

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
JUNE 13, 2012**

4

5

6

7 **ROLL:**

8

9 **PLANNING BOARD**

10 **MEMBERS PRESENT:**

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

11

12

13

14 **ALSO PRESENT:**

Town Attorney Joseph Eriole
Planning Consultant Joanne Meder
Planning Board Secretary Marilyn Murphy

15

16

17

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

21

22 **MINUTES**

23

24 **APPROVAL OF APRIL 11, 2012 MINUTES**

25

26 Chairman Currie noted that Planning Board Secretary Marilyn Murphy
27 prepared and submitted for the Board's consideration the approval of the
28 draft minutes of the Planning Board meeting held on April 11, 2012.

29

30 Chairman Currie asked if there were any comments or questions from
31 members of the Board on the draft minutes of April 11, 2012.

1 Mrs. DeLucia requested a change to Page 10, Line 30 that the motion read
2 that the Board amend Resolution No. 2009-17 Granting of Conditional Site
3 Plan Approval to Hallic Place Development LLC for Wright's Court *to revise*
4 *the site plan and a note to extend the proposed walkway to the rear of*
5 *Building B to the property line be added to the amended site plan.*
6

7 On motion by Ms. Gannon, seconded by Mr. Goldenberg, and unanimously
8 carried, the minutes of April 11, 2012, as amended, were approved.
9

10 **TIME-EXTENSION**

11
12 **ROUTE 100 REALTY, LLC**
13 **SUSSMANN MOBIL STATION**
14 **APPLICATION FOR AMENDED SITE PLAN, WETLAND, STEEP**
15 **SLOPES AND GROUNDWATER PROTECTION OVERLAY DISTRICT**
16 **PERMITS [TM: 17.18-1-2]**
17

18 Chairman Currie noted that Timothy Allen of Bibbo Associates, the
19 applicant's engineer, provided the Board with a letter asking for
20 consideration for a first 90-day time-extension for Route 100 Realty, LLC
21 Amended Site Plan.
22

23 The Chair asked if there were any comments or questions from members
24 of the Board regarding the time-extension.
25

26 Mrs. DeLucia mentioned that the letter from Tim Allen requesting the time-
27 extension is dated June 12, 2012 and she suggested that letters requesting
28 time-extensions be submitted 9 days before the meeting like other
29 submissions. Mrs. DeLucia said that the letter is self- explanatory and she
30 is in favor of the time-extension.
31

32 Mr. Keane said that by receiving the request so late it does not give the
33 Board time to do their homework on the request.
34

35 Chair Currie explained that the applicant did not realize there was only one
36 meeting in June and the resolution would expire if the Board did not grant
37 the time-extension tonight.
38

39 On motion by Mrs. DeLucia, seconded by Ms. Gannon, and unanimously
40 carried, the Board moved to grant a 90-day time-extension to Route 100

1 Realty, LLC to the period of Conditional Amended Site Plan, Wetland,
2 Steep Slopes and Groundwater Protection Overlay District Permits from
3 June 22, 2012 to and including September 20, 2012.

4

5 **DISCUSSION**

6

7 **THE GREEN AT SOMERS AMENDED SITE PLAN,**
8 **WETLAND, STEEP SLOPES AND STORMWATER MANAGEMENT AND**
9 **EROSION AND SEDIMENT CONTROL PERMITS**

10 **[TM: 4.20-1-3.1]**

11

12 Chairman Currie noted that the Planning Board will be discussing the
13 modified proposal for professional consulting services by Frederick P. Clark
14 Associates, Inc on behalf of the Planning Board's review of the application
15 of The Green at Somers.

16

17 The Chair asked the Town's Planning consultant to give a brief summary
18 regarding the modified proposal for professional services.

19

20 Joanne Meder, the Town's Planning consultant, said that she was present
21 to give an overview of the modified proposal for professional services. Ms.
22 Meder mentioned that the first proposal, which was discussed at the May
23 Planning Board meeting, was narrowly defined because FP Clark needed
24 to get better acquainted with the project. She acknowledged that the Board
25 felt it would be appropriate to expand the scope of the study to encompass
26 a longer time horizon and to get to the point that the Board would be
27 comfortable making a Determination of Significance under SEQRA.

