

SEPTEMBER 11, 2014 – PUBLIC HEARING

Minutes of a public hearing of the Town Board of the Town of Somers held on Thursday evening September 11, 2014 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 the Town Board was going to combine the public hearings with regard to the a proposed Local Law to amend the Town of Somers 1994 Comprehensive Master Plan and a proposed Local Law to amend Chapter 170-13 Multifamily Residence MFR District into one hearing.

The Town Clerk presented affidavit of public notices of the public hearings that appeared in the Somers Record on August 28, 2014 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.

Ms. Nancy J. Gerbino, Granite Springs, stated that she was present to comment on the proposed amendment to the 1994 Comprehensive Master Plan. She said that she was not a Lawyer, a Planner or an Engineer, she had lived in Somers for 51 years and what she offered was that she had been a full participant of the Town. Ms. Gerbino said about 10 years ago she was appointed along with about 18 other people to a Committee to update the 1994 Comprehensive Master Plan. She continued that they worked very hard on that update and all the documents were submitted and it was placed on the Town of Somers website. She said that in 2006 she was appointed to the Town of Somers Planning Board and that had been a very exciting and uplifting experience to live in Somers and participate in the Town. Ms. Gerbino said before she continued she wanted to state that Hidden Meadows was a good project and the owner of the land and the person that was developing it was doing a good job and she was in favor of the project. She said that she was not there that evening representing the Planning Board and she wanted that to be clear. She said that the Town Board and the Planning Board were on parallel courses. Ms. Gerbino explained that the Planning Board was reviewing Hidden Meadows, a multifamily project, located on Route 6. She continued that the Town Board was amending the Master Plan because they had to because they were also changing the Zoning Ordinance to a Floating Zone so it would float to where the project was proposed. She said that in 1995 the State passed a Law that said that anything the Town did in Zoning had to be in their Comprehensive Master Plan.

Ms. Gerbino said that it came as a surprise to her and many others who had been involved that the Town Board directed the Planner to put together what was needed to amend the Master Plan. She continued that was because they never considered multifamily housing in some of the places that were suggested. She said that she was not telling them that they did not have the right to do so, they were the Governing Board. Ms. Gerbino said although when the rules that the State put out in 1995 it was explained that when the change was made the must have input from experts and some of the experts were the people who lived in Somers. She stated that the Planner did the best she could with the materials she had but she did not live in Somers. She said that when she read some of the proposed changes she

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was very surprised that one of the suggestions was that the 1973 Comprehensive Master Plan had multifamily housing in the west side of Town so they should go back and put it there. Ms. Gerbino said in 1973 the Plan was not adopted by the Town Board.

Ms. Gerbino said that she had a suggestion that would not affect Hidden Meadows project. She suggested that they took the Planner's work and send it back to the Planning Board, ask Ms. Fedora DeLucia to head up the Planning Board as a Committee to review the work and come back to the Town Board with a better plan to update the Master Plan.

Ms. Gerbino said that what she saw that was wrong with the Planner's proposal was that some of the other parcels they were allowing were on the shores of the Muscoot River and no one ever planned to put multifamily housing in that location. She said that the Board needed to find other locations.

Councilman Garrity asked how long Ms. Gerbino thought the Planning Board would need for that review. Ms. Gerbino said that she did not tell Ms. DeLucia of her suggestion but in discussing this with her she had great knowledge and suggestions because of her history with the Town. She thought that the review could be done in three months.

The Supervisor said that Ms. Gerbino gave a history with regard to the update of the Master Plan and he wanted her to know that all of their hard work was not for nothing. He continued that the update Master Plan was getting toward completion.

Councilman Garrity said Ms. Gerbino was suggesting they review the amendment and they could make it fit the Town of Somers better. Ms. Gerbino said that was correct. Councilman Garrity asked the Town Attorney what was the effect of keeping the public hearing opened. The Town Attorney said that he hesitated to tell the Town Board to refer something back to the Planning Board. He said that they reviewed it and made a recommendation to the Board to go forward. Ms. Gerbino stated that she took umbrage to that, she was the Chair of the meeting the Town Attorney was referring to and that happened because the Town was in a legally awkward position. She said that they were told to allow the amendment. The Town Attorney said that he was not incorrect the Planning Board did make a positive recommendation. He said that he maintained that sending the amendment back to the Planning Board would be taking a large step backwards.

Councilman Clinchy said that he understood the point and they thought that they had the Planning Board's support. He said that questions were how did this effect the project and did they wind up with a better amendment to the Master Plan with Ms. Gerbino's suggestion.

Ms. Gerbino said that without approving the amendment they would be spot zoning although there were other locations that could be suggested that were not along the river.

The Supervisor said he would close the public hearing that evening after comment and there would a 10 day written comment period and the amendment would not be voted on until the next regular meeting in October.

