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**VILLAGE OF WOODBURY
PLANNING BOARD MEETING**

AUGUST 1, 2012

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**VILLAGE OF WOODBURY
PLANNING BOARD MEETING**

AUGUST 1, 2012

PRESENT: M. Hunter, Chairperson
M. Christman
C. Correia
R. Anzalone
R. Cataggio
D. Lindsay
K. O'Donnell
R. Golden

Chairperson Hunter opened the meeting with the Pledge of Allegiance and a moment of silence for our Armed Forces and all others in harm's way. She then introduced the Board and Consultants.

MINUTES

R. Anzalone made a motion to accept the minutes from the meeting of July 18th as submitted.
C. Correia seconded the motion. The vote was as follows:

M. Hunter – In Favor
M. Christman – In Favor
C. Correia – In Favor
R. Anzalone – In Favor
R. Cataggio – In Favor

REGULAR AGENDA

KLFO - TAX MAP 207-3-70

Chairperson Hunter explained that this was to be a discussion of an extension request of a 60 day map submission requirement for a previously approved subdivision located within the West Point Farms II subdivision. The property is located off Smith Clove Road at 8 Apisson Trail. She then asked the applicant to give the Board a brief overview.

John Fuller, the civil engineer who represented the two lot subdivision, explained that one of the conditions of the subdivision approval was an approval from the Orange County Department of Health. This approval took longer than the 60 days provided for in the resolution, but was eventually obtained. He said he is now before the Board to request an extension of their approval, as well as final approval for the subdivision.

KLFO - TAX MAP 207-3-70 (cont.)

Chairperson Hunter then asked R. Golden for his opinion. R. Golden explained that previously the State law would only allow two extensions of 180 days each for a conditional final approval. However, he said the law has changed. He said the Board could grant an extension, but would need to know from the applicant what time frame they were looking for. D. Lindsay suggested that the Board grant an extension for 60 or 90 days to give the applicant sufficient time to have their plans signed and sealed and for the consultants to have time to review them for the Chairperson's signature so the applicant can file them. Mr. Fuller felt that this time period would be acceptable.

After some discussion, R. Cataggio made a motion to extend the preliminary/final approval to October 3, 2012. M. Christman seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- M. Christman – In Favor
- C. Correia – In Favor
- R. Anzalone – In Favor
- R. Cataggio – In Favor

WP3 LLC - TAX MAP 225-1-3.22 et al

Chairperson Hunter explained that this was to be a public hearing for proposed amendments to the phasing plan of a previously approved subdivision known as Woodbury Junction. The property is located at Dunderberg and Nininger Road in Central Valley. She also explained that this was received as a three-part application, but tonight the Board will only be dealing with the phasing. She then asked that there be an amended application.

At this point, Jason Pitingaro, of KC Engineering, appeared on behalf of the applicant. He explained that as the job has progressed they have encountered some changes they would like to make to the phasing plan of the project. He said that the changes were minor. The changes include the shifting of six lots from Phase 5 to Phase 4, as the road is already constructed and they are now able to build these lots. The other changes include shifting lots from Phase 6 to Phase 1, and changing the order in which the phases will be constructed.

Chairperson Hunter then read the Notice of Public Hearing which appeared in the newspaper on Thursday, July 26th. She then asked D. Lindsay for his comments.

D. Lindsay said that the request to transfer some lots from one phase to the other makes very logical sense, since the road is constructed in Phase 4. They derive the same access as Phase 4 and use the same utilities as Phase 4. D. Lindsay also had no problem with shifting the lots

WP3 LLC - TAX MAP 225-1-3.22 et al (cont.)

from Phase 6 to Phase 1. He did say that there was some confusion on the plan because there was a designation of phase 5/1. He said he thought this meant that these phases would be built together. However, this is not the applicant's intent. The applicant meant this to mean that either Phase 5 or Phase 1 will be built first. He added that the phase order is really not of that much importance to the Board, as long as each phase gets built in sequential order and can function on its own if the next phase is not built. D. Lindsay said he has no problem with changing the plan to show both phases, either of which could be built first.

D. Lindsay said that the construction table which shows the number of units to be built in each phase has not been corrected to reflect the changes. Also, there is a phased improvements schedule which shows the construction of a pump station in Phases 5/1. This pump station will not be built and should be removed from the schedule.

