

TOWN OF NEW WINDSOR

PLANNING BOARD

October 22, 2014

MEMBERS PRESENT: JERRY ARGENIO, CHAIRMAN
HENRY VAN LEEUWEN
HOWARD BROWN
DAVID SHERMAN

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PLANNING BOARD ATTORNEY

MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

JENNIFER GALLAGHER
BUILDING INSPECTOR

CAMMY AMMIRATI
PLANNING BOARD SECRETARY

ABSENT: HARRY FERGUSON
DANIEL GALLAGHER

MEETING AGENDA:

1. The Reserve J Street Sub.
2. Ridge Rise (CANCELED)
3. Legacy Woods

REGULAR MEETING:

MR. ARGENIO: I'd like to call to order the October 22, 2014 meeting of the New Windsor Planning Board. Please stand for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited.)

MR. ARGENIO: Couple of housecleaning items before we get started, tonight's agenda was changed a little bit at the last minute, we have an applicant drop off the agenda and that is Ridge Rise for reasons that they should of known but didn't, the plans were not quite where they should have been. But that's a whole other discussion. In any event, I spoke to Mark earlier today and there was another applicant waiting in the wings that we inserted in their spot, Mr. Pfau's here to represent them. So in order to lighten the agenda for next month and fill the slot we put him in. I'm going to read a letter that Cammy received because we don't get a lot of positive letters cause we tend to be in the middle of things a lot as a planning board. And it's not very often that everybody walks away with a good feeling. But in any event, Dear Mr. Argenio: I with want to express our heartfelt thanks for the kind and professional way in which our concerns were addressed at the October 8 town planning board meeting. We went into the meeting very much afraid that the concerns of just a single homeowner may not matter but we left with the feeling, we left feeling very proud and grateful that we live in a town where issues were reviewed and addressed with such care and thoughtful consideration. John and Sheila Vallancourt, 10 Ashley Court. Doesn't happen very often but it happens. I don't take credit, it was Mark's idea but everybody agreed with it, so it's all good. In any event on to business.

REGULAR ITEMS:

THE RESERVE "J STREET" SUBDIVISION (04-23)

MR. ARGENIO: First regular item on tonight's agenda is The Reserve J Street subdivision. This application proposes a further subdivision of lots at the end of McKinley Court, formerly known as J Street within the Mt. Airy major subdivision, also known as The Reserve. The application makes a total of 14 residential lots from two existing lots. The plan was previously reviewed at the 8 September 2004, 13 October 2004, 9 November 2005, 26 March 2008 and 23 April 2008 planning board meetings. Somebody's here to represent this? You guys want to come up? What's your name please?

MR. HARVEY: My name is Tom Harvey. I'm an engineer with Morris Associates. We're the engineers on the project. We have just received a letter which is an update. Back in 2008, this project received preliminary approval. Since then, we have been in front of the health department, recently released plans from the health department with approval.

MR. ARGENIO: Can you just hold up for one second? Okay, so I heard you say you were at the health department, go ahead.

MR. HARVEY: The health department approval has been received. The approval was locked up in their department for a little while but due to a lawsuit which has since been settled.

MR. ARGENIO: What lawsuit?

MR. HARVEY: City of Newburgh had some issues with some drainage discharges.

MR. ARGENIO: From Brown's Pond, that lawsuit's been settled?

MR. HARVEY: Yes.

MR. ARGENIO: That's a fact?

MR. HARVEY: It's a fact.

MR. ARGENIO: That's a fact?

MR. ROSENZWEIG: It's a fact.

MR. HARVEY: They brought the Storm Water Pollution Prevention Plan up to standards and improvements to the site have been implemented.

MR. ARGENIO: Mark, for the benefit of the members, I certainly know the history here, can you give just a little background for these guys so they can, the ones that are not familiar with it can be as familiar as you or I are?

MR. EDSALL: Yeah, going back quite a bit to the beginning this is a portion of the Mt. Airy Estates subdivision which dates back I believe to the '70s, '60s.

MR. HARVEY: About '72

MR. VAN LEEUWEN: I can remember it when it came in part of it did.

MR. EDSALL: Well, you were here, I wasn't.

MR. VAN LEEUWEN: You weren't here yet, Mark? I was here.

MR. EDSALL: I might have been in high school then but--

MR. VAN LEEUWEN: I doubt that.

