

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
July 22, 2014

4

5

6

7 **ROLL:**

8

9 **PLANNING BOARD**

10 **MEMBERS PRESENT:**

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

11

12

13 **ALSO PRESENT:**

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

14

15

16

17

18 **ABSENT:**

Mrs. DeLucia

19

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

23

24 **APPROVAL OF DRAFT MINUTES FOR MEETING HELD ON**
25 **JUNE 11, 2014.**

26

27 Chairman Currie noted that Planning Board Secretary Marilyn Murphy
28 prepared and submitted for the Board's consideration approval of the draft
29 minutes of the Planning Board meeting held on June 11, 2014.

30

31 Chair Currie asked if there were any comments or corrections from the
32 Board on the June 11, 2014 Planning Board minutes and no one replied.

1
2 On motion by Ms. Gannon, seconded by Mr. Goldenberg, and unanimously
3 carried, the Board moved to approve the draft minutes of June 11, 2014.

4
5 The DVD of the June 11, 2014 Planning Board meeting is made a part of
6 the approved minutes and is available for public viewing at the Somers
7 Public Library and that the text of the approved minutes is also on the
8 Town’s website and is available for public review at the Planning &
9 Engineering office at the Town House.

10
11 **PUBLIC HEARING**

12
13 **SUSAN HAFT AND RIDGEVIEW DESIGNER BUILDERS, INC.**
14 **[TM: 16.12-1-41, 42]**

15
16 Chairman Currie said that this is a Public Hearing on the application of
17 Susan Haft and Ridgeview Designer Builders for Amended Final
18 Subdivision Plat Approval. He mentioned that the property is owned by
19 Ridgeview Designer Builders and Susan Haft and is located on the east
20 side of Lovell Street. Chair Curie explained that the applicant is requesting
21 the amendment of final subdivision approval to permit them to file the
22 application in two sections pursuant to Town Law Section 276(7)(b) and the
23 Town of Somers Subdivision Regulations Section 150-13(K).

24
25 The Chair asked Planning Board Secretary Murphy if the legal notice was
26 published and the adjoining property owners notified.

27
28 Planning Board Secretary Murphy said that the legal notice was published
29 in the Somers Record on July 17, 2014 and the notice of the Public Hearing
30 was mailed to the adjoining property owners on July 7, 2014.

31
32 The Chair asked the applicant’s representative to update the Board on the
33 application.

34
35 Geraldine Tortorella, the applicant’s attorney, explained that the subdivision
36 involves two properties owned by Susan Haft and Ridgeview Designer
37 Builders. She mentioned that the property owned by Susan Haft, Section
38 II, is improved with a single family residence, garage, cottage and inground
39 pool and the Ridgeview parcel will be divided into Lots 3 and 4. Attorney
40 Tortorella said that originally the Board granted approval for a four lot

1 subdivision in August 2010. She explained that the property was to be
2 subdivided into four (4) lots with lots 1 and 2 carved out of the Susan Haft
3 property and a small strip of land from the Ridgeview Builders property and
4 lots 3 and 4 are cut out of the Ridgeview Builders property. Attorney
5 Tortorella mentioned that the original plan had a single conservation parcel
6 with frontage on Lovell Street and access to the subdivision lots across a
7 common driveway from Lovell Street.

8
9 Attorney Tortorella stated that the plat was never filed but as the law
10 allows, the applicant installed the infrastructure improvements which
11 include the common driveway, an extensive stormwater management
12 system and utilities. She commented that the applicant has satisfied
13 financial obligations from the original approval such as engineering
14 inspection fees, recreation fees and the erosion and sediment control bond.
15 Attorney Tortorella said that inspections have been made throughout the
16 course of construction.

