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PLANNING DEPARTMENT

TOWN HOUSE
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Town of Somers

WESTCHESTER COUNTY, N.Y.



John Currie, *Chairman*
Jan Corning
Fedora DeLucia
Vicky Gannon
Nancy Gerbino
Eugene Goldenberg
Dennis McNamara

3

**SOMERS PLANNING BOARD MINUTES
JULY 13, 2016**

4

5

6

7 **ROLL:**

8

9 **PLANNING BOARD**

10 **MEMBERS PRESENT:**

Chairman Currie, Mrs. DeLucia, Ms. Gerbino,
Mr. Goldenberg, Ms. Gannon and Ms. Corning

11

12

13 **ABSENT:**

Mr. McNamara

14

15 **ALSO PRESENT:**

Director of Planning Syrette Dym
Consultant Town Planner Sarah Brown
Assistant Consultant Town Engineer Wasp
Planning Board Town Attorney Joseph Eriole
Planning Board Secretary Marilyn Murphy

16

17

18

19

20

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

24

25 **APPROVAL OF DRAFT MINUTES AND DVD OF THE PLANNING
26 BOARD MEETING HELD ON MAY 11, 2016**

27

28 Chairman Currie noted that Planning Board Secretary Marilyn Murphy
29 prepared and submitted for the Board's approval the draft minutes and
30 DVD of the Planning Board meeting held on May 11, 2016.

31

1 The Chair asked if there were any comments or corrections from the Board
2 on the draft minutes and DVD and no one replied.

3
4 On motion by Mr. Goldenberg, seconded by Ms. Gannon, and unanimously
5 carried, the draft minutes and DVD of the May 11, 2016 Planning Board
6 meeting were approved.

7
8 Chairman Currie stated that the text of the approved minutes is available
9 on the Town's website www.somersny.com and is also available for public
10 review at the Planning & Engineering office at the Town House. The
11 approved DVD is available for public viewing at the Somers Public Library.

12
13 **TIME EXTENSION**

14
15 **MERRITT PARK ESTATES AMENDED FINAL SUBDIVISION**
16 **[TM: 5.20-1-1]**

17
18 Chairman Currie said that the applicant is requesting a one-year time
19 extension for the Wetland, Steep Slopes and Stormwater Management and
20 Erosion and Sediment Control Permits for Merritt Park Estates Amended
21 Final Subdivision from June 10, 2016 up to and including June 10, 2017
22 under Town Law Section 167-10 (B) (2), Section 148-8 (K) and Section
23 93-9.

24
25 Mr. Goldenberg said that the applicant is not present and he has questions
26 he wants to ask. He noted that it is not fair for an applicant to be told he
27 does not have to appear at the meeting.

28
29 Director of Planning Dym explained that the applicant provided pictures and
30 visuals to bring the Board up to date on the project.

31
32 Mrs. DeLucia said that if a Board member has questions for an applicant
33 they should let the Chairman know so the applicant can be present. She
34 stressed that the Chairman has the right to make the decision if it is
35 necessary for an applicant to appear for a time extension.

36
37 Planning Board Town Attorney Eriole said that the procedure has been that
38 the Chairman can exercise his discretion on whether an applicant has to
39 appear before the Board.

40

1 Mr. Goldenberg referred to the May 11, 2016 minutes and to Page 2,
2 second paragraph, from the April 29, 2016 memorandum from Attorney
3 Tortorella:

4
5 *Mancini commenced construction of the Subdivision infrastructure,*
6 *has pursued it to substantial completion and has substantially*
7 *completed off-site drainage improvements in Condo 29 and on the*
8 *Lake Lincolndale Property Owners Association (LLPOA) property.*
9 *The work has been inspected by Town officials throughout and no*
10 *problems have occurred. The Board has fulfilled its commitment to*
11 *extend the Approvals.*

12
13 *Mr. Goldenberg said that there were problems at Condo 29 as they*
14 *had to dig up the side of the property because the extension to the*
15 *sewer could not be made.*

16
17 *Consultant Town Engineer Barbagallo said that he is familiar with the*
18 *issue. He said that it was a water issue as the connection point was*
19 *at Condo 29 and all the pipes on the site were pressure tested and*
20 *were found to be air tight and properly installed. Consultant Town*
21 *Engineer Barbagallo explained that when the water was turned on it*
22 *was realized that they were losing pressure and the search to*
23 *determine where they were losing pressure ensued. He said that it*
24 *was determined that the pressure point near Condo 29 had a valve*
25 *fitting that was not installed properly and was causing a leak.*
26 *Consultant Town Engineer Barbagallo stated that the situation was*
27 *rectified and is fully tested and is not leaking.*

28
29 *Geraldine Tortorella, the applicant's attorney, said listening to Mr.*
30 *Goldenberg you would think this was caused by the developer in the*
31 *course of construction. She said that the fitting had to be replaced*
32 *but not that it was done incorrectly by the applicant.*

33
34 Mr. Goldenberg stressed that he totally disagrees with this statement that
35 indicates that a developer is not responsible when a pipe has to go through
36 someone else's property and connects to the Sewer Company.

37
38 Chair Currie said that Consultant Town Engineer Barbagallo said that the
39 reason the valve did not work correctly could have been the installation or
40 manufacturer's error but that wasn't determined.

1 Mr. Goldenberg said that he had to inform Consultant Town Engineer
2 Barbagallo about the problem and he asked where was the Town.
3 He stressed that someone has to defend the people of this Town.

4
5 On motion by Chair Currie, seconded by Mrs. DeLucia, (Mr. Goldenberg
6 voting nay) and carried, the Board moved to grant the request of Merritt
7 Park Estates for a one-year time extension for the Wetland, Steep Slopes
8 and Stormwater Management and Erosion and Sediment Control Permits
9 from June 10, 2016 up to and including June 10, 2017.

10
11 Mr. Goldenberg said that the Stormwater Pollution Prevention Plan
12 (SWPPP) states that 2 days before building is started that the Department
13 of Environmental Protection (DEP) has to be notified. He requested that
14 the engineer find out if the DEP has been notified prior to the work being
15 done.

16
17 Robert Wasp, the Assistant Town Consultant Engineer, said that he was
18 not at the site but Steve Woelfle, the Principal Engineering Technician,
19 does inspections and he will check to see if he visited the site recently.

20
21 *Mrs. DeLucia recused herself and did not participate in the next agenda*
22 *item.*

23
24 **HAFT/RIDGEVIEW DESIGNER BUILDERS, INC. [TM: 16.12-1-41, 42]**

25
26 Chairman Currie explained that the request is for a one-year time extension
27 for the Steep Slopes and Stormwater Management and Erosion and
28 Sediment Control Permits from August 13, 2016 up to and including August
29 13, 2017.

30
31 Mr. Goldenberg said that the applicant is not present so the question about
32 work being done on the property prior to notifying the DEP cannot be
33 answered.

34
35 Mr. Goldenberg noted that he was on the site and saw a mountain of soil
36 which may indicate that building may be starting.

37
38 Ms. Gannon asked that Mr. Woelfle provide a memo answering Mr.
39 Goldenberg's questions.

40

1 Chair Currie tabled the vote on the time extension until Ms. Gerbino arrives.

2
3 Chair Currie mentioned that there now is a quorum so the Board can vote
4 on the time extension for Haft/Designer Builders, Inc.

5
6 On motion by Chair Currie, seconded by Ms. Gannon and unanimously
7 carried, the Board moved to approve a one-year time extension for Steep
8 Slopes and Stormwater Management and Erosion and Sediment Control
9 Permits from August 13, 2016 up to and including August 13, 2017 for
10 Haft/Designer Builders Inc.

11
12 **PUBLIC HEARING**

13
14 **ANTHONY BONIELLO SUBDIVISION [TM: 47.16-1-31]**

15
16 Chairman Currie noted that this is the Public Hearing for Preliminary
17 Subdivision Approval for property located at Moseman Avenue to subdivide
18 one three-acre lot out of an existing 23.5 acre lot. He mentioned that the
19 Board will consider a draft Preliminary Subdivision Resolution and a Draft
20 Final Subdivision Resolution.

21
22 Chair Currie opened the Public Hearing and asked Planning Board
23 Secretary Murphy if the Legal Notice was published and the adjoining
24 property owners notified.

25
26 Planning Board Secretary Marilyn Murphy stated that the legal notice was
27 published in the Somers Record on June 30, 2016 and the adjoining
28 property owners were notified via mail on July 1, 2016.

29
30 Gus Boniello, representing the applicant, said that Chair Currie described
31 the application correctly. He noted that he is present to listen to any
32 concerns the Board or the residents may have.

