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5 **SOMERS PLANNING BOARD MINUTES**
6 **AUGUST 26, 2009**
7

8
9 **ROLL:**

10
11 **PLANNING BOARD**

12 **MEMBERS PRESENT:** Chairman DeLucia, Mr. Keane,
13 Mr. Knapp, Ms. Gerbino, Mr.
14 Goldenberg and Mr. Foley
15

16 **ALSO PRESENT:** Town Engineer Gagné
17 Town Planner Charney Hull
18 Town Attorney Baroni
19 Planning Board Secretary Murphy
20

21 **ABSENT:** Ms. Gannon
22

23 The Chair noted that the last meeting of the Planning Board was held
24 on June 24, 2009 and the Planning Board did not hold a meeting in
25 the month of July. She explained that this meeting is the only
26 meeting scheduled for August.
27

28 The Meeting commenced at 7:30 p.m. Planning Board Secretary
29 Marilyn Murphy called the roll. Chairman DeLucia said that a
30 required quorum of four members of the Board being present called
31 the meeting to order.
32

33 Chairman DeLucia noted that Planning Board Secretary Murphy
34 prepared and submitted for the Board's consideration the approval of
35 the draft minutes of the June 10, 2009 Planning Board meeting
36 consisting of twenty-nine (29) pages and the draft minutes of June
37 24, 2009 Planning Board meeting consisting of twenty-four (24)
38 pages.
39

1 The Chair asked if there were any comments or questions from
2 members of the Board and no one replied.
3 The Chair asked if there was a motion to approve the June 10, 2009
4 draft minutes.

5
6 On motion by Mr. Goldenberg, seconded by Mr. Keane and
7 unanimously carried, the minutes of June 10, 2009 were approved.

8
9 The Chair asked if there was a motion to approve the June 24, 2009
10 draft minutes.

11
12 On motion by Mr. Goldenberg, seconded by Ms. Gerbino and
13 unanimously carried, the minutes of June 24, 2009 were approved.

14
15 The Chair noted that the DVD of the June 10, 2009 and June 24,
16 2009 Planning Board meetings are made a part of the approved
17 minutes and are available for public viewing at the Somers Public
18 Library and on the Town's website www.somersny.com. She said
19 that the approved minutes are also available for public review at the
20 Planning & Engineering office at the Town House.

21
22 Mr. Goldenberg called for a moment of silence to acknowledge the
23 death of Senator Edward Kennedy.

24
25 **PUBLIC HEARING**

26
27 **T-MOBILE NORTHEAST LLC**
28 **(OMNIPOINT COMMUNICATIONS, INC.)**
29 **TOWNE CENTRE AT SOMERS**
30 **325 ROUTE 100 [TM: 17.15-1-13]**

31
32 Chairman DeLucia noted that this is the Public Hearing of T-Mobile
33 Northeast LLC formerly known as Omnipoint Communications, Inc.
34 for amended Site Plan approval, Special Exception Use Permit for
35 activity within the Groundwater Overlay District and Wetland Permit to
36 erect a wireless telecommunications facility at the Town Centre
37 located at 325 Route 100 in the Neighborhood Shopping (NS) Zoning
38 District. She said that the owner of the property is Urstadt Biddle
39 Properties, Inc. The Chair mentioned that on March 17, 2009 the
40 Zoning Board of Appeals (ZBA) issued a Negative Declaration

1 pursuant to SEQR and granted the requested area variances and
 2 Special Exception Use Permit subject to conditions per Resolution
 3 BZ02D/07. The Chair noted that this application was last discussed
 4 at the June 24, 2009 Planning Board meeting whereby the Board
 5 requested that the applicant provide a revised Site Plan, Landscaping
 6 Plan, monopole camouflage color, cost estimate for the installation of
 7 the wetland mitigation infiltration system and that another site walk be
 8 held on June 27, 2009. She mentioned that the Board also
 9 scheduled a public hearing for this evening provided that the
 10 applicant submitted by Friday, August 7, 2009 all of the information
 11 and documentation requested by the Board and the property posted.
 12 The Chair said that by letter dated August 6, 2009 and received on
 13 August 7, 2009, applicant's attorneys Snyder & Snyder, LLP, by
 14 Robert D. Gaudio, Esq., in response to staff's and Board's
 15 comments made at the June 24, 2009 meeting, and the June 27,
 16 2009 site walk written observations by Town Engineer Guy Gagné on
 17 June 30, 2009 submitted a revised Site Plan which includes a
 18 landscaping/wetland buffer mitigation plan, a cost estimate for the
 19 installation of a infiltration system, a potential Alexan Somers Woods
 20 Development Site Plan, a suggestion that the Board choose the
 21 monopole coloration pattern by attending another site walk, and
 22 indicating that Urstadt Biddle, Inc. approved the revised landscaping
 23 plan shown on the Site Plan.

24
 25 The Chair acknowledged for the record receipt of the following: a
 26 memo dated June 30, 2009 from Town Engineer Guy L. Gagné , P.E.
 27 listing observations made at the June 27, 2009 site walk conducted
 28 by the Planning Board, applicant's representatives, and the Town
 29 Engineer; a memo dated July 24, 2009 from the Conservation Board
 30 correcting a misspelled word; a letter dated August 3, 2009 received
 31 on August 7, 2009 from Robert D. Gaudio, Esq. of Snyder &
 32 Snyder giving notice that Omnipoint Communications, Inc. is now T-
 33 Mobile Northeast LLC effective July 1, 2009; a memo dated August
 34 17, 2009 from Town Engineer Gagné ; and a memo dated August 21,
 35 2009 from Town Planner Sabrina Charney Hull, AICP, giving her
 36 Project Review and Recommendations.

37
 38 The Chair mentioned that Willing L. Biddle, President of Urstadt
 39 Biddle Properties, Inc., has provided a letter dated August 26, 2009
 40 confirming his approval of T-Mobile's amended site plan with the

1 understanding that the four (4) existing parking spaces to be utilized
 2 for the landscape plan in front of the T-Mobile facility have been
 3 waived by the Town pursuant to Section 170-41 and more specifically
 4 described in a letter dated June 30, 2009, from Town Engineer
 5 Gagné. She said that this letter is sufficient to make the application
 6 complete.

7
 8 The Chair commenced with the Public Hearing. She asked Planning
 9 Board Secretary Murphy if prior to the Public Hearing had the
 10 required legal notice been published and the adjoining property
 11 owners notified.

12
 13 Planning Board Secretary Murphy replied that the notice was
 14 published in the North County News on August 16, 2009 and the
 15 notice of the Public Hearing was mailed to the adjoining property
 16 owners on August 16, 2009.

17
 18 The Chair asked the applicant's representative to give a brief
 19 presentation regarding the August 7, 2009 submission for the benefit
 20 of the public.