D. Lindsay discussed soil erosion and sediment control and said that the developer is obligated to limit the clearing to five acres during construction by the DEC permit. He said the developer should constantly be aware of the soil erosion and sediment control measures so they don't visit any problems on the neighboring areas.

Chairperson Hunter asked about the turn lane that is scheduled to be constructed for Nininger Road in Phase 6. D. Lindsay said they would need to look at this because the applicant is proposing to use that entrance as a construction entrance. This means the turn lane may not be constructed until Phase 1. Mr. Pitingaro explained that the truck traffic they will be experiencing will have nowhere near the volume they will have when the subdivision reaches buildout. He said they do not want to put the turn lane in for truck traffic as it will most likely be damaged.

Chairperson Hunter then asked K. O'Donnell for her comments. She said that she would reserve her comments for the other aspects of this application, but she thought that the proposed changes make sense. Also, she said that the Board would need to affirm that these changes are consistent with the earlier SEQRA findings that were made with respect to the entire subdivision.

Chairperson Hunter then asked R. Golden for his comments. He said that this application would need to be referred to the County for 239 review if any of the changes in the phasing are within 500' of the County road. Mr. Brodsky said that he was sure that the property was well over 500' away, but would certainly have it reviewed if necessary. Finally it was determined that no 239 review would be necessary for the lots in question.

WP3 LLC - TAX MAP 225-1-3.22 et al (cont.)

Chairperson Hunter then opened the floor for public comments and questions. There were none, but R. Cataggio had a question about traffic. He wanted to know the estimated start and end date of each phase and the amount of traffic that would be associated with them.

Chairperson Hunter explained that when the developer gets a Certificate of Occupancy for the 163rd home he is obligated to put in a traffic light at the intersection of Nininger and Dunderberg Roads. R. Cataggio said he was not concerned about the traffic at Dunderberg and Nininger but was more worried about the traffic going out to Route 32. D. Lindsay then explained that there is a table for the proposal for the build order which tells how many units will be built in each phase. However, he said they are not going to build all the units in one phase and then move on to the next phase. He added that the phasing is market driven – depending on what products are selling the best. Mr. Brodsky added that the lots are selling better now than they were in 2008. He said they have 69 lots in Phase 2A and are doing a reasonable job of selling the age restricted homes. They are selling lots in Phase 3A and are now moving up into Phase 4. He said they only have seven or eight lots left in Phase 3A, which is the all age market.

They already have people wanting to buy lots in Phase 6. He added that they want to go to Phase 1 so they can start bringing traffic in off of Nininger Road.

With regard to the traffic light at Nininger, Mr. Brodsky said that this is an important element, as most of the buses from the High School and Middle School make right hand turns onto Nininger Road. This will help alleviate some of the traffic on both Nininger and Dunderberg Roads.

With regard to the left hand turn lane on Nininger, Mr. Brodsky said that the majority of their construction vehicles will be coming up the Thruway and making a right hand turn into the development. He did not feel that there is a need for the left hand turn lane at this time.

At this point R. Anzalone made a motion to close the public hearing. R. Cataggio seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- M. Christman – In Favor
- C. Correia – In Favor
- R. Anzalone – In Favor
- R. Cataggio – In Favor

Chairperson Hunter pointed out that there was a note on the plans that said that the traffic light at Dunderberg would be installed after Phase 3 or prior to the 163rd Certificate of Occupancy. She wondered if the wording “Phase 3” should be removed. D. Lindsay said the applicant would be making some changes to the plans and they should look at this and make it agree with the previous resolution.

WP3 LLC - TAX MAP 225-1-3.22 et al (cont.)

There was some discussion regarding the installation of the left hand turn lane on Nininger Road. It was decided that the installation of the turn lane would correspond with Phase 1. There was some discussion, after which Chairperson Hunter made a motion to authorize the attorney to draft a resolution once the revised map is submitted. R. Cataggio seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- M. Christman – In Favor
- C. Correia – In Favor
- R. Anzalone – In Favor
- R. Cataggio – In Favor

C. Correia made a motion to affirm that the proposal is consistent with the prior SEQRA approval. R. Anzalone seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- M. Christman – In Favor
- C. Correia – In Favor
- R. Anzalone – In Favor
- R. Cataggio – In Favor

MAKAN/APPLE HILL ESTATES - TAX MAP 204-2-1,3,9,10,12,16 & 17

Chairperson Hunter explained that this was to be a public hearing for ARB approval of proposed eight home styles located within the previously approved subdivision known as Apple Hill Estates, pursuant to Village of Woodbury Code 8-3. The property is located on Apple Hill Drive in Highland Mills and is designated as a critical environmental area pursuant to SEQRA and subject to the Village regulations for ridge preservation (310-13). She then asked the applicant to give a brief overview of his proposal.