Mr. Richard Williams, representing Insite Engineering, present on behalf of Mr. Ken Kearney the Property Owner, said that he wanted to clear up this amendment allowing development on the Muscoot River. He stated that one of the Planner's requirements on the MFR District was that lot be a certain size in order to qualify for the Zoning. He continued that the lots that were along the Muscoot River did not meet the size criteria or owned by a single owner. Mr. Williams explained that one owner would have to purchase several lots and then merge them just to meet the lot size. He said that if that was to occur they would then have to meet strict setbacks for New York City Department of Environmental Protect which goes well beyond the Town's wetland buffer. He said that they would also have to meet requirements from the Watershed Inspector General who had

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started review of the project within the Town of Somers. Mr. Williams said that while it sounded like it was opening up projects along the Muscoot River it was not.

Mr. Tom Smith, Carpenter Place, asked if they could explain the amendment and some of Ms. Gerbino's comments. Councilman Garrity explained that the amendment was to the Master Plan and Ms. Gerbino had indicated that the amendment would possibly open parcels that they would not want multifamily housing on. He continued that Ms. Gerbino was suggesting that they keep the hearing open in order for a committee on the Planning Board to review the amendment. Mr. Smith agreed with Ms. Gerbino.

Ms. Sandra Brinkman, League of Women Voters Affordable Housing Committee, read a prepared statement with regard to her tour of the Mews and the developers care and involvement in his developments.

Barbara Rothman, resident of Heritage Hills and a member of the Somers League of Women Voters, said that she fully supported affordable housing in Somers. She said that now that they had made a start for affordable housing for Seniors it was time to address the issue of affordable housing for municipal workers at Hidden Meadows. She said that her support was based on personal experiences and the benefit of living in a community that you worked in.

The Supervisor said that he could not agree more with Ms. Rothman although the marketing of the units at Hidden Meadows would not be on a preference basis. He said that it would be done from a general lottery of qualified individuals.

Mr. Paul Court, Windsor Road, said that his first concern was the impact on the traffic in that area. He said that he was sure that was something that was being considered he had not seen a lot of information. He said that it was important for the Town to communicate with the residents about what the plans were with regard to the traffic and the changes being proposed. Mr. Court said that his second point was with regard to the amendment to the Master Plan. He said that he had lived in his home since 1986 and the property behind his home was developed and there were acceptations on that property. He said that if variances were made on a Master Plan on the Route 6 corridor that may impact the Central and Western parts of Somers. Mr. Court said that if the Board was going to make changes to the Master Plan and allow for cluster houses or something in less than 2 acre Zoning it should be universal and not just in one section of Town. He said that that whole area is up for development in the near future. He asked the Board to consider the residents that currently live in that area, that appreciate knowing what was going to occur and the traffic concerns were very real to them.

Ms. Wendy Nastasi, Crest Drive, said that she thought that all the residents of the Town should be notified about a change to the Master Plan. She said that when she spoke to other residents they agreed with her that they do not want a lot of multifamily development on Route 6. She said that they did not want to invite the Long Island Expressway (LIE) into Somers. Ms. Nastasi said that she read through the 1994 Master Plan online and that plan tried to keep the face of Somers. She said that changing the Master Plan was a huge deal and this was going to have a great impact on Route 6. She said that she was also concerned about the taxes. Ms. Nastasi said that she knew that the Town was required to have affordable housing because of the HUD Settlement but she wanted to know why Somers was doing more than what was required. She said that what was being proposed was not workforce housing and asked how this was benefiting the Town. Councilman Clinchy said that the Town also had an affordable housing requirement because of the Angle Fly Preserve. Ms. Nastasi asked the Board to consider how this was going to change Somers.

Ms. Polly Kuhn, Heritage Hills, said that the comments from that evening had spread the issue out into something that was much bigger than what was before the Board. She said that the Town Planner pointed out that a change in the Master Plan was required in order to apply the particular piece of Zoning. She said that there had been discussion of going

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back and revising the Master Plan and that was an admirable thing to do. Ms. Kuhn said that the League of Women Voters followed the Committee that worked on the Master Plan. She said that when the proposed Plan was given to the Planning Board and the Town Board it was decided that it was too thick and put aside. She said that the Board chose not to adopt it and it may be time to go back and adopt the Plan. Ms. Kuhn stated that she felt before them that evening was a good proposal. She continued that it was not sitting on the Muscoot River, the Planning Board had given their consideration and asked the Town Board to make a small Zoning change to allow the Overlay Zone. She urged the Board to make to proposed amendments.

Supervisor Morrissey said that the Master Plan update was 95% complete that was one of the tasks that he asked the Planner to complete. He said that he hoped to have a draft Master Plan out by the end of the year. He said that they would be contacting the members of the Master Plan Committee that were still available to assist with having the draft adopted.

