

**Village Of Woodbury
Planning Board Meeting
December 2, 2020**

Minutes of the Planning Board Meeting held on December 2, 2020 at 7:30PM
(This meeting held via Zoom)

Present: Christopher Gerver, Chairman
Robert Anzalone
Richard Cataggio
Sandra Capriglione
Thomas Deluca

Absent: None

Also Present: Richard Golden, Planning Board Attorney
Natalie D. Barber, Village Board Engineer
Jonathan Lockman, Village Planner
Phillip Grealy, Traffic Consultant

Chairman Gerver opened the meeting with Pledge of Allegiance.

1. **Executive Session:** No Executive Session was necessary.
2. **Public Comment:** No member of the public had comments.
3. **Approval and Acceptance of Previous Minutes:**
Motion was offered by Chairman Gerver, seconded by T. Deluca, to approve and accept the minutes of the meeting held May 6, 2020.

Motion was offered by Chairman Gerver, seconded by R. Anzalone, to approve and accept the minutes of the meeting held November 4, 2020. Chairperson Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 5 Chairperson Gerver, R. Anzalone, S. Capriglione, R. Cataggio, T. Deluca
NOES 0

4. **New Business: N/A**
5. **Regular Agenda:**
 - A. **Woodbury Villas - Review and discuss draft resolution for site plan amendment to the Phasing plan for a 21-lot transfer from Phase 1 to Phase 6. Said subdivision is located off of Dunderberg Road and is known on the Village of Woodbury Tax Maps as Section 225 Block 1 Lot 3.22 et al.**

Village Board Attorney, Richard Golden proceeded to say that a few adjustments had to be made on the draft resolution. As per the Building Inspector Gary Thomasberger and Village Board Engineer, Ms. Natalie D. Barber, it was confirmed, there are 24 building permit applications awaiting approval prior to September 15, 2020 filed with the Building Department. He said condition #11 in the draft resolution will be adjusted to reflect that number and instead of “upon the signing and filing of the resolution...” it should read “the signing of plans.” Mr. Golden said that change came about after having a conversation with the Building Inspector Thomasberger. According to the Building Inspector Thomasberger, he doesn’t consider anything approved until the plans are signed. Also, due to the confirmed amount of 24 building permits, condition #12 will also be adjusted to 6 not 5 additional building permits in Phase 1. Mr. Golden proposed a new condition

#18 which mentions the transfer of lots from 1 to 6. He will discuss it further when it comes to reading the conditions. He said condition #17 the applicant may want to address it and condition #10 states prior to the signing of the plans the applicant must post a Performance Bond. Mr. Golden said that doesn't make sense to him since a construction plan along with the costs determines what the amount of the bond will be, and then the bond will need to be approved. He suggests a reasonable time should be set, rather than prior to the signing of the plans within 45 days after the signing of the plans. He said those are the changes he is proposing on the resolution. He said he will go over them when Chairman Gerver reads the resolution.

Chairman Gerver proceeds to read the Resolution of Approval.

Specific Conditions

Note: Some of the following conditions apply to prior phase plan revisions and not specifically to this phase plan revision. They have been repeated below to avoid having to refer to multiple phase plan approval resolutions for the conditions applicable to the overall phasing of the project. Some conditions may have, as of this date, already been completed and others may be in the process of being completed.

1. *All obligations of the Applicant under its 2006 Final Subdivision, Site Plan and Special Permit Approval, as amended from time to time, and the associated Developer's Agreement, and all conditions of such Approvals and Agreement (including, but not limited to, all bonding obligations), shall remain in full force and effect and are incorporated into this Resolution as though specifically set forth at length herein, except as specifically modified as a result of this Amended Re-Phasing 2020 Approval and/or by the revised plans submitted in connection herewith.*

2. *No Certificate of Occupancy may be granted, and no home may be otherwise occupied without the Code Enforcement Officer and the Village Engineer determining that adequate fire protection exists for such home, regardless of whether such homes are in an approved phase. Adequate fire protection shall be deemed to require an accessible fire hydrant with adequate pressure within 300 feet of the property line, unless otherwise approved by the Code Enforcement Officer and the Village Engineer depending on the particular circumstances present.*

3. *The Applicant must obtain all necessary approvals from the Orange County Department of Health ("DOH") for modifications to the water distribution system (temporary or permanent) that require DOH approval.*