21
 22 Robert Gaudioso, the applicant's attorney, said that a site visit with
 23 members of the Planning Board on June 27, 2009 was very
 24 productive. He noted that the Board considered a landscaping plan
 25 that incorporated the use of four existing parking spaces and the
 26 placement of 20 to 25 foot evergreen trees and a mixture for diversity
 27 of Norway Spruces and Blue Spruces in addition to the originally
 28 proposed Norway Spruces and wetland mitigation trees and shrubs.
 29 Attorney Gaudioso explained that the fence gate was moved a little to
 30 the south in order to put the landscaping in front of it which screens
 31 the gate into the compound. He mentioned that paving stones were
 32 added that improve the landscaping design. Attorney Gaudioso
 33 indicated that he submitted the approval from the property owner
 34 noting that the four parking spaces can be utilized should the
 35 Planning Board in the future deem them necessary. He said that a
 36 sketch has been provided showing that the four parking spaces can
 37 be accommodated in the future. Attorney Gaudioso mentioned that
 38 he came up with a methodology to determine the color for the
 39 monopole. He noted that different colors were discussed and the
 40 Planning Board should determine how they would like to proceed with

1 determining the pole's color and pattern. He said that a
 2 demonstration should be done in the field with large plywood boards
 3 with small swatches of coloration to see what will look best instead of
 4 trying to speculate at a Board meeting. Attorney Gaudioso said that
 5 he submitted a cost estimate for the installation of an infiltration
 6 system and a donation of \$1,045. will be made to the Town of
 7 Somers for the Town's off-site wetland mitigation efforts in lieu of the
 8 installation of the infiltration system on site.

9

10 The Chair asked Town Engineer Gagné to summarize his memo
 11 dated August 17, 2009 for the benefit of the public.

12

13 Town Engineer Gagné said most of his items of concern have been
 14 addressed. The parking spaces have been removed and potentially
 15 relocated and the area converted to landscape islands to
 16 accommodate the larger trees that are proposed. He indicated that
 17 the only concern that remains is the color of the pole.

18

19 The Chair asked Town Planner Hull to share her memo to the Board
 20 for the benefit of the public.

21

22 Town Planner Hull noted that written confirmation that Urstadt Biddle
 23 has approved the revised landscaping plan should be provided and
 24 that has been addressed by the letter the Board received tonight.
 25 She said that her second comment was regarding the color of the
 26 pole and the applicant has suggested that the Planning Board attend
 27 a site walk whereby the proposed colors will be demonstrated and the
 28 Board will then determine the pattern of coloration for the tower. She
 29 said that the Board will have to decide if they want to do the site walk
 30 to see the demonstration of colors for the pole or if the Board has a
 31 different idea.

32

33 Mr. Keane said that the Board decided at the site walk in June to
 34 conduct another site walk to determine the pattern of coloration for
 35 the tower. He suggested a site walk in the fall when the leaves are
 36 off the trees.

37

38 The Chair asked if there was anyone from the public who wished to
 39 be heard on this application and no one responded.

40

1 The Chair asked if there were any questions or comments from
2 members of the Board.

3

4 Mr. Keane asked about the timeline and said that the final pattern
5 would be forwarded to the tower manufacturer for painting. He said
6 that he is concerned because the Board will be in uncharted waters
7 absent Rhombus blue and he asked if someone can provide
8 guidance in this area.

9

10 Attorney Gaudioso said that his thoughts were two sheets of plywood
11 with both sides painted brown (Umbra) and the other sheet painted
12 the Rhombus blue which was selected by the ARB. He said then the
13 Board should choose four colors from the color pallet which will be
14 spray painted in a camouflage technique on the plywood. He
15 suggested that the Board look at poles in Croton (blue color) and Mt.
16 Kisco (brown color) and at Phelps Hospital (two tone color). Attorney
17 Gaudioso mentioned that the applicant's engineer can be at the site
18 walk to give guidance to the Board.

19

20 The Chair directed that the site walk be scheduled for November 21,
21 2009 to decide the coloration for the tower.

22

23 Town Engineer Gagné suggested that the parking spaces not be
24 replaced but held in a land bank. He opined that Mr. Biddle's letter
25 was unclear on the parking spaces.

26

27 Attorney Gaudioso said that the Resolution can state that the parking
28 spaces will be land banked and will be Omnipoint's responsibility to
29 build the spaces.

30

31 The Chair asked if there was a consensus of the Board to close the
32 Public Hearing and have staff prepare a conditional resolution for the
33 Board's review with a condition that a determination regarding the
34 pole coloration pattern is chosen.

35

36 On motion by Mr. Goldenberg, seconded by Mr. Keane, and
37 unanimously carried, the Board moved to direct staff to prepare a
38 draft resolution for T-Mobile Northeast LLC, formerly Omnipoint
39 Communications, Inc., for Amended Site Plan Approval, Special
40 Exception Use Permit for activity in the Groundwater Overlay District

1 and Wetland Permit to include a determination of the pole coloration
2 pattern be made in the fall at a site walk on November 21, 2009 for
3 review at the Planning Board meeting of September 9, 2009.

4

5 **PROJECT REVIEW**

6

7 **ST. JOSEPH’S CHURCH AND JOHN F. KENNEDY HIGH SCHOOL**
8 **[TM: 28.15-1- 8, 9,10]**

9

10 Chairman DeLucia said that this is the Project Review of the
11 Applications of the Roman Catholic Archdiocese of New York for
12 Amended Site Plan Approval, Stormwater Management and Erosion
13 and Sediment Control, Tree Preservation, Steep Slopes, Wetlands
14 and Groundwater Protection Overlay District permits. She noted that
15 the proposed project involves the relocation and construction of a
16 new Church of Saint Joseph and the relocation of athletic fields to a
17 portion of the 58.3 acre John F. Kennedy High School Campus
18 located at 54 Goldens Bridge Road, NYS Route 138, in an R-120
19 Residential Zoning District. The Chair explained that this application
20 was last discussed at the June 24, 2009 Planning Board meeting
21 whereby the Board moved to approve Resolution No. 2009-11,
22 Acceptance of Negative Declaration under SEQRA for the
23 Chairman’s signature, which ended the SEQRA process. She
24 commented that according to a memo to the Board dated June 19,
25 2009, Town Planner Hull noted under “Building Coverage” that the
26 June 15, 2009 plans indicate that a variance from the ZBA will be
27 required and should be referred to the ZBA for this purpose. The
28 Chair said that Town Planner Hull also noted that the Zoning Code
29 reference for the handicap parking spaces is incorrect. Per Section
30 170-38 the applicant should be referred to the ZBA to obtain a
31 variance regarding the requested number of parking spaces. The
32 Chair indicated that on June 23, 2009, a revised Action Letter was
33 sent to the applicant with items requiring a response prior to this
34 scheduled meeting. She said that the Board will be discussing site
35 plan issues and details.

36

37 The Chair acknowledged for the record receipt of the following: a
38 letter dated August 13, 2009 and received on August 14, 2009 from
39 applicant’s architects DCAK-MSA Architecture submitting site plan
40 documentation revised through August 13, 2009 and responses to

1 comments and letters from Town Engineer Gagné , the Conservation
2 Board, the Golden's Bridge Fire Department Fire Chief, and various
3 parties; a memo dated August 8, 2009 from Town Engineer Guy L.
4 Gagné , P.E. with comments following the items listed in his memo of
5 June 19, 2009, and has no objection to scheduling a public hearing; a
6 memo dated August 26, 2009 from Town Planner Sabrina Charney
7 Hull, AICP with her submission review and comments, and has no
8 objection to scheduling a Public Hearing; a memo dated June 26,
9 2009 from Michael Barnhart of the Somers Open Space Committee
10 to Town Planner Hull with two items for the Board's consideration; a
11 letter dated June 17, 2009 received on June 22, 2009 from County
12 Planning Board Deputy Commissioner Edward Buroughs, AICP
13 concerning limited sight and stopping distance and the use of a
14 warning sign and the potential for shared parking and shared
15 driveway access and one entry point instead of two; another letter
16 dated August 24, 2009 and received on August 25, 2009 from Deputy
17 Commissioner Edward Buroughs commenting that alternatives be
18 reviewed and the potential for shared parking and shared driveway
19 access; memoranda dated July 9, 2009 and August 8, 2009 from the
20 Conservation Board commenting that the applicant should consider
21 alternatives (not necessarily one entrance) and concern for holes for
22 the root ball of the trees to be planted and preservation of two large
23 trees and cutting down other trees and grinding the stumps; and a
24 letter dated August 23, 2009 received yesterday, August 24, 2009
25 from Jeff Cohen of Goodyear, Arizona, the son of Bonnie Cohen who
26 is the JFK High School Campus adjoining property owner.

