carmel and he would like to know the location of the
 39 car wash. Mr. Galante also suggested that the applicant provide the traffic
 40 signal timing plans and field verification for all study area signalized

1 intersections. He said that the capacity analysis for Route 6 can only be
 2 based on a SYNCHRO model and program. He commented that the
 3 NYSDOT and FP Clark require this method of analysis to provide the
 4 appropriate evaluation of traffic conditions. He stated that a
 5 Storage/Queue analysis should be conducted for all study area
 6 intersections and this includes the storage link lengths and 95th percentile
 7 queue of all lane groups and intersection overall, which is part of the
 8 SYNCHRO analysis. Mr. Galante said that the intersection sight distance
 9 analysis should reference the NYSDOT Policy and Standards of the Design
 10 of Entrances to State Highways.

11
 12 Attorney Whitehead stated that the applicant's traffic engineer has no
 13 problem with submitting the additional information that was requested by
 14 Mr. Galante.

15
 16 Mr. Galante said that when the additional information is provided,
 17 especially the SYNCHRO analysis, he will submit a final review memo on
 18 how the impacts relate to the proposed mitigation.

19
 20 The Chair asked Consultant Engineer Barbagallo to summarize his memo
 21 dated May 4, 2012.

22
 23 Consultant Engineer Barbagallo indicated that the documents submitted by
 24 the applicant were intended to address specific issues related to comments
 25 identified during the site walk by the Planning Board, as well as proposed
 26 site landscaping and wetland mitigation. He said that the majority of his
 27 comments were not addressed by the documents provided but he feels that
 28 they were not intended to be addressed at this time but he will carry
 29 forward his comments for future reference by the Planning Board.

30
 31 Consultant Engineer Barbagallo referred to the April 17, 2012 site walk and
 32 said that one of the comments was that the applicant confirm the height of
 33 the existing perimeter fence poles to be 50 feet. He said that the response
 34 by the applicant confirms that perimeter fence poles are 50 feet in height.

35
 36 Ms. Gannon said that the final answer on the site walk was that the
 37 perimeter fence will be a little higher in the back because of the fill.

38
 39 Consultant Engineer Barbagallo asked the applicant to confirm the height
 40 of the existing light poles located in the parking lot and the applicant

1 indicated that the parking lot light poles are 25 feet in height. He asked that
 2 the applicant consider the proposed 35' height of Building 5 which is
 3 located in close proximity to Route 6. He suggested that consideration be
 4 given to balance visual screening of other buildings on site with the overall
 5 visual presence of the proposed Building 5 from Route 6. He stated that
 6 the applicant noted that the proposed height of 35 feet for Building 5 is
 7 specified as a maximum height and that the actual height will likely be
 8 lower. Consultant Engineer Barbagallo mentioned that the applicant states
 9 that the final design of the building will likely be dictated by the ultimate
 10 user. Consultant Engineer Barbagallo said that the Planning Board should
 11 consider this response and whether or not it is acceptable as it leaves
 12 uncertain the actual dimension and architecture of Building 5 to a future
 13 date.

14
 15 Consultant Engineer Barbagallo said that the applicant has provided a
 16 Landscaping Plan for proposed conditions on the parcel which primarily
 17 contains plan view perspective on the proposed site features. He
 18 suggested that the applicant prepare additional elevation perspective
 19 section views to depict additional viewpoints along Route 6, including the
 20 view of Building 5. He asked the Board to give guidance on where the best
 21 place is to see the perspective views.

22
 23 Consultant Engineer Barbagallo noted that the existing tree-lines
 24 surrounding the property were observed during the site walk. He said that
 25 the tree line located to the west of the parcel is higher than the height of the
 26 proposed buildings. Consultant Engineer Barbagallo mentioned that the
 27 tree-line located to the north is approximately equal to the proposed height
 28 of the building through the central portion of the parcel, and higher on the
 29 eastern and western sides along the northern backdrop. He stressed that
 30 the applicant did not dispute this characterization.

31
 32 Consultant Engineer Barbagallo stated that the applicant confirmed that the
 33 parcel is located within the Somers School District. He asked that the
 34 applicant consider comments by the Westchester County Planning Board in
 35 their April 19, 2012 letter and that a signed and sealed copy of the revised
 36 Landscaping Plan be provided.

37
 38 Ms. Gannon said that she is concerned about the April 19, 2012 letter from
 39 the Westchester County Planning Board as they are referencing a prior
 40 applicant's application.

