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PLANNING DEPARTMENT

TOWN HOUSE
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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 9, 2014**

4

5

6

7 **ROLL:**

8

9 **PLANNING BOARD**

10 **MEMBERS PRESENT:** Chairman Currie, Mrs. DeLucia, Mr. Keane,
11 Ms. Gerbino, Mr. Goldenberg and Ms. Gannon

12

13 **ALSO PRESENT:** Director of Planning Syrette Dym
14 Assistant Consultant Town Engineer Robert Wasp
15 Consultant Town Engineer Joseph Barbagallo
16 Planning Board Secretary Marilyn Murphy

17

18 **ABSENT:** Mr. Foley and Planning Board Town Attorney
19 Joseph Eriole

20

21 The meeting commenced at 7:30 p.m. Planning Board Secretary Marilyn
22 Murphy called the roll. She 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 MAY 14, 2014 MINUTES**

26

27 Chair Currie noted that Planning Board Secretary Marilyn Murphy prepared
28 and submitted for the Board's consideration approval of the draft minutes of
29 the Planning Board meeting held on May 14, 2014.

30

31 The Chair asked the Board if there were any comments or questions on the
32 draft minutes of May 14, 2014 and no one replied.

1
2 On motion by Mr. Goldenberg, seconded by Mrs. DeLucia, and
3 unanimously carried, the draft minutes of May 14, 2014 were approved.

4
5 The DVD of the May 14, 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 **INFORMAL APPEARANCE WITH SKETCH PLAN REVIEW**

12
13 **SOMERS MANOR NURSING HOME [TM: 28.17-1-19.1]**

14
15 Chairman Currie said that this is an informal appearance with a sketch plan
16 review for the Somers Manor Nursing Home for property located at Route
17 100 and Plumbrook Road for the construction of a 30'X30' patio and
18 access sidewalk.

19
20 Chair Currie asked the representative from Somers Manor Nursing Home
21 to explain the application for the benefit of the Board and the public.

22
23 John Cehi, Director of Facilities representing Somers Manor Nursing
24 Home, said that the design of the facility has many courtyards surrounded
25 by the buildings. He explained that the ambulatory residents would like a
26 patio in an interior courtyard where they can enjoy the environment. Mr.
27 Cehi indicated that a concrete sidewalk and a 30 foot by 30 foot patio is
28 envisioned. He noted that the patio would be safer because some of the
29 residents go to the front of the building and watch the cars go by and with
30 the patio they can enjoy music and activities. He mentioned that the hours
31 would be from after breakfast until 7 PM in the evening.

32
33 Mr. Cehi noted that the additional 1,400 square feet of impervious surface
34 to be added would be more adequately mitigated by an adjacent rain
35 garden provided to collect any additional stormwater runoff. He stated that
36 he will work with Steve Woelfle, the Principal Engineering Technician, to
37 design the rain garden in accordance with the requirements of the
38 Stormwater Management Design Manual.

39 Mrs. DeLucia referred to number 10. in the Short Environmental
40 Assessment Form (EAF), *Will the proposed action connect to an existing*

1 *public/water supply*. She indicated that the answer was “No” and asked Mr.
2 Cehi to describe the method for providing potable water.

3
4 Mr. Cehi explained that he is just building a patio where water will go into
5 the ground and will follow its natural path.

6
7 Chair Currie acknowledged that Director of Planning Dym provided a memo
8 dated June 26, 2014.

9
10 Director of Planning Dym explained that she went out to the site with Mr.
11 Woelfle to review potential impacts and necessary treatment. She noted
12 that there is a large area where a patio with an adjacent rain garden is
13 proposed. She noted that the patio is located within a self-contained
14 grassed courtyard that itself acts as a rain garden sealing off run-off from
15 the surrounding site. Director of Planning Dym mentioned that given the
16 minimal amount of disturbance proposed, the intent to construct an on-site
17 rain garden and the input and oversight of Mr. Woelfle, the Planning Board
18 has to decide if any further action under Site Plan review is required for the
19 installation of this patio and walkway.

20
21 Ms. Gerbino asked if the Site Plan will be amended and if the Assessor will
22 be notified of the modification.

23
24 Director of Planning Dym stressed that if the Board decided that no Site
25 Plan review is necessary the drawings that were submitted will be filed with
26 the application but there will be no amendment to the Site Plan. She said
27 that she has not spoken to the Assessor on this matter.

28
29 Ms. Gerbino noted that she just wants to know if there are any
30 consequences as this is being reviewed as informal.

31
32 Mr. Keane said that this is a very minor issue. He explained if this
33 becomes a Site Plan application the applicant will have to submit
34 engineering drawings and it will be very costly for such a minor change.
35 He mentioned that this application does not violate any engineering criteria
36 that exists.

37
38 Ms. Gerbino asked if the applicant needs a building permit.