4. *The Applicant must at all times comply with its DEC general permit for soil erosion and sediment control for construction related activities, which, among other things, limits the area that may be cleared without stabilization to five (5) acres.*

5. *The Applicant should not proceed with the development of other phases if the prior phases are not adequately constructed and maintained, including utility and road construction. See Specific Condition Nos. 11 through 16.*

6. *The Applicant shall provide such additional valves at Phase interfaces (temporary cul-de-sacs) as deemed necessary by the Village Engineer to permit operation with partial distribution system.*

7. *The water line in the area between lots 247 to 250 must have valves at the road and either be abandoned or provided with an easement, as required by the Village Water Department.*

8. *If, with the approval of the Village Water & Sewer Superintendent, Building Permits and/or Certificates of Occupancy are to be issued prior to construction of the water main in Road B from the 1020 water tank that is to provide back-up water supply to Phase I, the Village must be provided with bonding or other protection to the satisfaction of the Village Water & Sewer Department to ensure that it will eventually be built.*

9. *Prior to the signing of the final plans, the plans shall be revised, to the satisfaction of the Village Engineer, to include a table showing the number of units that will be included in each proposed phase.*

Chairman Gerver referred to Mr. Golden as to what changes will be done to condition #10. Mr. Golden said he like to eliminate "Prior to..." and instead put "Within 45 days after..." and the rest stays.

10. Prior to the signing of the plans by the Chairman, the Applicant shall post a performance bond in an amount to be determined by the Village Engineer, based upon the estimated costs of constructing to completion the two recreation centers and gatehouse at the Nininger Road access ("Gatehouse"), plus a reasonable contingency amount, and in a form approved by the Planning Board Attorney to ensure that the two recreation centers (one, for all project residents, located near the project entrance and the other for the senior residents located within the "Active Adult" section of the project) and the Gatehouse are fully completed and that all associated work has been performed to the satisfaction of the Village Engineer. In the event the Applicant fails to properly install and complete any of the above improvements, the Village may, upon ten (10) days written notice to the Applicant, at the address contained in the application submitted, or such shorter time as may be practical in the event of an emergency or danger to public safety, perform the necessary work and use the performance bond funds deposited with the Village for such purposes. The Applicant has agreed that the Village shall be entitled to receive its attorneys' fees and disbursements from the Applicant, if there is a need by the Village to call and/or foreclose on the performance bond.

Mr. Cataggio asked a question regarding the amenities. He wasn't sure if the condition pertained to one gatehouse or two Nininger Rd. and Dunderburg Rd. He said the minutes it mentions two gatehouses. Chairman Gerver said he only knows of the Dunderburg Rd. Mrs. Capriglione thought the resolution referred to the one on Nininger Rd. Ms. Barber clarified the one on Dunderberg Rd is constructed although not operational. She said there should be a gatehouse on Nininger Rd. and that is the topic of discussion for the resolution.

Mr. Anzalone said shouldn't there be something about it being fully operational because the one on Dunderburg Rd. is there but it's not operational. Mr. Cataggio said he doesn't think it's constructed completely. Mr. Anzalone asked if it was to be operated manually or will it be automatic. Mr. Golden said he would look back at the original condition and resolution to make that determination.

Mr. Cataggio said it was being referenced in the October 7, 2020 minutes on page 5. Ms. Barber said in discussion with Village Engineer, Dennis Lindsay in the original approval it was supposed to be gated where only the residents of the community have access. She does not know if it was to be manned or automatic. She said the applicant should be able to clarify.

Chairman Gerver asked if it should be phrased as gatehouses in plural. Mr. Cataggio and Mr. Anzalone said they be comfortable with that.

Attorney, Steve Barshov representing the applicant said according to the applicant it should be one gatehouse, the one on Nininger Rd. Mr. Barshov said he hasn't looked back at the prior approvals to confirm, so he suggested adding a generic language saying all required construction of whichever gatehouse or gatehouses are required by the developer to undertake. Once the language is included, he said the Planning Board can then have their concerns addressed without having to delay the adoption of the resolution.