33
34 Robert Wasp, the Assistant Town Consultant Engineer, said that his memo
35 dated May 6, 2016 states that all substantial engineering concerns for the
36 project have been addressed and those that remain are some minor details
37 with the stormwater system, the subdivision plat drawing and approvals
38 from the Health Department are conditions in the Resolution.

39
40 *At this time Ms. Gerbino joined the meeting.*

1 Chair Currie asked if anyone from the public would like to be heard.

2
3 Winslow Potter, resident of Moseman Avenue, said that the Boniello home
4 is at 43 Moseman Avenue and the notice has it listed as 42 Moseman
5 Avenue which is his home.

6
7 On Motion by Chair Currie, seconded by Mr. Goldenberg, and unanimously
8 carried, the Public Hearing on the Preliminary Boniello Subdivision was
9 closed.

10
11 Director of Planning Dym said that the Board considered an abbreviated
12 subdivision approval but this application does not meet that criteria
13 because it is a Type 2 Action. She explained that the Board is following the
14 same procedure it followed with the Gerlach Subdivision. She noted that
15 she prepared the Preliminary Subdivision Approval and if the Board
16 approved the Resolution, the Board can consider waiving the Public
17 Hearing on the Final Subdivision Approval and reviewing the Final
18 Subdivision Approval Resolution.

19
20 The Board, staff and applicant reviewed Resolution 2016-05 Granting of
21 Conditional Preliminary Subdivision Approval for the Anthony Boniello
22 Subdivision.

23
24 On motion by Chair Currie, seconded by Ms. Corning, and unanimously
25 carried, the Board Granted Conditional Preliminary Subdivision Approval
26 and Stormwater Management and Erosion and Sediment Control Permit
27 and Steep Slopes Permits pursuant to NYS Town Law Section 276 and
28 278 and Section 150-12M of the Code of the Town of Somers.

29
30 The Board, staff and applicant reviewed Resolution 2016-06 Granting of
31 Conditional Final Subdivision Approval for the Anthony Boniello
32 Subdivision.

33
34 Ms. Corning changed the date on Page 4 line 1 to *June 7, 2016* and Page
35 2, line 14 spelling to *indicated* and added the words *the driveway*.

36
37 On motion by Chair Currie, seconded by Mr. Goldenberg, and unanimously
38 carried, the Board waived the Public Hearing in accordance with Section
39 150-13F (2) of the Code of the Town of Somers, since the proposed 2 lot
40 Subdivision Plan prepared by Anthony S. Pissarri, P.E. P.C. will serve as

1 the basis for the Final Subdivision Plat which is in substantial agreement
2 with the approved Preliminary Subdivision Plat.

3
4 On motion by Chair Currie, seconded by Mr. Goldenberg, and unanimously
5 carried, the Board Granted Conditional Final Subdivision Plat Approval and
6 Steep Slopes Permits (Section 148) and Stormwater Management and
7 Erosion and Sediment Control Permit (Section 93) pursuant to Section
8 150-13J of the Code of the Town of Somers, as amended.

9
10 **NYSMSA LLC D/B/A VERIZON WIRELESS [TM: 17.05-20-2]**
11 **APPLICATION FOR SPECIAL USE PERMIT**

12
13 Chairman Currie said that this is the Public Hearing for an application for a
14 co-location of a public utility wireless telecommunication facility and
15 extension to an existing monopole for property located at 250 West Hill
16 Drive, Heritage Hills in the DRD Zoning District. He noted that the Board
17 will consider a draft Resolution for Amended Special Use Permit.

18
19 Michael Sheridan, the applicant's attorney, reminded the Board and the
20 public that in accordance with Federal Law this facility must be approved as
21 it is an eligible facility request.

22
23 Chair Currie opened the Public Hearing and asked Planning Board
24 Secretary Murphy if the Legal Notice was published and the adjoining
25 property owners notified.

26
27 Planning Board Secretary Murphy stated that the legal notice was
28 published in the Somers Record on June 30, 2016 and the adjoining
29 property owners were notified via mail on July 1, 2016. She mentioned that
30 the sign was posted on the property on June 29, 2016 stating the date,
31 place and time of the Public Hearing.

32
33 Chair Currie asked if anyone from the public would like to speak.

34
35 Joseph Prisco, resident of 474B Heritage Hills, showed the Board a poster
36 showing the cell tower, and what he thinks will be proposed and what is
37 being proposed. He mentioned that in 24 years no Town Board or carrier
38 has found it necessary or even viable to co-locate on this tower. He said
39 that in April 2008 a Resolution by the Somers Zoning Board of Appeals
40 (ZBA) granted permission to Omnipoint to erect a 100 foot monopole at the

1 Somers Towne Centre. Mr. Prisco said that the coverage at the Somers
 2 Towne Centre was preferred so it would be appropriate for this Planning
 3 Board to request that Verizon Wireless evaluate either co-locating on the
 4 monopole at the Towne Centre or the one on Route 100 near IBM. He
 5 stated that common sense dictates that cell towers near low coverage
 6 areas (dead zones) especially along Route 100 could actually provide
 7 better service where it is really needed not at Heritage Hills where Verizon
 8 subscribers have no coverage problems. Mr. Prisco said that according to
 9 Section 170-129.7 of the Somers Town Telecommunication Code it asks
 10 where the evidence of the coverage gap is. He answered there is no
 11 evidence of a coverage gap.

12
 13 Mr. Prisco said that there is the issue of safety. He noted that the purpose
 14 of the Telecommunication Code Section 170-129.1 says to safeguard
 15 against potential damage and injury to persons and property associated
 16 with the collapse, debris and ice fall of Telecommunication facilities or
 17 attached Telecommunication facilities. He mentioned that the area in
 18 question has the highest elevation in Westchester County with the highest
 19 velocity winds and the highest potential for a catastrophic event.

20 Mr. Prisco said this site is in a very crowded area with two water towers,
 21 overlooks tennis court 5, pool 3, picnic areas and trails where grandparents
 22 walk their grandchildren.

23
 24 Mr. Prisco appealed to the Board to use good judgement and their
 25 conscience and asked this question, "Would any of you knowingly subject
 26 your precious love ones to such a risk if you could avoid it?" He noted that
 27 a wise man once said that there is a destiny that makes us all brothers in
 28 this world as none of us goes this way alone and all we send into the lives
 29 of others comes back into our own. He asked that an alternative be found
 30 for this application.

31
 32 Ed Goldfarb, resident of 477A Heritage Hills and President of Condo 16,
 33 said that most of his comments were stated by Mr. Prisco so he deferred
 34 his time to the next speaker, Pamela Prisco.

35
 36 Pamela Prisco, resident of 474B Heritage Hills, said that in 2008 there was
 37 a similar battle with the Zoning Board over the issue of a second cell tower.
 38 She said that as part of the record she submitted over 1,000 signed
 39 petitions in opposition. She said that during this time the snow birds were
 40 away and Heritage Hills was never given notice of Omnipoint's application.

1 She said that the viewpoint was clear and now Verizon is here with an
2 application to extend the pole and add multiple antennae. Ms. Prisco said
3 this is a danger and infringement on our community and the pristine
4 environment that defines Heritage Hills. She mentioned that she was told
5 that the landscape of the area and the buildings that currently are on the
6 site include the water tank. She said that increasing the height on a pole 15
7 feet that is 24 years old presents a visual eyesore and there are questions
8 on the proper setbacks and easement safety requirements. Ms. Prisco
9 said that the site area is at the top of the hill at the highest point and is in a
10 high wind velocity area. She noted that collapse of the tower and debris
11 could flood and envelop 8 condo clusters in a direct radius housing over
12 700 people. She said that in the winter ice and debris often accumulate at
13 the top of the tower and fall to the ground as the weather gets warmer. Ms.
14 Prisco mentioned 5 wrongful death lawsuits in Summit Park, West Virginia.
15 She noted that lawsuits specifically state that the defenders were well
16 aware of the risks involved on the work on the older pole. She said that the
17 tower collapse killed three people and injured two others. She mentioned
18 that the facts relate to 2 and 7 of the Town of Somers 2016
19 Telecommunication Code. She explained that the existing pole is at 71 ½
20 feet and already at the tree line and the proposal to extend the tower will
21 bring it well over the tree line. Ms. Prisco said that a cell tower is an
22 eyesore no matter how you disguise it as it is ugly when the trees have no
23 leaves and when the trees have leaves. She stressed that the proposal to
24 extend the pole and the co-location of multiple antennae will create a
25 monstrosity destroying the grace and beauty of our country environment.
26 Ms. Prisco said No. 2 of the Town Code states Heritage Hills is a
27 community of seniors mostly dependent on Social Security and their
28 pensions. She said our financial security is tied to our homes. She
29 mentioned that a number of organizations and studies document the
30 detrimental effects of cell towers on property values. Ms. Prisco said the
31 Appraisal Institute, the largest global professional organization, spotlighted
32 the issue of cell towers and fair market value of a home and educated its
33 members that a cell tower should in fact decrease home values. She noted
34 that percentage decreased in the study range from 2% to 20% with higher
35 percentages the closer to the property is to the tower. Ms. Prisco stated a
36 survey done by the National Institute of Science, Law and Public Policy
37 state that 94% of homebuyers or renters show less interest and offer to pay
38 less for property near a tower. She commented that 79% said that under
39 no circumstances would they ever purchase a home or rent in near

1 proximity to a cell tower. She said this relates to number 4 of the Town
2 Code.