17
18 Attorney Tortorella noted that the applicant is seeking to modify the final
19 plat simply to allow the plat to be filed in sections which is allowed under
20 Town Law and Town Subdivision Regulations. She explained that the
21 proposal is for Lots 3 and 4 owned by Ridgeview Designer Builders, the
22 small strip of land will be conveyed over to Section II so the frontage for lot
23 2 will be available when lot 2 is created when Section II is filed. She noted
24 that Section I includes the access grading, drainage and utility easements
25 which is the easement area where the common driveway and the majority
26 of stormwater improvements are located. Attorney Tortorella mentioned
27 that all the material infrastructure for the entire subdivision is in Section I
28 and is substantially completed.

29
30 Attorney Tortorella said that Section II will be filed in the future. She
31 mentioned that as the Haft parcel is subject to a mortgage that they are not
32 prepared to pay off at this time. They do not anticipate being able to obtain
33 the lenders consent to file the plat within the foreseeable future. Attorney
34 Tortorella advised that she is trying to find a way so the investment in the
35 property is not lost and to take advantage of the development that has
36 occurred already and be able to build on the Ridgeview Developer lots
37 before the applicant has to deal with the lender on the Susan Haft parcel.

38
39 Attorney Tortorella said that there is a conservation parcel on Section I and
40 it is approximately 1.7 acres and Section II has a conservation parcel that is

1 approximately 1.4 acres. She explained that the reason for two
2 conservation parcels is that the applicant is following the existing lot line
3 that separates the Susan Haft parcel from the Ridgeview Developer's
4 parcel. She noted that each conservation parcel will be created at the time
5 the Section on which the parcel is located is filed with the County.

6
7 Attorney Tortorella said that there is no proposal to change the manner in
8 which the infrastructure improvements and lots will be built, the
9 improvements that will be constructed, or the manner in which the shared
10 infrastructure improvements will be owned and or maintained. She
11 mentioned that the only change is to separate the conservation parcels into
12 two separate parcels.

13
14 Attorney Tortorella said that originally there was to be a Homeowners
15 Association and that still will be formed. She noted that the Homeowners
16 Association will own the conservation parcels and maintain the common
17 driveway and drainage system in accordance with the applicable approvals.
18 She explained that membership in the Homeowners Association is
19 mandatory for the owner of each lot in a section and automatic upon the
20 filing of the Section Plat on which that lot is shown in the Office of the
21 Westchester County Clerk. Attorney Tortorella mentioned that the structure
22 will be disclosed in the documents filed with the Attorney General's office
23 and the documents will explain the sequence and responsibilities of the
24 financial obligations of the Homeowners Association. She said that the
25 easements, covenants and restrictions will be recorded at the time the
26 Section I Plat is filed with notes to this effect which explain the sections are
27 included on the various plats.

28
29 Attorney Tortorella noted that it was anticipated that the Westchester Land
30 Trust would accept the conservation easements. She explained that the
31 Westchester Land Trust was reluctant to accept the conservation
32 easements because of the downturn in the economy and not having
33 enough staff to monitor the easements. Attorney Tortorella mentioned that
34 she had a conversation with Susan Carpenter, counsel with the
35 Westchester Land Trust, who explained that based on their limited
36 resources and the isolated nature of this conservation easement they were
37 not in a position to accept the conservation easements. Attorney Tortorella
38 said that the Westchester Land Trust felt that it was more appropriate that
39 the Town hold and enforce the conservation easements. She explained
40 that the applicant now has to ask the Town Board to accept the

1 conservation easements but if they do not accept this responsibility the
 2 purposes and objectives of the easement can always be created by
 3 restrictive covenants that can be recorded against the conservation
 4 parcels. Attorney Tortorella advised that this can be embodied in the
 5 declaration and recorded in the declaration of covenants easements and
 6 restrictions or the applicant can make an outward grant of the conservation
 7 easement to the Town. She stated that these parcels will not be eligible for
 8 development in the future.