27
28 The Chair said that yesterday a letter from a resident addressed to
29 the Supervisor was forwarded to her via fax in connection with this
30 application. According to the letter, among other concerns
31 expressed, the resident "would like to see reasonably expeditious
32 action being taken on the permits for construction of the Church." In
33 response the Chair said she will try to be as brief as possible in the
34 following statement. She said that the Planning Board must review
35 each and every application according to the local laws, ordinances
36 and certain resolutions of the Town of Somers collectively known as
37 the Code of the Town of Somers. The Chair held up the red covered
38 book entitled "Code of the Town of Somers New York". She said it
39 embraces sections that must be followed by the Board and therefore
40 must go through a lengthy process before a project is approved. She

1 explained that in addition, the project may require another process if
2 an environmental review is necessary and the Board must then follow
3 procedures under the New York State Environmental Quality Review
4 Act or SEQRA Regulations, as well as the Town Law. The Board
5 must also consider the safety, health and welfare of the people. The
6 Chair said that the Planning Board is assisted by a Town Attorney, a
7 Town Planner and a Town Engineer, and on occasion by consultants.
8 The Chair commented that six other Planning Board members of this
9 Board who serve as volunteers are appointed by the Town Board.
10 They review a voluminous amount of paperwork submitted by the
11 applicants and their representatives before a meeting. The Chair
12 mentioned that the Planning Board members attend two meetings a
13 month and sometimes conduct a site walk on a Saturday with the
14 applicant and their representatives. She said that she can go on and
15 on with the amount of work that the members are required to do
16 before ending the process and arriving at a decision to approve or
17 disapprove. The Chair asked the public to please be patient and
18 understand that the Board cannot rush a project no matter how
19 simple it might look.

20

21 Ms. Gerbino agreed that the Planning Board, because of its due
22 diligence with review of this project, reduced the amount of time it
23 would have taken.

24

25 Town Planner Hull said that a letter was received from the Building
26 Inspector stating that a variance for building coverage from the
27 Zoning Board of Appeals will not be necessary because it was
28 determined that the church is an accessory building. She explained
29 that originally a variance was requested because the building
30 coverage was above what was allotted for a principal structure. Town
31 Planner Hull said that in a meeting with the applicant, Building
32 Inspector and Town Engineer they discussed this issue and it was
33 determined that the Church is actually an accessory structure on the
34 High School property with the High School building being the principal
35 use. She indicated that the Building Inspector agreed with the
36 revised calculations on the lot coverage.

37

38 The Chair asked the applicant's representative to give a brief
39 presentation.

40

1 Neil Alexander, the applicant's attorney, said that subsequent to the
2 issuing of the Negative Declaration staff met with the applicant to
3 address open issues. He mentioned that the major change in the
4 plans is the reorientation of the baseball field.

5
6 Drazen Cackovic, the applicant's architect, said that in response to
7 the Town Engineer's memo the orientation and trajectory of the balls
8 have been minimized for the balls being hit onto Route 138. Architect
9 Cackovic mentioned that another change is the new layout of the
10 septic system to maximize the existing open space on the hill and the
11 cutting of trees. He indicated that enlarged drawings have been
12 provided for the parking lot improvements. He noted that the railroad
13 bed outlet pipe has been located underneath Plumbrook Road and all
14 structures have been identified by number and details related to
15 stormwater treatment have been revised. He mentioned that the type
16 of grates to be used are still an open issue.

17
18 Town Engineer Gagné asked about the addition of pervious parking
19 spaces.

20
21 Architect Cackovic said that to address the concern about the large
22 number of parking spaces the applicant has agreed to change 31
23 parking spaces along the eastern edge of the church parking lot into
24 pervious paving. He commented that the lighting pole figures will
25 have no light passing beyond the property line. He indicated that the
26 forcemain has been relocated to the cleared area of the site.

27 Architect Cackovic noted that the number of trees to be removed has
28 been corrected on the drawing. He said that he had a telephone
29 conversation to clarify the turning radii for the firetrucks with Mr.
30 Manila of the Goldens Bridge Fire Department.

31
32 The Chair asked Town Engineer Gagné to comment on the issues
33 that remain in his memo dated August 26, 2009.

34 Town Engineer Gagné said that the garage floor elevations and the
35 rectory finish floor elevations have to be modified and add structure
36 numbers to the drainage plans. He mentioned that the control
37 structures are to be provided with an open mouth type of overflow
38 structure to reduce the clogging potential and incorporate same grate
39 type for a yard drain. Town Engineer Gagné indicated that he
40 discussed the concern about the control structures with the

1 applicant's engineer and he will make the corrections. He noted for
2 safety concerns he requested that the yard drain adjacent to PT-9 be
3 shifted to be more central within the island. Town Engineer Gagné
4 said that during a meeting he discussed the elimination of the grading
5 proposed along the east side of the existing pond on Route 138 to
6 reduce impacts to the pond allowing the area to revert to nature. He
7 indicated that during the meeting the elimination of the grading was
8 agreed to but it is still shown on the plans. He asked that the shading
9 for work that is no longer required in the wetland buffer be removed
10 and coordinate all other drawings to reflect same. Town Engineer
11 Gagné noted that the Storm Water Pollution Prevention Plan
12 (SWPPP) must be updated to reflect the site plan changes made
13 during the SEQRA review. He noted that he is still reviewing the
14 SWPPP. He mentioned that the detail sheets not included in this
15 submission be revised and resubmitted for review and provide an
16 under drain detail.

17
18 Town Engineer Gagné mentioned that minor items still have to be
19 addressed. He stated that he has no objection to the Planning Board
20 scheduling a Public Hearing and that his concerns can be finalized
21 during the Public Hearing process.

22
23 Mr. Keane stated that there is still a big issue that is still outstanding
24 and that is the extent of the parking. He mentioned Section 170-40 of
25 the Town Code and said that if there is an 800 seat church and divide
26 5 into 800 it does not equal 400 parking spaces. He explained that
27 the Code calls for one parking space per five (5) seats. Mr. Keane
28 read from Section 170-33 of the Code *sufficient off-street parking*
29 *shall be provided to accommodate the number of vehicles*
30 *customarily used for conveying occupants to the use.*

31
32 Attorney Alexander said that the Town Code is not performance
33 based. He said that the Code states that you have to provide no
34 fewer than that amount of spaces.

35
36 Mr. Keane opined that on a minimal basis we are talking about 160
37 parking spaces. He noted that the applicant is asking for 400 parking
38 spaces and it should not be inferred that the Planning Board has
39 agreed to 400 parking spaces. Mr. Keane mentioned that the
40 applicant should go to the ZBA if he is making the case for more

1 parking spaces then customarily would be needed as this is in the off-
 2 street parking code. He said that this is set forth in Section 170-44.