1 Attorney Whitehead said she spoke to Ed Buroughs, Commissioner of the
2 Westchester County Planning Board, and she will request that the letter be
3 revised.

4
5 Ms. Gerbino said that being on the site walk she can visualize the plan and
6 it is overwhelming and she is concerned about the visual impact.

7
8 Mr. Keane said that the Town Board issued a vote of “no confidence” on
9 this project and if the Planning Board keeps discussing the 50-foot
10 buildings they are giving the impression that this will be approved as such.
11 He explained that the Town Board requested more information and that the
12 Planning Board must justify the 50-foot buildings or come up with an
13 alternative. Mr. Keane noted that the applicant has not provided an
14 alternative and the application pursuant to regulations is not granted as of
15 right the construction of 50-foot buildings. He commented that trees will not
16 grow fast enough to get to a height to mask the view of the buildings. Mr.
17 Keane explained that if there is more than 50% affordable housing the
18 Town Board may allow the buildings to be 50- feet and three stories. He
19 stressed that if the SEQRA process is followed alternatives should be
20 provided. Mr. Keane said that the applicant is going for a Negative
21 Declaration and if the Board finds that there may be one significant impact
22 they can determine the need for a Positive Declaration.

23
24 The Chair opined that the 50-foot buildings are a significant issue and the
25 applicant may want the Board to state its preference.

26
27 Attorney Whitehead said that when she appeared at the Town Board
28 meeting in January she was told that the Planning Board was not far
29 enough in their review for the Town Board to make a determination.
30 She noted that in March she told the Planning Board that the applicant was
31 put between a “rock and a hard place” because the Town Board would not
32 act before the Planning Board reviewed the project further. She mentioned
33 that the applicant provided the additional information that was requested at
34 the March meeting which included architectural modifications. She
35 commented that the end of the building was the area of primary concern
36 because that building is closest to Route 6 without screening and the
37 concern over the visual impact. She stressed that the applicant is trying to
38 work with the Board to provide information to determine the impacts.
39 Attorney Whitehead explained that the Town Board adopted the
40 amendment to the Zoning Ordinance with this site in consideration at the

1 former applicants request to show the County that they were making an
2 effort in constructing affordable housing. She noted that if you build
3 affordable housing the Town Board will grant more density. Attorney
4 Whitehead stated that to make affordable housing work you have to have a
5 greater density. She said that alternatives are not provided at this time,
6 they only come into play with a DEIS. She stressed that alternatives must
7 be feasible for the applicant to pursue, including economically feasible.

8
9 Attorney Whitehead said that a Landscape Plan was provided showing
10 large trees that screen the buildings and two roof alternatives with one
11 dropping the roof 5 feet. She stressed that the idea is to mitigate the
12 impact that you see.

13
14 Mr. Goldenberg said that now that the Planning Board is Lead Agency they
15 must work with the applicant and present the findings to the Town Board.

16
17 Town Attorney Eriole advised that the Planning Board as Lead Agency is
18 conducting the environmental review and how that relates to its findings.
19 He commented that the applicant knows the risk after the Town Board sent
20 the review back to the Planning Board for more information.

21
22 Attorney Whitehead reminded the Board that they recommended to the
23 Town Board in December to allow the taller buildings, therefore, the
24 applicant felt he was working in a positive manner.

25
26 Mr. Keane mentioned the issue of the first floor retail and putting residential
27 on the first floor. He asked what the number of units per floor would be as
28 a result of eliminating one floor of the building. Mr. Keane said there has to
29 be some other mixture of residential and retail to get to a point of economic
30 viability and to meet the criteria so the Board does not have to deal with the
31 possibility of a Positive Declaration.

32
33 Attorney Whitehead said that approximately 20 units would be lost.
34 She mentioned that the next issue will be stormwater and wetlands.
35 Attorney Whitehead noted that the soil borings have been completed but
36 the report is not in yet. She indicated that she is talking to NYS
37 Department of Environmental Protection (DEP) and NYS Department of
38 Environmental Conservation (DEC) and is gearing up to focus on
39 stormwater and wetlands issues.

40

1 Attorney Whitehead explained that the revised plan shows a reduction in
2 retail and not to have the appearance that all the buildings are residential.
3 She said that the two buildings closest to Route 6 will maintain retail store
4 fronts on the entire first floor which was a suggestion from an affordable
5 housing developer.

6
7 Mr. Keane said that according to the Regulations they do not all have to be
8 retail stores.

9
10 Attorney Whitehead stressed that the language in the Town Code is
11 apartments over stores and to her stores are retail. She said that the Town
12 Board stated that they would consider a modification to allow other
13 commercial uses.