9

10 Attorney Tortorella stated that under the Town Subdivision Regulations
 11 §150-13.K there is criteria that has to be met in order to file a plat in
 12 sections under the following circumstances:

13

14 *(1) The Planning Board shall determine that the sections are logical in*
 15 *their extent. Each section shall encompass at least 10% of the total*
 16 *number of lots contained in the approved final subdivision plat.*

17

18 *(2) Conditional or final approval of the sections of a final subdivision*
 19 *plat may be granted concurrently with conditional or final approval of*
 20 *the entire plat, subject to any requirements imposed by the Planning*
 21 *Board. The extent of each section shall be shown on the overall final*
 22 *subdivision plat.*

23

24 *(3) No section will be approved for filing prior to another section or*
 25 *sections upon which will depend for street access and traffic*
 26 *circulation. No section will be approved for filing if a prior section has*
 27 *not first been satisfactorily completed.*

28

29 Attorney Tortorella said that the criteria has been met except for the
 30 Conservation Parcels, the lots, their means of access and the stormwater
 31 improvements are identical to that previously approved by the Board and
 32 the sections follow the dividing lines between the Haft and Ridgeview
 33 parcels. She noted that each section contains fifty (50) percent of the total
 34 number of lots.

35

36 Attorney Tortorella noted that the common driveway provides access to
 37 each lot and the stormwater management system for the entire subdivision
 38 are substantially completed so there can be no concerns that necessary
 39 and required information infrastructure improvements have not been or will
 40 not be constructed.

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

Attorney Tortorella stated that if the Board agrees to this amendment, the Board will approve the full Subdivision Plat and file it with the Town Clerk as a record of what has been approved. She explained that once the conditions for filing a section are satisfied, that section's plat will be filed. Attorney Tortorella explained that the Section I Plat will be filed first and the Section II Plat must be filed within three years. She said that the applicant can still apply for time-extensions.

Attorney Tortorella stated that there will not be any changes to the improvements or the number of lots. She noted that the only change is that one conservation parcel is being created into two conservation parcels.

Chairman Currie opened the Public Hearing and suggested that the Board and the public hear from staff first so they can have more information.

Syrette Dym, Director of Planning, said that SEQRA has already been completed; however, because this is an amendment a Determination of Significance has to be done. She noted that after reviewing the Environmental Assessment Form (EAF) there is no significant impact but the Board may want to reference the change in the Conservation Easement. Director of Planning Dym said that the Board can reaffirm the previous Negative Declaration.

At this time Mr. Keane joined the meeting.

Director of Planning Dym asked for clarification on what the Board is expected to approve.

Attorney Tortorella clarified that the Planning Board is approving an overall Subdivision Plat that shows sections, all the lots, both conservation parcels and all of the easements. She explained that the Board is also approving the Section I and Section II map that will be filed in the County Clerk's office. Attorney Tortorella said that the overall map is filed in the Town Clerk's office. She noted that when Section I is filed, title to the strip of land will be conveyed to the owner of Section II.

Planning Board Town Attorney Eriole agreed that Attorney Tortorella's description of what the Board will approve is accurate. He said that the plan the Board is approving is still the plan that was approved but is broken

1 up into two distinct pieces. Planning Board Town Attorney Eriole said the
2 Board has to decide if the manner the sections are broken up is logical and
3 is good planning.

4
5 Mr. Goldenberg said that at the last meeting he was concerned that escrow
6 money was not put up and that the Westchester Land Trust may not accept
7 the conservation easements and that there is a mortgage on the Susan
8 Haft property. He asked what the purpose is for the Board to make a
9 decision if the developer is not planning on building in the near future.

10
11 Attorney Tortorella said she does not understand the comment that escrow
12 money was not put up and she said that she explained the reason that the
13 Westchester Land Trust is not interested in the Conservation Easements.
14 She replied that the payments that have been made do mean something as
15 the recreation fee was paid prematurely and is a show of good faith.
16 Attorney Tortorella stated that the applicant does want to move ahead with
17 construction on Lots 3 and 4 but that cannot happen until there is a filed
18 map.

19
20 Director of Planning Dym said the Board should vote on referring the
21 Conservation Easements to the Town Board.