3
4 Ms. Prisco opined that the applicant is hiding behind FCC rules. She asked
5 if the FCC standards take into account the potential for radiation, standing
6 hot spots near metal objects like the water tower that holds 1 million gallons
7 of water and is the sole source of water for the Heritage Hills community.

8 Ms. Prisco stated that the FCC requires very little monitoring from its
9 licenses and as a result the aggregate of many co-locator installations and
10 resulting RF accumulations is poorly documented and remains
11 unmonitored unless a community complains to the FCC about interference
12 with other devices. She said that Heritage Hills seniors have implanted
13 devices and there is worldwide evidence of an interference effect of radio
14 frequency radiation on these devices.

15
16 Ms. Prisco asked why the FCC outlawed health concerns. She said that if
17 there is no risk or danger to human health why the need and the fear to
18 exempt these issues from the law, a law that is seriously flawed and
19 biased. She mentioned that the law presently states that a tower cannot be
20 rejected on health concerns, the perceived effects exists and therefore
21 effects real estate values. She said that as recently as May 2016 the
22 National Toxicology Program issued their report based on a 25-million
23 dollar frequency study. Highlighting the turning point of the study one quote
24 was, it will be very difficult for the naysayers to deny the association any
25 longer before the law is changed. She noted to be aware the wireless
26 industry used the same playbook as the tobacco industry implemented
27 when decades ago researches warned of the deadly effects of cigarette
28 smoking. Ms. Prisco said today we all know the truth and what about
29 asbestos, as that also seemed safe and today we know better and have it
30 removed.

31
32 Ms. Prisco asked that are we as taxpaying residents so inconsequential
33 that there is no regard for us just willingly waive and exempt safeguards
34 and protection is it business for profit only. She said don't be complacent,
35 that County and Town officials have the power to regulate the placement
36 and appearance of cell towers, as long as such discrimination is not
37 unreasonable and especially when there is no gap in coverage. She
38 stressed that denying Verizon's application at the Heritage Hills site by
39 adhering to the purposes of Town Code is not discrimination, in fact, the
40 application violates 5 out of 12 purposes of the Code. Ms. Prisco said that

1 the New York Times reported on a public hearing held in Wantagh that had
 2 stiffening requirements and Hempstead reported that under a new code
 3 change that any cell tower with antennae had to be 1500 feet from
 4 residences, schools, house of worship and libraries, it is called responsible
 5 placement. She said that under the new Ordinance applications for
 6 wireless facilities require technical evidence that a gap in coverage exists
 7 and also to prove that the selected location has the least negative impact
 8 on area character and property values. Ms. Prisco said that if another
 9 location further away from homes can solve the gap problem, if there is
 10 one, they will have to move. She said that Somers should not lag behind
 11 and hide behind the FCC as other Towns and municipalities are stepping
 12 up to protect their residents and Town character. Ms. Prisco said she is
 13 pleading with Somers to use its moral courage, judgement and conscience
 14 as she is depending on the Town to protect its residents, quality of life and
 15 property values. She asked that a heavily populated residential area not be
 16 subjected to these potential dangers and concerns. She quoted Martin
 17 Luther King Junior, "Our lives begin to end the day we become silent about
 18 things that matter".

19
 20 Ms. Prisco showed the Board a picture and asked them what they don't
 21 see. She said that you don't see clusters of homes, children in the pool,
 22 people playing tennis or at a picnic area.

23
 24 Mrs. DeLucia said that if you want Code changes you have to go to the
 25 Town Board as they legislate, the Planning Board doesn't. She suggested
 26 that the Verizon representative meet with the Heritage Hills residents to
 27 discuss their concerns.

28
 29 James Ormiston, resident of 848 Heritage Hills, Condo 30, said that he has
 30 had poor cell phone service and when he spoke to Verizon they said that
 31 the Town will not allow them to put in the proper equipment. He noted that
 32 he has to go up the hill by the Pinnacle Restaurant to make a cell phone
 33 call. Mr. Ormiston said that he is asking that Verizon be able to put in
 34 equipment somewhere so he can get service.

35
 36 Flo Brodley, resident of 351C Heritage Hills, Condo 12, noted that the
 37 current cell tower exists within a residential community, and stands above
 38 pool 3, tennis court and a water tank and is surrounded by Condo 12. Ms.
 39 Brodley said the only time she has seen towers of this nature is on
 40 parkways like the tree on the Hutchinson River Parkway or on roads like

1 Route 22 in Goldens Bridge. Ms. Brodley said that to further enlarge the
 2 existing tower defies common sense. She mentioned that there are people
 3 who live almost directly underneath the tower. She noted that the Town of
 4 Somers has wisely enacted a Telecommunication Code and although there
 5 are many codes that an approval would negate, she can address three:

- 6
- 7 • #4 which says, Protect residential areas, land uses and
- 8 property values from potential adverse impacts of wireless and
- 9 attached wireless telecommunications facilities.

10

11 Ms. Brodley said that it is quite obvious to those who live here that an
 12 approval of this kind would not protect our residential areas nor our
 13 property values. She noted that although the tower that now exists is
 14 covered by foliage of the season, a taller tower with major antennae would
 15 be completely visible to anyone passing by, particularly when the leaves
 16 fall.

17

18 Ms. Brodley held up a tower sample case and commented that the tower is
 19 almost as tall as she is. She explained that there would be 12 antennae
 20 that would be included in the addition. Ms. Brodley mentioned that anyone
 21 trying to sell a unit in this area would find it much more difficult with an Iron
 22 Giant overhead.

- 23
- 24 • #5 says, Encourage the location of such facilities in areas
- 25 resulting in the least adverse impact on the neighborhood.

26

27 Ms. Brodley said this is what we are calling for, to place the expansion
 28 where it would create the least impact on our neighborhood. She noted
 29 that since there is a facility already in a commercial area in town, this is a
 30 common sense approach, then the expansion would not be intrusive in our
 31 lives.

- 32
- 33 • #7 says, safeguard against potential damage and injury to
- 34 persons and property associated with the collapse, debris and
- 35 ice fall.

36

37 Ms. Brodley said that the Town correctly identified this ordinary hazard for
 38 as the trees do, so would the icicles from such a structure create havoc.
 39 She noted that when major winds blow and storms come, it is not in our
 40 imagination that ice and debris will cause damage and injury to the

1 residents, their homes and the water tank nearby. She stressed that this is
 2 a scenario well played out when Hurricane Irene and Superstorm Sandy
 3 came through the community not so long ago when many trees fell.

4
 5 Ms. Brodley asked if you would choose to live in an area where such a
 6 monstrosity hangs overhead.

7
 8 Ms. Brodley said that this is one of the instances when you, as fellow
 9 citizens of this community, have the ability to use a common sense
 10 approach and vindicate trust in a government agency. She mentioned that
 11 co-locating this expansion away from a residential setting to a commercial
 12 one is the logical thing to do. The famous words of the medical profession
 13 to “First Do No Harm” applies here. She opined that this expansion has the
 14 potential to do extreme harm and we ask you to vote it down.

15
 16 Adriene Pezzello, resident of 466B Heritage Hills and an associate broker
 17 with Houlihan Lawrence for over 30 years, said that it is her experience that
 18 buyers have a strong resistance to purchase property near a cell tower.
 19 She mentioned that the perception of health issues and the worry of re-sale
 20 value limits the sale of property near cell towers. Ms. Pezzello said that
 21 properties take longer to sell and if they sell it is at a reduced price. She
 22 opined that this project will affect the property values in a big way.