MR. EDSALL: '72 I was in high school. But nonetheless, it was part of the overall major subdivision called Mt. Airy Estates. This particular piece was in question when it came in in 2004 and 2005, it was determined by the attorney for the town that in fact this piece of the overall subdivision was subject to the same stipulation of settlement that was found by the courts as part of an action involving Mt. Airy Estates and the Town of New Windsor. So it was determined by the attorney for the town that this subdivision and the number of lots proposed was an entitlement of that stipulation. So they moved forward to get agency approvals and as Tom said it was at the, it was waiting for just one approval and then along came the concerns of the City of Newburgh. I am aware of those ongoing activities. It is my understanding that the settlement was reached and perhaps Tom can just explain some of the minor adjustments that had to be made to the plan to address the concerns of the city

relative to storm water. But really the only open issue back in April of 2008 that kept the board from approving it was the health department approval. Now that in hand and the lawsuit gone I believe the board can consider conditional approval subject to a couple different comments.

MR. ARGENIO: Go ahead.

MR. HARVEY: Would you like to understand the storm water changes that we've made?

MR. ARGENIO: Yes.

MR. HARVEY: There was a pond here at the beginning of the J Street subdivision that was developed as part of the J Street subdivision and to supplement some of the drainage this was an old design for the beginning part of the subdivision the original ponds exist, two ponds, one shown here, one sort of off the page here and water was routed through this pond and also through the old pond which essentially treated the water twice and took some capacity away from the old ponds. And the concern in the settlement was the idea that the pipe that took the water from this pond and put it through this pond could be eliminated and this pond could be discharged directly after the water's treated here and then some of these catch basins up here have a weir in it that controls how much water goes to which pond. So the weirs were adjusted to put the right amount of water into this pond and the right amount of water into the old pond, essentially eliminating anything from being treated twice and making more capacity available for the treatment in the ponds. In addition to that, it was agreed to do street trees and maintain disconnected roof leaders for storm water.

MR. ARGENIO: Disconnected roof leaders meaning roof drains flow over land?

MR. HARVEY: And don't tie directly to the system that goes into the ponds.

MR. ARGENIO: Is there any issue with the drainage district associated with the ponds?

MR. EDSALL: The drainage district is still being finalized and one of the conditions that I'm suggesting is that we get a memo from the town attorney that this project has been appropriately included in a drainage

district or at least the drainage district that's in the process of being finalized.

MR. ARGENIO: Do you know that to be the case?

MR. EDSALL: That is, I have asked for a memo from Mike before the board stamps the plans just to make sure if there's anything they need to do that it's done to the satisfaction of the town attorney. But I believe everything's lined up but on this one it's been a little tricky because the drainage district formation was started after many of the lots were created which complicated things. So I just want to make sure whatever Mike needs to have this go forward without any further complications we do that.

MR. ARGENIO: Do you agree to that?

MR. HARVEY: Yes.

MR. EDSALL: Mr. Chairman, just a side note on the drainage, this project goes back far enough relative to drainage that it was being reviewed as far as the storm water solely by the state DEC because it predated the MS4 regulations. So we have continued effectively to keep our hands out of it as far as the Town of New Windsor's concerned to let the state DEC continue to do the reviews so it's, this has been around for a little bit.

MR. VAN LEEUWEN: I know he was approved before I got on this board and I got on in 1971.

MR. ARGENIO: Mr. Sherman, do you have any questions about this? You're probably the newest guy here.

MR. SHERMAN: Not right now.

MR. ARGENIO: In addition to all that has been stated here, I would like to note for the record New York State DEC approval what's been obtained 11/7 of 2013, we did hold a public hearing on 11/9 of 2005, SEQRA we declared negative dec under the SEQRA process, I say we, the Town of New Windsor Town Board declared negative dec under the SEQRA process December 4, I'm sorry, April 23, 2008. And what they have is a preliminary approval which allows them to go out and get these outside agency approvals. Harry or Howard Brown, do you have any additional thoughts on this?

MR. BROWN: No.

MR. ARGENIO: Dominic?

MR. CORDISCO: Yes, sir?

MR. ARGENIO: Is there anything else we need to be considering other than the possibility of waiving the final public hearing?

MR. CORDISCO: No, sir.

MR. ARGENIO: Do we need to do that as a matter of fact?

MR. CORDISCO: Certainly it's a discretionary hearing and is only required if the final plat is not in substantial conformity, that's the language in the state statute with the preliminary plat.

MR. ARGENIO: But this does seem to be in substantial conformity?

MR. CORDISCO: Correct.

MR. ARGENIO: Almost identical from what I can see.

MR. CORDISCO: Correct, in circumstances where it's not the board has the discretion to hold a second public hearing.

