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PLANNING DEPARTMENT

TOWN HOUSE  
335 ROUTE 202  
SOMERS, NY 10589

Town of Somers

WESTCHESTER COUNTY, N.Y.



John Currie, *Chairman*  
Jan Corning  
Fedora DeLucia  
Vicky Gannon  
Nancy Gerbino  
Eugene Goldenberg  
Dennis McNamara

3

**SOMERS PLANNING BOARD MINUTES  
OCTOBER 26, 2016**

4

5

6

**ROLL:**

8

**PLANNING BOARD**

**MEMBERS PRESENT:**

Chairman Currie, Ms. Gerbino,  
Mr. Goldenberg, Ms. Gannon, Mr. McNamara  
and Ms. Corning

11

12

13

**ABSENT:**

Mrs. DeLucia

15

**ALSO PRESENT:**

Director of Planning Syrette Dym  
Consultant Town Planner Fred Wells  
Assistant Town Engineer Rob Wasp  
Planning Board Town Attorney Joseph Eriole  
Planning Board Secretary Marilyn Murphy

17

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21

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

25

**APPROVAL OF DRAFT MINUTES AND DVD OF THE PLANNING  
BOARD MEETING HELD ON AUGUST 10, 2016**

28

Chairman Currie noted that Planning Board Secretary Marilyn Murphy  
prepared and submitted for the Board's approval the draft minutes and  
DVD of the Planning Board meeting held on August 10, 2016.

32

1 The Chair asked if there were any comments or corrections from the Board  
2 on the draft minutes and DVD.

3  
4 Ms. Gerbino added the words *internal traffic pattern* on Page 8, line 11.

5  
6 On motion by Chair Currie, seconded by Ms. Corning and unanimously  
7 carried, the draft minutes and DVD of the August 10, 2016 Planning Board  
8 meeting were approved, as amended.

9  
10 Chairman Currie stated that the text of the approved minutes is available  
11 on the Town's website [www.somersny.com](http://www.somersny.com) and is also available for public  
12 review at the Planning & Engineering office at the Town House and the  
13 approved DVD is available for public viewing at the Somers Public Library.

14  
15 **CONTINUATION OF PUBLIC HEARING**

16  
17 *At this time Mr. Goldenberg recused himself and did not participate in the*  
18 *next agenda item.*

19  
20 **SOMERS CROSSING [TM: 17.15-1-15.1]**

21  
22 Chairman Currie noted that this is an application for Site Plan,  
23 Preliminary/Final Subdivision Approval, Steep Slopes, Wetland,  
24 Stormwater Management and Erosion and Sediment Control, Tree  
25 Preservation and Groundwater Protection Overlay District Special  
26 Exception Use Permits for the development of 66 residential condo units  
27 accessed from Route 100, recreation building and a 19,000 s.f. grocery  
28 store. He mentioned that the property is located at NYS Route 100 and US  
29 Route 202.

30  
31 Chair Currie asked the Planning Board Secretary if the legal notice was  
32 published and the adjoining property owners notified of the Public Hearing.

33  
34 Planning Board Secretary Murphy replied that the Public Hearing notice on  
35 the steep slopes was published in the Somers Record on October 13, 2016  
36 and the adjoining property owners were notified via mail on October 14,  
37 2016.

38

1 Chair Currie acknowledged receipt of memos from Provident Design  
2 Engineering, traffic consultant, Tim Miller Associates, Director of Planning  
3 Dym, Woodard & Curran and the Building Inspector.

4  
5 Chair Currie asked the applicant's representative to explain the project for  
6 the benefit of the Board and the public.

7  
8 Timothy Allen, the applicant's engineer, said that he received the  
9 consultant's memos and the major comments have been addressed. He  
10 explained that there were discrepancies in reference to the Somers  
11 Crossing Plan and the DeCicco plan which will be corrected. He  
12 mentioned that his intention was to have the DeCicco Plan supersede his  
13 plans going forward. Engineer Allen said he hopes to move the process  
14 along in hopes of draft subdivision and site plan resolutions being prepared  
15 for the December meeting.

16  
17 Director of Planning Dym noted that she worked closely with Bibbo and Tim  
18 Miller's office to resolve discrepancies that were found. She explained that  
19 the property was rezoned to create the MFR-DH District. Director of  
20 Planning Dym mentioned that when analyzing the plans in the DEIS the  
21 site was treated as one 26.68-acre parcel and for purposes of zoning it  
22 should be treated as two parcels which it is intended to become. She said  
23 that the action the Board will take is subdivision of the two parcels where  
24 one parcel has to be a minimum of 4 acres and that corrects the DeCicco  
25 site to 4.1 acres and the remainder is the residential portion of the site.  
26 Director of Planning Dym said that when the net lot conformance was done  
27 on the layout plan all the site constraints, state and local wetlands and  
28 steep slopes were taken off the total instead of separating them out for  
29 each lot. She said when reviewing the net lot conformance deficiencies  
30 were found, it could not meet two of the requirements of the MFR-DH Zone.  
31 She said this had to do with the residential site not the commercial site.  
32 Director of Planning Dym stated that those two items that could not be met  
33 were related to site coverage and the density units. She explained that the  
34 issue of density units took a long time to understand exactly what that  
35 would be. She said that the Town's attorney and the applicant's attorney  
36 felt that the best approach to deal with the discrepancies was to go to the  
37 Zoning Board (ZBA) to request variances for the MFR-DH District for  
38 coverage and the density units.