Mr. Golden said the intent of all this is to have the applicant conform to the resolution of 2006. He said it's a condition the Planning Board is putting on the applicant's request for rephrasing. He said if the Planning Board does something along the lines of what Mr. Barshov suggested, that the applicant is required to complete the gatehouse(s) as required under the 2006 resolution should cover it, which it's essentially what is being done with the recreation centers.

Mr. Deluca asked if it should be stated as "completed" or "operational". Mr. Golden said the applicant must do whatever was required in the original resolution.

Chairman Gerver said condition #10 will be edited to say gatehouses required to the 2006 resolution. Mr. Golden said he will go ahead make the modifications and come up with the appropriate language to reflect what was discussed.

Chairman Gerver continued to read the Specific Conditions.

11. Upon the signing and filing of this Resolution, the Building Department may issue building permits for the twenty-five (25) pending building permit applications in Phase 1, which applications were submitted on or before September 15, 2020.

Confirming with Mr. Golden, Chairman Gerver said the changes for condition #11 will be changing the words "Upon the signing and filing of the resolution..." to "Upon the signing of the plans..." and instead of (25) pending building permits it will read (24) pending building permits. Chairman Gerver asked the Board if this was ok. The Board members agreed.

12. Upon the submission by the Applicant, and acceptance by the Village, of the performance bond referenced in Specific Condition No. 10, the Building Department may issue five (5) additional building permits in Phase 1, resulting in a cumulative total of thirty (30) new building permits.

Confirming with Mr. Golden, Chairman Gerver said the change for condition #12 was to make it "(6) additional building permits in Phase 1". Chairman Gerver asked the Board if this was ok. The Board members agreed.

13. Upon the completion of the building foundations for the recreation center located near the project entrance and the gatehouse, the Building Department may issue fifteen (15) additional building permits in Phase 1, for a cumulative total of forty-five (45) new building permits

14. Upon substantial completion in accordance with the 2006 Resolution of Approval (as amended) of (i) the recreation center near the project entrance (including, but not limited, to the mandated fitness room with lockers, recreation lounge, community room, mechanical/storage room, kitchen/pantry, swimming pool and tennis/sports courts), (ii) the recreation center in the "Active Adult" section of the

project (including, but not limited to, the mandated indoor pool, fitness room, recreational lounge, mechanical/storage room, and community room) and the Gatehouse, the Building Department may issue seven (7) additional building permits in Phase 1, for a cumulative total of fifty-two (52) new building permits. "Substantial completion" shall mean that the improvements are sufficiently complete in accordance with the required elements of the two recreation centers and the gatehouse as set forth in the 2006 Resolution of Approval and site plans referenced therein and New York State Building Codes, such that the buildings are ready and able to be occupied for the uses intended, save for the issuance of a Certificate of Occupancy.

Chairman Gerver noted the word "gatehouse" should be "gatehouses" and Mr. Golden concurred stating he will make the adjustment on all the conditions that refer.

Mr. Golden explained the last part of condition #14 referring to "Substantial Completion". He said the definition is reference in an area of the law under standard construction contracts. He said he added the language "save for the issuance of a Certificate of Occupancy" because under the substantial completion, it may mean it's ready to be moved in and some additional permits may be acquired, but they won't have a Certificate of Occupancy at that time.

Chairman Gerver asked if everyone understood. Board members said yes.

15. Upon the issuance of the last of the Certificates of Occupancy for the two recreation centers and the Gatehouse, the Building Department may issue ten (10) additional building permits in Phase 1, for a cumulative total of sixty-two (62) new building permits.

Mrs. Capriglione presented a question regarding condition #15. She said the active adult recreation center already has a CO. She asked if they would receive another CO when the pool is issued. Mr. Golden said no, he worded condition #15 just in case in the future if the CO was taken away or if the Building Inspector Thomasberger issues another or an amended CO regarding the active recreation center pool, he wanted to make sure it would be the last of the CO to be issued.

16. Notwithstanding anything to the contrary, there shall be no building permits issued for any units/dwellings in Phase 7 unless and until both recreation centers and the Gatehouse are completed and have received Certificates of Occupancy.

17. The Applicant shall submit all required fees and bonds as stipulated in the Developer's Agreements, including the past due payments of \$16,500.00 for Water Meter and \$150,000.00 for I&I Equipment. These past due payments shall be made prior to the signing of the plans.

