

MARCH 5, 2015 – PUBLIC HEARING

Minutes of a public hearing of the Town Board of the Town of Somers held on Thursday evening March 5, 2015 at 7:10 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT:	Supervisor	Rick Morrissey
	Councilman	Richard G. Clinchy
	Councilman	Thomas A. Garrity, Jr.
	Councilman	Anthony J. Ciriaco
	Councilman	William G. Faulkner

ABSENT:

Also present were Kathleen R. Pacella, Town Clerk, Patricia Kalba, Deputy Town Clerk and Roland A. Baroni, Jr., Town Attorney.

The Supervisor said that this was a public hearing with regard to the Draft Environmental Impact Statement (DEIS) for the Somers Crossing Project and a proposed Local Law to amend Chapter 170 entitled Zoning, Section 170-13C Multifamily Residence MFR District of the Code of the Town of Somers.

The Town Clerk presented affidavit of public notice of the public hearing that appeared in the Somers Record on February 19, 2015 and posted on the Town Clerk's bulletin board the same day.

The Supervisor declared the hearing open and asked for comments from the public.

Mr. Richard O'Rourke, Keane and Beane, PC, Counsel to the Applicant, said that they were there to acquire the necessary approvals to permit a grocery store and an 80 Unit Multifamily Residential development. He explained that the first step in the approval process was the public hearing to permit comment in connection with the Draft Environmental Impact Statement (DEIS). He said that also the public hearing was for the Town Board to examine an amendment to the Town of Somers Zoning Code, to create a new Multifamily Residence Downtown Hamlet. Mr. O'Rourke stated that would allow for them to proceed with having a grocery store as well as Multifamily Residential. He said that the grocery store that was being proposed was to be located in the northern portion of the property with direct access from Route 202. He said that the access was proposed directly across from the existing entrance of Heritage Hills. Mr. O'Rourke said that this would create a new four way intersection on Route 202 and it will improve the traffic pattern in this vicinity. He said that the grocery store would be approximately 19,000 square feet and anticipated to be a locally oriented neighborhood market. He continued that parking for the grocery store was proposed adjacent to Route 202 on either side of the entry road and there will be a total of 107 parking spaces. Mr. O'Rourke said that loading for the grocery store would be in the rear of the building. He said that the proposed action also included the development of an 80 Unit Multifamily Residential Community with private roads. He explained that the units would be two story townhouses and would contain and mix of 50 two bedroom units and 30 three bedroom units, all with two car garages and visitor parking along the interior private roads. Mr. O'Rourke said that the townhouses were intended to be marketed towards empty nesters wishing to downsize and the project was not proposed to be age restricted. He said that it was proposed to be serviced by Heritage Hills Water Supply and the Heritage Hills Wastewater Treatment Plant and those utilities were adjacent to the site across the street. He said that he had limited time to explain the project therefore he was going to keep his comments brief. Mr. O'Rourke said that the concept was to hear the Town Board and the public's comments with respect to their review of the DEIS and the proposed amendments to the Town Code. He said that the DEIS had been available to the public for some time and they could see the amount of work that had gone into it with respect to all of the studies that were compiled and required by the State Environmental Quality Review Act (SEQRA). He said that the

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project benefits and why they thought the project was good for the community was all set forth in the DEIS. He said that he wanted to highlight the ones that were important to them and what they believed was important to the Town Board as well as the public.

Mr. O'Rourke said that they were creating opportunities not only for shoppers and those seeking the convenience of a grocery store close by, they were also providing an opportunity for housing for the ever growing older population. He said that the grocery stores primary entrance and exit was proposed directly across from Heritage Hills at an intersection that already had a traffic light. He said that the location was well suited and complimentary to the existing shopping that abuts the site. Mr. O'Rourke said that the studies that were set forth in the DEIS the project was much more than a tax and shopping benefit to the Community. He said that there would be employment opportunities both during the construction of the project and afterwards. He said that they wanted to apologize in advance, the format of the public hearing and the regulations of SEQRA did not allow for them to answer questions that evening. Mr. O'Rourke explained that by law every question would be answered in writing and part of the process. He said that they would be in contact and respond according to the process which required all questions be answered in the Full Environmental Impact Statement (FEIS). He said that at that point he wanted to turn the presentation over to Mr. Tim Allan, Bibbo Associates, to briefly go over the site.

Mr. Tim Allan, Bibbo Associates, Design Engineers for the project, said that he had been working on the project for some time with the Planning Board and the Town Board. He gave a brief walkthrough of the site to give the public some prospective of the project. He said that they had been working with Heritage Hills to provide Sewer and Water for the project and they were in agreement. Mr. Allan said that that they had also been working very closely with Mr. Barbagallo of Woodard and Curran on the DEIS stages. He said that he was sure that Mr. Barbagallo would have comments on the engineering but they believed that this was going to be a viable project.