39 Mr. Keane said that the applicant will have to go to the Building Inspector to
40 receive a building permit.

1
2 Ms. Gannon asked if the Bureau of Fire Prevention will have a concern in
3 regard to putting a structure in the center and a hedge row that may create
4 a safety issue. She also mentioned that residents may be smoking on this
5 patio.

6
7 Mr. Cehi said that New York State Law does not allow smoking in hospitals
8 or nursing homes. He explained that there is a gazebo where resident's
9 families can have a cigarette. He said that if there is a concern the fencing
10 can be changed.

11
12 Mr. Goldenberg referred to the Director of Planning's memo dated June 26,
13 2014 where she says that given the amount of disturbance proposed, the
14 intent to construct an on-site rain garden and the input and oversight of the
15 Engineering Department and a recommendation that the Board should
16 make this application as easy as possible, he called for a consensus from
17 the Board.

18
19 Chair Currie indicated that it was the consensus of the Board that there is
20 no need to prepare a formal application for site plan amendment.

21
22 **INFORMAL APPEARANCE**

23
24 **HERITAGE HILLS SOCIETY, LTD. [TM: 17.06-10-16]**

25
26 Chairman Currie noted that this is an informal appearance for Heritage Hills
27 Society for the slope stabilization of an existing swimming pool located at
28 Recreation Area #2.

29
30 Mr. Goldenberg recused himself as he lives at 882D Heritage Hills and is a
31 member of the Heritage Hills Society and did not participate in the meeting
32 on this application.

33
34 Ms. Gannon noted that she lives at 919D Heritage Hills but has not used
35 the pool in a long time.

36
37 Mr. Keane said he lives at 582E Heritage Hills but is not a member of a
38 Condo Board or Heritage Hills Society.

39 Chair Currie asked the applicant's representative to explain the informal
40 appearance for the benefit of the Board and the public.

1
 2 John Milligan, property manager for Heritage Hills Society, explained that
 3 during the last few years there has been a significant settlement at the
 4 southwest corner of pool Number 3 which is Recreation Area No. 2. He
 5 said that the settlement compromised the efficiency of the filtering system.
 6 Mr. Mulligan said that an engineering company was hired to determine the
 7 cause and to make recommendations as to mitigation. He indicated that
 8 the engineering company did several test borings, surveying and testing of
 9 soils in that area. Mr. Milligan said that Carlin, Simpson & Associates
 10 recommended that the area immediately below the pool could be grouted
 11 until after the pool repairs are made to ensure that the grouting process is
 12 not moving or lifting the pool. He noted that another recommendation was
 13 to stabilize the slope by flattening out the slope that consists of either
 14 suitable on-site soil or imported sand and gravel fill. Mr. Milligan explained
 15 that there are a number of trees that will have to be removed. He
 16 mentioned that he met with Steve Woelfle and he is willing to modify the
 17 existing tree permit to allow the slope stabilization. Mr. Mulligan noted that
 18 he provided a Landscape Plan that shows the entire pool area being
 19 landscaped.

20
 21 Director of Planning Dym said that she went out to the site with Steve
 22 Woelfle to determine whether the slope stabilization and tree removal can
 23 be accomplished based on the informal application provided or whether this
 24 request requires an amendment to the site pan and a full site plan
 25 amendment application.

26
 27 Director of Planning Dym explained that she asked Engineer Wasp to
 28 review the application in response to the report by Carlin, Simpson &
 29 Associates.

30
 31 Robert Wasp, Assistant Consultant Town Engineer, said that because his
 32 firm does not review informal applications he was asked by Director of
 33 Planning Dym to do a quick review of the report from Carlin, Simpson &
 34 Associates. He noted that the Planning Bard is the approval authority in
 35 reviewing the permit requirements and the definition of steep slopes over
 36 25%. Assistant Consultant Town Engineer Wasp indicated that the area of
 37 steep slopes is part of an area greater than 10,000 SF as such it would be
 38 a regulated activity subject to approval by the Planning Board and the
 39 same can be said for the Stormwater Management Erosion and Sediment
 40 Control Permit. Engineer Wasp mentioned that the Town's Stormwater

1 Regulations must be addressed by the preparation of a SWPPP. He
2 mentioned that attention should be paid to making sure that clean fill is
3 imported to the site in accordance with Department of Environmental
4 Conservation (DEC) standards.

5
6 Director of Planning Dym said that the Board has to make a determination
7 in regard to Site Plan; however, this application will come before the Board
8 for Steep Slopes and Stormwater Management and Erosion and Sediment
9 Control Permits.

10
11 Chair Currie asked the Board if they had any questions or comments.

12
13 Ms. Gerbino indicated that she did not have a problem with Site Plan
14 review because the Board will be reviewing the Steep Slopes evaluation.

15
16 Mr. Keane said that the water in the pool is making the pool sink a little bit
17 and that suggests that there is water under the pool.

18
19 Mr. Milligan interjected that the report did not find water under the pool but
20 questioned the amount of fill material that was used. He explained that the
21 pool was built 30 years ago and there is a gradual settlement of the fill
22 material on one corner of the pool. Mr. Mulligan mentioned that the report
23 recommended the grout injection to fill all the voids.