23
 24 Fredda Lynn, resident of 475E Heritage Hills, Condo 16, said that she
 25 would like to address the dangers of the million gallon water tank which is
 26 on Roundtop Hill above pool 3. She said there also is a small tank, small
 27 machinery house, generator and the 24 year old cell tower that are all
 28 fenced in together on less than an acre of land. She noted that Roundtop
 29 Hill is an area with significant high winds with ice, snow and lightning and
 30 has more exposure than at other areas. Ms. Lynn said that the height
 31 extension and the adding of more antennas to the old cell tower has
 32 dangers and unknown possibilities, considering the cell tower should not be
 33 there at all. She commented that the big tent becomes scary when you put
 34 the new factors in the tanks geography. Ms. Lynn asked if the water
 35 company has signed off on this change to the tower and do they say it is
 36 alright to heighten the old tower. She mentioned that the water company
 37 did not sign off on the original tower and are they supposed to sign off on
 38 this addition to the tower. Ms. Lynn asked if AT&T and Verizon are held
 39 harmless in this procedure. She said that Crown Castle gave an easement
 40 allowing the tower changes. She opined that by Verizon co-locating on the

1 pole is an exercise in marketing so other companies will put their poles on
 2 the tower. Ms. Lynn said this is a residential area and there is another
 3 place for Verizon’s co-location. She commented that the Town’s behavior
 4 with this issue has been very cavalier and borderline outrageous. She said
 5 that it is a lack of respect for all the people that live in the vicinity and if this
 6 tank ruptures it will drown us all. Ms. Lynn said that she can’t believe that
 7 we are going through this again.

8
 9 Ms. Lynn said that there was a time when Verizon was going to re-wire
 10 Heritage Hills but found it too expensive. She asked why they want to
 11 come in now when they couldn’t help before.

12
 13 Arthur Singer, resident of 803A Heritage Hills, said that he is a bit taken
 14 back as he served on a Planning Board and usually the presentation by the
 15 applicant is first so you can make comments. He said that he knows
 16 nothing about this project so how can he make comments. He asked if
 17 there is something in the contract that states what will happen if the site is
 18 disbanded. He asked if Verizon will have a separate building underneath
 19 the antennae.

20
 21 Mr. Singer asked how much expertise is there on the Board and their
 22 consultants and has the Board hired a Radio Frequency engineer to assess
 23 the plan in reference to location and alternative locations.

24
 25 Mark Packer, resident of 479A Heritage Hills, said that he did research on
 26 the extending of the tower. He said he wanted to find out what the effect
 27 would be to the residents. He said that times change and now they are
 28 finding out there are problems with cell phones. Mr. Packer noted that
 29 each tower emits a radio frequency wave. He explained that radio
 30 frequency waves are classified as non-ionization or ionization and there is
 31 a big difference. Mr. Packer said that the government claims that ionization
 32 is not harmful and the non-ionization is used by doctors who says that they
 33 can’t give too many x-rays because they are cancer causing. He asked
 34 what price the residents will pay by having a cell tower in their backyard.
 35 He said that new technology and an article in the paper relates cell phones
 36 to brain damage to kids.

37
 38 Mr. Packer commented that very few human studies focused specifically on
 39 cellular phones and cancer risks. He said that the study did not consider
 40 how far a child lived or how far their school was from a tower and that

1 reduces confidence in the results of the study. He opined that something is
 2 being held back. He said that his research found that the signals used in
 3 cell phone communication might potentially impact human health. Mr.
 4 Packer stressed that he is not willing to gamble with the health of his
 5 neighbors and their grandchildren by exposing them to something like this.
 6 He commented that it is better to err of the side of safety and if you create a
 7 monster you are stuck with that monster.

8
 9 Mike Melcher, resident of Heritage Hills, said that he has a legal question
 10 as he heard that the FCC states that health cannot be a consideration. He
 11 questioned if it also does not consider the devaluation of property and
 12 safety of families and children. He opined that the law does not prohibit the
 13 Board from considering the devaluation of property and the safety of
 14 children.

15
 16 Barry Singer, a resident of 157B Heritage Hills, Condo 4, said that he is
 17 one of the co-founders of at Home in Somers, who help people to get to
 18 their doctor appointments. He mentioned that there is a computerized
 19 phone system and Verizon is their supplier. Mr. Singer said that residents
 20 near Condo 29 that have the system did not get service so it was difficult to
 21 communicate with them. He said that the areas that have trouble with
 22 Verizon service are very extensive. Mr. Singer said what protection does
 23 that person who goes out for a walk and falls or has a heart attack when he
 24 can't get service. He stated that this is a very serious situation. Mr. Singer
 25 mentioned that Verizon going on the cell tower will clear up the service
 26 problems. He stressed that in the future technology will change and
 27 everything will be wireless. Mr. Singer commented that the cell tower with
 28 Verizon co-locating will provide a substantial benefit to a number of people
 29 and keep them safe.

30
 31 Gloria Rosen, resident of 341B Heritage Hills, Condo 12, said that she has
 32 Sprint and they are not in the Heritage Hills area and she has great service.

33
 34 Chair Currie acknowledged an e-mail from Susan DeFelice of 728B
 35 Heritage Hills and a fax from Marc A. Bergman of 773B Heritage Hills,
 36 Condo 27, dated July 12, 2016.

37
 38 Ms. Gannon said that she is familiar with Condo 27 as her parents live at
 39 Condo 27 and that is their primary residence.

40

1 Attorney Sheridan said that Verizon wants to co-locate their wireless facility
 2 with an extension to the existing tower. He said that it is respectfully
 3 submitted that the facility must be approved in accordance with Federal
 4 Law. He stated that the Middleclass Tax Relief Act (TRA) and Job Creation
 5 Act of 2012 specifically acknowledges the importance of wireless
 6 communication infrastructure and contains a provision fostering the
 7 employment of wireless communication facilities. He noted that Section
 8 6409 of the TRA provides that a local government may not deny and shall
 9 approve the application for co-location of new transmission equipment on
 10 an existing wireless tower that does not substantially change the physical
 11 dimensions of such tower. Attorney Sheridan said that there were
 12 requirements that were codified in the Federal Regulations, Title 47,
 13 Section 1.40001, which indicated that a substantial change for towers in
 14 this situation is anything that is greater than 20 feet. He mentioned that the
 15 Verizon extension is 15 feet and therefore falls within the requirement of an
 16 eligible facility request. He stressed that this is an eligible facility request
 17 and must be approved by this Board. Attorney Sheridan mentioned that
 18 Section 1.40001, Sub Section C, Sub Section 1 provides that the
 19 documentation necessary for review must only be to the extent reasonably
 20 related for the Board to determine if the request meets the requirements of
 21 an eligible facility request. He quoted that a State or local government may
 22 not require an applicant to submit any other documentation including but
 23 not limited to documentation intended to illustrate the need for such
 24 wireless facilities to justify the business decision to modify such wireless
 25 facilities. He said that pursuant to federal law this Board must approve this
 26 eligible facilities request and grant the special permit and if not waive Site
 27 Plan approval.

28
 29 Planning Board Town Attorney Eriole stated that the applicant's statement
 30 of the law is correct and there is no question that state of affairs has come
 31 under some scrutiny. He said that many of the issues that were raised,
 32 health and property values gain renewed data and scrutiny. He stated that
 33 the Federal Law has specifically preempted County to Local Law. He said
 34 that notwithstanding the passionate views people have on this subject the
 35 applicant's attorney has accurately stated the law.

36
 37 Mr. Goldenberg said that he is concerned about security at the cell tower
 38 as there is only the small padlock on the gate leading to the water tower.
 39 He noted that he is critical of the property owner not the cell tower
 40 applicant. Mr. Goldenberg opined that the owner is not protecting a

1 vulnerable and important infrastructure on the top of Heritage Hills. He
2 asked what will stop someone from destroying the tower. He asked who is
3 granting the easements or the rights to get to the tower.

4
5 Planning Board Town Attorney Eriole said that the rights of access are
6 subject to private property rights.

7
8 Attorney Sheridan stated that Verizon has a lease with the property owner
9 over the easements.

10
11 Mr. Packer said that under the law of 1993 Cellular Telephone Company
12 and the Rosenberg family, the court found that public utilities such as
13 Verizon are entitled to a relaxed standard in Zoning decisions since the
14 proposed use is necessary to render safe and adequate service. He opined
15 that Verizon is not providing a safe and adequate service.

16
17 Director of Planning Dym said that the Board asked for adherence to some
18 of the Codes. She said that the Board pursued two items of concern. She
19 mentioned that one of the concerns had to do with the structural integrity of
20 the pole and its ability to accept the 15 foot extension. She said that she
21 asked for verification of the sight line analysis to see what the visual
22 impacts would be. Director of Planning Dym explained that although it was
23 not required to undertake such analysis an APT Engineer determined that
24 the proposed 15' extension met the requirements specified by Section 170-
25 129.7H (2) (b) of the Town Code and was not considered to have a
26 significant visual impact.