The Supervisor asked about the access on the Route 202 from the Somers Town Shopping Centre if it was part of the plan to eliminate the left turn out of the shopping center. Mr. Allan said that was anticipated although there were several options.

Councilman Ciriaco asked if the plan had a connection between the Urstadt Biddle Property. Mr. Allan stated that was the intention.

Councilman Clinchy said that over the recent years Somers had tried to be on the vanguard of environmental protection in a lot of way. He asked if in the plan were there any improvements to the area to make it friendlier to pedestrian and cyclist traffic. He said that if it was not in the plan was that something that was possible. He said that question was posed from the Energy Environment Committee who were not able to be present that evening. The Town Attorney reminded Councilman Clinchy of the format that all questions would be logged and the answer would be provided in writing. Mr. Allan stated that in his opinion they owed the Town Board a quick explanation. He said that they were providing access from the development to the shopping center and that question would be brought up in the FEIS. Councilman Garrity asked if they were going to give access from the Townhouses in the shopping center. Mr. Allan said that was to be determined.

Mr. Gus Boniello, Applicant, said that at that time they were dealing with the Town Board and soon they would be before the Planning Board and it was anticipated that this site plan would have many modifications. He said that sidewalks and access would be decided in the review by the Planning Board. He said with regard to energy all of the Townhouses were anticipated to be geothermal. Councilman Clinchy asked if he had experience with that technology. Mr. Boniello said that they did in some of their custom homes and there was an unbelievable savings.

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Councilman Cirienco said that the grocery store looked to be cut off at an angle in the rear. Mr. Boniello said that it was and it was designed to fit the site and that allowed for them to get almost completely out of wetland buffer.

Councilman Clinchy asked how a 19,000 square foot grocery store compared to Stop and Shop in terms of size. Mr. Boniello said that he did not have an answer, Stop and Shop was much larger. He said that this was more of a community store. Councilman Faulkner said that he had heard of this grocery store and it compared to a Trader Joe's. He asked if they had any leads as to who may be the operator. Mr. Boniello said that they had been speaking to the DeCicco Family and Mr. John DeCicco was present that evening.

Mr. John DeCicco, Jr., DeCicco and Sons, said that his family currently operated five stores in Brewster, Armonk, Ardsley, Harrison and Pelham. He said that he was currently working on his first lead store that was going to be built in Larchmont and after that was finished he would assume that the one in Somers was going to be next. He said with regard to the question of square footage, their Brewster Store was 40,000 square feet and the store in Armonk was identical in size to what was being proposed here.

The Supervisor said that at one point in time they had a Memory Care Facility in the plan for the parcel located on Route 100. He said that they eliminated that and added a number of townhouses. He said that he had gone on record a number of times with regard to the density being proposed on that site. The Supervisor said that he was concerned that 80 units would be too dense for that site and if there were to be a reduction it should be along that Route 100 corridor. He asked what the reduction would be if they would entertain one in the number of townhouses. Councilman Garrity said that the Planning Board would also have them do multiple designs.

Councilman Clinchy asked if impervious pavement had been considered for the driveways and such. Mr. O'Rourke said that would be answered.

Ms. Linda Simpson, Plumbrook Road, Katonah, said that she liked the idea of a smaller grocery store. She said that her concerns were with the housing project and the precedent it would set for the community if they started allowing new Zoning to be created for the purpose of creating housing. She asked if this would allow for someone else to come along and put housing along Route 100. Ms. Simpson said that even though she liked the idea of a small grocery store what was going to happen when other people in the future want to put other shops and more retail in. She said that she was concerned that Route 100 would become like Yorktown. She said that her concerns were for the future and how much more development would be allowed. Ms. Simpson asked who the housing was going to be designed for, she missed that portion of the presentation. Councilman Garrity said that house was market rate and designed towards empty nesters, although not age restricted.

Ms. Simpson said that she was also concerned with the project being close to the wetland and all of the trees and shrubbery that were going to be cut down. She said that she liked the fact that there was wildlife in the area and their homes were going to be ruined with this construction. She said that there was also going to be runoff that could negatively impact the wetlands. Ms. Simpson said that they needed to consider carefully how large they allow this to become and think about the precedent they might be setting for any future projects.

Ms. Misti Duvall, Staff Attorney with Riverkeeper, explained that Riverkeeper was a member supported watchdog organization dedicated to defending the Hudson River and its tributaries and the New York City Drinking Water Supply Watershed. She continued that they were a signatory to the New York City Watershed Agreement and they had a commitment to ensuring that development projects such as this that were built in the New York City Watershed did not adversely impact the water resources that provide drinking water. Ms. Duvall stated that they were still looking at the DEIS and completing their review and will be submitting more detailed comments in writing. She said that their main

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concerns were things that had already been brought up that evening with regard to stormwater runoff and encroachment into the wetland buffer area. She said that there was also a concern with regard to the amount of clearing on the site. Ms. Duvall said that they were looking very closely at the Draft Stormwater Pollution Prevention Plan and they will be submitting comments. She said that they echoed the concerns that were heard about the disturbance in the wetland buffer. She said that they generally tried to advocate for all development outside the buffer and that was standard.