24
25 Ms. Gerbino asked what is below the steep slope.

26
27 Mr. Milligan indicated that the pool is located at one of the highest points in
28 Heritage Hills but there are no units that are visible from the pool.

29
30 Chair Currie stated that it was the consensus of the Board that an
31 amendment to the Site Plan is not necessary.

32
33 **INFORMAL APPEARANCE**

34
35 **WRIGHT'S COURT SITE "B" [TM: 17.11-1-5]**

36 Chairman Currie explained that this is an informal appearance for Wright's
37 Court Site "B" for property owned by Silvio Management and located at
38 341 Route 202 in order to conform with §170-17.2A. (7) of the Zoning
39 Ordinance by installing a tinted stamped concrete sidewalk instead of prior
40 approved brick pavers.

1
2 Chair Currie asked the applicant's representative to explain the reason for
3 the informal appearance.

4
5 Rick DiNardo, representing Silvio Management Dev. LLC, the owners of
6 Wright's Court Site "B", said that as unusual as this may sound he would
7 like to ask the Board to conform to the Zoning Regulations and allow the
8 building of the tinted stamped concrete sidewalks on both frontages to
9 match the interior sidewalks identified on the approved Site Plan in lieu of
10 brick pavement.

11
12 Mr. Keane explained the reason the variance was suggested was for
13 appearance and consistency with the Business Historic Preservation
14 District (B-HP) especially along Route 100. He opined for safety reasons
15 when you get salt on concrete during the winter there will be freezing,
16 thawing and freezing, thawing and the concrete will crack and cause a
17 safety issue. Mr. Keane mentioned that the brick allows water to infiltrate
18 through it and will not be corrupted by salt and has a longer visual
19 appearance than the stamped concrete sidewalk. He opined that the brick
20 is the better choice and maybe the Code should be changed.

21
22 Mr. DiNardo stated that bricks are more maintenance than concrete. He
23 opined that the brick in front of the Town House does not look good as it is
24 a tripping hazard. He opined that the stamped concrete avoids those
25 issues. Mr. DiNardo mentioned that his company maintains all their
26 buildings in Somers. Mr. DiNardo noted that maintenance is not an issue,
27 it is about practicality. He stated that Wright's Court Site "B" is being built
28 according to the Board's specifications.

29
30 Chair Currie asked the Board if they had any comments.

31
32 Mrs. DeLucia said that she likes the appearance of the brick pavers but she
33 has to agree with the applicant that the stamped concrete is less of a safety
34 issue.

35
36 Ms. Gannon agrees with the applicant that concrete is preferable. She said
37 that she is more comfortable on stamped concrete as there is no heaving,
38 shifting or unexpected surprises at dusk. Ms. Gannon noted that it
39 complies with the Code and she supports stamped concrete.

40

1 Mr. Goldenberg asked if the Board has to go back to the Zoning Board of
2 Appeals (ZBA) to get another variance to allow the stamped concrete.

3
4 Director of Planning Dym asked that question and she was told that
5 another variance was not needed.

6
7 Ms. Gerbino also agreed with the applicant that stamped concrete is
8 acceptable.

9
10 Chair Currie stated that it was the consensus of the Board to install
11 stamped concrete in lieu of brick pavement.

12
13 **PROJECT REVIEW**

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

17
18 Mrs. DeLucia explained that she is a homeowner on line with the brook that
19 the project drains into and her neighbors have approached her with
20 complaints. She said that she wants to recuse herself and not participate
21 in this application.

22
23 Chairman Currie noted that this is an application for Amended Final
24 Subdivision Plat Approval. He said that the property is owned by
25 Ridgeview Designer Builders and Susan Haft and is located on the east
26 side of Lovell Street. Chair Currie explained that the applicant is requesting
27 an amendment of Final Subdivision Approval to permit them to file the
28 subdivision in two sections pursuant to Town Law §276(7)(b) and the Town
29 of Somers Subdivision Regulations §150-13 (K).

30
31 Mr. Goldenberg referred to a letter from the applicant's attorney Geraldine
32 Tortorella dated June 16, 2014 asking to be scheduled for a discussion at
33 the earliest opportunity. He asked why Attorney Tortorella was not present
34 to discuss the letter.

35
36 Timothy Allen, the applicant's engineer, explained that Attorney Tortorella
37 had a conflict and he will be representing the applicant on the application.
38 He opined that he can explain the letter and the application to the Board.
39 Engineer Allen said the project has never changed and is in accordance
40 with the approved plans.

1
2 Mr. Goldenberg indicated that he went to the site today and was not happy
3 with what he saw. He said that Attorney Tortorella should be here so the
4 Board can question items in her letter.

5
6 Ms. Gannon asked Mr. Goldenberg what questions in the letter did he want
7 Attorney Tortorella to explain.