22
23 Attorney Tortorella explained that the request to the Town Board is to
24 accept the conservation easement. She said that she will submit the
25 instrument that created the conservation easement with a letter to the Town
26 Board. She noted that under the law the Town Board has to hold a Public
27 Hearing before it can accept property. She said that her comment about
28 the alternative is only if the Town Board decides that it is not interested in
29 accepting the Conservation Easement the backup is the proposal to take
30 the limitations that are in the legal conservation easement instrument and
31 reshape them as covenants and restrictions that will be filed and recorded
32 against the Conservation parcels that are in effect.

33
34 Planning Board Town Attorney Eriole asked if the resolution specified that
35 the Westchester Land Trust holds the Conservation Easements.

36
37 Attorney Tortorella said that the condition in the original Resolution is *that*
38 *the Conservation Easement document shall be filed simultaneously with*
39 *the filing of the plat and recorded at the Office of the Westchester County*
40 *Land Records.*

1
2 Planning Board Town Attorney Eriole said that either outcome in reference
3 to the conservation easements is consistent with the intent expressed with
4 that condition.

5
6 Chair Currie asked if anyone from the public would like to speak on the
7 application.

8
9 Eugene Levy, resident of 18 Dunhill Drive, said that he does not object to
10 the building being done in sections. He stated that his objection is to the
11 noise content he has been subjected to for the past three summers. Mr.
12 Levy noted that there has been an unbearable amount of noise starting
13 with the chipping of rock which is almost like a rock quarry in a residential
14 area. He noted that the summer of 2012, 2013 and 2014 had been ruined.
15 He said that you can't sit outside quietly or read a book or have a
16 conversation with a neighbor or enjoy the sound of Somers and the nature
17 that is there. Mr. Levy said that it has gotten to the point that it is
18 unbearable. He commented that this was probably the only business
19 operating after Hurricane Sandy as they were chipping stone the week of
20 the hurricane. Mr. Levy mentioned that in 2012 he had work done at his
21 home and his contractor asked him how he could stand the noise. He
22 interjected that this noise went on 8 hours a day five days a week,
23 sometimes even on Saturday. Mr. Levy said if this project goes on for
24 another 5 to 10 years this is a quality of life issue that is negatively
25 impacting the area and this is unfair to the homeowners on Park Lane and
26 Dunhill Drive. He asked the developer how much more chipping and stone
27 clearing will take place. Mr. Levy stated that when the boulders are moved
28 it sounds like thunder. He stressed that this is not what he moved to
29 Somers for and noted that he can't sleep with the windows open because
30 at 8 AM the chipping starts. Mr. Levy indicated that he complained to the
31 Supervisor in 2012 and he got a call from Mrs. DeLucia who said that the
32 developer has the right to work certain days and hours. He asked how the
33 developer's rights trump his rights for a quality of life issue.

34
35 Timothy Allen, the applicant's engineer, stated that the majority of the
36 infrastructure is complete. He explained that the Town Board passed
37 legislation that chipping should be used prior to blasting. Engineer Allen
38 said this is a requirement of the Town Code and Town Law. He opined that
39 blasting would have been a lot easier but the applicant was required to chip
40 first and as a last resort to blast. Engineer Allen said that may have to be

1 revisited because Mr. Levy would probably only have to be inconvenienced
2 for a day or two if blasting was allowed. Engineer Allen noted that the
3 applicant was only doing what he was supposed to do.

4
5 Ms. Gerbino said that Mr. Levy made a clear presentation about noise and
6 life in Somers and she suggested a formal request from the Planner to the
7 Town Board to readdress this issue.

8
9 Mr. Goldenberg said that he can't believe what he is hearing and that
10 nothing has been done about it.

11
12 Mr. Foley asked how much more chipping has to be done.

13
14 Engineer Allen stated that all the roadways and drainage are in and the
15 only chipping will be for the foundation for the houses.