MR. ARGENIO: I'll accept a motion we waive the final public hearing on this.

MR. BROWN: So moved.

MR. VAN LEEUWEN: I don't think we should.

MR. ARGENIO: You want to have a public hearing on this?

MR. VAN LEEUWEN: It's been a long time since it's been laying around and I'm sure when was the last public hearing, 2004, 2008?

MRS. AMMIRATI: 2005.

MR. VAN LEEUWEN: That's nine years ago, it's a long time.

MR. ARGENIO: These lots here are in conformance with that which is in the rest of The Reserve, were these part of the original drawings?

MR. EDSALL: Yes, and in all candor, you might be able to make minor adjustments if there was a detail that I wanted changed. But keep in mind the discretion as far as the number of lots and approval a judge with much more power than us made that decision years ago.

MR. VAN LEEUWEN: I remember when it was made because a bunch of women, not to knock women, but got up and said there were too many lots on this property. So they had to make a redeal and they did knock out some lots. There were people in the neighborhood, this was approved when Teddy Marsden was still supervisor, things were a little shaky in those days.

MR. ARGENIO: I'm going to tell you I don't want to restate what Mark just said because his words speak for themselves but this quantity of lots has been blessed by a judge in the State of New York, as you know, this went to court this whole subdivision.

MR. VAN LEEUWEN: Oh, yes, I do, absolutely.

MR. SHERMAN: So your purpose for a public hearing?

MR. ARGENIO: Would be, that's my question, would be what?

MR. VAN LEEUWEN: Well, it was answered they had a public hearing on this and this was included, I was afraid that this was not included, this was included in the first public hearing.

MR. EDSALL: Yes, and this was a separate public hearing just for this application back when it was first before us.

MR. VAN LEEUWEN: I have no arguments.

MR. SHERMAN: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board waive the final public hearing for The Reserve J Street subdivision. Roll call.

ROLL CALL

MR. SHERMAN AYE
MR. VAN LEEUWEN AYE
MR. BROWN AYE
MR. ARGENIO AYE

MR. ARGENIO: What else do we have to do here, Mark, in the matter of procedures before we continue?

MR. EDSALL: Procedurally I'll defer to Dom if there's anything we're missing as far as conditions. My suggestion is the one relative to the writeoff from the town attorney relative to the drainage district, the public improvement bond estimate, the offers of dedication and any fees.

MR. ARGENIO: Mr. Harvey, did you get that? Any approval that you are to receive this evening would be subject to what Mark just read into the minutes.

MR. HARVEY: Understood.

MR. ARGENIO: Any questions on this?

MR. BROWN: Also being confirmed by the attorney, right?

MR. ARGENIO: He said that.

MR. EDSALL: One other one that Jen just pointed out was the final approval for the road name and 911 addressing has to be on the final plan.

MR. ARGENIO: Thank you, Jen.

MRS. GALLAGHER: You're welcome.

MR. ARGENIO: Do you have something else, Howard?

MR. BROWN: No.

MR. ARGENIO: Okay, anybody sees fit, I'll accept a motion for final approval.

MR. VAN LEEUWEN: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion made and seconded that the Town of New Windsor Planning Board offer final approval to J Street at The Reserve subdivision subject to what Mark

just read into the minutes. Roll call.

ROLL CALL

MR. SHERMAN	AYE
MR. VAN LEEUWEN	AYE
MR. BROWN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Thank you for coming in. Have a good evening.

LEGACY WOODS

MR. ARGENIO: Next is Legacy Woods. This application proposes the conversion of the project from an age restricted senior citizen housing project to a market rate non-age restricted multi-family site plan. The applicant previously reviewed conversion at the 13 August 2014 planning board meeting. Dominic, for this application, do they have to go back to the town board?

MR. CORDISCO: They do not, the town in its last zoning amendment adopted a procedure where an applicant that had been pursuing approval for a senior housing development would apply directly to the planning board to convert that development to market rate, not senior restricted housing given the lack of a marketplace for that kind of housing at this time.

MR. ARGENIO: As I remember too one of the issues here again and I'm just reading through Mark's comments was we talked about the public hearing a little bit and I think what we said is we decided this meeting whether we were going to have the public hearing on the change, is that right, Mark?

MR. EDSALL: Yes.

MR. ARGENIO: Who's representing?

MS. BABCOCK: I am.

MR. ATKINSON: Todd Atkinson, engineer of record.

MR. ARGENIO: Go ahead, Michele.