8
9 Mr. Goldenberg said he is concerned because the applicant states that
10 there is no money available because she cannot get a mortgage and does
11 not want to put money in escrow.

12
13 Engineer Allen noted that this is a four lot subdivision approved by the
14 Planning Board with many time extensions granted by the Board. He
15 explained that the improvements are complete with the applicant
16 requesting to proceed with developing and filing the subdivision in sections.
17 He stated that the filing in sections is allowed by the Code. Engineer Allen
18 stated that the applicant wants to construct a house on Lot 4 as soon as
19 possible. He explained that the applicant can get a building permit on Lot 4
20 but they chose to come before the Board for an Amended Final Subdivision
21 Plat Approval. Engineer Allen explained that Section II has a mortgage and
22 according to Code can be filed separately.

23
24 Engineer Allen noted that the infrastructure is 90% complete and the
25 applicant is requesting that the plat be submitted in two sections.

26
27 Engineer Allen asked that the Public Hearing be waived as the
28 infrastructure is almost complete.

29
30 Ms. Gannon asked why there has to be frontage on a lot that will not be
31 built on.

32
33 Director of Planning Dym said that she had several conversations with
34 Attorney Tortorella so she could understand what the applicant wants to do.
35 She explained that the applicant wants to develop the property in sections
36 for mortgage reasons. She noted that to accomplish the sectioning of the
37 plat, a sliver of land ultimately to be part of Lot 2, providing frontage onto
38 Lovell Street for that lot, and on which part of the common access driveway
39 lies, and which is currently on property owned by Ridgeview Builders, Inc.
40 would be filed with the Section 1 Plat. She said to ensure that this sliver of

1 land will be reinstated as part of Lot 2 in the Section 2 Plat, it will provide
2 frontage for this lot and access for both this lot and Lot 1. The Section 1
3 plat identifies this sliver as crosshatched with the designation 0.4935 acres
4 to be conveyed to the owner of Section II.

5
6 Director of Planning Dym said the only final subdivision change that is
7 being proposed as a result of the sectioned approvals is that the
8 conservation lot, which was the fifth lot created as part of the subdivision
9 would permanently be designated as a Conservation Parcel Section 1 and
10 Section 2.

11
12 Director of Planning Dym explained that when talking to Attorney Tortorella
13 she said she needed an answer before this evening on the conference with
14 Susan Carpenter, Esq., counsel with the Westchester Land Trust, to advise
15 if the Land Trust was in a position to accept the Conservation Easement.
16 She noted that Attorney Tortorella advised that the Land Trust is not in a
17 position to accept the Conservation Easement on this subdivision because
18 it does not have the staff or resources to monitor them. She said that given
19 the isolated nature in this subdivision, the Land Trust believes the Town is
20 better suited to hold and enforce the easements.

21
22 Director of Planning Dym indicated that a Homeowners Association will be
23 formed as part of this subdivision. She said that it appears that the
24 Homeowners Association could potentially only consist of Lots 1 and 2 and
25 Conservation Parcel 1 and that those two homeowners would be
26 responsible for all the common infrastructure until such time as Section II is
27 filed or possibly longer.

28
29 Engineer Allen said the Code states that with a Conservation Subdivision
30 there has to be an open space parcel. He explained that there will be two
31 conservation areas because of the split into two sections which will be
32 owned by the Homeowners Association. He noted that the applicant will
33 have to ask the Town Board if the Somers Land Trust will accept the
34 Conservation Easements on the subdivision.

35
36 Director of Planning Dym said when speaking to Town Attorney Baroni he
37 said that there has to be a Public Hearing and a recommendation has to be
38 made to the Town Board on the Conservation Easement.

39
40 Mr. Keane noted that the land owner and the homeowner can be part of the

1 monitoring of the conservation easement. He asked if Steve Woelfle had
 2 any adverse reports on the subdivision.

3
 4 Chair Currie said that the Board would not have granted time extensions on
 5 the subdivision if Mr. Woelfle had any problems with the site.

6
 7 Susan Haft, applicant, said that there has been no amendments just time
 8 extensions since the subdivision received final subdivision approval. She
 9 noted that the Principal Engineering Technician has approved all the
 10 changes and she is offended by the comment that trees were taken down
 11 because they were permitted to be taken down for the infrastructure.

12
 13 On motion by Chair Currie, seconded by Mr. Goldenberg, and unanimously
 14 carried, the Board moved to schedule a Public Hearing on Tuesday, July
 15 22, 2014 at 7:30 P.M. at the Somers Town House on the Amended Final
 16 Subdivision Plat Approval for submission of the Plat in two sections for
 17 Susan Haft and Ridgeview Designer Builders, Inc.