Chairman asked if anyone had comments regarding condition #17. Mr. Barshov said he had some comments, but he will wait for Mr. Golden's proposed language for soon to be added condition #18.

Mr. Golden said to really clarify and confirm the whole purpose of the approval of the application condition #18 is as follows...

18. Upon signing of the Proposed Re-Phasing Plan for Woodbury Junction, revised December 2020, the twenty-one (21) lots being approved to be transferred from Phase 1 to Phase 6 are designated as Lots

1 through 12, 119 through 125, 157 and 176. These lots are graphically noted in "Map, entitled, 'Woodbury Villas – 7/15/20 – Proposed New Phasing Map'" (see "Plans" section above in this Resolution, item "12"). These twenty-one (21) lots are not part of or included in the 62 lots referenced in Specific Condition Nos. "11" through "15" above.

Ms. Barber shared the map that Mr. Golden he referenced on to the screen. Mr. Golden indicated which lots will be transferred as he had detailed in condition #18. He said condition number 18 was needed to be very clear with respect to transferring of these lots and it will be a lot easier for the Building Inspector Thomasberger as well. Mr. Golden said its referenced in the resolution as item number 12 under the category of plans near the beginning of the resolution.

Mr. Barshov asked what documents are referred to when it says, "signing of the plans"? Mr. Golden said aside of having a rephasing, there are plans outlined with specific details. He said the applicant should provide a revised rephasing map to be finalized; also, in accordance to specific condition #9 a table showing the number of units for each proposed phase. Mr. Golden said that would be a sufficient plan to be signed.

Ms. Barber indicated she prefer the phase plan done by KC Engineering, issued back in January to be amended and resubmitted, reflecting the general notes, conditions, tables listing the number of lots in each phase, the build orders and the phase improvements. She said the plan was last revised in October of 2012, but it came in January 2020 with the original submission.

Mr. Barshov asked if the applicant's engineer would have to prepare the plan and Ms. Barber said the applicant would have to submit it to the Building Department and then the Building Department would refer it to H2M for review; then H2M would make recommendations for signing. Mr. Golden at that time can provide his insights and then it will go the Chairman for signature. Mr. Barshov wanted to clarify that the plan Ms. Barber is referencing to is on the amended rephasing plan that was approved back in 2012 and no other. Ms. Barber said correct. She indicated the sheet that was displayed on the screen for everyone to see. She said it would identify the lots that are being transferred to phase 6 and the tables would be updated. Mr. Golden agreed with Ms. Barber.

Mr. Barshov then requested the language "signing of the plan" to be adjusted and reference to the specific plan. Mr. Golden then said he will make the adjustment and it would say "Proposed Rephasing Plan for Woodbury Junction". The Chairman and the rest of the Board agreed. Mr. Golden asked if it should be changed from Woodbury Junction to Woodbury Villas and Mr. Barshov confirmed Woodbury Junction. Ms. Barber asked Mr. Barshov to make sure the revision date is noted on the plan and he concurred.

Mr. Barshov proposed that condition #18 would also include language authorizing the Building Inspector Thomasberger to issue CO's for homes that are on those lots, as long as they comply with the applicable codes. Since he wasn't able to issue CO's for those homes due to the current phase, they were in. Mr. Golden said with any other resolution(s) it's simply not done where the Building Inspector Thomasberger is directed or authorized to issue CO's. Mr. Golden said the Building Inspector's objection to issue CO's back then was, it wasn't in the right phase. He said the rephasing plan will clarify that making it eligible for CO as long as it meets not only state building codes but other things that the Building Inspector Thomasberger may weigh in on that are really outside of the purview of the Planning Board. Mr. Golden said the intent of the Planning Board is to adjust the rephasing, so that those 21 lots are now in phase 6 and after that it's up to the Building Inspector Thomasberger.