39

1 Director of Planning Dym noted that the floor plan has to show what  
2 constitutes the unit that is a two bedroom and three bedroom and if in fact if  
3 there are lofts how do they get counted. She said the Building Inspector  
4 provided a memo that shows the two and three bedroom units and a loft.  
5 She said that it is his opinion they are a two bedroom and three bedroom  
6 unit. Director of Planning Dym indicated that the Board will make that  
7 findings as part of the approval.

8

9 Director of Planning Dym said that a lot will happen during the Site Plan  
10 phase not the subdivision phase.

11

12 Director of Planning Dym said that going back to the bedroom count and  
13 the zoning conformance it identifies the impacts based on population. She  
14 mentioned that the proposed plan will have 7 fewer 2-bedroom units and 7  
15 greater 3-bedroom units. She said that the variance being sought,  
16 therefore, is for 7 additional bedrooms, or 1.06 density units over what is  
17 permitted. Director of Planning Dym said that the Planning Board has to  
18 make a recommendation to the Zoning Board for a variance for the 7  
19 additional bedrooms. She noted that she drafted a memo to the ZBA from  
20 the Planning Board to review to determine if the Board supports this  
21 recommendation. She said that based on consideration of the prior  
22 environmental review process undertaken by the Planning Board they  
23 recommend referring the requested variances to the ZBA for its  
24 determination based on the opinion that the impacts of both variances are  
25 not significant and would not have a significant impact on the environment.  
26 Director of Planning Dym said that although the Planning Board did  
27 undertake a SEQRA analysis of the impacts of the 66 units consisting of  
28 30-3 bedroom and 36-2 bedroom units for which the variances are sought,  
29 the ZBA needs to act as Lead Agency in its own uncoordinated SEQRA  
30 review and make its own determination that the change from the now  
31 permitted 43-2 bedroom units and 23-3 bedroom units as compared with  
32 the desired 30-3 and 36-2 bedroom units, previously analyzed do not  
33 constitute a significant impact. She said that the applicant will come back  
34 to the Planning Board once the variances are granted.

35

36 Ms. Gerbino asked what the other issue is.

37

38 Director of Planning Dym said that the variance from 15% permitted  
39 coverage to 1.8% proposed coverage for the residential parcel is another  
40 issue.

1 Ms. Gerbino asked what the number of school aged children in the  
2 development is.

3  
4 Engineer Allen explained that the DEIS had 80 units and now there is only  
5 65 units, therefore, the number of school aged children is reduced.

6  
7 Ms. Gerbino said that now there is a lesser impact and she does not have a  
8 problem with the variance.

9  
10 Ms. Corning said that she does not have a problem with the variance as the  
11 Board originally reviewed it for a greater impact. She noted that she is a  
12 precedent person and this is a newly developed zone and she feels if there  
13 are rules we should stick with them. She said that the applicant is asking  
14 for 4% increase in bedrooms and a 12% increase in coverage. Ms.  
15 Corning said that it is important in the recommendation to the Zoning Board  
16 that the Board clarifies why they are recommending the variance.

17  
18 Gus Boniello, the applicant, clarified that the plan that was used in the full  
19 SEQRA process worked if you use the total acreage. He stressed that the  
20 26 areas was used during the SEQRA process and no one questioned it.

21  
22 Ms. Gerbino asked how many other areas in Town can the Board apply the  
23 zone to.

24  
25 Richard O'Rourke, the applicant's attorney, said that when this parcel was  
26 analyzed it was done as a total piece of property and it conforms. He noted  
27 that when you draw the subdivision line and they are treated as two  
28 separate parcels then there is a change. Attorney O'Rourke said suppose  
29 the parcel continued to be one property and Mr. Boniello could ground  
30 lease property to DeCicco there would not be a subdivision line but  
31 nevertheless you may have the same structures, the same density and it  
32 would conform. He mentioned that this project is a unique circumstance  
33 and probably will not be seen again. Attorney O'Rourke said that it is  
34 important that we put this in context on how this occurred there was no  
35 intention to circumvent rules and in that spirit when the recommendation to  
36 the ZBA is made it should be in that context.

37  
38 Director of Planning Dym asked how the Board will be comfortable in  
39 making the recommendation to the ZBA.