16
17 Mr. Levy said that the chipping is over until the foundations are put in but
18 now boulders are being moved and it is echoing throughout the area and is
19 going on for 5 to 6 hours a day. He indicated that there are two separate
20 noise operations, chipping and the rolling of the boulders.

21
22 Mr. Keane asked what is the mechanism to change from chipping to
23 blasting.

24
25 Planning Board Town Attorney Eriole advised that there may not be a
26 provision that allows the Board to waive the provision in the Code it may
27 need a variance from the Zoning Board of Appeals (ZBA). He said that he
28 will get an answer and that can be addressed in the amended Resolution.

29
30 Engineer Allen said that the Code states that blasting should be the last
31 means necessary.

32
33 Consultant Town Engineer Barbagallo said that the foundation could have
34 potential rock removal and he requested that the timeframe be provided
35 and break that out on a work area basis and give the context of what this
36 might be from a noise perspective.

37
38 Engineer Allen stated that the time frame is impossible and we are getting
39 off tract as this is a simple lot line change. He stressed that the applicant is
40 adhering to the hours of operation.

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

Mr. Foley mentioned that this applicant has received many, many time extensions and this could have far reaching implications.

Attorney Tortorella explained that the extensions are to file a map not to do construction. She noted that construction started in 2012 and the applicant did not work in the summer of 2013 and has not on a daily basis been moving rocks around.

Mr. Keane said that there should be an assessment made as to how blasting can shorten the process so there is a time comparison to attenuate the noise problem.

Consultant Town Engineer Barbagallo said that you have to be careful with blasting because of adjoining structures.

Planning Board Town Attorney Eriole checked the Code and said that the provision for blasting is in the realm of the Board's discretion. He noted that the Code says that by avoiding rock excavation by blasting may cause unintended damage or injury to property or persons in the vicinity. He said that the Code states that blasting is not preferred and recognizes that there are impacts but if it is determined that it will not cause unintended damage or injury to property or persons it is in the Board's discretion to allow blasting. He said that the Board may have become aware of quality of life issues that may balance that consideration in favor of blasting in this case.

Attorney Tortorella read from the original Resolution under Section 148-7.B(4) (k) which states that if rock is encountered during construction that removal will be accomplished by ripping, hammering or drilling under the Code of the Town of Somers.

Mr. Foley read further in the Code which states that if labor and machines are not effective and the blasting is conducted according to Code it can go on and he asked why this is not happening.

Attorney Tortorella said that the policy in Westchester was that blasting was a no no because of the potential impact. She said that if rock removal is required in connection with construction of the residences on the lots in consultation with the Town Engineer and the Planning and Engineering Department, they will first determine if the quantity or duration of rock

1 removal warrants removal by blasting instead of ripping, drilling or
2 hammering. She noted that if the applicant uses blasting there is protocol
3 that has to be adhered to, such as surveys of surrounding properties.

4
5 Mr. Goldenberg said that there were revisions to the plan from 2007 to
6 2014 and numerous time-extensions. He asked why the applicant is
7 coming in for a subdivision when there is no building taking place.

8
9 Engineer Allen explained that the applicant is proposing to build a house on
10 Lot 4.

11
12 Consultant Town Engineer Barbagallo asked how big and how long will the
13 pile of boulders be on the property.

14
15 Eric Moss, applicant, said that there are piles of boulders that are
16 stockpiled together on the property. He explained that when someone
17 wants the boulders they are taken off the property and he also uses some
18 of the boulders for retaining walls and construction devices on the property.

19
20 Consultant Town Engineer Barbagallo asked for a timeline when the
21 boulders will be removed and that this information be provided for his
22 review. He asked what percentage of boulders will remain on site and what
23 percentage will be removed off site.

24
25 Mr. Moss replied that approximately 80% of the boulders will remain on
26 site.

27
28 Engineer Allen requested that the timeline for the removal of the boulders
29 be a condition in the final approval for the satisfaction of the Consultant
30 Town Engineer.

31
32 Ms. Gannon said that this is not a commercial property and the sale and
33 removal off site of the boulders is not an activity that is central to the
34 purpose of this site.