28 Ms. Meder indicated that the proposal was recently revised to address the
29 Board's comments. She noted that she consulted three times with Town
30 representatives in order to be brought up to speed on where the process is
31 so far. She said that the modified proposal is designed to take into account
32 the next two subsequent review cycles and to pick up where the previous
33 planner left off. Ms. Meder noted that she will review the application
34 materials submitted for discussion at the May Planning Board meeting and
35 the next two Planning Board meetings at which the application is scheduled
36 to be heard and the preparation of memoranda to the Planning Board.

37

38 Ms. Meder mentioned that the Town asked that FP Clark be responsible for
39 the general site plan and environmental review, the traffic related aspects
40 which include site access and the traffic study. She commented that

1 Michael Galante of FP Clark submitted a preliminary report on the
2 applicant's traffic analysis. Ms. Meder explained that a second phase of
3 the review will be submitted as soon as the applicant provides additional
4 information.

5
6 Ms. Meder noted that the proposal contemplates two more rounds of
7 meetings with the preparation of the draft and final Part 2 of the Full EAF
8 and the draft and final Determination of Significance. She said that if the
9 determination is a Positive Declaration or a narrow Environmental Impact
10 Study (EIS) is required more meetings will be required. Ms. Meder noted
11 that if FP Clark is retained they will advise the Board on SEQRA procedural
12 aspects and whether the application is complete.

13
14 Ms. Meder explained that the proposal requires the review of background
15 information on Planning Board review to date, identification of a list of
16 needed plans, and verification of the accuracy of the wetland delineation.
17 She noted that the review of application materials submitted for discussion
18 at the May 2012 Planning Board meeting and the next two Planning Board
19 meetings at which the application is scheduled to be heard and the
20 preparation of review memoranda to the Planning Board are part of the
21 proposal, assuming that the Board reaches the point that they are
22 comfortable making a Determination of Significance and Part 2 of the Full
23 EAF will be done. She noted that she realizes that the process may extend
24 past the next few Board meetings; therefore, additional proposals will need
25 to be submitted for additional phases of work under the same rates.

26
27 The Chair asked if the Board had any questions for Ms. Meder on the
28 modified proposal for The Green at Somers.

29
30 Mrs. DeLucia referred to Page 6, under Miscellaneous, the second
31 paragraph, *It is also understood that payment to Frederick P. Clark*
32 *Associates, Inc. for services provided in accordance with this proposal is*
33 *not contingent on the Town receiving any payment from the Applicant or*
34 *others who are not parties to this agreement, despite the signature block*
35 *for the applicant at the bottom of this letter.* She asked how the billing will
36 be handled.

37
38 Ms. Meder explained that FP Clark's relationship is with the Town and the
39 paragraph just read is a standard provision in all their consulting service
40 agreements. She mentioned that Chapter 133 of the Somers Town Code

1 requires that the applicant and the Planning Board approve the proposal.
 2 Ms Gannon referenced Page 5, the paragraph under the box, *We proposed*
 3 *to invoice our work on the basis of our standard hourly charges plus*
 4 *expenses, in this manner, the Town will only be charged for the time and*
 5 *materials that we actually expend. It is important to note that rates already*
 6 *have built into them the cost of administrative support such as secretarial*
 7 *and clerical staff time. We further propose that any additional work that is*
 8 *outside of the described scope of services...*

9
 10 Ms. Gannon said that there should be a chart showing the standard
 11 schedule of hourly charges. She asked for an example of an additional
 12 expense not included in the billing cost of administrative support and what
 13 is meant by additional work that is outside of the described scope of
 14 services.

15
 16 Ms. Meder mentioned that the Town Board approved FP Clark’s hourly
 17 charges at the beginning of 2012 and those rates apply to all services
 18 being provided to the Town but she will have that information included in
 19 the proposal for this specific project. She explained that if she had to
 20 attend more than two Planning Board meetings or completed additional
 21 work that is not part of this proposal an additional proposal will be
 22 submitted.

23
 24 Ms. Meder said that now that the Board is Lead Agency on this project the
 25 Board has to determine if they have enough information to make a
 26 Determination of Significance and if not the Board will ask the applicant to
 27 supply additional information. She noted that the Board can allow
 28 information to be submitted for an indefinite period of time or they can
 29 decide that there are issues important enough to be packaged in a
 30 formalized process such as a scoping session to decide what issues should
 31 be addressed in an EIS.