27
28 Robert Wasp, Assistant Consultant Town Engineer, said that the
29 applicant's engineer submitted a structural analysis report for the tower. He
30 said that the analysis was done according to the international Building
31 Code and considered the existing loading on the tower as well as the
32 proposed extension and equipment. He noted that the analysis concluded
33 that there was sufficient capacity for the new proposed extension. He said
34 that the report was signed and sealed by a New York State licensed
35 engineer.

36
37 Engineer Wasp said that the initial analysis did not include a personal site
38 inspection of the tower but a personal inspection was made on May 26,
39 2016 and it was determined that the tower has no significant maintenance
40 issues that would affect the structural capacity of the tower.

1 Engineer Wasp indicated that a special inspection was made on the tower
 2 on May 25, 2016 and was personally performed for the purpose
 3 of an inspection to determine if the tower had any structural deficiencies.
 4 He said that they prepared light maintenance to repair minor deficiencies.
 5 Engineer Wasp noted that APT Engineers stated that the tower has no
 6 significant deficiencies that would affect the structural capacity of the tower.

7
 8 Mrs. DeLucia said that she is the only member of the Board who was
 9 present when the original tower was proposed and there were many
 10 issues, one was the height of the tower. She said that she has a guide
 11 book, Pittsford Document, "Planning and Design Manual for the review of
 12 applications for Wireless Telecommunication Facilities." She mentioned
 13 Page 27 of the Pittsford Document, "Any local legislation should address
 14 maintenance concerns and provide an enforcement mechanism for failure
 15 to maintain. The enforcement procedure may be similar to enforcement of
 16 building code or zoning violations. Mrs. DeLucia further quoted
 17 "Municipalities can also require that the provider submit an engineers or
 18 other professional's report that confirms that the tower still meets all
 19 structural safety standards... Mrs. DeLucia said that the Board's hands are
 20 tied because the FCC has stated that the co-locator cannot be denied.

21
 22 Mrs. DeLucia questioned a number of times if Verizon has looked at other
 23 alternatives.

24
 25 Attorney Sheridan said that the tower at Heritage Hills is the tower that
 26 Verizon wants to go on and pursuant to Federal Law they are allowed to
 27 co-locate on the Heritage Hills tower because it is an eligible facilities
 28 request. He mentioned that Verizon may co-locate on other towers in
 29 Town. Attorney Sheridan said that co-locating on the tower at Heritage
 30 Hills will improve service in the area.

31
 32 Michael Egan asked what is the need for the tower.

33
 34 Attorney Sheridan said that there needs to be separation between the two
 35 carriers in Town. He explained that Verizon is allowed to extend 20' but
 36 are only requesting 15'.

37
 38 Joyce Liebman, resident of 475B Heritage Hills, asked why are we having
 39 this meeting when this has to be approved.

1 Ms. Gerbino said that the Board is also frustrated and that is because of
2 the Federal Law.

3
4 Planning Board Town Attorney Eriole reminded the Board and the public
5 that demands made to this applicant were provided even though they did
6 not have to provide the information. He explained that the Public Hearing
7 is valuable because this dialog can be heard.

8
9 Ms. Prisco asked why did the Town of Somers adopt a Telecommunication
10 Code if they do not honor or adhere to it.

11
12 Planning Board Town Attorney Eriole said that the Federal Law and Town
13 Law have changed since 2008 and 2009.

14
15 Ms. Gannon said that health issues are not open to discussion and that is
16 subject to the 1996 Telecommunication Act. She asked if the economic
17 argument could be a reason to deny this application.

18
19 Planning Board Town Attorney Eriole said that the economic argument is
20 not a basis for denying this application.

21
22 On motion by Chair Currie, seconded by Mrs. DeLucia, and unanimously
23 carried the Board closed the Public Hearing on New York MSA, Limited
24 Partnership, d/b/a Verizon Wireless for co-location of a Verizon Wireless
25 facility on a Tower extension, with a ten-day written comment period.

26
27 Chairman Currie directed that the application be continued at the August
28 10, 2016 Planning Board meeting.

29
30
31 **CROSSROADS AT BALDWIN PLACE**
32 **(FORMERLY THE GREEN AT SOMERS) [TM: 4.20-1-3.1]**

33
34 Chairman Currie noted that this is the Public Hearing for the application for
35 Site Plan Approval, Wetland and Stormwater Management and Erosion
36 and Sediment Control Permits for property located on Route 6 (Golfworks
37 property). He said that the proposal is for a mixed use development
38 consisting of a two-story 24,000 s.f. building with 12,000 s.f. of retail and
39 12,000 s.f. of professional office and 64 residential units.

40

1 Kenneth Kearney, applicant, noted that he recently complete two projects
2 across the street, The Mews I and The Mews II, affordable senior housing
3 units. He explained that sewer service has been made available for the
4 Somers Planned Hamlet Mr. Kearney mentioned that the neighbors
5 across the street, AvalonBay, is underway and is building luxury
6 apartments.

7
8 Mr. Kearney said that his proposal is located on the Golfworks property to
9 construct three buildings, three residential and one commercial building.
10 He said that the breakdown on the three residential buildings is one
11 building will be two-stories with 24 one-bedroom senior apartments,
12 building 2 will be two-stories from the front and is built on a grade so the
13 rear will have a walkout so there will be 24 one-bedrooms and 4 two-
14 bedroom apartments. Mr. Kearney said there is a building that is
15 perpendicular to Route 6 that will not be aged restricted and will have 12
16 two bedroom apartments. He mentioned that six of the affordable units will
17 rent at \$1,280 a month and four of the units will rent for \$1,900 per month
18 and two units will be market rate. He noted that the building on Route 6 is
19 a commercial building with a 12,000 s.f. footprint and consists of seven
20 retail stores with offices on the second floor. Mr. Kearney said that his
21 company will be located on the second floor.

22
23 Mr. Kearney said that he is making a petition to the Town and the County to
24 run a sewer line to the adjacent commercial property. He noted that the
25 hope is to stimulate commercial development along a stretch of Route 6.
26 He mentioned that talking to neighbors, the lack of a sewer line and the
27 high water table in that area has precluded them from expanding or
28 attracting commercial tenants. Mr. Kearney said that he is proposing to run
29 a sewer line to connect the property at the corner of Mahopac Avenue and
30 Route 6 and the front of the Baldwin Farm Stand, Dunkin Donuts and
31 Golfworx property, restaurant, Grand Central Deli, Naclerio property and
32 two properties owned by Kevin Dwyer. He said that the sewer district will
33 extend to PJ's Restaurant and the Shell Station. Mr. Kearney said he is
34 also proposing a sidewalk from the crosswalk where Clayton Boulevard
35 starts off of Route 6 and on the Golfworks side of the street from the traffic
36 light all the way up past the Baldwin Farm stand. He mentioned that he is
37 proposing a traffic light with the crosswalk in front of his property. He said
38 that this will allow the pedestrian traffic to flow from his development to their
39 side of the street including his tenants and AvalonBay's tenants. Mr.
40 Kearney said the name Crossroads means to connect one side of the

1 street to the other as this will enhance commercial development. He
 2 explained that most of the property owners have signed the petition which
 3 will be submitted to the Town and then to the County to be included in the
 4 County Sewer District. He said that the County will be providing funds and
 5 will pay for most of the off-site improvements.

6
 7 Mr. Kearney said his development will be developed with the Housing
 8 Action Council with the Kearney's retaining long-term ownership.

9
 10 Richard Williams, the applicant's engineer, explained that the site is 11
 11 acres with 10 ½ acres in Somers and ½ acre, fifty foot strip, in Carmel but
 12 there is no development proposed in Carmel. He noted that there is a DEC
 13 Wetland on the northern side of the site and there is encroachment into that
 14 wetland. He said that a substantial amount of that disturbance will be
 15 reclaimed with a mitigation area and a constructed pocket wetland that will
 16 serve as a water quality and quantity and treatment of the Stormwater
 17 Pollution Prevention Plan (SWPPP). He indicated that there will be green
 18 space that will be used as a bio-retention filter with grass swales along the
 19 back and front of the property and a sand filter and pocket wetland.

20
 21 Engineer Williams said that there will be an on-site sewer collection system
 22 that will flow to a pump station located in the rear corner of the property.
 23 He explained that the pump station will have a force main that pumps
 24 the sewage into the Somers Realty Planned Hamlet Pump Station, down
 25 Route 6 and into the County trunk line. Engineer Williams said that the
 26 Gravity Sewer will be constructed from the corner of the property located
 27 on Mahopac Avenue and Route 6 and will tie into the onsite collection
 28 system. He mentioned that a second Gravity Sewer line will be constructed
 29 along the northern portion of Route 6 and will be directionally drilled under
 30 Route 6 across from Grand Central Deli and will tie into the eight inch line
 31 constructed as part of Somers Realty Phase 2.