Mr. Barshov refers to condition #10. He asked for 60 days instead of 45 days as proposed in the condition. Mr. Golden said he didn't have a problem updating it to 60 days. The Chairman Gerver said 60 days seem reasonable. Mr. Barshov also refers to condition #17. He said they were not aware these fees existed, not until a few days ago. He and the applicant suggest in setting a date to having these fees paid outside the first issued building permits, followed by the first CO. Mr. Golden said he would prefer not to tie the paying of the fees to the CO, but to the first building permits that are currently discussing. Ms. Barber

agreed. Mr. Barshov asked which building permits should the fees be tied to and Mr. Golden said the payment of the fees should be tied to the issuance of the 6 building permits referenced in the updated condition #12. To Mr. Barshov's clarification he asked if those 6 building permits are frozen until the fee issue is resolved. Mr. Golden said yes. Mr. Barshov then summarized what the final resolution entails assuming the Planning Board agrees and Mr. Golden added that the Building Inspector Thomasberger will not consider anything until he receives the signed plans. Mr. Golden then went over the sequence the plans will go through in order to be signed. Chairman Gerver reminded Mr. Barshov to make sure the plans have a signature block if not it will go back to the applicant, causing a delay.

Mr. Golden added that in condition #9, prior rephasing plan there will be a table showing a number of units that will be included in each proposed phase. Mr. Barshov asked if the 24 building permits that are set aside; are there any precedent condition he needs to be aware of in order for them to be released by the Building Inspector Thomasberger? Mr. Golden said the rephasing plan needs to be signed as well. Mr. Barshov in hopes to be clear with everything he summarized the steps needed in order to move along, wanting to make sure he understands what is required before the Planning Board. He then asked for a moment to speak with the applicant.

Mrs. Capriglione asked a question regarding Mr. Lindsay's memo dated November 13th. She noted a schedule for calling the bond. She asked if a timeline should be added to the resolution. Mr. Golden said the timeline for calling the bond is in the resolution (conditions #11-15). Mrs. Capriglione refers to the resolution not having a timeline of when things are done. To Mr. Golden's understanding, he asked Mrs. Capriglione if she is saying the resolution doesn't have an end date for the completion of things to serve as a trigger for calling the bond. Mrs. Capriglione said correct. She said she would like some time parameters put in the resolution. The Board members agreed with Mrs. Capriglione. Mr. Golden said he will reference in specific condition #10 where it will say, "In the event it fails to improperly install and complete any above improvements in accordance with the schedule for calling the bond set forth in the H2M November 13th". He asked if it was to the satisfactory of the Board members and they said yes.

Mr. Barshov had some concerns with the language and Mr. Golden then explained what the language reference to. He said the language pertains to the applicant's proposal, stated in an H2M memo in a table referencing the clubhouse, gatehouse(s), and recreation centers. Mr. Golden then listed the items in the table. Mr. Barshov said he understood and also was in agreement with the target date of paying the outstanding fees. He said they will have to go back and take a look into those fees since it was prior to the applicant's acquisition.

Mrs. Capriglione had a question regarding a paragraph from the original resolution. She read a paragraph on page 25.

"..transportation access to the site shall be from Nininger Road and Dunderberg Road. Emergency access will be available primarily in two locations from Dunderberg Road along the former access to the Cornell house and from the Hadley Farm Road a private Road which has access down to Roselawn Road. The Nininger Road access shall be staffed full time at the gate to provide security allow immediate access to emergency vehicles if necessary and help guide delivery and non-resident vehicles. The Dunderberg Road access will be gated but not staffed. Residents will gain access through a gate actuated by radio frequency approved by the ESO's the HOA is bound to comply with this provision and must obtain Planning Board approval for any modifications to its requirements the project sponsor and HOA agree that this provision may be enforced against the HOA to the same extent as any zoning violations."

Mr. Golden said he will incorporate that paragraph just as he's mentioned before the change throughout the gatehouse to gatehouse(s).

Chairman Gerver asked if anyone had any comments or questions. No comments.

A motion was offered by Chairman Gerver, seconded by R. Anzalone, to accept the Resolution of Approval as amended in December 2, 2020 meeting.