18
 19 **SOMERS REALTY PLANNED HAMLET PHASE 3 [TM: 4.20-1-15]**

20
 21 Chairman Currie noted that this is an application for Preliminary
 22 Subdivision Approval, Steep Slopes, Wetland, Tree Removal and
 23 Stormwater Management and Erosion and Sediment Control Permits to
 24 create Lots 3a, 3b, and 3c (53.2 acres), relative to the Site Plan application
 25 of AvalonBay Communities, Inc. and Lot 4 (4.9 acres) and Lot 5
 26 (0.9 acres) for future commercial and firehouse uses, respectively, of the
 27 Planned Hamlet for the proposed subdivision, roads and stormwater
 28 management improvements. Chair Currie said that the property is owned
 29 by Somers Realty Corp. and is located on the southeast side of Route 6
 30 and Clayton Blvd. and is in the Planned Hamlet (PH) Zoning District.

31
 32 Chair Currie asked the applicant's representative to describe the
 33 application.

34
 35 Linda Whitehead, the applicant's attorney, explained that the SEQRA
 36 process was completed in 2009 and the Master Plan for Somers Realty
 37 Planned Hamlet was approved. She noted that two subdivisions were
 38 created to have two lots along Route 6 for The Mews I and The Mews II.
 39 Attorney Whitehead mentioned that Lot 3 was left and as part of that the
 40 water tank lot, sewer pump station and two road widening pieces were

1 created. She commented that the applicant is currently in the process of
2 dedicating the State parcel along Route 6 to the Department of
3 Transportation (DOT). Attorney Whitehead noted that as part of the Master
4 Plan the residential component was comprised of 152 units with the square
5 footage of those units modified to 234,000 SF of floor area. She said that
6 the ultimate approval, because of the Code Amendments, was for 152 units
7 with 183,760 square feet. Attorney Whitehead stated that the total square
8 footage was significantly reduced from what was reviewed in the SEQRA
9 process. She explained that this resulted in less disturbance, smaller
10 impervious area, smaller units and smaller bedroom counts to fit within the
11 smaller square footage.

12
13 Attorney Whitehead said that she is present this evening for the final
14 subdivision application for the Somers Realty Planned Hamlet. She noted
15 that it will create the lot to be conveyed to AvalonBay Communities for the
16 development of Avalon Somers. Attorney Whitehead indicated that the lot
17 is made up of several pieces with the creation of one lot of 4.9 acres on the
18 east side of the village green which is for a future commercial development.
19 She commented that the village green will be developed as part of this
20 application. Attorney Whitehead explained that AvalonBay is proposing to
21 build the residential units within areas that were identified for residential
22 use but that has been condensed so some of the areas on the Mahopac
23 Ave. end of the property will no longer be developed for residential.
24 Attorney Whitehead said that the residential units will be built on the two
25 sides of the village green which was an important component of the Master
26 Plan. She noted that the Town roads that are proposed as part of the
27 subdivision are in the same locations around the green. Attorney
28 Whitehead said that Clayton Boulevard will be completed and the roads
29 around the village green are the same as they were in the Master Plan but
30 the extent of the roads has been reduced. Attorney Whitehead mentioned
31 that the only construction in this application by Somers Realty are the roads
32 and related stormwater utilities.

33
34 Attorney Whitehead indicated that because the residential units will not
35 extend to the Mahopac Avenue side there will be a reserved parcel. She
36 said the idea is for a future assisted living facility that would have to comply
37 with the conditions set forth by the Planning Board during an informal
38 application by a potential developer of an assisted living facility.

39

1 Attorney Whitehead said the Code states that the Master Plan is intended
 2 to present a generalized land use access and traffic circulation plan as well
 3 as a conceptual statement describing the design and development concept,
 4 the intended manner of provisions of utility services and other such relevant
 5 information which statement may be in written and/or graphic form. She
 6 noted that nothing is changing as the residential use is going where it
 7 always was but is not as spread out.

8
 9 Attorney Whitehead mentioned that in the Environmental Impact Statement
 10 (EIS) there was the idea that this was a balanced site for cut and fill. She
 11 explained that there were changes in the development of the first two
 12 parcels because there was much less impervious area and less
 13 development than what was proposed. She noted that in the Master Plan
 14 there was senior housing and an assisted living facility and commercial
 15 space. She said that more room is needed for stormwater because the
 16 regulations have changed and more room is required for stormwater
 17 management and with the condensing of the roads and residential
 18 development some of the fill that resulted from the first two phases is no
 19 longer needed for the development of the rest of the site. Attorney
 20 Whitehead explained that there will be some excess fill and the impacts
 21 because of the removing of the fill from the site have been addressed in the
 22 Environmental Assessment Form (EAF). She opined that this does not
 23 need a modification to the Master Plan but that is a decision by the
 24 Planning Board.

25
 26 Mrs. DeLucia asked about land banking.

27
 28 Attorney Whitehead stated that the residential component was never a part
 29 of the shared parking and land banking proposal. She said the land
 30 banking was always for the non-residential parking.