32
 33 Mr. Goldenberg noted that the Town Board at their meeting on May 17,
 34 2012 reviewed the plans for The Green at Somers and Councilman Clinchy
 35 commented that the Planning Board should make sure that they continue to
 36 protect the wetlands. He said that it appears that the Town Board is not
 37 listening to what is happening with discussions at the Planning Board
 38 meetings in reference to The Green at Somers.

39

1 Attorney Whitehead stated that technically this application is not before the
2 Town Board at this time and she asked that the Town Board not discuss
3 this application without notifying the applicant.

4
5 Ms. Meder commented that the proposal has a footnote asking for
6 additional information that will be needed to bring FP Clark fully up to date
7 so they can begin their review and also arrange for a site visit.

8
9 Ms. Gerbino asked if Planning Board members can go on the site walk with
10 FP Clark.

11
12 Ms. Meder said she has no problem with Planning Board members
13 attending the site walk.

14
15 Attorney Whitehead said she has no problem with Board members going
16 on the site walk but it will have to be arranged using an early morning time.

17
18 Attorney Whitehead said that the stormwater basin has been removed from
19 the wetland buffer and it is doubtful that a wetland permit will be needed.
20 She explained that the Department of Environmental Conservation (DEC)
21 visited the site and confirmed for their purposes the delineation of the State
22 Wetland and agreed with the applicant's consultant and will be signing the
23 map shortly. She mentioned that the two small wetlands are off site.

24
25 Attorney Whitehead said that she is disappointed because the applicant
26 worked hard to revise the plans to make the deadline for this meeting and
27 they will not be discussed this evening. She noted that the building height
28 has been brought down by 12-feet.

29
30 Attorney Whitehead noted that Chapter 133 of the Town Code states that
31 when the Planning Board wants to retain a consultant the Planning Board
32 defines the scope. She clarified that the consultant is not working for the
33 Town Board but is working for the Planning Board.

34
35 Mr. Foley noted that this project is different because the applicant has to go
36 back to the Town Board for certain approvals.

37
38 Town Attorney Eriole stated that the Planning Board is correct when saying
39 that this project will have to go back to the Town Board.

40

1 Attorney Whitehead said that she has a problem with the applicant paying
2 for a consultant to review background information when the applicant has
3 already paid for the previous Town Planner's time. She stressed that it is
4 not the applicant's fault that the Town Planner left. Attorney Whitehead
5 mentioned her concern with overlap and asked that it be watched very
6 closely. She noted that Woodard & Curran is very familiar with this project
7 and the main report to be submitted is the Stormwater Pollution Prevention
8 Plan. She said that the Geotechnical Report has been submitted and the
9 information states that the location of the buildings will not be changed.

10
11 Attorney Whitehead asked for clarification because the proposal refers to
12 the May submission and she wants to make sure that the June submission
13 as well as the next two subsequent Planning Board meetings counts
14 toward the review for this proposal.

15
16 Ms. Meder stated that FP Clark will be reviewing everything since the Town
17 Planner left up to and including the next two subsequent Planning Board
18 meetings where the substance of this matter will be discussed.

19
20 Attorney Whitehead asked that the proposal be clarified to indicate that FP
21 Clark will review application materials that are submitted for discussion at
22 the May and June Planning Board meetings as well as the next two
23 subsequent Planning Board meetings at which time this application is
24 scheduled to be heard.

25
26 Attorney Whitehead said that she is hopeful that the Board is not working
27 toward an Environmental Impact Statement (EIS) as this is an affordable
28 housing project. She noted that she is concerned about statements
29 requesting additional information and she sees that to be the updated
30 Stormwater Pollution Prevention Plan.

31
32 Attorney Whitehead requested that the fee schedule from FP Clark be
33 included in the modified proposal. She suggested that the Town Planner
34 review the vouchers from FP Clark and Woodard & Curran. Attorney
35 Whitehead said that some concerns are the cost of the background review,
36 questions on the scope, the Geotechnical aspects and an overlap of
37 services between FP Clark and Woodard & Curran.

38
39 Ms. Meder explained that FP Clark will not be reviewing site engineering
40 aspects of the proposal but their review work will include an examination of

1 the ecological aspects of certain features of the proposed development
2 including the stormwater management plan. She stated that there is a
3 definite ecological link between the wetlands and the stormwater
4 management plan. Ms. Meder said that FP Clark is very careful not to
5 overlap any review work being completed by Woodard & Curran.