40

1 Ms. Corning said the history has to be included that it met with the single  
2 site calculations.

3  
4 Chair Currie said that the reduction in units should be mentioned.

5  
6 Chair Currie asked for a vote on the recommendation to the ZBA.

7  
8 On motion by Chair Currie, seconded by Mr. McNamara and unanimously  
9 carried, the Board moved to recommend to the Zoning Board of Appeals  
10 (ZBA) the two variances, one for the number of permitted density units and  
11 the other for coverage of the residential buildings in the MFR-DH District.  
12 The Board asked the Director of Planning to make the recommendation to  
13 the ZBA based on her memo dated October 27, 2016, as amended.

14  
15 Engineer Allen noted that the applicant will be meeting with the ZBA on  
16 November 14, 2016.

17  
18 Director of Planning Dym said that the calculations for the recreation area  
19 and open space by the applicant included the hammerhead and the Board  
20 should determine if the hammerhead turnaround of Road E is something  
21 that should be counted as part of the recreation area calculation. She  
22 stated that the applicant meets the recreation requirement even without this  
23 area.

24  
25 Director of Planning Dym said that the plan shows a mezzanine above the  
26 first floor at the DeCicco store. She questioned if this meets the zoning  
27 requirements, but after talking to the Building Inspector a mezzanine should  
28 be considered a portion of the floor below and it should not contribute to  
29 either the building area or number of stories. She noted that it does not  
30 affect the parking requirements.

31  
32 Director of Planning Dym stressed that DeCicco's is not a ground lease but  
33 a subdivision and it is the responsibility of the Board and its consultants to  
34 make sure it meets all the zoning requirements.

35  
36 Director of Planning Dym mentioned that the applicant has to revise the  
37 Layout Plan. She said that the applicant has not provided written  
38 confirmation that the Somers Towne Shopping Center is in agreement with  
39 the Site Plan changes that are identified as taking place on its property.

40

1 Attorney O'Rourke said that he received an e-mail from the general council  
 2 of Urstadt Biddle Properties and they consented to a waiver of Site Plan  
 3 Approval to the modification to their parcel. He mentioned that an  
 4 engineering drawing has been prepared that will be the basis of the  
 5 application. He said that the loss of 4 to 6 parking spaces was anticipated  
 6 in the Draft Environmental Impact Statement (DEIS) and the Final  
 7 Environmental Impact Statement (FEIS). Attorney O'Rourke said that there  
 8 will be no net loss of parking spaces on the Towne Centre Shopping  
 9 Center.

10  
 11 Director of Planning Dym said that the Board has to formally acknowledge  
 12 the letter from the Building Inspector that states the applicant has fulfilled  
 13 the requirement for the floor plans and the number of bedrooms in each  
 14 proposed unit under Section 170-12D (1) (a) 4.

15  
 16 On motion by Chair Currie, seconded by Ms. Gerbino and unanimously  
 17 carried, the Board accepted the findings in the Building Inspector's letter  
 18 dated October 21, 2016 defining the floor plan, measurements and  
 19 qualifications.

20  
 21 Fred Wells, Consultant Town Planner, noted that he will review Brian  
 22 Dempsey's memo on the Traffic Review of the Site Plan dated October 19,  
 23 2016 with the Board. Planner Wells said that the plans show two  
 24 crosswalks between the Architects Plan and the Bibbo Plan. He mentioned  
 25 that the architects plan shows two raised crosswalks on the grocery store  
 26 site and that is recommended by Engineer Dempsey. He noted that  
 27 Engineer Dempsey felt that the crosswalk in front of the western parking lot  
 28 should not be raised. Planner Wells said that Engineer Dempsey favors a  
 29 sidewalk connection to the Towne Centre that could be provided by using  
 30 crosswalks including a raised crosswalk from the sidewalk at the end of the  
 31 store and between the islands and the short sidewalks within the islands.  
 32 He noted that the sidewalk could then travel through the middle of the  
 33 island separating the two properties and end across from the stores of the  
 34 Towne Centre.

35  
 36 Ms. Gannon commented that Urstadt Biddle's representatives, when  
 37 discussing their application with the Board, there was discussion about  
 38 parking near the post office and that lead to the configuration where you  
 39 close the current exit and move some parking on the curve and ways that  
 40 space can be better used at the other end of the property.

1 Gus Boniello said that the current entrance is something outside of his  
2 control. He said that he does not want to be held hostage by a property  
3 owner. He said that he does not have a problem with the sidewalk on his  
4 property but has a problem with sidewalks on the neighbor's property, as  
5 that is out of his control.

6  
7 Ms. Gerbino said that it is a nice idea but can resurface in the future.