MS. BABCOCK: We were here at the August planning board meeting to present the conceptual plan that had been modified to show the board the conversion to a market rate project. The modifications that we had reviewed with the board included changing the location of the clubhouse so it did not disturb the wetlands in the front of the property, as well as the addition of the playground area which would be here as well as redistribution of the parking on the plan.

MR. ARGENIO: Explain where this is.

MS. BABCOCK: This project is located off of Route 32, if you're in Vails Gate on 32 heading towards the Town of Cornwall after you pass the Hannafords.

MR. VAN LEEUWEN: I should of remembered that when you said the wetlands were in the front.

MR. ARGENIO: It was a senior project. Go ahead, Michele.

MS. BABCOCK: One of the main issues we addressed last time was the parking on the site. The original plan had contained parking garages under several of the proposed buildings and they have since been eliminated from the project and the parking spaces have been redistributed on the site. One of the issues is that the prior plan was subject to a two space per unit parking requirement. Since that plan was approved and the zoning has since changed which now requires 2.5 parking spaces per unit.

MR. ARGENIO: Because you're now market rate?

MS. BABCOCK: Correct. So the prior plan had proposed 415 parking spaces, the revised plan now provides for 460 parking spaces.

MR. ARGENIO: Is that two and a half?

MS. BABCOCK: Yes, it's 2.51.

MR. ARGENIO: Just above what the code requires?

MS. BABCOCK: Correct, with one additional side note. The applicant is requesting that approximately 50 of those spaces be considered shadow parking spaces. We believe that approximately 410 parking spaces would serve this project site adequately and that those additional parking spaces are not necessary. Just so that the board can see, there's 25 spaces here in this location out along Route 32 and there's another 25 parking spaces that are contained along the emergency accessway out to Haight Avenue.

MR. ARGENIO: Let's talk just for a minute, Michele, when you use the term shadow parking, what's the treatment of the area at the end of construction, is it grass, what is it, Item 4?

MS. BABCOCK: Yes.

MR. ARGENIO: Again, the shadow treatment, what's the treatment?

MS. BABCOCK: So the shadow parking would mean that the site would retain in its natural state so these areas would be grass. The way that the town code reads is that in order to land bank parking spaces, the plan would have to show the parking areas and be suitable so that the parking could be built in the future if and when the building inspector determines that the project needs additional parking.

MR. ARGENIO: Okay, let me stop you there. I don't pretend to be a parking expert, those ratios and those numbers were developed by guys like Mark and Dominic over many, many years of experience. So number of two and a half as opposed to 2.0 is there for a reason. Now that said, you've been here many times, here's my question for you my lady. Let's pretend your client builds this, at some point in time, 20 months into it, Jennifer has gotten multiple, multiple calls about people parking on the streets. She's gotten, had discussions with her code enforcement folks, firemen are saying it's not safe, they've got to have more parking, the people are parking on the streets. What instrument do we have as a town or planning board to compel the owner to install those spaces back?

MS. BABCOCK: My understanding is that at the time of the issuance of the last C.O. there would be a bond that is posted that would allow the building inspector up to three years in order to require that the additional parking be constructed.

MR. ARGENIO: Okay, let's talk about that for a minute. Counselor, the last C.O., what's the definition of the last C.O.? Is that the last unit that's been built? Is it the last unit that they can fill? Suppose we just don't build our last two units, as such the bond, the need for the bond does not get tripped, the need for the bond needs to be tripped with no ambiguity in my mind. What say you?

MR. CORDISCO: Well, under that scenario, if it's the last C.O. and depending on how you define C.O. if it's a C.O. for a unit rather than one of the buildings because each building has multiple units in it, so you have to define whether or not the C.O. applies to a unit or to a building. Either way, under that scenario, it's possible that the bond would never be posted if the last building or the last C.O. was never sold.

MR. VAN LEEUWEN: The way I look at it is this, they eliminated all the garages, they're not asking to step down from a senior citizen project to a regular project and they want, plus they want to have this as a grassy area and I say no. Everybody else that comes to this board has to have that many parking places. And I believe this one should have the same thing because let me say something to you, it's like you said, if they don't bother getting the last C.O. who's going to make them to do this? And she's going to be driven nuts. We don't need anymore problems than we already have.

MR. ARGENIO: Well, I think that's my, I think that's my inclination.

MS. BABCOCK: If I may, the--

MR. VAN LEEUWEN: He's asking for a little bit too much, Michele.