32
 33 Engineer Williams said that 11,000 s.f. of sidewalk will be constructed
 34 from the corner of the Mahopac Farm Stand up to the existing southern
 35 entrance of the Somers Commons Shopping Center.

36
 37 A.J. Capozza, the applicant's architect, said that the commercial building is
 38 the signature building and is located on Route 6 with the footprint 12,000
 39 s.f. and the first floor will have retail with an elevator servicing the entire
 40 second floor. He noted that the three residential buildings are similar to

1 The Mews. He mentioned that all three of the residential buildings are
2 sprinklered.

3
4 Chair Currie opened the Public Hearing and asked Planning Board
5 Secretary Murphy if the Legal Notice was published and the adjoining
6 property owners notified.

7
8 Planning Board Secretary Murphy stated that the legal notice was
9 published in the Somers Record on June 30, 2016 and the adjoining
10 property owners were notified via mail on July 1, 2016. She mentioned that
11 the sign was posted on the property stating the place, date and time of the
12 Public Hearing.

13
14 Chair Currie asked if anyone from the public would like to be heard.

15
16 Larry Levine, owner of property at 250 Mahopac Avenue, said he is present
17 to voice his support of the Crossroads at Baldwin Place. He mentioned
18 that in 1992 he owned and operated a small automotive parts business in
19 the old Baldwin Place Shopping Center. He said that in 1995 he was
20 notified that his business would have to vacate the premises because the
21 shopping center was being closed down due to soil contamination caused
22 by toxic cleaning chemicals. Mr. Levine said he was able to stay for 18
23 more months when he purchased the property on Mahopac Avenue. He
24 mentioned that by the fall of 1997 he moved into his new building. He said
25 that the Rome Barber Salon leased space in his building. Mr. Levine said
26 that in 2016 he has seen a lot of changes some great, some good and
27 some not so good. He mentioned that what is great is the revitalization of
28 the area with a new Shopping Center, The Mews I and The Mews II,
29 AvalonBay and the Hidden Meadow project. He noted that the good
30 changes are the traffic pattern changes, new traffic lights, crosswalks and
31 turning lanes. He said that there now is access to a municipal water district
32 that ensures safe drinking water. Mr. Levine said that the northern side of
33 the road has not seen changes other than access to water. He said that
34 from the standpoint of a commercial property owner he is in dire need of
35 sewer access at his property line, as well as sidewalk access. He opined
36 that the Crossroads project will be a great addition for the following
37 reasons: it will fall into the Corridor Plan as far as infrastructure
38 development with a traffic light at the development to help with safety
39 concerns and aesthetically the look and design of the project will help the
40 area and quality of construction is evident in the Mew I and Mew II. Mr.

1 Levine said that everything he has mentioned is important to Somers and
2 the most important concern is the access to sewers. He opined that this is
3 the same feeling that other commercial property owners have as well. He
4 stated that he has concerns about his property and its future. He mentioned
5 that in the past and today any tenant that wishes to lease space from him is
6 guided by water usage, zoning and parking restrictions. Mr. Levine said
7 that any business that wants to lease from him and requires more water
8 than one bathroom usage is subject to approval by the Westchester County
9 Health Department. He said that what has changed through the years are
10 the guidelines for septic capacity and gallons per day usage. He said that
11 in today's ever-changing retail environment the service industry is king and
12 the goods business is increasing for mass retailers and on line businesses.
13 He noted that as a result it brings him tenants that wish to consume water
14 as part of their everyday operations. Mr. Levine stressed that his building
15 now is 40% vacant and he directly attributes that to not havening sewer
16 access. He said that in the past three years he has lost 4 perspective
17 tenants to the septic rules of the Health Department. He said that he is
18 here today to make the Board understand not only all the good that has
19 happened but realize that there is still work to be done. Mr. Levine said he
20 hopes the Board understands how vital it is to have access to this new
21 proposed sewer district. He said that he understands that change is tough
22 but in his case there is a project being proposed by a developer that we all
23 know will do a great job as proven in the past by his other projects. He said
24 that if this project fails to move ahead and he is not granted sewer access
25 the opportunity will possibly never come in his or his family's lifetime.

26
27 Ed Rickert, Resident of 2 Shore Drive in Putnam County, showed the
28 Board an article in the North County News from 1981. He said that lights
29 were shining on his house from the Golf Range. He mentioned that nothing
30 was done about the lights during the review of The Green at Somers. He
31 noted that 75% of the property is wetlands and 25% has poor drainage.
32 Mr. Rickert said that Engineer Williams mentioned that a sewer plant will be
33 put on the back corner of the property but that is where the Town water
34 supply is located next to this property. He said that if the sewer plant
35 breaks it will contaminate the nearby wells. He noted that there is a pond
36 and the wood buffer is all marshy.

37
38 Mr. Rickert said another concern is the traffic. He opined that if this project
39 is approved it will create more traffic. He said that there are too many

1 traffic lights which adds to all the traffic. He suggested that the road be
 2 turned into four lanes as that will help the traffic problem.

3
 4 *At this time Mrs. DeLucia left the meeting.*

5 Ms. Gerbino explained that the Board cannot turn down a project because
 6 the traffic is heavy. She said that Route 6 is a State Road and the
 7 Department of Transportation (DOT) determines what will be done on their
 8 roads.

9
 10 Dennis Persico, resident of 266 Mahopac Avenue, said he has questions
 11 regarding the SEQRA process and the Negative Declaration (Neg Dec). He
 12 asked what the official status of the project is.

13
 14 Sarah Brown, Consultant Town Planner from Frederick P. Clark, said that
 15 the Planning Board adopted the Neg Dec at the last meeting.

16
 17 Mr. Persico said that he wrote a letter to the Board on May 18, 2016 about
 18 concerns with the Neg Dec but has not received a response.

19
 20 Ms. Brown noted that the applicant's attorney responded to Mr. Persico's
 21 letter.

22
 23 Planning Board Town Attorney Eriole said that everything that is submitted
 24 to the Board was considered and became part of the record. He said that
 25 the Board took into account letters and correspondence which they
 26 considered during the review of the Neg Dec.

27
 28 Mr. Persico said that there is contaminated soil on the site but the previous
 29 Neg Dec in 2013 did not mention the contaminated soil. He noted that if
 30 there is contaminated soil on a job site it should be part of the Neg Dec.
 31 He commented that the applicant's attorney said that the Board knew about
 32 the contaminated soil and said that it is not a big deal and not to worry
 33 about it. Mr. Persico said the question is was the 2013 Neg Dec inaccurate
 34 or improper and if it was how can that be reaffirmed. He mentioned that
 35 the 2016 Neg Dec talks about mitigation and that is a key consideration
 36 according to the NYSDEC handbook and is something that triggers a
 37 Positive Dec. Mr. Persico opined that this project should be a Positive Dec
 38 because of the presence of the contaminated soil.

39

1 Mr. Persico said that the previous Neg Dec provided for the creation of
2 30% less impervious surface. He mentioned that the applicant's attorney
3 said that his math was wrong because the previous project proposed a total
4 of 2.8 acres of impervious surfaces and that is a 7% increase not 30%. He
5 said that there is 2.2 acres on the site where it used to be 1.7 acres and by
6 his math that is a 30% increase. He questioned if the Board checked the
7 attorney's figures. He stated that you have to make sure that there will not
8 be extra pollutants into the system as there can't be an increase. He
9 questioned if a loading analysis has been developed submitted and
10 approved.

11
12 Mr. Persico said that the previous Neg Dec provided for two existing
13 drainage pipes that were discharging into the 100 foot wetland buffer to be
14 removed. He commented that the Board felt it was important that the
15 pipes be removed from the wetland buffer and now they are being put back
16 in. Mr. Persico said that there also will be mitigation of the wetland and this
17 is a trigger to a Positive Dec.

18
19 Mr. Persico said that the previous Neg Dec did not properly address the
20 concern of the adjacent property owners. He said this should be
21 addressed under "Community Quality" in the Neg Dec and it wasn't. He
22 noted that SEQRA regulations state that any new information that happens
23 by the time the Neg Dec is approved and then reaffirmed that information
24 needs to be part of the record and it wasn't. Mr. Persico mentioned that in
25 2013 a petition was submitted by adjoining property owners noting their
26 objection to this project and opposing the zoning text amendment. He
27 noted that the adjoining property owners are against the zoning text
28 amendment because it will double the people living adjacent to their
29 property. He said that if the text amendment is approved it will be a
30 detriment to his and the neighbors quality of life and property values. He
31 said that the applicant should work within the guidelines of the law and not
32 change the text amendment.