14
15 Mr. Keane mentioned that the plan will require variances for the reduction
16 in the amount of retail.

17
18 Attorney Whitehead noted that her advice is to have the two buildings
19 appear to have mixed use with the retail store fronts which would be in
20 keeping with the Code and would give a better chance to obtain a variance.

21
22 Mr. Keane said that approval means nothing unless this can be an
23 economically viable project.

24
25 Rick Van Benschoten, applicant, commented that after every meeting he
26 meets with his consultants to see how they can address the Board's
27 concerns. He mentioned that because of the Board's concerns he lowered
28 one building to two stories and dropped the roofs five feet. He indicated
29 that the trees will be higher than the buildings.

30
31 The Chair asked if there were any comments from Board members.

32
33 Ms. Gannon noted that in Attorney Whitehead's memo it stated that
34 Building 4 is the greatest concern; however, Building 5 (building closest to
35 Route 6) is a greater concern to her. She mentioned another concern is the
36 mass of the buildings. Ms. Gannon said that listening to Town Board
37 meetings she heard their concern about the nature of the Neighborhood
38 Shopping (NS) District. She mentioned that the Planning Board did make a
39 recommendation in December to the Town Board but that was before the
40 site walk which was a learning experience for her. Ms. Gannon stated that

1 the Board is in an information gathering process now and in the end the
2 Board will have a record to make a recommendation. She noted that the
3 Board needs a visual assessment to look at the project and access the
4 data.

5
6 Attorney Whitehead said that there will not be one solid strip of buildings
7 with the NS District allowing a maximum building size of 10,000 SF and the
8 proposed buildings are 8,000 SF. She said that the height can be dropped
9 on the restaurant building if that is an issue.

10
11 Ms. Gannon mentioned the tree chart should have a standard and project
12 where the growth will be in 5 to 10 years and how trimming will be done.

13
14 Nathaniel J. Holt, the applicant's engineer, showed the Board a photo
15 simulation of the proposed development. He said that he will expand the
16 tree chart and provide the height of the trees in 5 to 10 years.

17
18 Consulting Engineer Barbagallo said that the Board has to have confidence
19 on what the visual of the development will be.

20
21 Mr. Goldenberg noted that this project will be built with an affordable
22 housing element. He said that private funding will be needed for the
23 restaurant.

24
25 Mr. Foley said that he does not like recommendations in general and now
26 he is having a change of mind on the recommendation the Planning Board
27 made to the Town Board. He noted that if the Town Board wants to allow
28 three story buildings as a trade off for affordable housing that is a Town
29 Board issue not the Planning Board. Mr. Foley stressed that the Planning
30 Board should evaluate the environmental impacts and the Town Board will
31 decide if the exchange of environmental impacts for the gain of affordable
32 housing is appropriate.

33
34 Attorney Whitehead stated that the Town Board adopted the Zoning
35 change for this site a few years ago for a different applicant.

36
37 Town Attorney Eriole said that the Planning Board reviews the project and
38 at the end of the process makes a SEQRA determination.

39
40 Mr. Keane reiterated that the Board has not seen any alternatives.

1 Ms. Gerbino said that when the Town Board reviewed this application at
2 their meeting they were concerned because this is a commercial site (NS)
3 with their perception being that the applicant wants to get rid of the
4 commercial part and make it all residential.

5
6 Attorney Whitehead opined that there was a fair amount of misinformation
7 at that meeting and she has a problem with something being on an agenda
8 and discussed without informing the applicant.

9
10 Chair Currie stated that the applicant can proceed with this plan or can
11 come back with options.

12
13 Mr. Van Benschoten said that he spent time and money looking at options
14 but the present plan is the only economically viable option. He stressed
15 that there has to be a third floor with affordable housing or the project does
16 not work. He asked that the Board give him direction.

17
18 Chair Currie indicated that the applicant has to do a better job with the site
19 lines and the impact of the three story buildings. He said that the Board
20 needs to see the commercial building.

21
22 Consultant Engineer Barbagallo said that because the restaurant building
23 will not be built at the same time as the other buildings there will be a
24 sequencing issue. He noted that the Board should see a visual without the
25 restaurant building.

26
27 Mr. Foley asked if the project is viable without Building 5.

28
29 Attorney Whitehead said that Building 5 is the commercial aspect of the
30 project.