3
 4 Attorney Alexander said that when you cross reference Section 170-
 5 33 it becomes obtuse.

6
 7 Mr. Keane said that the applicant has agreed not to put impervious
 8 surface in for 31 parking spaces. Mr. Keane said that the Board is
 9 not in agreement that there should be 400 parking spaces.

10
 11 Attorney Alexander opined that is not the Board's call as the Building
 12 Inspector has determined that this project does not need any
 13 variances as his review states that this project complies with Code.

14
 15 Town Attorney Baroni said that during the meeting with the
 16 consultants, staff and the Building Inspector to discuss the parking
 17 issue the Building Inspector determined that it is a minimal number of
 18 spaces that is provided for in the Code and not a matter for Planning
 19 Board determination because it is over 160 spaces. He stated that
 20 the Zoning Board does not come into play because the number of
 21 parking spaces is over 160. He noted that the Building Inspector was
 22 pleased environmentally with the 31 spaces that will be pervious.
 23 Town Attorney Baroni reiterated that the number of parking spaces is
 24 not a decision for the ZBA but is a decision for the Planning Board.

25
 26 Attorney Alexander mentioned that this application complies with the
 27 stormwater requirements for this application being in the NYC
 28 watershed. He stated that this application has met every single Code.
 29 Attorney Alexander asked what the concern is in reference to the
 30 amount of parking spaces. He mentioned that other communities in
 31 reference to religious spaces use a ratio of 1 to 3 not 1 to 5.

32 Mr. Keane said that you can look at the amount of parking spaces in
 33 relation to stormwater and the leeway the Board has to interpret the
 34 Code. He stated that the less amount of impervious surface there is
 35 the better things are from an environmental perspective. Mr. Keane
 36 said that the 400 spaces is the maximum threshold. He mentioned
 37 that there hasn't been a discussion by the Board on the amount of
 38 parking spaces.

39

1 Mr. Goldenberg said that if the number of parking spaces falls within
2 the Code why is there a problem.

3
4 Town Attorney Baroni explained that if 160 parking spaces is the
5 requirement and the applicant wanted only 140 spaces the applicant
6 would have to go to the ZBA for determination. He further explained
7 that if the requirement is 160 parking spaces and the applicant wants
8 to build 160 spaces but the Planning Board wants 300 spaces then
9 the applicant could go to the ZBA for relief. He stated that is the
10 meaning of Section 170-138. Town Attorney Baroni noted that the
11 Code does not address Mr. Keane's concern that 400 parking
12 spaces are too many. He indicated that the Planning Board makes
13 the decision on the number of spaces not the ZBA. He said that the
14 relief for the applicant is an Article 78.

15
16 Attorney Alexander mentioned that this is a religious use application
17 and ties into the ability to practice religion. He said that this is not a
18 typical commercial project and there is an important distinction as to
19 use.

20
21 Mr. Keane said that the Traffic Study shows the number of vehicles
22 (160-170) in the parking lot during the most popular Mass. He
23 commented that it is doubtful that there are 160 cars in the parking lot
24 and 160 cars parked along the road.

25
26 Mr. Goldenberg mentioned that when there is a quilt show at JFK
27 High School cars are parked along Route 138 on both sides of the
28 street. He noted that buses also come from the train station bringing
29 people to the quilt show. He opined that parking is better on the
30 premises so cars do not have to park along Route 138.

31
32 Mr. Foley asked what the applicant's thought process is in relation to
33 the number of parking spaces.

34
35 Architect Cackovic said that the traffic situation in Croton Falls has
36 been difficult and the applicant does not want to build a new Church
37 that can not accommodate all the residents and end up with cars
38 parking on the road causing a dangerous situation. He explained that
39 after Mass some parishioners speak with friends and do not leave
40 immediately and that causes an overlap which affects parking.

1 Mr. Keane said that the number of cars that are parked at a typical
2 Mass have never been counted.

3

4 Mr. Foley said that with no consideration of overlap and no
5 consideration of erring on the side that we do not want to build too
6 many spaces because of bad experiences in the current location
7 how did the applicant reach 400 parking spaces.

8

9 Attorney Alexander noted that the idea is to consolidate services in
10 an area that has had a substantial population growth.

11

12 Architect Cackovic said that the traffic study is based upon typical
13 situations. He mentioned that there are a higher number of older
14 parishioners who come by themselves or two to a car.

15

16 Mr. Keane opined that there is not enough data to support 400
17 parking spaces.

18

19 Monsignor Moore said that the parking situation is a horror in Croton
20 Falls. He mentioned that the 4 PM Mass has over 400 people who
21 use 190 legitimate parking spaces. He noted that the cars park on
22 the grass all the way up to Stoneleigh Avenue. Monsignor Moore
23 commented that cars have two passengers not five. He explained
24 that there are four different places of worship, North Salem, Goldens
25 Bridge, Mass in the Church and Mass in the auditorium at St.
26 Joseph's. Monsignor explained that on Sunday with the two Masses
27 there are 600 people. He stressed that the idea that the number of
28 requested parking spaces was pulled out of the air is judgmental. He
29 said that if any of the Board members want to come to the Church he
30 is willing to count the cars with them. Monsignor Moore explained
31 that Heritage Hills has the biggest body of members and they come
32 to Mass one or two to a car. He said that 160 parking spaces will not
33 be adequate for a facility of this size.

34

35 Mr. Keane responded that data has not been provided to support the
36 400 parking spaces and he thanked the Monsignor for his summary
37 of the conditions at the Church.

38

1 Attorney Alexander said that if the Board is saying that they would
2 like to have 350 parking spaces the applicant will work with the
3 Board.

4

5 Mr. Keane stated that it should not be inferred that the Board is
6 talking about 160 parking spaces (minimum under Code). He said
7 that number of spaces is somewhere between 160 and 400. He
8 noted that the applicant has demonstrated that they are willing to
9 utilize alternative materials for the 31 parking spaces. Mr. Keane
10 suggested 335 impervious parking spaces and 75 pervious parking
11 spaces.

12

13 Attorney Alexander said that the applicant is agreeable to Mr.
14 Keane's suggestion but asked that the 75 spaces be a combination of
15 land banked spaces.

16

17 Town Engineer Gagné noted that the land banked spaces should be
18 around the perimeter or converted to pervious parking spaces.

19

20 Mr. Keane said the he prefers land banking to pervious surfaces.

21

22 Town Planner Hull said that a quick count of the perimeter parking
23 spaces revealed 160 spaces along the perimeter of the proposed
24 parking lot. She noted that the applicant has agreed to make 31
25 pervious parking spaces and if the 160 spaces were to be a
26 combination of land banked and pervious parking around the
27 perimeter of the parking lot and in the future the Church needs the
28 160 spaces or those that have been land banked they can come back
29 to the Board.

30

31 Mr. Keane said that the Board may want to consider 325 parking
32 spaces and 75 land banked and not pervious.

33 Architect Cackovic stated that the applicant will agree to 325
34 impervious spaces and 75 pervious parking spaces.

35

36 Town Engineer Gagné agreed saying that the curb alignment will still
37 have to be installed where it has been designed to be installed. He
38 noted that he prefers the pervious surface because it will be
39 structurally sound and supports the vehicles but there still will be
40 grass.