8  
9 Planner Wells mention the additional mezzanine square footage was not  
10 considered in the traffic and parking analysis during the EIS process.  
11 He said that the additional 4,000 square feet would result in an  
12 approximate 20% increase in the retail square footage. He said that this  
13 would equate to approximately 12 additional trips in the peak a.m. hours,  
14 43 additional trips in the peak p.m. hours and 38 additional trips during the  
15 peak Saturday hours based upon the methodology used in the EIS  
16 process. Planner Wells said that mezzanine is counted as floor space  
17 because it is occupied usable space. He said that Engineer Dempsey felt  
18 that the site would still remain within the code.

19  
20 Planner Wells noted that the location for a school bus and the bus  
21 circulation should be shown. He said that the school district should have  
22 something in writing that they are willing to come into the site.

23  
24 Mr. Boniello said that he received a letter from the school district and they  
25 have no problem with the school buses coming into the site and having the  
26 bus stop at the recreation center. He noted that there will be some type of  
27 agreement like at Heritage Hills.

28  
29 Planner Wells reviewed his memo dated October 19, 2016 with the Board.  
30 He mentioned that two sets of plans were submitted for the grocery store,  
31 one by Bibbo Associates and one by Studio RAI, which conflict in some  
32 respects. Planner Wells said that each plan should spell out what it is  
33 showing so someone building the project doesn't pick from the wrong plan.

34  
35 Planner Wells noted that the design of pedestrian facilities, sidewalks or  
36 shoulders, and bicycle facilities within the site, connections to the public  
37 right-of-way and connections between the site and Towne Centre should  
38 be provided. He mentioned that the current residential plan does not  
39 propose sidewalks or bicycle facilities with the exception of a sidewalk in  
40 front of the recreation building. Planner Wells said that the Planning Board



1 shall determine whether the 24' wide road connection proposed by the  
2 applicant, between the residential component and Towne Centre without  
3 separate pedestrian facilities is acceptable. He commented that the current  
4 commercial plan proposes sidewalk connections between the main parking  
5 lot and the store. Planner Wells said that the exact location of the  
6 sidewalks needs to be coordinated between the two commercial site plans.  
7 He noted that no bicycle facilities are proposed. Planner Wells said that  
8 the Planning Board shall determine whether the approximately 25' wide  
9 road connection proposed between the commercial component and Towne  
10 Centre, without any pedestrian facilities is acceptable.

11  
12 Planner Wells asked if there should be a sidewalk that parallels the road  
13 and should the road have a shoulder or not.

14  
15 Mr. Boniello said that he will provide a grass shoulder.

16  
17 Planner Wells noted that the plans show a recreation building, parking area  
18 and a sidewalk with a patio added in the last plan. He mentioned that  
19 during the EIS process playground equipment was mentioned but the plan  
20 does not propose a playground. Planner Wells said that the Planning  
21 Board has to decide if they want to see something more recreational or just  
22 grass.

23  
24 Chair Currie said that the number of children in the development will  
25 determine if a playground is needed.

26  
27 Mr. Boniello said this project will be an on-going process and his intent is  
28 not to have a playground but if a number of people want a playground he  
29 will put in a playground.

30  
31 Mr. McNamara noted that the Homeowners Association will have a say on  
32 the matter.

33  
34 Planner Wells mentioned that the landscape improvements along the  
35 frontage of Route 100 were identified in the adopted SEQRA Findings  
36 relating to landscape design and aesthetics. He said that it is important that  
37 the number of trees that will be removed will not make it look like the forest  
38 has disappeared. He said that a stone wall will be rebuilt on the property  
39 line along the existing frontage to a height and width that has a substantial  
40 appearance from the road. Planner Wells noted that in addition to the

1 stone wall a fence will be added along the frontage in character with  
 2 historic wrought iron or wood picket fencing of Early American to a size that  
 3 has a substantial appearance from the road. Planner Wells said that  
 4 because the slope drops away from the road he suggested that the details  
 5 show the stone wall shall be specified as 2 ½ feet above the adjacent road  
 6 grade. He mentioned that a 2' high picket fence is proposed along the  
 7 stone wall along Route 100.

8  
 9 Planner Wells explained that new shade trees will be added along the  
 10 entire frontage of suitable species for exposure to road conditions and  
 11 substantial size and spacing to recreate a tree canopy in the short term.

12  
 13 Planner Wells said that a building foundation planting plan will be required  
 14 to demonstrate a typical planting scheme proposed for the residential  
 15 buildings.

16  
 17 Planner Wells noted that the wetland buffer enhancement that was  
 18 proposed in the Environmental Impact Statement (EIS) is the removal of  
 19 invasive plants and restoration with appropriate native species. He said  
 20 this must be shown on the plans and proposed plantings specified.  
 21 Planner Wells asked if the Department of Environmental Conservation  
 22 (DEC) Wetland permit has been applied for.

23  
 24 Mr. Boniello confirmed that he has applied for the DEC Wetland Permit  
 25 and any recommendations will be forwarded to the Planning Board.