6
7 Mr. Keane opined that FP Clark does not have to look at the Stormwater
8 Report but should look at the stormwater practices as the sheet flow of
9 water travels across the property in its movement toward the wetland.
10 He asked who will address the wetland function in relation to the wildlife
11 habitat.

12
13 Attorney Whitehead commented that Woodard & Curran should be told not
14 to look at the movement of the sheet flow of water toward the wetland
15 because that is usually one of their responsibilities.

16
17 Nathaniel Holt, the applicant's engineer, explained that due to the new East
18 of Hudson regulations the amount of water leaving the property has to be
19 reduced.

20
21 Mr. Keane said that once the water is in the stormwater management
22 practice that should be reviewed by Woodard & Curran and FP Clark
23 should address the hydrogeology of the wetland.

24
25 Attorney Whitehead reiterated that FP Clark will review the water that
26 discharges into the wetland and the impact it may have on the wetland.

27
28 Ms. Meder mentioned that FP Clark will review application materials that
29 were submitted for discussion at the May 2012 Planning Board meeting
30 and the next two Planning Board meetings at which the application is
31 scheduled. She said that the hourly fee schedule will be included in the
32 proposal and the distinction between Woodard & Curran and FP Clark will
33 be defined in reference to the ecological aspect of the Stormwater
34 Management Plan.

35
36 Attorney Whitehead noted that another concern is paying for a background
37 review because the applicant already paid the previous Town Planner for
38 her review. She commented that this was not anticipated in the Town's
39 professional fee code.

40

1 Town Attorney Eriole said that the Town anticipates that outside
2 consultants may have to be hired and they have to be brought up to speed.

3
4 Attorney Whitehead said that technically it is double billing as the applicant
5 paid for the previous Town Planner's review.

6
7 Town Attorney Eriole advised that it is not double billing but a reasonable
8 expense with the consultant being retained after the Town Planner left the
9 Town's employ. He said that at the Board's request he can provide a
10 response at the next meeting in regard to the Town reimbursing part of the
11 fee for the background information review by FP Clark.

12
13 Mr. Foley said that the Planning Board does not have any options and the
14 applicant can reimburse the Town for the cost of FP Clark for the review of
15 the background information or walk away from the application.

16
17 Mr. Goldenberg asked if the applicant and FP Clark can negotiate the fee
18 and return to the Board for their approval.

19
20 Attorney Whitehead stated that she does not want to delay this project
21 another month and the applicant is willing to pay a portion of the fee in
22 order for FP Clark to be brought up to date on the project.

23
24 Ms. Meder stressed that she is not in a position to lower FP Clark's fee in
25 reference to the background information review. She noted that FP Clark's
26 cost estimate was based upon careful evaluation of the requested review
27 tasks.

28
29 Mr. Keane noted that under SEQRA the action has to be defined and he
30 asked if the applicant has defined the action.

31
32 Attorney Whitehead said that the action has been defined and the updated
33 Stormwater Pollution Prevention Plan and the revisions to the grading,
34 utility and site plan have to be provided.

35
36 Attorney Whitehead reminded the Board that the Town Board changed the
37 zoning on this parcel to provide a third floor up to 50 feet in height if 50% of
38 the units were affordable. She stressed that this was an incentive to
39 develop affordable housing and the recognition that affordable housing
40 does not work with two stories.

1 Mr. Keane noted that the important word is the Town Board **may** allow a
2 third floor and this is not a slam dunk that this will happen.

3
4 On motion by Chair Currie, seconded by Mrs. DeLucia, and unanimously
5 carried, the Board moved to accept Frederick P. Clark's modified proposal
6 for the Provision of Professional Services for The Green at Somers
7 Application Review, as amended, pursuant to Chapter 133 of the Somers
8 Town Code.

9
10 There being no further business, on motion by Chair Currie, seconded by
11 Mrs. DeLucia, and unanimously carried, the meeting adjourned at 9:00
12 P.M. and the Chair noted that the next Planning Board meeting will be held
13 on Wednesday, July 11, 2012 at 7:30 P. M. at the Somers Town House.

14
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16
17
18 Respectfully submitted,

19
20 Marilyn Murphy
21 Planning Board Secretary
22
23