31
 32 Attorney Whitehead noted that a full SEQRA process was completed but
 33 when each phase comes before the Board you have to compare the
 34 potential impacts primarily with any change in the plan to determine if any
 35 change will result in a significant adverse impact that has not been
 36 previously addressed and mitigated. She said that the most significant
 37 change is the change in fill but she does not believe that rises to a level of
 38 a significant impact. Attorney Whitehead mentioned that the overall
 39 development is much less than what was reviewed in the SEQRA process.

40

1 Mr. Goldenberg asked if the Planning Board is Lead Agency on this project.

2

3 Attorney Whitehead said for the SEQRA review this was a Type I Action
 4 and the Planning Board was Lead Agency with a coordinated review. She
 5 explained that the Planning Board remains Lead Agency on this project but
 6 on the Master Plan the Planning Board is the only Board that approves a
 7 modification to the Master Plan but on the Subdivision Approval there are a
 8 number of involved agencies.

9

10 Richard Williams, the applicant's engineer, explained that the Somers
 11 Realty application will be addressing the improvements on Route 6 which
 12 include the addition of turn lanes, extension of Clayton Boulevard to Route
 13 6, the design of roads B, C, D and E which are proposed, Town Roads and
 14 the development of the Stormwater Pollution Prevention Plan (SWPPP).
 15 He noted that AvalonBay will design the green infrastructure for the site
 16 plan development and Somers Realty will take over anything that is
 17 remaining such as the run-off production and water quality volume and
 18 address that in the post construction management practices provided
 19 throughout the site. Engineer Williams mentioned that the stormwater
 20 quantity will also be addressed ensuring that the post development runoff is
 21 equal to predevelopment.

22

23 Mr. Keane said that the design of the green infrastructure by AvalonBay
 24 has to play into the calculations by Insite and those calculations have to
 25 relate to the design points and show what the pre and post calculation is
 26 with phosphorous discharge. He opined that this is a substantial change
 27 from the past.

28

29 Engineer Williams clarified that with respect to the pollutant loading and
 30 phosphorous loading calculations, the runoff production volume in the
 31 water quality volume is a volume of runoff that is used in the current codes
 32 to treat stormwater quality. He said that when this originally went through
 33 the SEQRA process it was designed under the old regulations which
 34 required a specific calculation of the pollutant phosphorous. Engineer
 35 Williams noted that when the DEP Regulations changed in 2010, which
 36 was the only entity that required the phosphorous calculations, Somers
 37 Realty was before the Board with the Phase 1 and Phase 2 applications, he
 38 noted that he complied with the current Stormwater Regulations which
 39 required treatment of the water quality volume. Engineer Williams
 40 mentioned that if you treat the volume according to the DEP standards you

1 meet the water quality objectives but because he complied with the new
 2 regulations pollutant loading calculations were not done. He commented
 3 that the Watershed Inspector General (WIG) has made comments on other
 4 applications in Somers indicating that phosphorous loading calculations
 5 should be required for all applications. The WIG said that under SEQRA
 6 the Planning Board has a right to identify phosphorous as a potential
 7 impact. Engineer Williams stated that if the Board requires the pollutant
 8 loading counts to demonstrate compliance with the original EIS that will be
 9 done.

10
 11 Engineer Williams noted that as a condition of Phase 2 approval that prior
 12 to development on Lot 3 a variance needs to be obtained from the
 13 NYCDEP for the impervious surfaces associated with Clayton Boulevard
 14 within the limiting distance of the identified DEP watercourse. He said that
 15 he had meetings with the DEP and he feels that the variance will move
 16 forward.

17
 18 Engineer Williams mentioned that the wetland consultant is preparing the
 19 Wetland Mitigation Plans in conformance with what was recommended in
 20 the Master Plan. He indicated that the traffic consultant has provided a
 21 preliminary layout for the Route 6 improvements that will be included in
 22 upcoming submissions.

23
 24 Mr. Keane said that the phosphorous calculations should be provided and
 25 should be done in the context of the requirements of the EPA and what
 26 NYC has been doing to reduce phosphorous. He said that this is important
 27 from a SEQRA perspective to know if the post development discharge of
 28 phosphorous exceeds the pre-development discharge of phosphorous. He
 29 noted that the stormwater management practices that are employed reduce
 30 it down to at least where is was pre-construction.

31
 32 Ms. Gannon said for clarity between the Board and the applicant an action
 33 memo should be provided.

34
 35 Assistant Consultant Town Engineer Robert Wasp acting until the arrival of
 36 Consultant Town Engineer Barbagallo, said while working with WIG he
 37 received their clarification on how to implement the Total Maximum Daily
 38 Load (TMDL) restrictions within the realm of the Clean Water Act. He said
 39 that it is appropriate to compare the current proposed post development

1 conditions to those post development conditions that were reviewed at the
 2 point of Master Plan approval.

3
 4 Attorney Whitehead said that under SEQRA you have to look at the
 5 changes in impacts. She indicated that a phosphorous loading analysis
 6 was done in the original EIS as part of the SEQRA process. She noted that
 7 the impact should be reduced because of the reduction in impervious
 8 surface. Attorney Whitehead stressed that the Board is not starting a new
 9 SEQRA process.