MS. BABCOCK: The zoning code does give the planning board the discretion to land bank up to 25 percent of the required parking spaces. So in this case, it would allow the planning board to allow the applicant to bank 115 spaces. We're currently only asking that 50 of those spaces be banked. We're willing to work with the board's attorney and engineer to come up with whatever mechanism the board would feel comfortable with in moving forward and in connection with the land banking.

MR. ARGENIO: Let me say what she said in different words, Mark.

MR. VAN LEEUWEN: I know what she said.

MR. ARGENIO: She's saying--

MR. VAN LEEUWEN: Ain't gonna go with me, I'm sorry.

MR. ARGENIO: They're allowed to maintain in shadow fashion 100 stalls, they're asking to maintain in shadow fashion 50 stalls. And I think what Michele is also saying is her applicant and her are willing to work with the planning board's professionals in any way possible to offer whatever assurances we feel we need that will compel them to build the stalls at a later date if they're needed. Mark?

MR. EDSALL: I was going to say that the trigger that

Michele and I talked about was that the evaluation would be made three years after the last C.O. There's nothing, that doesn't mean you can't put the bond up halfway through, 60 percent through, and then the requirement be that the bond stay in effect till three years after the last C.O. So if you want to have the bond in place earlier, you can do that.

MR. ARGENIO: That's where I'm going, Mark.

MR. EDSALL: The board has always had for recreational facilities have that done by 50 percent. So you have about 50 percent of the way through you start looking for things to be ensured to be completed. So you could always ask for the bond covering that, it's around 11 percent, Michele 11, 12 percent of the parking?

MS. BABCOCK: Yes.

MR. EDSALL: For that shadow land bank parking you can let that bond go in at 51 percent and just mandate that it stay in place until the evaluation's done by the codes enforcement people and the planning board three years after the last C.O.

MR. ARGENIO: I think that that, and I don't want to speak for you, Howard, Henry, I think that that would make me feel a little bit better half way through if the bond were posted and we were to hold that bond for a three year period after the last C.O. I think that's fine.

MR. EDSALL: The--

MR. ARGENIO: In my mind, let Henry finish, Mark.

MR. VAN LEEUWEN: Not in my mind because if they go into bankruptcy, the insurance company goes into problems unless there's a cash bond, I would be interested if there's no cash bond, okay, it causes nothing but headaches for the town building department, no go with me.

MR. EDSALL: No, again, this isn't, by the way, the shadow parking or as it's in the law under Section 300-60H it's not something that the applicant created, this was added by the town board as part of the rezoning, it's a provision that allows up to 25 percent. As Michele indicated, they're not asking for 25 percent as a matter of fact their proposed

parking is someplace in between where the senior housing would have required and where the new code requires, they're about halfway in between it at 2.25. Square in the middle, they're saying they don't think they need two and a half, they'd like to be someplace in the middle, it's something most boards are doing because of the storm water regulations and all those issues and I live with it but I also am like you folks I want to make sure there's some ironclad ability for you to get what you need if it doesn't work.

MR. ARGENIO: Howard Brown or Dave Sherman, you guys have any questions?

MR. BROWN: Seems fair the way it was just brought out halfway through.

MR. SHERMAN: I agree with Howard, seems like a fair proposal as long as there's a guarantee that you can--

MR. VAN LEEUWEN: There's never a guarantee.

MR. ARGENIO: Nothing's ever guaranteed except death and taxes.

MR. CORDISCO: At this point, Mr. Chairman, I'd like to point out that this would be a town board developer's agreement would be the mechanism to make this happen because there's no other way to enforce these conditions. And also you have to actually have a mechanism for the town to do something with the bond in case the parking is deemed to be required but not constructed. So the town needs to have like a right of entry onto the property to be able to pull that bond or letter of credit as the case may be and use that money and pay someone to go in there and construct additional parking. All those are things that are like within the purview of the town board and would be the subject of a developer's agreement with the town.

MR. ARGENIO: Tell me Dominic about Orange County Planning, does this need to go to Orange County?

MR. CORDISCO: It previously was referred to Orange county.

MR. ARGENIO: Not looking to make our lives more complicated but I do want to move more appropriately.

MR. CORDISCO: Yeah, it should go again, it should go

again unfortunately because there's a change in the proposed use.

MR. ARGENIO: Now again I want Dominic you to speak on this but I want to speak first. Relative to SEQRA, it seems to me from a building point of view seems to me that what's here is very, very similar to the senior project that was previously proposed. I'm just going to read Dominic's comment here. The board assumed lead agency on the SEQRA process and adopted a negative dec, at minimum, I recommend the board make a determination that this application is consistent with that review and determination. So we have to make a determination whether this is consistent with what was previously approved or not. Mark and Dominic, you guys have any comment on that for the members to consider?