1 The Planning Board agreed to the 325 impervious spaces and 75
2 pervious parking spaces.

3

4 The Chair stated that the Town Planner and Town Engineer have no
5 objection to scheduling a Public Hearing on this project. She noted
6 that there is a consensus of the Board to schedule the Public
7 Hearing.

8

9 On motion by Ms. Gerbino, seconded by Mr. Goldenberg, and
10 unanimously carried, the Board moved to schedule a Public Hearing
11 on the application of the proposed Church of St. Joseph's for
12 Amended Site Plan Approval and permits for Wednesday, September
13 23, 2009 at 7:30 P.M. at the Somers Town House.

14

15 **PROJECT REVIEW**

16

17 **SUSSMANN MOBIL STATION**
18 **APPLICATION FOR AMENDED SITE PLAN AND**
19 **WETLAND AND STEEP SLOPES APPROVAL [TM: 18.18-1-2]**

20

21 Chairman DeLucia said that this is the Project Review of the
22 application of Paul Sussmann and Juliet Fouregot Sussmann for
23 Amended Site Plan Approval and Wetland and Steep Slopes Permits
24 for the proposed building expansion of 2,320 square feet of space to
25 the existing 880 square feet Mobil Gasoline Filling Station and
26 convenience store totaling 3,200 square feet on a .8660 acre parcel
27 in the Neighborhood Shopping (NS) Zoning District located at 291
28 Route 100. The Chair explained that the applicants are also
29 proposing the reconfiguration of parking spaces with a new
30 stormwater management basin. She noted that a significant portion
31 of the site is located within the 100-foot wetland buffer that includes
32 the adjacent pond and stream which drains directly to the Muscoot
33 Reservoir. The Chair noted that this application was last discussed at
34 the May 28, 2008 Planning Board meeting whereby the applicants
35 were requested to provide an alternative concept showing a smaller
36 building with the required number of parking spaces, and address
37 traffic issues, remediation system and possible tank failure.

38 The Chair said that on July 17, 2009 the applicants submitted three
39 proposed Design Schemes, a Traffic and Parking Evaluation by John
40 Collins Engineer, PC. dated December 8, 2008, a copy of a letter

1 regarding Remediation System Proposal from Environmental &
2 Fueling Systems LLC dated August 21, 2001 and other
3 documentation. The Chair explained that under Scheme A, the
4 existing convenience store would be expanded to 3,200 square feet
5 and 28 parking spaces, under Scheme B, the existing convenience
6 store would be expanded to 2,600 square feet with an increase of 35
7 parking spaces to comply with zoning, and Scheme C shows a
8 smaller 2,772.5 square foot convenience store with 26 parking
9 spaces.

10
11 The Chair acknowledged for the record receipt of the following: a
12 memo dated July 29, 2009 from Westchester County Planning Board
13 Deputy Commissioner Edward Buroughs, AICP, with review
14 comments concerning excessive parking and the Croton Watershed
15 protection, bicycle parking and recommendations; a memo dated
16 August 19, 2009 from Town Engineer Guy L. Gagné, P.E. with review
17 comments regarding applicants' July 17, 2009 submission; a memo
18 dated August 21, 2009 from the Conservation Board with review
19 comments and recommending Plan C; and a memo dated August 24,
20 2009 from Town Planner Sabrina Charney Hull, AICP with review
21 comments and recommendations.

22
23 The Chair asked the applicants' representative to give a presentation
24 on the recent submission for the benefit of the public.

25
26 Roy Van Lent, the applicant's architect, said that the Planning Board
27 at the May 28, 2008 meeting asked the applicant to provide a
28 presentation and analysis of the site at the level of conceptual design.
29 The Board also requested that an alternative concept plan
30 demonstrating a smaller building footprint in conjunction with the
31 required number of parking spaces, in accordance with the Code of
32 the Town of Somers. Architect Van Lent noted that traffic safety
33 concerns with access and egress onto Route 100, particularly in
34 relation to the gasoline delivery schedules conflicting with peak hour
35 traffic consisting of landscape vehicles with trailers and the sight
36 distance concerns be addressed.

37
38 Architect Van Lent noted that the existing site plan has many defects
39 which have been corrected in the alternative schemes that have been
40 submitted. He explained that parking in front of the building involves

1 backing up from those spaces into the traffic lane. He said that the
2 building is intruding upon the main exit traffic lane and the main area
3 where cars are entering the main traffic lane.
4

5 Architect Van Lent reviewed Scheme A with the Board. He explained
6 that all the parking has been eliminated in front of the building with
7 that area dedicated to plantings. He said that the main traffic lane
8 has been widened with the building pushed further south. Architect
9 Van Lent noted that there will be 38 feet from the curb to the pump
10 islands with the parking at the rear of the site. He said that the facility
11 will be 3,200 SF with 16 parking spaces. He mentioned that the three
12 ghost parking spaces will be eliminated and will give more flexibility.
13 Architect Van Lent explained that there are two circulations on this
14 site, external traffic which is the automotive traffic and the internal
15 traffic (within the building itself). He noted that both traffic plans
16 contribute to the success or failure of a convenience store. He
17 stressed that people have to get into the site easily and circulated
18 through the sales area quickly, easily and out. Architect Van Lent
19 opined that Scheme A moves both vehicles and people easily.
20

21 The Chair asked how large are the cashier's counters.
22

23 Architect Van Lent explained that the counter is approximately 16-18
24 feet.
25

26 Architect Van Lent indicated that the building is not changed and is
27 intended to be compatible with the existing structures in the Historic
28 District.
29

30 Architect Van Lent described Scheme B and said that it intends to
31 conform to all code requirements and will increase the exit parking
32 lane and will line up with the existing curb cut. He said that cars
33 coming through the fueling station will not be in conflict. He explained
34 that the building shape will not be amenable to the sales area.
35 Architect Van Lent opined that this scheme demonstrates that you
36 can do something that conforms to Code but will not have a happy
37 result for the owner or people using the facility.
38

39 Architect Van Lent described Scheme C. He said that the building
40 size is reduced to 2,772.5 SF and the concept of the circulation in the

1 parking area is similar. He indicated that the 38 foot main exit is
2 maintained and the building lines up with the existing curb cut. He
3 said that the parking count is reduced from 16 to 14. Architect Van
4 Lent said that the landscaping will be decided when the final scheme
5 is decided by the Planning Board. Architect Van Lent noted that
6 Scheme C is workable with the building being reduced but retaining
7 the same character, materials and details as Scheme A. He
8 mentioned that the interior layout is similar to Scheme A with the
9 cashier's counter being smaller than shown in Scheme A.

10
11 Philip Grealy, the applicant's traffic engineer, said that the traffic
12 study for this project was dated December 8, 2008. Engineer Grealy
13 said that the basic items that were addressed in the traffic study were
14 traffic and parking with the study looking at existing conditions. He
15 explained that the initial studies were done in July with additional
16 studies in September in order to take into account school traffic.
17 Engineer Grealy said that in addition to the existing traffic conditions
18 he looked at the access to and from the existing facility and the
19 private road adjacent to the facility, Mill Pond office access. He
20 indicated that he also reviewed the driveways that serve the site.
21 Engineer Grealy noted that what was interesting is that this site
22 generates at a higher rate according to published data for gasoline
23 stations with convenience stores. He said that the services at the
24 convenience store are very crowded and that is the reason the
25 applicant wants a larger building. Engineer Grealy mentioned
26 morning peak times; commuter and school traffic, and noted that this
27 is the busiest time of the day for traffic. He said that during rush hour
28 (7:15-8:15 AM) in a one hour period over 100 vehicles enter and exit
29 this site. Engineer Grealy stated that Route 100 is an active corridor
30 with the majority of traffic going south bound. He commented that the
31 trip generation is done in two ways, as prescribed by the Institute of
32 Traffic Engineers, look at the trip generation for fueling positions,
33 there are 12 fueling positions on the site or look at the trip generation
34 per square foot, as per the proposed plan with the added square
35 footage.