10
 11 Director of Planning Dym said that this is the last subdivision in this
 12 development therefore the integrated stormwater analysis will depend on
 13 what the final uses are on this site. She mentioned that the Board has to
 14 decide if the square footage of the potential assisted living facility and the
 15 30,000 SF of commercial development should become part of the
 16 impervious surface calculations.

17
 18 Engineer Williams said that the trend is to go above and beyond the
 19 regulations. He indicated that if the phosphorous calculations are provided
 20 they will not include the two SWPPP that have been completed.

21
 22 Mr. Goldenberg asked about the firehouse parcel.

23
 24 Attorney Whitehead said that the agreement was that Somers Realty would
 25 donate the land for the firehouse. She noted that the Town and the Fire
 26 Department have to come up with the funding for the firehouse. She
 27 mentioned that the turning lanes are to be built in the future when the Town
 28 determines they are necessary.

29
 30 Assistant Consultant Town Engineer Wasp stated that a separate SWPPP
 31 has to be prepared for the Subdivision and the Site Plan.

32
 33 *At this point Consultant Town Engineer Barbagallo joined the meeting.*

34
 35 Attorney Whitehead said that she will respond in writing to the points in the
 36 Director of Planning's memo.

37
 38 Consultant Town Engineer Barbagallo clarified that there was a mix of uses
 39 in the Master Plan and that should be reviewed as a change. He

1 mentioned that he is concerned with the potential elimination of the
2 assisted living facility.

3
4 Attorney Whitehead said that was reviewed and approved when the Master
5 Plan was modified to allow The Mews II. She noted that it was never said
6 exactly what would be built on the site.

7
8 Director of Planning Dym said that the assisted living facility was looked at
9 as a reserved parcel. She noted that the Planning Board will have to
10 decide if the switch is a change of what was originally approved and
11 determine if they support that change.

12
13 Attorney Whitehead opined that she felt that decision was made already
14 but will review the material and the Board can discuss this issue at a later
15 meeting.

16
17 On motion by Chair Currie, seconded by Mrs. DeLucia, and unanimously
18 carried, the Board moved to declare its intent to continue to Act as Lead
19 Agency pursuant to Part 617, Article 8 SEQRA and Chapter 92
20 (Environmental Quality Review) of the Code of the Town of Somers for the
21 proposed further subdivision of Lot 3 for Somers Realty Planned Hamlet
22 Master Plan Preliminary Subdivision #3 and to circulate the Notice of Intent
23 to be Lead Agency to all involved and interested agencies. The Somers
24 Planning Board determines that the proposed action is a Type I Action
25 under SEQRA due to the construction of 50 or more residential dwelling
26 units.

27
28 **AVALONBAY SOMERS [TM: 4.20-1-13, 14,15]**

29
30 Chairman Currie said that this is an application for Site Plan Approval,
31 Steep Slopes, Tree Removal and Stormwater Management and Erosion
32 and Sediment Control Permits for AvalonBay Communities, Inc. for the
33 construction of 152 residential units within 17 buildings with 23 affordable
34 units on 53.2 acres. He also mentioned that a community recreation
35 building, pool and 324 parking spaces are proposed. Chair Currie
36 mentioned that the property is located on the south side of Route 6 and
37 Clayton Blvd. and east of Mahopac Avenue and is in the Planned Hamlet
38 (PH) Zoning District.

39

1 Chair Currie asked the applicant's representative to explain the application
2 for the benefit of the Board and the public.

3
4 Janet Giris, the applicant's Attorney, explained that Avalon Bay is the
5 contract vendee for a portion of the Somers Planned Hamlet that is
6 approximately 53.2 acres. She said that AvalonBay is seeking Site Plan
7 Approval, Steep Slopes, Tree Removal and Stormwater Management and
8 Erosion and Sediment Control Permits in order to construct the 152 units
9 on the property.

10
11 Attorney Giris noted that there will be a power point presentation on the
12 proposed project. She mentioned that AvalonBay is a publicly traded real
13 estate investment trust with their core business developing, re-developing
14 and managing high quality luxury rental apartment communities. Attorney
15 Giris explained that Avalon Bay owns over 80,000 units in 18 different
16 markets throughout the country. Attorney Giris mentioned that Avalon Bay
17 has successfully developed communities in Westchester and Connecticut.
18 She commented that the most recent development is Avalon Bay Ossining.

19
20 Attorney Giris said that the 152 units were approved as part of the Master
21 Plan. She noted that the square footage will be reduced slightly.