33
34 Mr. Persico asked that the Neg Dec be rescinded and asked why retail
35 would not be marketable and why it is in the Neg Dec. He mentioned the
36 letter dated July 6, 2016 to the Town Board from the Planning Board that
37 supports the amendment because they believe that commercial uses are
38 not marketable in the rear of the property. He asked why the Board is
39 concerned about marketability. He stressed that Somers Commons does

1 not have a lot of road frontage and they are successful. Mr. Persico asked
 2 that the memo of July 6, 2016 to the Town Board be rescinded

3
 4 Mr. Persciso said that he welcomes this property to be developed but he
 5 wants it to be developed within the confines of the existing law and that the
 6 Neg Dec be rescinded for all the legal reasons that he mentioned. He also
 7 asked that the Watershed Inspector General (WIG) receive a copy of the
 8 Neg Dec.

9
 10 Linda Whitehead, the property owner's attorney, noted that she teaches
 11 SEQRA and wants to address some of the comments that were made.
 12 She explained that just because neighbors oppose the project does not
 13 mean there is an impact on community character. She said that the
 14 opposition is not new information as it was stated previously and does not
 15 have to be stated in a Neg Dec. She said that there was some false
 16 information in regard to mitigation. She said that mitigation is proposed as
 17 a part of the project. Attorney Whitehead said that proposing mitigation
 18 does not require a Positive Declaration, mitigation is what you should do.
 19 She explained that when you do a Neg Dec you state that the potential
 20 impacts have been mitigated and that there are no significant adverse
 21 impacts. Attorney Whitehead noted that the contaminated soil was
 22 discussed and that during construction if any contaminated soils was
 23 identified they would be removed during construction. She stressed that a
 24 Remedial Action Work Plan has been prepared and approved by the
 25 Department of Environmental Conservation (DEC). Attorney Whitehead
 26 said that there is a very small area of contaminated soil under the parking
 27 lot in the area where gasoline pumps were years ago. She explained that
 28 the contaminated soil will be removed and the area tested to make sure
 29 they removed all the contaminated soil. She commented that within two
 30 weeks the contaminated soil will be removed. She explained that this is
 31 part of the action that the soil will be remediated and cleaned up so it is not
 32 an impact and is not something that automatically triggers a Positive
 33 Declaration.

34
 35 Attorney Whitehead mentioned the issue of retail in the back of the
 36 property. She said that two marketing studies were submitted for the
 37 previous application and state that without the visibility from Route 6 stores
 38 would not be marketable. She said that the Board was very concerned
 39 about empty stores and that is not good for community character.

40

1 Richard Williams, the applicant's engineer, said that 20 years ago angled
2 lighting was common but today it is not. He said that lighting now is direct
3 down lightning and its dark sky friendly. He mentioned that a lighting plan
4 will be submitted with no off site spillage. Engineer Williams explained that
5 the pump station is a self-contained unit and has a backup generator and is
6 not a septic system. He mentioned that the pump station will be over 100
7 feet from the wetland. Engineer Williams's said that traffic studies were
8 conducted and mitigation was recommended and will be followed. He
9 noted that the DOT is the involved agency and the authority and will have a
10 direct say over what can and cannot be done as far as mitigation. He
11 indicated that there will be a traffic light. Engineer Williams said in regard
12 to the impervious surfaces in the previous plan there was 1.7 acres of new
13 impervious surfaces proposed, 0.4 acres of pervious pavement and 0.7
14 acres of existing pavement that was being redeveloped and that is a total of
15 2.8 acres. He noted that for the new project there is 2.2 acres of new
16 impervious surface 0.1 acres of porous pavement and 0.7 acres of existing
17 impervious that is being redeveloped and 3 acres of existing pavement
18 being redeveloped He mentioned that the difference is 7%.

19

20 Engineer Williams said that the Pollutant Loading Analysis (PLA) is done
21 and he is sending it to the Watershed Inspector General (WIG) for his
22 review. He stressed that the PLA is not required by the regulations and is
23 not required by the Department of Environmental Conservation (DEC).

24

25 Anthony Mileto, resident of 266 Mahopac Avenue, asked what happened to
26 the 50 feet that is owned by the Town behind his property and the Golf
27 range. He mentioned that it is not shown on any plans and is a proposed
28 road. Mr. Mileto said that a former Building Inspector made the owner put
29 in \$100,000 worth of drainage. He said that there is water pouring down
30 his hill during a drought time that is running toward the golf range. Mr.
31 Mileto noted that there is a pond on the property with marsh in the front of
32 the pond. He asked what happened to the zoning regulations as another
33 applicant was turned down and he proposed a similar project. He stated
34 that the traffic is terrible with backups happening during the rush hour.

35

36 Chair Currie explained that the Planning Board did not turn the previous
37 project down. He explained that they actually recommended it but the
38 Town Board never voted on changing the zoning.

39

1 Director of Planning Dym explained that the Public Hearing Notice was
2 published and a mailing was done for residents within 500 feet of the
3 project but tomorrow there will be a Public Hearing on the text amendment.
4 She noted that there is no requirement to notice adjoining property owners.
5

6 Engineer Wasp said that there are issues that have to be reviewed. He
7 stated that the Town has committed to the WIG that the Public Hearing
8 would be kept open until the SWPPP is finalized.
9

10 Mr. Goldenberg mentioned the letter from the DOT dated July 8, 2016 that
11 says that since the project has changed since initially proposed under The
12 Green at Somers they requested certain information and he is sure that the
13 applicant's engineer will provide the information that is requested.
14

15 Chair Currie directed that the Public Hearing be continued at the August
16 10, 2016 Planning Board meeting.
17

18 **CONTINUATION OF PUBLIC HEARING**

19
20 **SOMERS CROSSING [TM: 17.15-1-15.1]**

21
22 Chairman Currie explained that the applicant's representatives are not
23 present this evening but he will open the Public Hearing if anyone wishes to
24 be heard.
25

26 Chair Currie noted that there was no one present who wished to speak so
27 he directed the Public Hearing to be continued at the August 10, 2016
28 Planning Board meeting.
29

30 **PROJECT REVIEW**

31
32 **WRIGHT'S COURT SITE 'A' [TM: 17.11-1-18]**

33
34 Chairman Currie said that this is an application for a re-grant of Amended
35 Site Pan, Special Exception Use Permit for activities within a Groundwater
36 Protection Overlay District and Stormwater Management and Erosion and
37 Sediment Control Permits for property located at Scott Drive and Route 202
38 for the construction of two buildings, parking and associated improvements.
39

40 Adam Wekstein, the applicant's attorney, said that he is present for a

1 re-approval of this project. He explained that the project was originally
 2 approved for both sites. He mentioned that in 2009 amendments were
 3 made to the project specifically with respect to a cross easement with Site
 4 "B" and Il Forno. Attorney Wekstein explained that Site "B" is on the east
 5 side of Scott Drive and Site "A" is on the west side of Scott Drive. He noted
 6 that in 2012 the amended approval was granted and since that time there
 7 were extensions of the Site Plan Approval and the Stormwater
 8 Management and Erosion and Sediment Control Permit. Attorney
 9 Wekstein said that those approvals have just expired and the four year
 10 deadline will elapse in another few days. He asked the Board to re-grant
 11 the application as nothing has changed in substance to the project.
 12 Attorney Wekstein opined that keeping Site "A" and Site "B" as an
 13 integrated project is a benefit to the Town. He said that an easement will be
 14 provided between Site "A" and the Town Hall property which will allow for
 15 cross vehicular access and the use of sidewalks on Site "A" from Scott
 16 Drive and the Town Hall. Attorney Wekstein said that the frontage in the
 17 right-of-way of Route 202 from Scott Drive joining up to the sidewalk in
 18 front of Town Hall will be improved.

19
 20 Mr. Goldenberg asked if the applicant has an obligation to take care of the
 21 property. He said that there are weeds growing all over the place.

22
 23 Attorney Wekstein said that there is vegetation but the site is stable. He
 24 said the best way to have the site look like Site" B" is to grant the approval.

25
 26 Ms. Gerbino asked what is the reason for the fence.

27
 28 Edmon Ryan, applicant, said that a new septic system was put in so the
 29 fence is for safety and to keep people off the property. He said that
 30 Heritage Hills Management is supposed to maintain the property. Mr. Ryan
 31 said he will make sure that the property is mowed.

32
 33 Assistant Consultant Town Engineer Wasp said that his office reviewed the
 34 Stormwater Pollution Prevention Plan (SWPPP) and the Site Plan and the
 35 comments are minor in nature and that he recommends approving the
 36 Conditional Re-Granting of the Amended Site Plan. He said that the
 37 SPDES Permit is still active and inspections are taking place. Engineer
 38 Wasp explained that the project requires disturbance within the right-of-way
 39 of Route 100 and must obtain coverage under a NYS Department of
 40 Transportation (NYSDOT) Highway Work Permit. He mentioned that the

1 applicant shall provide documentation of the DOT Highway Permit approval
2 prior to the signing of the Site Plan by the Chairman.