Ms. Duvall said that the last thing she wanted to discuss was something she believed was in the process of being addressed. She said that she requested an extension until at least March 25th.

The Supervisor said that he wanted to take this opportunity that in the document dated February 12th with regard to the notice of completion there was a March 16th date. He said that they needed to amend that and instead of them setting a firm date they were planning on continuing the public hearing to April 9, 2015. He continued that on the evening that the public hearing is closed they will continue a written comment period for ten days after.

Councilman Ciriaco said that there was a permitting process between the Town and Heritage Hills for the connection to the Sewer. He said that they knew that the system in Heritage Hills was not functioning up to capacity. He said that as they went through that process he would like for them to explain to the Board exactly how they were going to handle that. Mr. O'Rourke said that they would be responding to that in writing although he had conversations with the DEP that afternoon and they were emphatic about their commitment. He said that the plant would be fixed and upgraded to meet all of the regulatory standards. He said that was their obligation and they were continuing to work on that.

Ms. Polly Kuhn, Heritage Hills, asked how these units compared to those in Heritage Hills, as to size, square footage and the market they were aiming towards. She asked if they were the same as Heritage Hills or more upscale or more modest.

Ms. Lynn Crispinelli, Katonah, said that she did a significant amount of real estate in Somers. She said that when showing prospective buyers homes in the area she is always asked where people grocery shop. She said that she wished there was somewhere local to tell them about. Ms. Crispinelli said that it was a big deal when people commuted to work and came home and have to drive to go to the grocery store. She said that this would be an asset for the Town to have as part of this plan.

Mr. Gary Parker, Heritage Hills, said that he was also a Realtor in Somers and he agreed with Ms. Crispinelli that shopping was needed in Somers. He said that it would also help with the value of the properties in Somers. He said that it would be nice to have the wonderful plan and a small grocery store would be an enhancement to the Town.

The Supervisor said that he had one tough question and he was not expecting an answer that evening. He said their proposal was to develop the units as condominiums as far as the tax base went. He said that the Town would be looking for fee simple structure for the properties. The Supervisor asked if that was going to happen or what the thought process was behind fee simple verses condo.

Mr. O'Rourke said that was a question that they were going to have to answer. He said that he had discussed this with the Town Attorney because there were different ways of looking at it and different ways of addressing the issue all of which they would have to be addressed in the FEIS.

Mr. O'Rourke said that earlier that day he received an email from Barbara Sherry and she was asked to pass the email along to the Applicant and their Consultants. He said that he received the email and they had no objections to extending the written comment period to

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March 25, 2015 and if there was a necessity for longer than that they would be willing to extend that as well. He said that they were respectfully requesting, in connection with oral comment, the opportunity had been extended that evening and for the Board to close the public hearing for oral comment. Mr. O'Rourke said that the Board could leave the hearing open for written comment for weeks. He said that they wanted to get through the process.

The Supervisor said that they were at the point where they would either close or continue the public hearing. He said that it was the Board's intention to adjourn the public hearing and that was based on a number of factors. He said that this was the first offering of a public hearing on a major development in the Town and the weather was not the best that evening. The Supervisor said to the Town Attorney that they did need to amend the date with regard to written comment on the SEQRA Notification. The Town Attorney said that it was his opinion the weather was the first good reason to leave the hearing open. He said that the Board had not received comment letters from Westchester County Planning, DEC, DEP, the Attorney General's Office, Riverkeeper and the Town Planning Board. He said that the Board was going to receive comments from most if not all of those Agencies and as they did they may raise more questions that the Board would have or the public would have. The Town Attorney said that to prematurely close the hearing they would lose that opportunity to make those additional comments part of the record unless they submit them in writing.

Mr. O'Rourke said that his concern was if they wished to leave it open for all comments, putting over for another month was a long period of time. He said that they knew that there was a meeting next week and asked if they could continue the public hearing to that meeting. He said that they had a stenographer present at the meeting and there was a cost involved in delaying the process.

Councilman Garrity said that this was a large project and as the Supervisor said it was not the best weather that evening. He agreed with holding the public hearing over until next month's Regular Meeting.

The Supervisor said that the public would be best served by continuing the public comment period to the April 9, 2015 Regular Meeting, with the anticipation of closing the hearing on that date with a 10 day written comment period.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Ciriaco, the public hearing with regard to the Draft Environmental Impact Statement (DEIS) for the Somers Crossing Project and a proposed Local Law to amend Chapter 170 entitled Zoning, Section 170-13C Multifamily Residence MFR District of the Code of the Town of Somers was adjourned at 8:00 PM to the April 9, 2015 Regular meeting.

Town Clerk