35
36 Mr. Moss said the boulders are being used for landscaping and stone walls
37 and is a green building practice.

38
39 On motion by Chair Currie, seconded by Mr. Keane, (Mr. Goldenberg
40 abstaining) and carried, the Board moved to close the Public Hearing on

1 the Amended Conditional Final Subdivision Approval, Steep Slopes, Tree
2 Removal and Stormwater Management and Erosion and Sediment Control
3 Permits

4
5 Chair Currie asked if the Board is comfortable making a recommendation to
6 the Town Board regarding the holding and enforcement of the
7 Conservation Easements and that the Town Board hold a Public Hearing
8 on acceptance of the easements.

9
10 Attorney Tortorella said she will go to the Town Board and request that they
11 accept the Conservation Easements in the Conservation Parcel but would
12 like to suggest the alternative that the Homeowners Association be
13 responsible for maintaining the Conservation Parcels and enforcing
14 covenants and restrictions defining those obligations.

15
16 Mr. Foley opined that the Homeowners Association being responsible for
17 maintenance of the Conservation Easements with the Town having
18 enforcement to collect expenses in the event of violations of these
19 covenants and restrictions is the better option.

20
21 Planning Board Town Attorney Eriole advised that the Planning Board can
22 decide if they want to make a recommendation to the Town Board or if they
23 want the Homeowners Association to accept the responsibilities of the
24 Conservation Parcels.

25
26 Chair Currie indicated that the consensus of the Board is that the
27 Homeowners Association be responsible for maintenance of the
28 Conservation Easements with the Town having enforcement to collect
29 expenses in the event of violations of these covenants and restrictions.

30
31 On motion by Mr. Currie, seconded by Mr. Keane, (Mr. Goldenberg
32 abstained) and carried, the Public Hearing on Susan Haft and Ridgeview
33 Builders, Inc. for Amended Final Plat Subdivision Approval was closed.

34
35 Planning Board Town Attorney Eriole said that the Board can state in the
36 Resolution that the Consultant Town Engineer can determine whether the
37 rock removal method should be blasting rather than ripping, hammering
38 and drilling at such time as construction of the houses commences.

39

1 Attorney Tortorella stated that the action is the filing of the plat in two
2 sections. She said that the majority of chipping has taken place.
3 Consultant Town Engineer Barbagallo asked if the applicant would agree to
4 notify the neighbors prior to rock removal.

5
6 Mr. Moss said that he will be open to not doing work when a neighbor is
7 having a special event but it is impossible to notify a neighbor every time he
8 is performing work that makes noise. He said he will do his best to quantify
9 how much more chipping has to be done.

10
11 Director of Planning Dym noted that the applicant prepared an EAF and the
12 Board reviewed the EAF and there is nothing that rises to the level of
13 significance. She said that the Board has to approve the Amended
14 Negative Declaration on the new proposed project as an Unlisted Action.

15
16 On motion by Mr. Currie, seconded by Mr. Keane (Mr. Goldenberg nay)
17 and carried, the Board moved to direct the Planner to prepare an Amended
18 Negative Declaration on the new proposed project and Resolution for the
19 next meeting.

20

21 **PROJECT REVIEW**

22

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

24

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

30

31 Chair Currie mentioned that the applicant is not present so the Board will
32 not discuss Hidden Meadow this evening. He mentioned this is not a
33 Public Hearing but a resident has been waiting and would like to ask
34 questions.

35

36 Wendy Nastasi, resident of 36 Crest Drive, said she is worried about the
37 traffic impact on the Route 6 corridor. She noted that originally multi-family
38 housing along Route 6 with affordable housing was not zoned. Ms. Nastasi
39 asked if it is low income or Section 8 housing or is HUD or the Town
40 involved.

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

Ms. Gerbino explained that it is not Section 8 housing but is fee simple meaning it has to be owned not rented.