MR. CORDISCO: Perhaps before reaching that particular item the board should consider whether or not you want collectively to hold another public hearing on the project.

MR. ARGENIO: Now, why are you putting one in front of the other?

MR. CORDISCO: Because typically if you decide to hold a public hearing you make your SEQRA determination on site plans after having public input.

MR. EDSALL: The point being if anything changed and you're not aware of it you're likely to hear about that potential change at a public hearing.

MR. ARGENIO: This is almost the same project though.

MR. EDSALL: I'm not saying it's warranted, just saying step wise if you're going to have a public hearing it may make sense to hold off. If you're not going to have a public hearing you can take care of it all tonight.

MR. ARGENIO: I'll tell you that I have no interest in making my life difficult but if I were a neighbor here and it went from a senior complex to market rate, I think I'd want to know about it, I think you would too, Michele.

MR. VAN LEEUWEN: So do I, public hearing, I make a motion we have a public hearing.

MS. BABCOCK: If I can indulge the board for just one moment. The only true change to this project site are the age of the people that are going to be residing in these buildings. I went back and I reviewed the public hearing minutes just to see what kind of questions the public raised. The public that lived here along Haight Avenue requested that a fence be constructed along here to provide screening, the fence has been added to the plan. These neighbors also requested that a stone wall, the existing stone wall be left, the stone wall is being preserved. They raised questions about sewer and water, the town board has since extended the sewer and water districts and they will be served by public facilities and all of the improvements will be paid for by the developer. They raised concerns about lighting, which were reviewed and really a non issue based on the fixtures and the locations that this board had previously recommended. One of the other questions that was raised was about access in their neighborhood based on the emergency accessway out to Height Drive but it was since explained to them that that was an emergency access and a crash gate was being added there so there would be no traffic from this development out into the adjoining neighborhood.

MR. ARGENIO: Michele, in classic Michele Babcock form you are buttoned up young lady, you are buttoned up, you are, and I applaud you for being prepared and anticipating the commentary and the question.

MR. VAN LEEUWEN: She's good.

MR. ARGENIO: Very good, very good and she zealously represents her client in a very competent fashion. However, I still say to you if I lived in one of those houses and this project went from senior to market rate I would be angry if I were not notified, I would be angry with my town government, I would be angry with my town planning board and I would be pissed quite frankly so I'm just trying to apply an average man's standard to this. Now I will tell you this, not that I have any predisposed notion of what's going to happen, the reality of what you guys are doing here is still allowed by code, it's allowed by code, by statute as it were, so as Jim Petro used to say, it's not ours to tell you whether you can or cannot do it but we'll tell you how to do it, try and keep the peace in the town, try and keep as many people happy as we can. So it's allowed by statute, we talked about the parking, we'll talk about that a little bit more. You do have to go,

it's the opinion of counsel that you do have to go to county so get that done, we'll get that done so you're going to roll over to another meeting I think. Let me just informally go left to right, do you guys think I'm off base or Henry is off base?

MR. BROWN: No.

MR. ARGENIO: If you lived next door and went from senior housing to market rate, would you want to know about it?

MR. BROWN: I would be a little disturbed that nobody told me.

MR. ARGENIO: You'd be disturbed. Dave Sherman?

MR. SHERMAN: I would like to know whether or not there's been numerous changes in the tenants in the people that are already residing there since 2008, there's, do we have any --

MR. ARGENIO: I don't know, I have no idea, somebody would have to look at the assessor's office, that's another good reason to have the public hearing because enough talk about this. Motion has been made to schedule the public hearing.

MR. SHERMAN: I'll second it.

MR. ARGENIO: Roll call.

ROLL CALL

MR. SHERMAN	AYE
MR. VAN LEEUWEN	AYE
MR. BROWN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: So let's get that done. What else do we have here? We're going to hold off on SEQRA, as I said, my opinion is this project is very, very similar to what came through here last time, very similar from an impact perspective. If the board wants to check that, they should go to Town Hall, check the old plans against the new plans. I went through both of them, both sets of plans and had a look for myself but if you have any doubt, look at it but from a procedural standpoint we should hold off, who knows what the public is going to say.

MR. VAN LEEUWEN: Absolutely.

MR. ARGENIO: What else do we have here that we need to talk about at this time?

MR. CORDISCO: Nothing at this time.