3
4 Director of Planning Dym said that the Board has to address the treatment
5 of the sidewalks. She noted that originally Site “B” was approved with brick
6 similar to what is in front of the Town Hall but then a revision was made to
7 use stamped concrete sidewalks.

8
9 Director of Planning Dym said that the first WHEREAS Clause on Page 7 of
10 the Draft Resolution will reflect the use of stamped concrete sidewalks.
11 She said that Condition 9 on page 10 will read *That all sidewalks shall be*
12 *stamped concrete.*

13
14 Attorney Wekstein said that the DOT under the first approval granted
15 approval but he cannot go back to them until the Board gave direction on
16 the sidewalk. He noted that all the agreements and easements that are
17 required were signed off and approved by the Consulting Town Engineer,
18 Planner, Attorney and are filed in the Westchester County Clerk’s Office.
19 Attorney Wekstein said that the concern with the SWPPP maintenance
20 agreement is that it referenced the SWPPP and the plans from 2009. He
21 said that he will submit a revised agreement that will update the plan
22 references and change the maintenance protocol to what the Consultant
23 Town Engineer wants.

24
25 On motion by Chair Currie, seconded by Ms. Gannon, (Mr. Goldenberg
26 voting nay) and carried, the Board moved to re-grant Conditional Amended
27 Site Plan Approval, Special Exception Use Permit for location within the
28 Groundwater Protection Overlay District and Stormwater Management and
29 Erosion and Sediment Control Permit pursuant to Section 170-114 of the
30 Code of the Town of Somers, as amended regarding sidewalk treatment.

31
32 **INFORMAL APPEARANCE WITH PLANS**

33
34 **TOWNE CENTRE AT SOMERS [TM: 17.15-1-13]**

35
36 Chairman Currie said that this is an application for an Informal Appearance
37 to discuss the proposal for improvements to the Towne Centre property.
38 He mentioned that the improvements include functional and aesthetic
39 changes to building facades as well as modifications to the site area
40 between buildings “A” and “B”.

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Chair Currie asked the applicant’s representative to explain the project for the benefit of the Board and the public.

Craig Von Ohlsen, the applicant’s representative, noted that he wants to receive the Boards input on the preliminary plans for improvements to the Towne Centre property. He said that Urstadt Biddle feels that the property needs a little face-lifting to improve the function and aesthetics of the plaza. He mentioned that the proposal deals with Site Plan and architectural elements and reworking of the facades, lighting and signage. Mr. Von Ohlsen said that what is driving this is the core area of the project where all the activity happens. He noted that the presence of parking has been lacking, so he wants to add more parking. Mr. Von Ohlsen said that parking is one of the critical elements of the Site Plan.

Mr. Von Ohlsen explained that he is making improvements to the site. He mentioned that he had a pre-application meeting with the Town Supervisor, Director of Planning, the Principal Engineering Technician and the owner of the Towne Centre. He noted that at that meeting it was decided that he present the concept plans to the Architectural Review Board (ARB) to get their input first and then to the Planning Board. He said that he will be filing a Site Plan application but wants the Board’s ideas and input first.

Mr. Von Ohlsen said the areas between Building “A” (CVS) and Building “B” (Astoria Bank) will be the primary focus of the work. He said that access to the post office and access to Burke’s Rehabilitation will be reconfigured to angled (60 degree) parking with a 4 foot wide, 3 inch high mountain curb median strip separating the drive aisle directions. He indicated that this will divide the traffic flow that has many benefits. He said that it will slow things down. Mr. Von Ohlsen said there will be more efficient use of the space. He commented that there will be a net increase of 9 parking spaces brought into the core retail activity area to be more accessible to shopping and restaurants. Mr. Von Ohlsen said that three handicapped spaces will be removed but will be replaced in a different area.

Mr. Von Ohlsen said that pavers will be introduced. He noted that pedestrian circulation will be improved and guided across the driveway aisles on pavers matching the new pavers to be used on the walkways and pedestrian areas. He mentioned that the ARB felt that the crosswalks

1 should be the same material as the pavers. He said that the proposed
2 reconfiguration will necessitate the removal of 5 existing trees from
3 walkway planters, however, there will be 5 new trees added in the core
4 area.

5 Mr. Von Ohlsen noted that there will be elevated planters installed on the
6 edge of the plaza for outdoor seating and dining. He said that there will be
7 elevated planters installed on the edge of the plaza fronting the new angled
8 parking which will further enhance the space and provide protection to that
9 area. He mentioned that the tower on Building "A" will be removed and the
10 overhang will be made smaller and will open up the space and help create
11 a plaza area for outdoor seating and dining.

12
13 Mr. Goldenberg asked if there is something in the code about outside
14 dining.

15
16 Planning Board Town Attorney Eriole said that he will look into it as he
17 would not be surprised if there was some type of rule or condition in
18 reference to the use of outdoor dining.

19
20 Mr. Von Ohlsen said the issue of outside dining came up at the pre-
21 application meeting and it was felt that there would be some flexibility and
22 ways to deal with that issue in the outline of the regulations.

23
24 Mr. Goldenberg said that the applicant should check with the Fire
25 Department because at the Burke Rehabilitation site there are signs saying
26 "do not park fire lane".

27
28 Mr. Von Ohlsen said that it was suggested at the ARB meeting that they
29 make a presentation to the Fire Prevention Bureau.

30
31 Ms. Gannon noted that when you come in the main entrance at the second
32 intersection everyone has to stop because there is no room to turn in and
33 out. She said that with the proposed new parking the cars will be pulling in
34 and out on the main thoroughfare. Ms. Gannon said that the proposed new
35 parking especially near Dunkin Donuts, makes her nervous.

36
37 Robert Aiello, representing JMC Planning and Engineering, said that the
38 angled parking spaces will be more efficient when you are pulling in and
39 will provide additional parking spaces.

40

1 Ms. Gannon said that originally there were three handicapped spaces and
2 now there are only two handicapped spaces and she does not understand
3 that.

4 Mr. Von Ohlsen said that there are 20 handicapped spaces throughout the
5 site and are in access of ADA requirements.

6
7 Ms. Corning said that the Burke facility is in need of handicapped spaces
8 and when the spots are being relocated there should be at least one
9 outside the Burke facility.

10
11 Chair Currie asked who will absorb the cost for the improvements.

12
13 Rob Weeks, representing Urstadt Biddle, explained that he is concerned
14 about the cost to the tenants as this will be a capital improvement project
15 and that will affect the tenants.

16
17 Ms. Gerbino asked if sewers are coming to the Towne Centre.

18
19 Engineer Wasp said that the current plan has the wastewater and water
20 utilities running along the back of the site and will not cross through this
21 portion of the Towne Centre site. He noted that there is discussion that the
22 sewers designed for Somers Crossing can accommodate flows from the
23 Towne Centre.

24
25 Director of Planning Dym said that Somers Crossing and the access to this
26 project in two locations from the residential and the commercial there will
27 be three lost parking spaces. She asked if the 9 additional parking spaces
28 take into account the 3 lost spaces. Director of Planning Dym said that
29 when the Site Plan is submitted that the applicant take into account the two
30 access points and the loss of the 3 parking spaces.

31
32 Mr. Von Ohlsen noted that the net 9 spaces only relates to the area in the
33 Towne Centre.

34
35 Rogerio Franco, the applicant's architect, said that he is proposing new
36 benches, light fixtures and site furniture to improve the function and
37 aesthetics. He mentioned that there will be improvements to the façades
38 including material upgrades and new signage. Architect Franco said that
39 the existing columns will be wrapped with stone veneer. He commented

1 that gutters will also be added. He mentioned that there will be changes to
2 Building "C" that will have a color change and new lightning.

3
4 Engineer Wasp said he will review the gutters to determine if there will be a
5 problem with stormwater runoff.

6
7 Mr. Goldenberg said that he hopes that something can be done about the
8 windows at CVS.

9
10 Mr. Weeks said that the tenant is responsible for the cleanliness and
11 maintenance of their windows. He noted that he will contact Corporate
12 CVS and ask if they can help out.

13
14 There being no further business, on motion by Chairman Currie, seconded
15 by Ms. Gannon, and unanimously carried, the meeting adjourned at 12:15
16 A.M. The Chair announced that the next Planning Board meeting will be
17 held on Wednesday, August 10, 2016 at 7:30 P.M. at the Somers Town
18 House.

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Respectfully submitted,

Marilyn Murphy
Planning Board Secretary