26  
 27 Director of Planning Dym said that the requests from Planner Wells be  
 28 shown on the plans.

29  
 30 Robert Wasp, the Assistant Town Consulting Engineer, said that he will  
 31 review his October 21, 2016 memo with the Board. He mentioned that the  
 32 proposed geothermal systems for heating and cooling systems on the site  
 33 were looked upon favorably being the project is in the Groundwater  
 34 Protection Overlay District. Engineer Wasp said that he needs to see  
 35 details of the system.

36  
 37 Engineer Allen said that wells will be closed looped vertical wells that meet  
 38 today's standards. He noted that he will provide documentation and details  
 39 on the plan.

40

1 Engineer Wasp said he wants to see the overall plan that shows the  
2 number, location and depth of the proposed geothermal wells. He said  
3 details will be worked out during the construction sequence.

4  
5 Gus Boniello said that he does not want to be in a position that his engineer  
6 has to show a proposed location for the wells. He noted that his proposal  
7 is for a multi-family with the wells going behind the homes. Mr. Boniello  
8 said he will provide the general overview of how it is done.

9  
10 Consultant Town Engineer Wasp mentioned that the revised Aquifer Impact  
11 Assessment includes the analysis of sodium chloride loading to the site  
12 from winter rock salt over new proposed paved walkways and roadways.  
13 He said he has questions on if the analysis considered existing sources  
14 loading to the site watershed and the potential impact to the overall  
15 groundwater protection overlay district watershed. He said it is  
16 recommended that the Planning Board consider restrictions for alternative  
17 winter deicing materials that may result in less loading contributed to the  
18 watershed.

19  
20 Mr. Boniello said he does not want to be held to a different standard.

21  
22 Chair Currie referenced Number 19 on the Woodard & Curran memo, *The*  
23 *applicant shall add a note on the plan that landscape equipment and winter*  
24 *deicing materials shall not be stored onsite.*

25  
26 Mr. Boniello said that there will not be any equipment stored on the site.

27  
28 Consultant Town Engineer Wasp asked that the applicant revise the  
29 Stormwater Pollution Prevention Plan (SWPPP) narrative to more clearly  
30 explain changes to mapped on site soil groups, that were applied to the  
31 project compared to the soil groups originally prescribed by USDA Web  
32 Soil Survey versus project modifications, and the illustrated soil group  
33 boundaries.

34  
35 Consultant Town Engineer Wasp referenced comment 4 a. in the Woodard  
36 & Curran memo *Proposed infiltration systems No. 1 & 5 appear to be*  
37 *constructed primarily in fill soil. Consistent with the NYSDEC Stormwater*  
38 *Management Design Manual, the system invert shall be adjusted to provide*  
39 *the minimum depth in native suitable soil.* He said that his office feels  
40 comfortable that the proposed infiltration providing that such native material

1 is used as backfill and that the design can meet NYC DEP criteria for  
2 SWPPP approval.

3  
4 Chair Currie asked if anyone from the public would like to be heard and no  
5 one responded.

6  
7 Consultant Town Engineer Wasp said that the proposed walking trail is  
8 located immediately adjacent to the pocket wetland area. He noted that the  
9 applicant shall identify fence/signage or alternative measures to restrict  
10 pedestrian access to the pocket wetland.

11  
12 Consultant Town Engineer Wasp said that the proposed practice  
13 maintenance access drive appears to be located partially within basin  
14 storage for the 100 year design storm. He noted that the access driveway  
15 shall be located a minimum of 0.5 feet higher than the 100 year HWE.

16  
17 Consultant Town Engineer Wasp said that the current plan shows an  
18 extension to the future Somers Public Safety Center and he would like the  
19 Safety Center to provide their design for water usage and wastewater  
20 generation that can be considered by the Somers Crossing design team.

21  
22 Engineer Allen said that he does not believe that there will be a lot of flow  
23 from the safety building and he will not address pump levels because of the  
24 minimum use.

25  
26 Consultant Town Engineer Wasp said that the applicant shall provide an  
27 autoturn analysis for the proposed internal driveway layout that  
28 demonstrates adequate travel-way for a proposed fire truck design vehicle.  
29 He said that this was partially addressed as the autoturn analysis has been  
30 provided for the residential portion of the development considering travel by  
31 a 40' foot long vehicle. Engineer Wasp stated that the applicant shall  
32 clarify how the vehicle considered is intended to represent a fire truck and  
33 that autoturn analysis must also be prepared for the commercial lot.

34  
35 Mr. Boniello mentioned that at the meeting with the Fire Prevention Bureau  
36 they approved his plan.