36
37 Town Engineer Gagné asked if the traffic volumes are closer to the
38 values obtained by using the number of fueling stations.

39

1 Engineer Grealy said that based on his experience, with other fueling
2 facilities that have the same number of fueling positions, but have a
3 larger convenience store, determines the traffic volumes.
4

5 Engineer Grealy stated that there is not a significant change in terms
6 of the morning traffic generation because the internal circulation and
7 efficiency is improved. He commented that the removal of the
8 parking spaces in front of the store is also an improvement. Engineer
9 Grealy opined that the proposed design creates a wider drive aisle
10 which creates better circulation throughout the site. Engineer Grealy
11 mentioned that in terms of the parking there is no overuse of the
12 parking as there are always spaces available. He explained that
13 vehicles use the space at the fueling facility which is not included in
14 the number of parking spaces. He said that the Institute of
15 Transportation recommends 3 ½ parking spaces per 1,000 square
16 foot. He noted that 16 parking spaces will accommodate this facility.
17

18 Engineer Grealy said in terms of the afternoon rush hour the trip
19 generation was lower; therefore, there probably will be an increase in
20 this time period. He noted that in terms of traffic conditions he looked
21 at the driveways and Mill Pond Offices access. He commented that
22 this plan accommodates fueling deliveries in a similar pattern that
23 exists today. He said that the fueling deliveries are better because of
24 the turning radii.
25

26 Engineer Grealy mentioned a comment about looking at a different
27 access scheme but there is no potential to change the existing
28 access drive. He explained that the driveway to the north is a private
29 driveway so there is no possibility to work with that driveway. He
30 noted that there was a concern about sight distance on Route 100
31 going towards IBM. Engineer Grealy stated that the sight distance on
32 Route 100 meets the minimum sight distance requirements by the
33 State.
34

35 The Chair asked if there were any other comments or questions from
36 members of the Board.
37

38 Mr. Goldenberg mentioned that the traffic study dated 2008 showed a
39 1% traffic increase in 2010. He asked what criteria was used to
40 predict the 1% traffic increase.

1 Engineer Grealy stated that the State DOT records over a 10-15 year
 2 period show a 1% traffic increase on Route 100.

3
 4 Mr. Goldenberg commented that there is a proposal for a Church
 5 near Route 138 which will affect the traffic on Route 100. He said
 6 that there is also a proposal for a supermarket that will affect traffic.
 7 Mr. Goldenberg opined that he cannot see the validity of a 1% traffic
 8 increase in 2010.

9
 10 Engineer Grealy said that he realizes that there are new proposals
 11 and his firm is involved in looking at the traffic in reference to Somers
 12 Alexan Woods. He mentioned that he can provide additional
 13 projections and a sensitivity analysis.

14
 15 Mr. Goldberg confirmed that the egress and ingress from the station
 16 will still be the same. He questions if there will be a problem with
 17 vehicles going in and out of the enlarged facility.

18
 19 Engineer Grealy said that there will not be a big change in regard to
 20 delays coming out of the driveway. He explained that by getting rid of
 21 the parking spaces in front of the facility there will be less stacking of
 22 cars and will be more efficient.

23
 24 Mr. Keane asked what the distance is from the edge of the concrete
 25 pad over to the parking spaces.

26
 27 Engineer Grealy said that the distance from the edge of the pavement
 28 is approximately 32 feet.

29
 30 Mr. Keane asked how many feet is the building being pushed back
 31 from where it is now.

32
 33 Engineer Grealy responded the building is being moved 10 feet.

34
 35 Mr. Keane mentioned that on August 12, 2009 at 8:40 A. M. he saw a
 36 75-foot tanker making a delivery and it was not up against the
 37 property line and he also observed a logging truck straddling the last
 38 station and half of the vehicle was out to the traveled portion because
 39 it was getting diesel fuel and that pump is in the middle. Mr. Keane
 40 also saw cars backed up to the roadway. He stressed that this is not

1 an unusual occurrence and is the reality. Mr. Keane said that he did
2 not see this information in the study.

3

4 Mr. Keane said that the proposal is to put the parking in the back of
5 the building and he feels this is not a safe condition and will create
6 problems with circulation. He noted that with a larger convenience
7 store with the current traffic it does not make sense that the volume of
8 traffic will not change.

9

10 Engineer Grealy stated under the existing situation distance creates
11 problems but with the proposed plan the circulation will be improved.

12

13 Mr. Keane disagreed saying that on August 12, 2009 all the filling
14 spots were filled and cars were backed up to Route 100.

15

16 Mr. Keane said that the tanker deliveries do not occur when they
17 were represented to occur. He noted by creating a building four
18 times the size of the original more traffic volume will be created.

19

20 Engineer Grealy mentioned that he reviewed the fueling issue and
21 the turning radii.

22

23 The Chair asked what the plan is for snow plowing.

24 Paul Sussmann, the applicant, said that the snow will be piled on the
25 grassy areas.

26

27 Mr. Keane noted that part of the problem is that if this project would
28 start over again it would not be allowed. He said that the applicant is
29 trying to make a silk purse out of a sours ear. Mr. Keane commented
30 that one of the obligations of the Planning Board is safety.

31

32 Juliette Sussmann, applicant, said that the site is not a perfect
33 location but she is upset about the negative comments. She
34 explained that she orders the fuel and is responsible for making sure
35 that the fuel is there every day. Ms. Sussmann noted that fuel
36 deliveries are not always consistent because the fuel truck has to wait
37 sometimes. She mentioned that she tries to have the fuel deliveries
38 early in the morning or late at night to make it easier for the

1 customers but she cannot control the delivery times as sometimes
 2 the truck can be delayed by traffic.

3

4 Mr. Sussmann opined that his gas station does not have a safety
 5 issue. He mentioned Mr. Keane's concern with fuel trucks and
 6 landscaping trucks with trailers but in 21 years of business there has
 7 never been a traffic infraction or safety issue.

8

9 Mr. Keane noted that the physical nature of the internal circulation of
 10 vehicles is being changed so the past safety experience is not
 11 applicable.

12

13 The Chair asked if there was a possibility of the building which is
 14 shown at 48 feet wide bringing the building back 10 feet so there will
 15 be more room in the aisle.

16

17 Mr. Sussmann explained with the larger building the lane size is
 18 being increased from 28 feet to 38 feet.

19

20 Mr. Goldenberg noted that the Board received a letter saying that the
 21 enlargement of the convenience store was not for profit but for the
 22 convenience of the customers. He said that he is concerned that the
 23 larger convenience store will bring in more traffic.

24

25 Mr. Sussmann said that it is the goal of a small businessman to grow
 26 not stay where you are and shrivel.

27

28 Engineer Grealy said that there will be an increase in traffic during the
 29 afternoon rush hour.

30

31 Town Engineer Gagné asked how the parking requirements were
 32 established on this site.

33

34 Engineer Grealy said that he does not know how the current number
 35 of spaces was arrived at but the data for gasoline and convenience
 36 stores together, the ratio is 3 ½ spaces per 1,000 SF of convenience
 37 space. He noted that the fueling position spaces are not counted.