22
23 Todd Nicotra, Director of Development for AvalonBay, noted that he will
24 speak about AvalonBay Communities Inc. and the proposal for the 152
25 units in Somers. He gave a power point presentation explaining that
26 AvalonBay builds communities and holds them for the long term and
27 maintains their property. Mr. Nicotra explained that residents chose to live
28 in luxury apartments for lifestyle considerations. He noted that most of
29 these residents could afford to buy a home but enjoy the lifestyle of renting.
30 He commented that these residents are generally well educated with not a
31 lot of school age children. Mr. Nicotra stated that the renters fall into three
32 categories, professionals, empty nesters and people in transition. He
33 mentioned that there are five existing communities in Westchester:
34 Bronxville, White Plains, Greenburg, Ossining and Mamaroneck and 14
35 existing communities in Connecticut. Mr. Nicotra showed the Board
36 pictures of existing communities.

37 Grant Jaber, Senior Developer at AvalonBay, showed the Board the power
38 point presentation of the Master Plan Approval of the 152 units approved
39 on the site which includes the village green, 4,000 SF clubhouse, outdoor
40 pool and 17 residential buildings housing the units. Mr. Jaber showed the

1 Board the proposed concept plan with 152 units, with 15% affordable units.
2 He mentioned that there will be 62 one-bedroom units, 66 two-bedroom
3 units and 24 three bedroom rental apartments. Mr. Jaber explained that
4 the apartments will be located around the village green. He commented
5 that AvalonBay is a long term developer and they update the kitchens and
6 bathrooms when needed. Mr. Jaber stated that AvalonBay is the winner of
7 National Awards for their operating and maintenance staff. He indicated
8 that the roads will be in the same spot as shown in the Master Plan
9 Approval. Mr. Jaber noted that the parking will meet regulations with two
10 parking spaces per unit. He showed renderings of the clubhouse that also
11 has a room for the leasing agent and a fitness center, apartments from the
12 southwest to the corner of the green and landscaping around the green.
13 Mr. Jaber also showed renderings of the elevation of the buildings showing
14 the architecture in the one, two and three bedroom units that are designed
15 to look like townhomes.

16
17 Mr. Jaber said in summary the plan is consistent with the approved Master
18 plan and all zoning regulations with a condensed development plan that
19 creates more open space.

20
21 Mrs. DeLucia asked the height of the buildings.

22
23 Mr. Jaber said that the buildings will be 30 feet in height. He noted that the
24 height is measured from the mean grade to the average ridge line of the
25 roof and he will be happy to work with the Architectural Review Board
26 (ARB) on the design and height of the buildings.

27
28 Mr. Jaber said that the affordable units will be equally mixed throughout the
29 1, 2 and 3 bedroom types with a centralized business unit that manages
30 and operates all the affordable units.

31
32 Mr. Jaber encouraged the Board to have a site visit at the AvalonBay
33 community in Ossining or Connecticut.

34
35 Mr. Goldenberg asked if Mr. Jaber was familiar with the process of
36 Affordable Housing in Westchester County and the settlement with
37 Westchester County.

38
39 Mark Weingarten, Attorney for AvalonBay, indicated that he had
40 conversations with the Town Board and the proposal is in compliance with

1 the Town Code which technically does not comply with the Westchester
2 County settlement. Attorney Weingarten mentioned that he is in talks with
3 Westchester County where they would provide subsidy that would bridge
4 the gap so AvalonBay could comply with the County Regulations to have
5 some of these units be utilized under the settlement. He stated that he will
6 leave this up to the Town Board if they want AvalonBay Somers to pursue
7 the issue of affordable housing with the County.

8
9 Mrs. DeLucia asked where the young residents will go for entertainment.

10
11 Mr. Jaber said that the young people usually go to restaurants or bars for
12 their entertainment.

13
14 Town Consultant Engineer Barbagallo asked if AvalonBay would consider
15 the reserved area south of the gas easement for another use.

16
17 Mr. Jaber said that AvalonBay would consider the area for more
18 apartments.

19
20 Mr. Jaber noted that he will respond in writing to the questions and
21 comments in the memo from Town Consultant Engineer Barbagallo.

22
23 On motion by Mr. Goldenberg, seconded by Mrs. DeLucia, and
24 unanimously carried, the Board moved to declare its intent to continue to
25 Act as Lead Agency pursuant to Part 617, Article 8 SEQRA and Chapter 92
26 (Environmental Quality Review) of the Code of the Town of Somers for
27 AvalonBay Communities, Inc. Site Plan and to circulate the Notice of Intent
28 to be Lead Agency to all involved and interested agencies. The Somers
29 Planning Board determined that the proposed action is a Type 1 Action
30 under SEQRA as per Chapter 92 of the Code of the Town of Somers
31 Section 92-6 due to the construction of 50 or more residential dwelling
32 units.

33
34 There being no further business, on motion by Chair Currie, seconded by
35 Mrs. DeLucia and unanimously carried, the meeting adjourned at 11:00
36 P.M. The Chair noted that the next Planning Board meeting will be on
37 Tuesday, July 22, 2014 for a Special Meeting at 7:30 P. M. at the Somers
38 Town House.

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Respectfully submitted,

Marilyn E. Murphy
Planning Board Secretary