MR. ARGENIO: We'll close the parking issue.

MR. VAN LEEUWEN: Town board has to handle it.

MR. ARGENIO: No, it's handled here.

MR. VAN LEEUWEN: Am I right you said gotta go to town board?

MR. CORDISCO: It's both, this board needs to make a determination that the shadow parking is allowed and it gets referred to the town board for actual implementation.

MR. ARGENIO: What Dominic's saying there's a bond or anything of that nature that's done at the town board level but the determination is done here with the planning board, is that accurate what I just said?

MR. CORDISCO: Correct.

MR. ARGENIO: Mr. Atkinson or Ms. Babcock, what else can we do for you tonight?

MS. BABCOCK: The only other thing that I'd like to mention is that last month the board did request that we add a flag pole to the site. So honestly that's the most major revision that was done to the plan was we added a flag pole.

MR. ARGENIO: I'm with you on it. Thank you for coming in tonight.

MS. BABCOCK: Thank you very much.

TEMPLE HILL APARTMENTS

MR. ARGENIO: Last item was the swap, we don't have anything, this is Mr. Pfau is coming in to represent this, this is Temple Hill Apartments project. Mark, I want you to speak to this and you and Joe Pfau please it's my understanding and I was aware of this application several weeks ago that what he's trying to do here is subdivide this parcel for financing purposes, that's my understanding of it.

MR. EDSALL: Yeah, when the board considered the site plan of the Temple Hill Apartments, the application included both work force housing and totally affordable senior housing mixed within one total site. And the density as an overall project was fine, the lot area was fine because you looked at it as a total parcel. There are differing bulk requirements, the lot area requirements for work force housing is five acres whereas the bulk area requirement for totally affordable senior housing project is only two. Because it's a fairly sizable project, it serves multiple number of buildings, has various stages of construction and each area is pretty much self-sufficient that it can stand on its own for financing. As I understand it, Joe can speak much better to it than I can, when the time comes they want to break it into pieces, that's great for the senior housing part because the two acres works great for each piece. The problem they run into is that the work force housing is the same size lot as the senior housing but they need five instead of two. So they need a referral to the zoning board to accomplish what they want, by no means are they proposing to change in any way the site plan approval the board received or that they received from the planning board. I'm going to suggest that one way or another we lock in somehow and Dominic will tell us the right way that each of the lots created is subject to the site plan as a complete unit as the board approved it so if they get the variance and they come back and get your approval on paper it will be a bunch of lots on a functional basis, it will be exactly what you approved.

MR. ARGENIO: Joe Pfau?

MR. PFAU: That's, Mark pretty much hit it on the head. I just wanted to, there's six lots total, four on the southern side of the eventual town road, two on the northern side which are work force housing lots. I

just wanted to verify and I believe I'm correct but just before we go to the zoning board I put a little asterisk next to the side yard requirements on the work force housing bulk requirements and that's because it just says that the internal lot line, the setbacks don't, do not apply to internal lot lines and I just wanted to verify that. And I pulled that right out of the code. I can actually read, says setbacks as referenced do not apply to internal lot lines. And I think that was intended for specifically this purpose was the exterior setbacks for the work force housing and I just wanted to verify that if we do have to go get a variance I wanted to ask for that but I don't believe we do. He has different lenders for different buildings so they don't all play well together.

MR. ARGENIO: So Mark or Dominic on this one this is incomplete that will get him to the zoning board to get the necessary variances, side yard variances?

MR. CORDISCO: That's correct. And it's as Mr. Pfau says that the code did provide that the setbacks were not to apply to the internal lot lines.

MR. ARGENIO: So you're going to the zoning board.

MR. PFAU: That's correct.

MR. ARGENIO: I'll accept a motion that we declare this application incomplete at this time.

MR. VAN LEEUWEN: So moved.

MR. ARGENIO: And what's this application called just for the record?

MR. PFAU: Temple Hill Apartment subdivision plat.

MR. EDSALL: Application number 14-19.

MR. SHERMAN: Second it.