Alan Hicks, the consultant for Makan Land Development, appeared before the Board and explained that they are asking for numerous choices for colors because they would like some flexibility in what they are able to offer their prospective buyers. He had samples and renderings of the homes and color selections for roofing and siding, as well as a brochure showing the stone they would like to offer.

Chairperson Hunter then asked D. Lindsay for his comments. D. Lindsay noted that the applicant is showing eight home styles for eight lots, but have not identified any one model for any one lot. He said that the Board has already reviewed this site in terms of ridge preservation when it was previously before the Board, however, they now have individual lots and home styles and should be sure they comply with the code requirements of mitigating the impacts

MAKAN/APPLE HILL ESTATES - TAX MAP 204-2-1.3.9.10.12.16.17 & 20
(cont.)

of visibility from the view corridors. With regard to zoning, D. Lindsay noted that the houses may not exceed 35' in height. He said the Board should get something on the record about the height requirement. Also, he noted that the plans have designations from other municipalities. He said that any plan that is submitted to the Building Department has to have the seal of the architect before construction can begin.

Chairperson Hunter asked K. O'Donnell for her comments. She said that the home styles are consistent with what has been built in the past, and consistent with what was approved previously. She also noted that the homes are larger than what was approved in the 2008 ARB, but not larger than what was originally approved in 2003.

With regard to SEQRA, K. O'Donnell said that a full review was done in 2003 when it was originally approved, and a Negative Declaration was issued. She said the Board could confirm that this application is consistent with those earlier findings.

Chairperson Hunter then asked R. Golden for his comments. R. Golden noted that he had prepared a draft resolution. He said there were some details that needed to be included regarding the color selections. There was a color noted as Sterling Driftwood. This color does not exist. However, there is a Sterling and a Driftwood. This will need to be verified to make it easier for the Building Inspector to know what is being approved.

With regard to GML 239, R. Golden said the application came in on July 16th, and was sent to the Orange County Planning Department on July 17th. This means the Board cannot take any action until 30 days from this date have passed, which would be August 16th.

Chairperson Hunter pointed out that there are supposed to be 15 colors for the roofing and some of the colors were missing. Mr. Hicks said that they printed their own brochure from a pdf file from the manufacturer and since that time some of the names of the colors have changed. He will make the necessary corrections. He also said that they would like to add another color to the list of siding colors. The added color would be Soft Maple. Also, he confirmed that Sterling and Driftwood are two separate colors and are included in the color selections. Chairperson Hunter confirmed that there are 13 colors for the siding. White and Blue Gray have been excluded.

At this point Chairperson Hunter read the Notice of Public Hearing which appeared in the newspaper on July 26th. The Board then reviewed the roof colors and saw a brochure depicting the stone. Chairperson Hunter pointed out that the Tamco Heritage Premium roofing color noted as Rustic Brown should be Rustic Slate.

MAKAN/APPLE HILL ESTATES - TAX MAP 204-2-1.3.9.10.12.16.17 & 20
(cont.)

Chairperson Hunter also noted that on the Hemlock house design there are elevations missing for the left, right and rear of the structure. Mr. Hicks will provide this on his next submission.

At this point Chairperson Hunter opened the floor for public comments on questions. Jennifer Jenkins of 134 Schunnemunk Road said she had seen Mr. Makan's web site, which describes him as a builder of affordable housing. She wanted to understand the marketing that will be done to differentiate this development from the 75 homes that are currently for sale in Highland Mills in the same price range. She also suggested that SEQRA be revisited, because it was last done in 2003. She was also concerned about impacts on Earl Reservoir because of this development.

Ms. Jenkins noted that the economy has been cited several times as a reason for smaller homes being proposed. She asked if the two acre zoning would be abandoned if the economy continued to get worse, or would condominiums be built similar to Timber Ridge. She was concerned because she purchased her home based on the plans for the other homes that were to be built around it.

Ms. Jenkins also said that she had heard that there can only be so many vacant homes allowed at one time. She thought the number was five. She was concerned because she said that vacant homes have been a problem in the past with parties being held, etc.