ADOPTED

AYES 5 Chairperson Gerver, R. Anzalone, S. Capriglione, R. Cataggio, T. Deluca
NOES 0

B. Shops of Woodbury - Continuation of Public Hearing for proposed revised site plan, special permit and ARB review for a mixed use development to include retail stores, restaurants and a hotel. Said property is located at the intersection of Route 32 and Locey Lane and is known on the Village of Woodbury Tax Maps as Section 225 Block 1 Lots 34.1 & 34.22

General / Background – The application is for a mixed-use commercial center development with retail, restaurant and hotel uses totaling 52,650 SF in footprint area. The northern portion of the site is occupied by the County Park and Ride Facility, which the applicant indicates will be accessible during construction and “at all times”. Sketch plan review was considered in 2018 with referral to the ZBA and ESO’s. The ESO’s met in May and June of 2018, May of 2019, and most recently on November 13, 2020. SEQRA was concluded in February 2019, when the Planning Board agreed that the potential adverse impacts mitigated through the prior review and findings for Cabela’s were applicable to this application. On June 13, 2019, the Village Board adopted legislation approving a Hotel Overlay District encompassing the subject property and eliminating the need for some of the variances under consideration by the ZBA (e.g., hotel use and building height). On January 8, 2020, the applicant received a decision from the ZBA on issues including lot coverage, side yard setback, and front landscaped area.

Attorney, Dominic Cordisco announced his presence along with the team., Steve Esposito, John Canning, Kevin VanHise and the applicant Aaron Goldklang. He said they are present for the continuance of a public hearing and are happy to address any concerns or questions that the Planning Board may have.

Chairman Gever asked if anyone from the public wishes to speak on the application.

Attorney, Charles Bazydlo, representing Millwood Place said he appeared in front of the Board several times on this project. He said he looked over the submittal form from the applicant. A letter dated November 16, 2020, which he believes was the last submittal. He said he still has concerns. He thinks the board still has some open issues to resolve before they can take action on the project. He thinks there's still seems to be an issue about sewer demand for the project, the water agreement with the Village of Harriman and the water demand, the issue about the parking space, variances, and then there are still those two issues hanging out there about the two restrictive easements that apply to this property. One was about fast-food development and the other about hotel development for the project. He thinks those issues are all still out there and they could all kind of be summarized. He still believes that the SEQRA review of this project is incomplete and that it’s relying upon a secret consistency determination comparing this project to the previous Cabela’s and that was done a couple years ago. He thinks the original Cabela's approval was back in 2015 and it's simply not the same project, so he thinks the Planning Board needs to consider stepping back and revisiting seeker on this project. He said for those issues he mentioned as well as any others that may be applicable.

Chairman Gerver thanked Mr. Bazydlo for his comments. He asked if anyone wish to speak on the application, no response. He checked if there were any comments in the chat room and there was none.

A motion was offered by Chairman Gerver, seconded by R. Cataggio, to close the public hearing for The Shops of Woodbury.

ADOPTED

AYES 5 Chairperson Gerver, R. Anzalone, S. Capriglione, R. Cataggio, T. Deluca
NOES 0

Ms. Barber said a revised site plan was submitted addressing technical comments sometime after the applicant’s last meeting with the Planning Board. She said an ESO meeting was held where the Fire Department attended and provided some assistance. On the H2M memo dated November 25, 2020, she started to point out some items that needed to be addressed. She said the first is related to conveyance of property and the easements that exist and proposed. She thinks it's appropriate for the applicant to show Locey Lane and Melody Lane description on the plans with the bearings, distances and easements. She said those descriptions should be submitted for council’s review and for H2M’s verification.

She noted the conveyance of Melody Lane is critical and the applicant is proceeding with risk and the request for parking waiver remains undecided. She continued saying the issue with the 12 ½ ft. requirement for accessing the shops needs to be discussed as well as the loading berths that are proposed for the hotel. She said the code requires one berth for every 25,000 sq. ft., so there should be 3. Ms. Barber said she hasn't received the revised SWPPP (Stormwater Pollution Prevention Plan) which is much needed since it will help resolve and answer some of H2M's comments. She continues to say H2M received a copy of utility by Harriman for water and an executed agreement it was deferred to council for approval. She said a loop around the hotel was recommended to avoid dead-ends, something that was talked about with the Fire Department during the ESO meeting. Regarding sewer service, H2M met with the Village Superintendent back in September and at that time at that time the applicant agreed to contribute to the INI (Infiltrations and Inflow) program (this form of agreement needs to be submitted to the Village Board for their approval regarding sewer service by the Village). She mentioned receiving the revised fire truck and refuse maneuvering plans and listed items that should be revised (mountable curbs, parking, landscaped areas and parking stalls). She made suggestions for the applicant to use Belgian Block due to some details on the applicant's plans. She also mentioned a topic of discussion in the ESO meeting which was the overflow parking in the parking ride into the shops area; there were some suggestions like police enforcement, differentiate the shops parking and signage. Ms. Barber asked about the monument signing, said she would like a picture rendering showing the colors and materials. She said the ARB for the tenants was discussed and the applicant proposed a general criterion to be considered by the Planning Board. She noted the applicant's most recent submission a form for the Orange County Department of Real Property for a combination of parcels. Ms. Barber's last note was H2M's Potential Resolution Conditions for the Planning Board, in order to condense H2M's memo list of discussion.