Mr. Michael McDonough, said that his family owned a business on Mahopac Avenue and they had 40 employees that worked for them. He said that there was a need for the affordable housing. He explained that out of the 40 employees only 3 of them lived in Somers and all 40 of them would like to live here. Mr. McDonough said that this housing made sense at this time with the economy and the needs. He said that the affordable housing was going to help everyone. He said that he had also had the privilege of working with the Kearney's and they were the best developers for this project.

Mr. Bennett Macaluso, Granite Springs, said that he was a Somers resident for 23 years and raised his family here. He said that recently there had been a lot of development in that one section of Town. He said that he was deeply concerned with regard to the consideration of housing, people and traffic. Mr. Macaluso stated that it took 30 minutes on a weekend to get through one intersection on Route 6. He said that the Board had a choice and could say no to some of the developments. He said that the current Master Plan allowed for 2 acre zoning in that area and it was not to concentrate housing in that area.

Ms. Nancy Potter, Heritage Hills, said that the Town needed a project such as Hidden Meadows to provide moderate housing for young people to get started. She said that this would give them the opportunity to live in Somers.

Mr. Mark Thompson, Brewster, said that he lived in Somers for 2 years and when he looked into buying something there was nothing affordable. He said that with the Hidden Meadows project he would be able to move back to the Town.

Mr. Ken Kearney, Owner and Developer of the property, said that he had been before the Town Board numerous time and before the Planning Board for 3 years. He said that the business that he was in there were a lot of unknowns and with the completion of the Mews I he felt that they met or exceeded to where the Town embraced the idea for the building of Mews II. He said in order to build both of those projects there were amendments to the Planned Hamlet. Mr. Kearney explained that good planning needed to recognize the dynamics of change. He said to look at what had happened since 1994, he pointed out the real estate market changes and the Town's adoption of an Affordable Housing Plan. He continued that the zoning that was being proposed had been in the Town's Code since 1981 and had never been used. Mr. Kearney said that there was now water and sewer in the location and they had an opportunity to implement the zoning. He asked the Board to please recognize the dynamics of change. He said that he understood the concerns and he took every comment seriously. Mr. Kearney said that he would like to sit down with the neighbors and go over all the information he had, such as the traffic plan and the plan to improve Route 6. He said that they met with the Water Shed Inspector General with other Town Officials and they worked through the issues and this will only lead to a better project. He said that Ms. Rose Noonan had applied for funding and the State and the County were holding funding for them for the eight affordable units and they need to show

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the State progress to keep that funding. Mr. Kearney said that in the interest of time, Ms. Gerbino's comments pertained to a piece of property located on the other side of Route 6 and there were other ways to address that without slowing the process. He continued that the money the County was holding for them was earmarked to put towards the Route 6 improvements. He said that the 8 units were a lottery however the interest that they were receiving were with regard to the market rate units and they were affordable for someone starting out.

Councilman Faulkner said that it did seem that there was some concentration in one section of Town verses others. He asked if there were any other alternatives that could be considered, even for future projects. Mr. Kearney said that where the infrastructure, water and sewer, was where the development needed to be placed. He said that the Planned Hamlet property was allowed into the sewer line and he was being optimistic that this property would be allowed in as well, although that was not guaranteed. He explained that Westchester County owned the sewer line and it needed to pass through Cortlandt and Peekskill and they were concerned about that. He said that due to the fact that there was affordable housing they expect it to be approved. Mr. Kearney said that he did not know if future high density projects would be allowed to access that sewer line and explained that it was a process to get the Mews I approved. He said that they were also in the DEP Watershed and it was very onerous even with water and sewer. He said that there were constraints with the lack of infrastructure throughout the Town.

Ms. Nastasi, said that there were affordable places to live in Somers without the building of the new construction.

Mr. Macaluso, said that there was no priority for the Teachers, Fireman, Policeman and residents. Councilman Ciriaco said that when it was a subsidized housing format it was subsidized by the Federal Government and there were prerequisites and one of them was to cast a wide market. He explained that the applications were drawn upon in a lottery and there was no limitations as to who could apply for the housing.

The Supervisor explained that when a developer came to Town and took Federal money to build affordable housing they had to make to units affordable. He said that was 60% of the Average Median Income (AMI) of the area. He continued that the units that were being discussed that evening fell under that category. The Supervisor said that there were other affordable units in development that would not be at 60% but at 80% AMI. He said that the 80% priority could be given.

Councilman Garrity asked what the delay was if they left the public hearing open for another month. He said that this may give Ms. Gerbino time to look into some of her concerns and submit comments. Councilman Clinchy said that he agreed with Councilman Garrity that they should wait the month. He said that he did not want to leave the possibility open for development along the Muscoot River.

It was agreed that the public hearing would be held over until the next regular meeting.

Thereupon motion of Councilman Garrity, seconded by Councilman Faulkner, the public hearings were adjourned to the October 9, 2014 regular meeting at 8:40 PM.

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Town Clerk