Consultant Town Engineer Barbagallo said that there are eight (8) fee simple affordable town houses with one bedroom apartments underneath. He indicated that these affordable units qualify for the County settlement.

Ms. Gannon interjected that it is under the Fair and Affordable Housing Act and is available for anyone that meets the criteria.

Planning Director Dym said that there is a widespread opportunity for anyone meeting the criteria for marketing the affordable housing units.

Consultant Town Engineer Barbagallo indicated that a traffic study was provided that contemplated the Avalon Somers project. He said that traffic lanes will be put in to get in and out of the Hidden Meadow development.

Ms. Nastasi asked if we are changing the zoning laws to accommodate the multi-family housing because no one complained about it.

Ms. Gerbino said that the Master Plan and Zoning Code is being changed to allow for Hidden Meadow.

Mr. Goldenberg explained that there is a certain income level to qualify for affordable housing. He said that a family earning approximately \$80,000 per year and according to the formula could qualify for affordable housing.

Mr. Keane interjected that everything is being done by a check list and everything has been considered under the State Environmental Quality Review Act (SEQRA), Master Plan and Town Zoning Code. He explained that multi-family housing is a floating zone and has to be approved by the Town Board. Mr. Keane suggested that Ms. Nastasi read the 1994 Comprehensive Master Plan.

Director of Planning Dym said that the Town Board will be holding a Public Hearing on the Master Plan on September 11, 2014.

Planning Board Town Attorney Eriele explained that the change in the Zoning and Master Plan is a Town Board action.

1
2 *At this time Director of Planning Dym left the meeting.*

3
4 **GRANITE POINTE SUBDIVISION**
5 **[TM: 27.05-3-2 & 5]**

6
7 Chairman Currie explained that the Board will not be reviewing the Draft
8 SEQRA Findings Statements this evening.

9
10 Planning Board Town Attorney Eriole indicated that this is not a Public
11 Hearing. He explained that there is a difference in the law between a
12 Public Meeting and a Public Hearing. He mentioned that there was a
13 comment that there was a breach of open meeting laws and notice
14 provisions in the local code in setting this meeting. He said that there was
15 no breach of the open meeting law and there may have been a mistake in
16 where the Board is in this process. Planning Board Town Attorney Eriole
17 mentioned that there was a concern that this was a Special Meeting in
18 order to advance this project. He explained that the Board set aside
19 additional meeting dates at their organizational meeting because of the
20 concept that there are a number of agenda items that cannot be handled
21 once a month. Planning Board Town Attorney Eriole noted that if the Board
22 determines that a Public Hearing is needed adjoining property owners will
23 be notified.

24
25 Mr. Goldenberg said that the Board set a meeting for July 22, 2014 for
26 Hidden Meadow and Granite Pointe did not factor into that discussion. He
27 said that the applicant has to meet a deadline in order to be on the agenda.
28 Mr. Goldenberg indicated that he is not prepared to discuss this project this
29 evening.

30
31 Planning Board Town Attorney Eriole said that if the deadline is met it is not
32 inappropriate for the applicant to be on the agenda even though this
33 application was not mentioned beforehand and is within the discretion of
34 the Chairman.

35 Chair Currie stressed that the reason for the special meeting is because of
36 the heavy work load.

37
38 Consultant Town Engineer Barbagallo noted that three consultants
39 reviewed the last submission. He mentioned that Paul Muessig of EA
40 Science and Technology indicated that all his questions were answered

1 satisfactorily. He said that the FSEIS was deemed complete. Consultant
 2 Town Engineer Barbagallo commented that a letter was received from the
 3 Watershed Inspector General (WIG) who had some concerns. He said that
 4 he had a conversation with the WIG and explained that he is confused on
 5 what stage this project is at. Consultant Town Engineer Barbagallo noted
 6 that the reason the Board is ready to adopt the Findings Statement is that
 7 the applicant is committed to complying with regulations. He stated that is
 8 the reason the applicant was asked to update the SWPPP before the
 9 adoption of the Findings Statement. Consultant Town Engineer Barbagallo
 10 said the applicant prepared the SWPPP for the temporary remediation in
 11 accordance with NYS Regulations. He indicated that the WIG received the
 12 SWPPP on July 16, 2014 and the Board is waiting for his comments. He
 13 explained that when the SWPPP is satisfactory to all parties the Findings
 14 Statement can be adopted.