37  
38 Consultant Town Engineer Wasp commented that the proposed retaining  
39 wall adjacent to the grocery store parking lot directly abuts the 100 foot  
40 regulated buffer of the NYSDEC regulated wetland. He said that the

1 applicant demonstrated that construction of the wall will avoid disturbance  
2 within the 100 foot wetland buffer, or consider the additional anticipated  
3 disturbance towards requirements for the issuance of the NYSDEC  
4 Freshwater Wetland Permit and the Town of Somers Wetland Permit.  
5 Engineer Wasp said that final quantities of regulated and wetland buffer  
6 disturbance must be submitted prior to Final Subdivision Plat approval. He  
7 mentioned that the applicant shall consider comments provided by the  
8 Town of Somers Open Space Committee in conjunction to their application  
9 of approval of Wetland Permit approval.

10  
11 Chairman Currie opened the Public Hearing and asked if anyone from the  
12 public would like to be heard.

13  
14 Eugene Goldenberg, speaking as a resident of Heritage Hills, asked about  
15 the traffic coming out of Heritage Hills that will go past the light to the  
16 grocery store. He said that the Somers Towne Center near Heritage Hills  
17 has only one exit and with the traffic coming to the grocery store there is no  
18 outlet for many cars. Mr. Goldenberg said that the residents of Heritage  
19 Hills are afraid that the road will get tied up with traffic. He said that the  
20 people of Heritage Hills are asking for two exits where the spot off Rt. 202  
21 can be classified as an exit off the property. He noted that it is now an  
22 entrance but not an exit.

23  
24 Attorney O'Rourke said that technical details still have to be worked out but  
25 the public has already spoken. He asked that the Board close the Public  
26 Hearing and move toward the December meeting with an authorization for  
27 the consultants to work out their issues and start working on draft  
28 resolutions. He explained that the subdivision approval is the key and he  
29 suggested that the resolution for subdivision approval be addressed before  
30 Site Plan approval.

31  
32 Chair Currie said that the consultants agree that draft resolutions can be  
33 ready for the December Planning Board meeting.

34  
35 Ms. Gerbino said that Mr. Boniello will be installing sewer and water lines  
36 and once they are installed and if they don't work properly who will be  
37 responsible for fixing them.

38

1 Attorney O'Rourke said the water and sewer lines once they are dedicated  
2 are dedicated to the Sewage Works Corporation who will be responsible for  
3 them.

4  
5 Ms. Gerbino said the reason she asked that question is because the Town  
6 Code says that for the installation of sewer lines the Town Engineer has to  
7 be present. She said this concerns her and has bothered her since the  
8 Town eviscerated the Planning Department by getting rid of a full time  
9 Engineer, Planner and Secretary.

10  
11 Consultant Town Engineer Wasp said that this is a private system and the  
12 Town Code may not be applicable.

13  
14 Ms. Gerbino said the Town Code does not specify such a distinction.

15  
16 Engineer Allen explained that leakage tests and pressure tests have to be  
17 certified.

18  
19 Consultant Town Engineer Wasp said that the Public Hearing can't be  
20 closed until the Final SWPPP is accepted which is consistent with  
21 agreements with the Watershed Inspector General (WIG).

22  
23 Attorney O'Rourke said that he is unaware of any legal obligation that  
24 exists that you can't close a Public Hearing on matters before the Board.

25  
26 Planning Board Town Attorney Eriole said that he is aware of conversations  
27 with the WIG but there is no legal code provision that precludes the Board  
28 from closing the Public Hearing but there has been an understanding that  
29 the WIG could weigh in. He said that the Public Hearing can be closed on  
30 the Subdivision and Site Plan but the SWPPP stays open.

31  
32 Ms. Gannon asked at what point can we close out the SWPPP.

33  
34 Consultant Town Engineer Wasp said that the SWPPP can be closed out  
35 when his comments have been successfully addressed.

36  
37 On motion by Chair Currie, seconded by Ms. Gannon and unanimously  
38 carried, the Board moved to close the Somers Crossing Public Hearing on  
39 Preliminary Subdivision/Final Subdivision Approval, Site Plan Approval,  
40 Steep Slopes, Stormwater Management and Erosion and Sediment

1 Control, Tree Preservation and Groundwater Protection Overlay District  
 2 Special Exception Use Permits. The Stormwater Pollution Prevention Plan  
 3 (SWPPP) will stay open until Woodard & Curran’s comments are  
 4 satisfactorily addressed.

5  
 6 Chair Currie directed that the Subdivision Resolution for Somers Crossing  
 7 be prepared for the December 14, 2016 Planning Board meeting.

8  
 9 *At this time Mr. Goldenberg returned to the meeting.*

10

11 **NYSMSA LLC, D/B/A VERIZON WIRELESS [TM: 17.05-20-2]**  
 12 **APPLICATION FOR AMENDED SPECIAL USE PERMIT**

13

14 Chairman Currie said that this is an application for an Amended Special  
 15 Use Permit for a co-location of a public utility wireless telecommunication  
 16 facility and extension to an existing monopole for property located at 250  
 17 West Hill Drive South, Heritage Hills in the DRD Zoning District. He noted  
 18 that the Board will be reviewing the Draft Resolution.