Richard Black of 134 Schunnemunk Road asked if the homes would be built on speculation, or simultaneously. He asked what the phasing would be for building within Apple Hill Estates. He also suggested that SEQRA be revisited. He added that the previous developer, Mr. Donnelly, was not supposed to build after November 15th, but said that he was building well into the winter and did not follow any of the Board's recommendations.

Mr. Black also said that Schunnemunk Road has recently been paved. He wondered if there would be any impact to the road due to the new construction.

Chairperson Hunter asked Mr. Makan what the price range of his houses would be. Mr. Makan said the houses would range from \$399,000 to \$449,000.

Chairperson Hunter then turned to the Consultants to address the issue of SEQRA being revisited for this application. R. Golden explained that the law is clear that a new SEQRA review cannot be requested simply because of the passage of time. He added that the only thing the Board is dealing with on this application is Architectural Review Board regarding colors and materials. The developer has the right to continue to build out this project as previously approved. He added that, with respect to marketability and affordable housing, these are things over which the Planning Board has no jurisdiction.

MAKAN/APPLE HILL ESTATES - TAX MAP 204-2-1,3,9,10,12,16,17,& 20

(cont.)

With regard to the question about how many vacant homes there could be, K. O'Donnell did find a condition that there could be no more than six homes constructed at one time. This deals with the soil erosion and sediment control aspect. They could find no condition dealing with the number of vacant homes that are allowed.

Chairperson Hunter then asked for some clarification on the application with regard to who the owner of the property actually is. Mr. Makan said that Liberty Capital Group is the owner, and Mr. Richard Raleigh signed the form.

Chairperson Hunter then asked about the issue of the vacant homes, and if the developer could build all eight homes on speculation. Mr. Hicks said that it is not the developer's intent. The builder will build two homes at a time, and if one gets sold he may build a third.

There was some discussion regarding the previous developer building after November 15th. D. Lindsay noted that R. Golden will add a condition to the resolution that all conditions of prior resolutions will apply.

Chairperson Hunter asked if there was any way to hold the builder responsible for any damage to any of the roads. D. Lindsay said this would be difficult to do because it would be hard to know which trucks actually did the damage because there are sub-contractors and suppliers that will also be using the road.

The discussion continued. R. Golden then asked the Board if they wanted him to have a condition in the resolution that says that all the other conditions of the 2003 and 2008 resolutions are incorporated, or do they want him to actually place all of the conditions in the resolution separately. The third alternative would be to say they are incorporated and attach the previous resolutions to the new resolution. D. Lindsay pointed out that the other resolutions are very comprehensive, and the document would be very large if all the conditions were set forth again. It was decided that the resolutions could be referenced and attached to the new resolution.

At this point Chairperson Hunter asked if there were any other questions or comments from the public. David Pollack said that last winter there was no plowing of the roads. He wanted to know how this was going to be handled. D. Lindsay said that because they are private roads it would be the responsibility of the owner of the road to maintain the road. Also, there is a bond for maintenance of the road so if it is not plowed it can be plowed by either a private contractor or the Town and monies can be taken out of the bond. Chairperson Hunter said she noticed that the roads were not completed. She asked D. Lindsay to look into this.

MAKAN/APPLE HILL ESTATES - TAX MAP 204-2-1,3,9,10,12,16,17,& 20

(cont.)

D. Lindsay said that roads are not typically completed until most of the homes are built because of the issue of damage to the roads. He did go on to say that there should be a bond for the top course of paving. He said if some homes are constructed and activity stops the municipality can pull the bond if the developer does not finish the roads. Chairperson Hunter asked who owns the roads. Mr. Makan said that he only bought the lots, not the roads. D. Lindsay will look into this.

The discussion continued. Chairperson Hunter was still concerned about storm water and drainage. D. Lindsay said the developer would be responsible for these things and any disturbance he creates to them. Chairperson Hunter said she wanted to see these things addressed in the resolution. The Board then had a discussion which was inaudible, after which C. Correia asked who the residents should call if the roads did not get plowed. D. Lindsay said that this happened with Brigadoon one time and he thinks the Police Department was called and they, in turn, called G. Thomasberger. He added that there is usually an effort to contact the developer because sometimes the developer is not aware that there is a problem. Chairperson Hunter asked that this be addressed in the resolution as well. R. Golden said that this item cannot be placed in the resolution. The Building Department can make the determination regarding the plowing of the roads. He added that the ownership of the roads can be determined by the tax information. R. Golden said that the residents in Apple Hill can contact the Town and Village in advance so they can be prepared. But there is nothing the Planning Board can do by putting something in the resolution.