38 Town Planner Hull mentioned that the minimum requirement is 12
 39 parking spaces for this facility.

40

1 Tim Allen, the applicant's engineer, said that the 10 parking spaces
2 are meant for a repair station and he asked if there are archives on
3 the old zoning.

4
5 Architect Van Lent said that the 10 parking spaces were written in the
6 Code for repair stations. He mentioned recent approvals by the
7 Planning Board for gasoline filling stations (Getty and Valero) were
8 approved with the spaces necessary for a convenience store and not
9 the additional 10 parking spaces in addition to the spaces calculated
10 for the convenience store itself. Architect Van Lent stressed that
11 there is a total of 10 parking spaces in the Getty and Valero gas
12 station approvals.

13
14 Mr. Keane asked for input on the safety issues.

15
16 Engineer Grealy said that he will provide the accident data for this
17 project.

18
19 Mr. Keane noted that he does not disagree with Mr. Sussmann
20 saying that there have been no traffic infraction at the site but the new
21 conditions have no history.

22
23 Engineer Grealy asked if there is any feedback on the three schemes
24 that have been provided.

25
26 Mr. Keane advised the applicants to work with Scheme A, the worst
27 case scenario to present to the Board.

28
29 Town Engineer Gagné asked that the pump location be delineated
30 and the size of the traffic isles provided and if the entrance is a
31 problem the landscape strip can be reduced to improve safety.

32
33 Engineer Allen said that he will show the turning radius of a fuel truck
34 and landscape truck.

35
36 Chair DeLucia directed that the applicant work with Scheme A, the
37 worst case scenario to present to the Board.

38
39
40

1 **PROJECT REVIEW**

2

3 **WRIGHT'S COURT SITE PLAN [HALLIC PLACE]**
4 **[TM: 17.11-1-5, 18]**

5

6 Chairman DeLucia explained that the Project Review of the
7 application of Hallic Place Development LLC for Wright's Court Site
8 Plan located off of Scott Drive will not be reviewed this evening since
9 the applicant inadvertently missed the deadline in which to make a
10 submission to the Planning Board's consultant's office. She noted
11 that the application will be placed on the September 9, 2009 Planning
12 Board agenda.

13

14 **PROJECT REVIEW**

15

16 **RICHARD A. AND JOANNE NASH AND HENRIETTA COHN**
17 **LOT LINE CHANGE [TM: 27.10-1-20.1 & 20.3]**

18

19 Chairman DeLucia said that this is the application of Richard A. and
20 Joanne L. Nash and Henrietta Cohn for a Lot Line Change for
21 property located at 5 Two Penny Lane and 82 Lake Road in an R-80
22 Residential Zoning District. She explained that the applicants
23 propose to adjust property lines to a location between existing
24 buildings to conform ownership to actual use of buildings. The Chair
25 said that the stone building that is situate at the Northeast corner of
26 the Cohn property would remain within the property line of the Nash
27 property who utilize the stone building for storage purposes. She
28 commented that at the April 22, 2009 Planning Board meeting, the
29 Board moved to waive the requirement to prepare and submit a
30 constraints map and topographic map. The Chair noted that the
31 applicants also requested that this project be reviewed under Section
32 150-15 Abbreviated Approval process; however, the applicants had
33 not yet received the required variances. She explained that at the
34 May 27, 2009 Planning Board meeting, when this application was last
35 discussed, the applicants were referred to the Zoning Board of
36 Appeals with a positive recommendation to obtain the necessary
37 variances.

38

39 The Chair said that Town Planner Hull in her memo to the Board
40 dated August 20, 2009 comments that given that the applicants have

1 received the necessary variances, her office has no objection to the
 2 application being reviewed under the Abbreviated Approval Process.

3
 4 The Chair noted that Town Planner Hull also comments that the
 5 Board may declare this action a Type II Action.

6
 7 On motion by Mr. Keane, seconded by Mr. Goldenberg, and
 8 unanimously carried, the Board moved to declare the proposed
 9 activity a Type II Action pursuant to State Environmental Quality
 10 Review Regulations, 6NYCRR Part 617 (SEQR) and Chapter 92,
 11 Environmental Quality Review of the Somers Town Code and
 12 therefore, no further SEQR review is necessary.

13
 14 The Chair acknowledged receipt of the following: a memo dated
 15 August 10, 2009 from ZBA secretary Teresa Reale commenting that
 16 the requested area variances were granted by the Zoning Board of
 17 Appeals on July 21, 2009. The Chair said that the Board will be
 18 receiving the ZBA's Resolution shortly after Ms. Reale returns from
 19 vacation; a memo dated August 20, 2009 from Town Engineer Gagné
 20 commenting that he has no objection to the Planning Board following
 21 the Abbreviated Approval Process, that the Preliminary subdivision
 22 plat be revised and to schedule a Public Hearing; and a memo dated
 23 August 20, 2009 from Town Planner Hull who also has no objection
 24 to the applicants following the Abbreviated Approval Process.
 25 The Chair asked the applicants' representative to give a brief
 26 presentation regarding the application for the benefit of the public.

27
 28 Glennon Watson, the applicant's representative, said that the staff's
 29 memos call for minor technical issues and he does not have any
 30 objection to their comments. He asked that the Board schedule a
 31 Public Hearing for this project.

32
 33 The Chair asked if there were any comments or questions from
 34 members of the Board.

35 Mr. Knapp asked if the second well on the Nash property is being
 36 used.

37
 38 Mr. Nash indicated that the well is obsolete and was originally used
 39 for horses.

40

1 Mr. Knapp said that the well just to the west of the Nash residence on
2 the south easterly lot should be abandoned for safety purposes.

3
4 Town Engineer Gagné stated that a note be added to the plat stating
5 that the well is abandoned.

6
7 The Chair asked if there is a consensus of the Board to schedule a
8 Public Hearing and to direct staff to prepare a draft Resolution and to
9 grant Final Subdivision Approval for consideration at the September
10 23, 2009 meeting.

11
12 On motion by Mr. Keane, seconded by Mr. Goldenberg, and
13 unanimously carried, the Board moved to schedule a Public Hearing
14 on the Application of Richard A. and Joanna L. Nash and Henrietta
15 Cohn for a lot line adjustment under Abbreviated Approval Process
16 Section 150-15 of the Code of the Town of Somers for Wednesday,
17 September 23, 2009 at 7:30 p.m. at the Town House and that staff
18 prepare a draft Resolution to grant Final Subdivision Approval for the
19 Board's consideration.

20
21 *At this time Mr. Knapp left the meeting.*

22
23 **INFORMATIONAL**

24
25 **HOMELAND TOWERS, LLC AND NEW CINGULAR WIRELESS,**
26 **PCS, LLC. (AT& T) [TM: 38.17-1-5]**

27
28 Chairman DeLucia said that the Board will discuss Town Planner
29 Sabrina Charney Hull's comments in reference to her attendance at
30 the Zoning Board of Appeals meeting on August 18, 2009 in regard to
31 the application of Homeland Towers and New Cingular Wireless to
32 erect a telecommunications facility to be located on the property of
33 Michael and Alice Amato at 121 Route 100. The Chair noted that
34 Town Planner Hull has prepared a memo dated August 20, 2009 for
35 the Board's information.