19

20 Michael Sheridan, the applicant’s attorney, said that Verizon is looking to  
 21 co-locate on the facility for property at West Hill Drive South for an  
 22 extension of the existing monopole. He noted that the facility will enable  
 23 Verizon Wireless to enhance communication services. Attorney Sheridan  
 24 said that the co-location should be approved in accordance with the Middle  
 25 Class Tax Relief and Job Creation Act of 2012, Section 6409. He  
 26 explained that the Federal Government has indicated that a local  
 27 municipality must approve a co-location application that qualifies as an  
 28 eligible facility request under the TRA for Federal Law and should be  
 29 approved forthwith.

30

31 Attorney Sheridan noted that he received a memo from Woodard & Curran  
 32 dated October 21, 2016 and he has no problem addressing those  
 33 comments. He said that he will have all the comments listed in the memo  
 34 on the plan before submitting for a building permit.

35

36 Assistant Consultant Town Engineer Wasp indicated that most of his  
 37 comments have been addressed and only a few minor comments remain  
 38 that can be incorporated into the Resolution of Approval.

39

1 Attorney Sheridan said that Federal Law allows towers to be increased by  
 2 20 feet and in this case the tower is being increased by 15 feet.

3  
 4 Director of Planning Dym said that the previous Resolution has been  
 5 updated since the last meeting. She noted that reference to July 13, 2015  
 6 has been changed to August 10, 2016.

7 The Board reviewed the resolution and had no changes.

8  
 9 On motion by Mr. McNamara, seconded by Chair Currie and carried, the  
 10 Board moved to approve the Granting of Conditional Amended Special Use  
 11 Permit, Wetland and Watercourse Protection Permit Approval to New York  
 12 SMSA Limited Partnership (d/b/a Verizon Wireless) in accordance with  
 13 Section 170-129.6, Section 170-129.7 and Section 167 of the Code of the  
 14 Town of Somers.

15  
 16 **SOMERS PUBLIC SAFETY CENTER [TM: 17.18-1-1]**

17  
 18 Chairman Currie said that this is an application for Preliminary Subdivision  
 19 Approval to create a separate 12 acre parcel of land for the construction of  
 20 a new Somers Public Safety Center to act as headquarters for the NYS  
 21 Police, Somers Fire District, and Somers Emergency Services. He noted  
 22 that a helicopter landing pad will be installed for emergency use. The  
 23 property is located at 295 Route 100 and is in the R-80 Zoning District.

24  
 25 Chair Currie acknowledged receipt of memos from the Director of Planning  
 26 dated October 19, 2016 and from Woodard & Curran dated October 21,  
 27 2016. He also mentioned a letter from IBM dated October 20, 2016 and a  
 28 memo from the Open Space Committee dated October 25, 2016.

29  
 30 Frank Simone, attorney for the Board of Fire Commissioners for the  
 31 Somers Fire District, said that the history of the project is explained in a  
 32 memo from Peter Helmes, Architect, dated October 11, 2016. He explained  
 33 that due to the nature of the outdated Somers Firehouse, the Somers Fire  
 34 District has been negotiating with IBM to purchase a 12-acre parcel of land  
 35 at 295 Route 100. Attorney Simone said that six months ago the Fire  
 36 District became a contract vendee for the 12 acre parcel, subject to  
 37 subdivision approval. He explained that he is attempting to do this in two  
 38 phases with the subdivision application first and Site Plan approval later.

39  
 40 Chair Currie asked if there are any questions from the Board.



1 Mr. Goldenberg said that the NY State Police should be listed under the  
2 Notice of Intent to Act as Lead Agency under an Interested Agency.

3  
4 Ms. Gerbino asked if the State Trooper barracks is leased from IBM.

5  
6 John Markiewicz, Chairman of the Board of Fire Commissioners, said that  
7 the original barracks was built by Mr. Kipp and he entered into an  
8 agreement with the State Police but when he sold the property to IBM they  
9 leased the property to the State Police. He said if they are able to purchase  
10 the property it will be an offset to the bond.

11  
12 Chair Currie asked how the Board can help to facilitate the application so  
13 the property can be purchased.

14  
15 Director of Planning Dym said that the Board has to establish itself as Lead  
16 Agency. She suggested that a second meeting be scheduled in November  
17 to permit setting of a Public Hearing for December 14, 2016.

18  
19 On motion by Chair Currie, seconded by Mr. McNamara and unanimously  
20 carried, the Board moved to declare its Intent to be Lead Agency for the  
21 Somers Public Safety Center Subdivision pursuant to SEQRA and  
22 authorize distribution to involved and interested agencies.