ROLL CALL

MR. SHERMAN	AYE
MR. VAN LEEUWEN	AYE
MR. BROWN	AYE
MR. ARGENIO	ABSTAIN

MR. CORDISCO: Mr. Chairman, to circle back if I may to the original point about the, that as Mark was discussing that typically when you get site plan approval it's for one lot. And even if someone was to apply for site plan approval where they were dealing with multiple lots, typically those lots would be consolidated into one lot so they'd be under the same ownership. When site plan approval was granted for this project, it was in effect one lot and so what they're looking to do now is to subdivide that into multiple lots. When it, if and when it comes back from the zoning board as I expect that it would, we should consider requiring a declaration of restrictions that could be recorded in the chain of title so that 25, 50, 100 years from now if the ownership of these lots is now separate, for instance, Mr. Jones owns one lot, Mr. Smith owns another lot, they refer back to this particular moment in time so that they can see that there was a unified site plan that was approved at that time so that there's a cross reference there so that they understand that whatever conditions of this approval apply to the overall project even though we're now carving it up potentially into multiple lots.

MR. ARGENIO: Interesting concept. What's your concern specifically, Dominic?

MR. CORDISCO: I'm actually not concerned because the likelihood of this coming back for something to do there would probably be after I'm long gone, you know, or departed from this earth.

MR. VAN LEEUWEN: Don't rush, that's not good.

MR. CORDISCO: Thank you very much, Mr. VanLeeuwen. For instance, you could see a scenario where lots transfer for ownership.

MR. ARGENIO: I get it but what I'm getting at my question to you let me ask in a more direct fashion. I know this site plan very well, I know the buildings on this site fairly well, I don't recall any particular nuances that link the buildings uniquely to the site next door to themselves. There's a town road that goes down the middle of the lots.

MR. EDSALL: You'll need cross-easements.

MR. ARGENIO: For the driveways?

MR. EDSALL: Because you have curb cuts that you have to go through one lot to get to another lot because that would be included.

MR. ARGENIO: That could be the issue.

MR. CORDISCO: What if somebody picks up one of these lots in a tax sale, they may not know that this was subject to site plan approval was done as an overall thing, you know, and especially--

MR. ARGENIO: I'm not advocating disagreement, I'm trying to understand what pitfall you're trying to save us from.

MR. EDSALL: If you buy it as a single lot and you don't know that there was a list of 15 conditions on the site plan, you have to have a way to point him back. Same thing with the cross-easements, a way to point him back to say hey, this is part of a big package and you need to allow people to come and go across adjoining lots.

MR. ARGENIO: I agree with you guys. Should we have, Mr. Pfau, in addition to the drawing that he has there when he comes back to us if he comes back to us let's presume for a moment that he does get his variances, should he take the site plan and overlay it on those new lot lines? Why wouldn't he do that, should do that, right?

MR. CORDISCO: Well, he could and in particular could reference subdivision plat if you haven't already this was part of the site plan approval granted.

MR. PFAU: This drawing is in the site plan set, I don't know if that makes a difference or not.

MR. ARGENIO: I believe it is, take those lines, overlay them on the site plan.

MR. PFAU: Okay.

MR. EDSALL: We need to create a list.

MR. PFAU: For filing or--

MR. ARGENIO: Just for here.

MR. CORDISCO: It would make it easier if it was filed

with the county, it's like about \$65 to file a map and that way the easements that Mark is referring to could just cross reference them.

MR. ARGENIO: Okay, counselor.

MR. EDSALL: We'll work them with some notes.

MR. ARGENIO: Okay shooter.

MR. EDSALL: The other thing if you feel so inclined--

MR. CORDISCO: I'm getting paid by the word tonight.

MR. EDSALL: Be so inclined as to maybe in the minutes indicate to the Zoning Board if you feel that this is a problem or if it isn't a problem.

MR. ARGENIO: This is something that's very, very typical nowadays, as a matter of fact, not 400 yards down the road at what is it, Weinberg, what is it called?

MR. EDSALL: Covington Estates.

MR. ARGENIO: They did something very similar.

MR. EDSALL: Many projects for years and years had phases but the banks now for financing don't like to phase, they like separate lots so it's a sign of the times.

MR. VAN LEEUWEN: Something new.

MR. ARGENIO: So it's going to the zoning board with a favorable nod from the planning board. Anything else professionals or Jennifer?

MRS. GALLAGHER: No.

MR. ARGENIO: Joe, got anything else?

MR. PFAU: Thank you all very much.

DISCUSSION

MR. ARGENIO: Just for the members, here's the schedule, get a copy from Cammy when you leave for next year and if anybody's got a problem, let Cammy know. Okay? I'm okay with it, works for me. Motion to adjourn?

MR. VAN LEEUWEN: So moved.

MR. BROWN: Second it.

ROLL CALL

MR. SHERMAN	AYE
MR. VAN LEEUWEN	AYE
MR. BROWN	AYE
MR. ARGENIO	AYE

Respectfully Submitted By:

Frances Roth
Stenographer