36
37 The Chair asked Town Planner Hull to make her comments to the
38 Board and asked members to interject with any comments or
39 questions.

1 Town Planner Hull said that her memo describes the pole and
2 equipment, antennas and the variances that the applicant is
3 requesting from the Zoning Board of Appeals (ZBA). She noted that
4 the time frame and history of this project from the ZBA is that in April
5 2009 the project was introduced, an escrow account was established
6 and the scheduling of a balloon test. Town Planner Hull explained
7 that at the ZBA meeting on August 18, 2009 the applicant submitted a
8 complete application and discussed the project and the ZBA declared
9 its intent to be lead agency on the project.

10
11 Town Planner Hull explained that the intent to be lead agency from
12 the ZBA will be sent out shortly and the Planning Board has 30 days
13 to object to the ZBA being lead agency or that the review be
14 coordinated with the Planning Board. She asked that the Planning
15 Board discuss its options.

16
17 Mr. Keane mentioned that the Board will need reasons to object to
18 the ZBA being lead agency on the Homeland Towers application. He
19 said that a coordinated review can be better handled by the Planning
20 Board staff as the ZBA does not have staff.

21
22 Town Attorney Baroni advised that the Board does not need reasons
23 to object to the ZBA being lead agency.

24
25 Town Planner Hull said that when the Notice of Intent to be Lead
26 Agency is received she will prepare a draft letter to the ZBA for the
27 Board's consideration.

28
29 Ms. Gerbino asked if the environmental violation has been removed
30 from this property.

31
32 Town Engineer Gagné advised that the environmental violation has
33 been removed from this property.

34 The Chair stated that the Board all agreed to object when we receive
35 the ZBA's Notice of Intent to be Lead Agency and Town Planner Hull
36 will notify the ZBA.

37
38 **SCHEDULE PUBLIC HEARING**

39
40 **HERITAGE HILLS CONDO 14**

1 MAINTENANCE AREA ACCESS ROAD
2 PERFORMANCE BOND

3
 4 Chairman DeLucia noted that the Board will schedule a Public
 5 Hearing to consider under Section 150-16.G of the Code of the Town
 6 of Somers the release of the Heritage Hills Condo No. 14
 7 Maintenance Area Access Road Performance Bond in the amount of
 8 \$40,000.

9
 10 The Chair acknowledged receipt of a memo dated August 21, 2009
 11 from Town Engineer Gagné giving a brief synopsis of the Condo 14
 12 bond history with attachments.

13
 14 Town Engineer Gagné said that the Planning Board granted Final
 15 Subdivision approval of Condo #14 by Resolution dated January 26,
 16 2000, and granted Site Plan Approval, Wetland and Steep Slopes
 17 Approving Resolution on February 9, 2000. He explained that the
 18 approval included completion of the Maintenance Yard Access Road
 19 (part of the Haul Road) as part of Condo #14 improvements to allow
 20 residents a second access from Warren Street. He noted that at that
 21 time the access road use was limited to construction vehicles. Town
 22 Engineer Gagné mentioned that a performance bond for the local
 23 condo improvements was not required and the only bond that was
 24 required was for the completion of the maintenance yard access road
 25 located outside Condo #14 and that estimate along with his letter
 26 establishing the bond amounts has been provided. He said that the
 27 maintenance yard access road was part of the Haul Road and was
 28 built many years ago prior to this action, therefore, some aspects of
 29 the installation were conducted prior to his becoming Town Engineer.
 30 Town Engineer Gagné said that the bonds for this project were
 31 described in his memorandum to the Town Attorney and Town Board
 32 dated May 22, 2000, and accepted by the Town Board June 23,
 33 2000. He noted that after Condo #14 was completed the
 34 maintenance yard access road was opened to the public and the
 35 bond was reduced to \$40,000 because of the potential construction
 36 traffic damage that may have resulted from the build out of the final
 37 four and the remaining work at the maintenance yard. Town
 38 Engineer Gagné mentioned that the \$40,000 value rounded up was
 39 established based on the estimated cost of installing the top course,
 40 curbs and landscaping.

1 Town Engineer Gagné stated that work on the final four condos and
 2 the maintenance yard are now complete; therefore, it is appropriate
 3 for the Planning Board to consider the release of the remaining bond.
 4 He commented that the minor work associated with the Haul Road
 5 closure will not affect this road. He said that his office has reviewed
 6 the As-Built Construction drawings and profiles of the Condo #14
 7 maintenance access road and found them to be in general
 8 compliance to the approved drawings, and further, that the
 9 construction work associated with the Condo #14 maintenance
 10 access road has been inspected by his office and found to be in
 11 general compliance with the approved drawings.

12
 13 The Chair asked if there were any comments or questions from
 14 members of the Board.

15
 16 Mr. Goldenberg said that he read that the performance bond expired
 17 on June 28, 2009.

18
 19 Marc Brassard, the applicant's representative, explained that the
 20 performance bond is automatically renewed. He said that the
 21 performance bond is in the form of a Letter of Credit.

22
 23 Mr. Goldenberg said that he would like to see the document stating
 24 that the bond was renewed.

25
 26 Mr. Goldenberg asked who owns the access road.

27
 28 Mr. Brassard said that the road is owned by the Heritage Hills
 29 Society.

30
 31 Mr. Goldenberg noted that Heritage Hills Society will now be
 32 responsible for the road. He said that he spoke to the Society and
 33 they know nothing about the road.

34
 35 Mr. Brassard stated that the Society owns the road whether it is an A,
 36 B or C road and that is listed in the DRD Resolution and the Finding
 37 Statements.

38

1 Mr. Goldenberg mentioned that he does not agree with the Town
2 Engineer's statement in his memo that the work on the final four
3 condos and the maintenance yard are now complete.

4
5 Mr. Brassard stressed that this performance bond has nothing to do
6 with the final four condos or the maintenance yard but is just for the
7 final top coat on the road and that has been done since last October.

8
9 Mr. Keane opined that the bond reduction was not done properly and
10 according to Code.

11
12 Town Engineer Gagné opined that the Board has all the information
13 needed to reduce the performance bond.

14
15 Mr. Brassard explained that the performance bond was reduced to
16 \$40,000. and the top coat was not put on the road until the final four
17 condos were finished. He said that Town Engineer Gagné asked that
18 the curbs be backfilled to the top and that was completed in the
19 spring.

20
21 Mr. Brassard asked that the Public Hearing be scheduled and
22 discussion can continue at the Public Hearing.

23
24 The Chair asked if there is a consensus of the Board to schedule the
25 Public Hearing.

26
27 On motion by Ms. Gerbino, seconded by Mr. Foley, and unanimously
28 carried, the Board moved to schedule a Public Hearing to consider
29 under Section 150.16-G of the Code of the Town of Somers the
30 release of the Heritage Hills Condo No. 14 Maintenance Area Access
31 Road Performance Bond in the amount of \$40,000 for Wednesday,
32 September 23, 2009 at 7:30 p.m. at the Somers Town House.

33 There being no further business, on motion by Ms. Gerbino,
34 seconded by Mr. Foley, and unanimously carried, the meeting
35 adjourned at 11:30 P. M.

36
37 Chairman DeLucia noted that the next meeting of the Planning Board
38 will be held on Wednesday, September 9, 2009 at 7:30 P. M. at the
39 Somers Town House.

40

1
2
3
4
5
6
7
8
9

Respectfully submitted,

Marilyn Murphy
Planning Board Secretary