31
32 Attorney Whitehead commented that affordable housing is the component
33 that gets this property into the Peekskill Sewer District. She opined that the
34 NS Zone does not work in this location but the Town Board has said that
35 they do not want to change zoning but sometimes you have to be flexible
36 as times change.

37
38 Mr. Keane noted that another concern is the fact that stormwater
39 management practices will be in the wetland buffers.

40

1 Attorney Whitehead said that the DEC wetland buffer in the back of the site
2 is maintained lawn and the wetland line is the fence line. She noted that
3 the buffer will be improved by making it serve as a stormwater
4 management function.

5
6 Mr. Keane stated that stormwater management does not function as a
7 wetland buffer because it is water in a basin. He said that the applicant's
8 wetland consultant should be talking to the Planning Board.

9
10 Consultant Engineer Barbagallo suggested off site mitigation for the
11 wetland buffer mitigation.

12
13 Mr. Keane said that it is unfair for the applicant to feel that there are just a
14 couple of issues that may lead to significance. He noted that there are 13
15 issues of significance that relate to environmental impacts.

16
17 Attorney Whitehead stressed that the discussion this evening is very
18 different than the discussion two months ago to the point that the applicant
19 is asking what information the Board wants.

20
21 Mr. Van Benschoten asked the Board if they want renderings from different
22 perspectives and additional information on landscaping.

23
24 Ms. Gannon said for the planting chart she would like to know the projected
25 growth and that the road is high above the gas station and that the
26 renderings are done so the Board has assurance that there is similitude to
27 reality.

28
29 Attorney Whitehead said that the results of the soil capacity analysis on the
30 three story buildings is important and something the Town Board
31 requested. She indicated that she will provide a perspective of the
32 restaurant in and out of the equation.

33
34 Consultant Engineer Barbagallo said that the relevance of the soil borings
35 is to see if three stories are viable and the construction of site infrastructure
36 upon fill. He said that the Geotechnical analysis can change the economic
37 conditions.

38
39 Mr. Foley noted that the applicant should go back to the Town Board before
40 the Board makes a full fledged analysis. He opined that he does not want

1 the Planning Board completing a full SEQRA analysis if the Town Board
 2 will not approve of the project.

3
 4 Attorney Whitehead said that the Town Board wants to know where the
 5 Planning Board is in their analysis. She asked how the applicant goes to
 6 the Town Board without a recommendation from the Planning Board.

7
 8 Attorney Whitehead asked the Board if she can discuss the proposal for
 9 professional services on this project from Frederick P. Clark Associates.
 10 She opined that this is an odd proposal and no longer relevant because it
 11 was to review this last submission. She questioned the use of a
 12 submission by submission proposal. Attorney Whitehead mentioned the
 13 responsibility to review background information on the Planning Board
 14 review to date and she objects to this proposal because the applicant has
 15 already paid for the Town Planner's time to review the project. She
 16 mentioned that the referral is pursuant to the Supervisor's request but
 17 under the law it should be at the request of the referring Board. Attorney
 18 Whitehead mentioned that the proposal asked FP Clark to review wetlands
 19 and wetland delineation and she requested that Woodard & Curran do the
 20 wetland review. She stressed that she is concerned with overlap and
 21 duplication of services.

22
 23 Chairman Currie noted that this is an unusual circumstance where the
 24 Planner leaves in the middle of the process.

25
 26 Town Attorney Eriole said that he understands Attorney Whitehead's
 27 concern. He stated that the Planning Board should review the scope of
 28 services offered by FP Clark to see if the Board has concerns.

29
 30 Attorney Whitehead explained that Woodard & Curran proposed their
 31 escrow estimate for the whole project not just for one review and one
 32 meeting which FP Clark submitted. She said that she was surprised that
 33 the proposal from FP Clark was so limited and not for the entire project.
 34 Attorney Whitehead noted that the Board has to decide how to handle the
 35 review of the prior plans because FP Clark is asking for a fee to review
 36 background information on the Planning Board review to date. Attorney
 37 Whitehead said that the applicant should not have to pay for that review as
 38 they already paid the Town Planner for her review.

39
 40

1 Mr. Keane commented that the Board should determine what issues
2 Woodard & Curran should handle, stormwater and wetlands, and the
3 remaining planning issues FP Clark should handle. He opined that FP
4 Clark should revise their proposal to address the issues they will be doing.

5
6 The Chair said it was the consensus of the Board that the Chair meet with
7 Consultant Engineer Joseph Barbagallo and Consultant Planner Joanne
8 Meder of FP Clark to make certain there is no overlap of services.

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

14
15
16
17
18 Respectfully submitted,

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