23  
24 Chair Currie directed that a meeting be scheduled for Wednesday,  
25 November 30, 2016.

26  
27 **DISCUSSION**

28  
29 **THE MEWS II**

30  
31 Chairman Currie said that this is a discussion on additional handicapped  
32 parking spaces at the Mews II.

33  
34 Richard Williams, the applicant's engineer, said that he is here this evening  
35 at the request of the Town to discuss handicapped parking at the Mews II.  
36 He noted that the Town received a letter from a resident indicating that  
37 there were not enough handicapped parking spaces at the site. Engineer  
38 Williams said that Mews 1 for residents 62 and older have 62 parking  
39 spaces and 4 handicapped spaces. He explained that two handicapped  
40 spaces are at the entrance to Building 1 and two handicapped spaces are

1 located at the second entrance to the site. Engineer Williams said that  
 2 ADA requires three handicapped spaces be provided for a 70 space  
 3 parking lot. He mentioned that 4 handicapped spaces were provided with  
 4 one extra space not required by Code. Engineer Williams explained that  
 5 the handicap configuration had a lot to do with input from the Bureau of Fire  
 6 Protection. He said that there are two handicapped spots at each side of  
 7 the entrance with an extra wide striped zone in between because the Fire  
 8 Department wants to back the ambulance up to the door for an emergency.

9  
 10 Engineer Williams said that the Mews II with residents 55 and older has  
 11 more parking at the site. He noted that there are 75 spaces with 4  
 12 handicapped spaces with three handicapped spaces required by Code. He  
 13 stated that two handicapped spaces are located at each entrance to the  
 14 building with the extra wide striped zone at the request of the Fire  
 15 Prevention Bureau.

16  
 17 Ms. Gerbino asked if the Town received a complaint from a resident  
 18 because they felt that there was not enough handicapped parking spaces.

19  
 20 Director of Planning Dym said that she received a call about additional  
 21 handicapped spaces and she spoke to Ken Kearney, developer of the  
 22 Mews. She mentioned that the resident submitted a letter to the Planning  
 23 Board and she told Mr. Kearney that there needs to be a response to the  
 24 letter. Director of Planning Dym noted that Mr. Kearney directed his  
 25 engineer Mr. Williams to review the handicapped spaces at the Mews II.  
 26 She explained that even if the site meets Code in the number of  
 27 handicapped spaces it is difficult because some people use those spaces  
 28 and hardly move their car and do not allow turnover of those spaces. She  
 29 said that this becomes an on-site management “Good Neighbor – Bad  
 30 Neighbor” type of problem.

31  
 32 Planning Board Town Attorney Eriole asked if this is about responding to a  
 33 concern and not about not having fewer spaces than what was required in  
 34 Site Plan Approval.

35  
 36 Director of Planning Dym stated that the additional spaces are the Good  
 37 Will of the developer responding to a concern of a resident.

38  
 39 Engineer Williams said he focuses the handicapped parking spaces near a  
 40 door and at the main entrance to the building. He noted that directly across

1 from the handicapped spaces he can take one space and stripe it but it will  
2 be lost as a standard parking space and designate the two spaces on  
3 either side as handicapped.

4  
5 Planning Board Town Attorney Eriole stated that the parking is compliant  
6 with Code and the Site Plan and the applicant has no obligation to add  
7 parking and the Board can take the position that they are comfortable with  
8 the parking and not take any action. He said that if the Board is concerned  
9 about taking an action would have an open door request for more parking  
10 in the future, the Board could decide to do nothing. He said that it is up to  
11 the Board's discretion.

12  
13 Mr. McNamara said in Florida where there is multi-family senior housing  
14 there are handicapped spaces with very strong signage that states this is  
15 short term parking meant for active access and egress not meant for long  
16 term parking. He said that this may be a management tool.

17  
18 Engineer Williams said that he will speak to Ken Kearney and maybe he  
19 can send a notice to the residents about the handicapped parking issue  
20 and he will look into putting up signage as suggested by Mr. McNamara as  
21 long as it does not violate any codes or funding sources.

22  
23 Planning Board Town Attorney Eriole summarized that Engineer Williams  
24 will utilize existing spaces and change the culture on how they are used.  
25 He noted that any change as simple as it may be, if it requires paint is a  
26 change in the Site Plan. He said that if there are going to be changes in  
27 the handicapped parking he advised that the Board could waive Site Plan  
28 procedures.

29  
30 There being no further business, on motion by Chairman Currie, seconded  
31 by Ms. Gannon, and unanimously carried, the meeting adjourned at 10:15  
32 P.M. The Chair announced that the next Planning Board meeting will be  
33 held on Wednesday, November 9, 2016 at 7:30 P.M. at the Somers Town  
34 House.

35 Respectfully submitted,

36  
37  
38  
39 Marilyn Murphy  
40 Planning Board Secretary

1  
2