15
 16 Engineer Allen stated that the Public Hearing was opened and then closed
 17 with a 20 day comment period. He mentioned that he was asked to provide
 18 a SWPPP that is subject to Town review and a SWPPP that is approved for
 19 the Brownfield program.

20
 21 Consultant Planner Sarah Brown of Frederick P. Clark Associates said that
 22 the Draft Findings Statement was put on hold until the Board hears from
 23 the WIG.

24
 25 Consultant Town Engineer Barbagallo said that the WIG raised questions
 26 about the pollutant loading analysis under SEQRA. He explained that this
 27 is only a temporary condition and WIG understood that it will apply to the
 28 final subdivision. He said that when this application is on the next agenda
 29 he will coordinate with WIG to see if he has any comments. Consultant
 30 Town Engineer Barbagallo said that the WIG comments are advisory.

31
 32 Chair Currie asked Consultant Town Engineer Barbagallo if there is
 33 anything in his memo that he wants to go over with the Board.

34
 35 Consultant Town Engineer Barbagallo said that he asked the applicant to
 36 prepare a maintenance agreement for all post construction stormwater
 37 management practices consistent with the requirement of the NYSDEC
 38 Stormwater Management Design Manual and Somers Town Code.

39

1 Engineer Allen said that they will be building a subdivision and it does not
2 make sense to maintain something that will be stabilized and grassed. He
3 noted that if the Board wants a maintenance agreement the applicant is
4 agreeable.

5
6 Ms. Gannon asked that the definition of major rainfall be defined as
7 updated by the DEC.

8
9 Consultant Planner Brown asked the Board if they want her to work with
10 the Consultant Town Engineer to incorporate the new stormwater
11 information in the Finding Statement.

12
13 The Chair said it was the consensus of the Board for Consultant Planner
14 Brown to incorporate the new stormwater information in the Findings
15 Statement.

16
17 John Harkins, applicant, advised that the Brownfield Program is up for
18 cancellation this year and if that happens it will impact the cleanup process.
19 He said that if there is a major change or that the Brownfield Program does
20 not participate he does not know if Granite Pointe can go forward. He
21 stressed that a time limit does exist.

22
23 **DISCUSSION**

24
25 Chairman Currie proposed changing the Planning Board submission dates
26 for the applicants which is presently 10 business days prior to a meeting.
27 He suggested making the submission date 15 business days prior to the
28 meeting starting at the September meeting.

29
30 Mr. Keane said that there are deficiencies in the number of staff in the
31 Planning Office and the number of hours they can work and as a result the
32 Planning Board suffers. He noted that it is an undue burden on the Board to
33 have reports come in a few days before the meeting. He stressed that the
34 problem lies with the internal operation and the inefficiency of it and that
35 has to change.

36 Consultant Town Engineer Barbagallo explained that the consultant submit
37 their reports the Friday before the meeting. He suggested that consultants
38 provide their memos seven (7) business days prior to the meeting.

39
40 Ms. Gannon said that the impact of holidays has to be looked at.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

On motion by Chair Currie, seconded by Mr. Goldenberg, and unanimously carried, the Board moved to change the criteria for applicant’s submission to the Planning Board to 15 business days prior to the Planning Board meeting effective at the September 10, 2014 Planning Board meeting.

There being no other business, on motion by Chair Currie, seconded by Ms. Gannon, and unanimously carried, the Meeting adjourned at 10:15 P.M. The Chair announced that the next Planning Board meeting will be held on Wednesday, August 13, 2014 at 7:30 P. M. at the Somers Town House.

Respectfully submitted,

Marilyn E. Murphy
Planning Board Secretary