R. Golden noted that the Chairperson has asked that a condition be placed in the resolution regarding soil erosion. He was concerned about doing this because it is clear in all the prior resolutions that they are responsible for this. He said sometimes it makes things more confusing when you mention one thing and not the others. D. Lindsay also pointed out that the applicant had submitted a soil erosion and sediment control plan which has all the notes and requirements listed.

The discussion continued and the Board had another discussion which was inaudible. R. Golden reminded the Board that one of the requirements of the open meetings law is that discussions need to be heard by everyone, although sometimes there may be an odd comment here or there that is necessary. Chairperson Hunter explained that the Board just wanted to be sure that the applicant follows the erosion control notes. R. Golden said that the map in question will be referenced in the resolution.

The discussion continued. C. Correia asked if there could be a condition in the resolution to enforce the code enforcement that G. Thomasberger is responsible for. R. Golden said that

MAKAN/APPLE HILL - TAX MAP 204-2-1,3,9,10,12,16,17 & 20 (cont.)

the Planning Board can set forth the items in its jurisdiction which they want to be enforced. G. Thomasberger is the one that needs to enforce them. There is nothing more that can be placed in the resolution to strengthen the enforcement aspect. D. Lindsay noted that a number of the Board members were not on the Board when this application was first approved, but that it had been a well scrutinized application. It was reviewed carefully with a great deal of public input. He said the Board's action was very environmentally sound. R. Golden added that there were a number of conditions that were placed in the resolution dealing with bonding of water to be sure that the number of homes being built would not affect the wells on the surrounding properties. After the approval the applicant challenged those conditions in court. It went to the lower court and the appellate court and was upheld both times. He said the Board was very careful with respect to bonding for affecting the wells and things like that.

Chairperson Hunter asked again if there were any more comments from the public. Ms. Jenkins reiterated that they had problems getting the road plowed when they contacted the Highway Department, and were told to contact the builder. R. Golden explained that, even though there may be money available in the form of a bond, it would take an action by the Town and/or Village to use that money for snow plowing or anything else. The Planning Board cannot put anything in their resolution that requires the Town or Village to delve into the bond. He suggested that the residents attempt to contact the Town and Village Boards ahead of time and bring up this issue with them. M. Christman agreed, saying that although this discussion is outside of the scope of the Planning Board, he was an officer of the HOA for Brigadoon and they had the same problem. He added that the Town and Village Boards will help and support the residents, but it is really the responsibility of the owner of the road. He suggested that the residents begin their discussions with the Town/Village now.

Ron Prestia of 99 Schunnemunk Road asked if the resolutions would be available to the public. R. Golden said he could request copies of the resolutions from the Building Department, and added that the resolution for this application will include copies of the prior resolutions so they will all be available in one place. Chairperson Hunter said that it would also be available on the Town's web site.

There were no further comments or questions so M. Christman made a motion to close the public hearing. R. Anzalone seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- M. Christman – In Favor
- C. Correia – In Favor
- R. Anzalone – In Favor
- R. Cataggio – In Favor

MAKAN/APPLE HILL ESTATES – TAX MAP 204-2-1.3.9.10.12.16.17 & 20
(cont.)

Chairperson Hunter noted, for the record, that a response was received from the Orange County DPW on August 1st that this is a matter of local determination.

There was some discussion with the applicant regarding the materials he still needed to submit, after which it was decided that this item will be placed on the agenda for the August 15th meeting.

Chairperson Hunter then made a motion to reaffirm the prior Negative Declaration, and affirm that this application is consistent with the original findings for the overall SEQRA for Apple Hill. R. Cataggio seconded the motion. The vote was as follows:

M. Hunter – In Favor
M. Christman – In Favor
C. Correia – In Favor
R. Anzalone – In Favor
R. Cataggio – In Favor

There was no further business for the Board to conduct, so M. Christman made a motion to adjourn. C. Correia seconded the motion. The vote was as follows:

M. Hunter – In Favor
M. Christman – In Favor
C. Correia – In Favor
R. Anzalone – In Favor
R. Cataggio – In Favor

The meeting was adjourned at 9:50 p.m.

Respectfully submitted,



Gale A. Naugle
Planning Board Secretary