H2M Memo dated November 25, 2020:

Potential Resolution Conditions – *In an attempt to consolidate our report and track the Board's discussions regarding this development. The following are recommended conditions (in no specific order) for your action if you approve this proposed development. We defer to Counsel for appropriate language:*

- a. At such time that a hotel operator is confirmed, a site plan application will be submitted to the Planning Board. At that time, details regarding rooftop equipment shall be submitted and the Code requirements for building height confirmed, as well as appropriate screening and setback from roof edges.*
- b. The build-out of landbanked parking shall be at the discretion of the Building Inspector.*
- c. For compliance with parking requirements each food service building is limited to 65% of customer service area and the number of seats for each restaurant use is limited as follows:*

- Building 1 – 216*
- Building 3 – 108*
- Building 5 – 267*
- Building 6 – 315*

- *Building 7 – 108*

If the site plan changes, the change should be reflected in the number above and confirmed with individual tenant site plan approvals.

d. No accessory uses are permitted for the hotel except for a small lounge, business office, and dining area to serve breakfast to guests.

e. Prior to building construction, an application to the Architectural Review Board shall be submitted for review by the Planning Board.

f. When tenants are decided, proposed wall signs shall be submitted for architectural review by the Planning Board.

g. Full compliance with the General Permit for Stormwater Discharges from Construction Activities is required. Contractor and subcontractors shall sign the required certification statement prior to start of construction.

h. The applicant shall comply with the Code requirements §267-10 for maintenance and repair of stormwater facilities to include maintenance easement and agreement executed prior to (discuss appropriate time with Counsel).

i. Upon determination that existing facilities are not adequate, the Building Inspector may require additional erosion and sediment control practices be installed by the developer including, but not limited to, erosion and sediment control blankets and sediment traps, or other reasonable mechanism as determined by the Building Inspector.

j. Proper maintenance of stormwater management and erosion sediment control facilities during construction shall be required until site is fully stabilized. If at any time, the Building Inspector determines these practices are not being properly maintained, upon notice, the developer shall immediately correct the deficiency.

k. The onsite sanitary collection system is a private system to be maintained by the site owner.

l. Bus traffic is not permitted except for access to and from the park-n-ride facility as shown on Sheet C9.2 – Vehicle Maneuvering Plan (Bus).

m. Dumpster locations and arrangements shall be reviewed with the applicant's proposed carter to confirm materials can be properly handled within the space provided prior to (discuss appropriate

time with Counsel.)

n. All waste shall be placed inside the dumpsters as shown on the plans, and the area surrounding the dumpsters shall be kept in a neat condition.

o. If at any time, it is determined by the Building Inspector, that a single dumpster is insufficient for the hotel use, he may require an additional dumpster to be installed and maintained by the parcel owner.

p. All new plantings shown on the plans, or as required or authorized by this action, shall be planted in a timely manner consistent with planting seasons and maintained in a healthy and vibrant condition in perpetuity.

q. The Commercial Center and Hotel shall be maintained under single ownership.

r. A trench and safety plan prepared by a Professional Engineer is required for submission to the Building Department as part of the Building Permit application.

s. All water main utility installation shall be subject to inspection by the Village of Harriman Engineer per the executed agreement with the Village of Harriman.

t. Tenant specific site plans shall be submitted identifying the location of sprinkler rooms for review by the Planning Board and Emergency Service Organizations. These areas shall be equipped with adequate access. Proper street shutoff capability with signage shall be provided at all standpipe locations in accordance with Building Department requirements.

u. An elevator accommodating lay-sized stretchers shall be constructed in the hotel.

v. The rear and front access of each building shall be clearly labeled with the associated building number for easy identification by ESO's during an emergency.

w. Upon review of tenant specific site plans, if parking requirements vary from that proposed in this plan, a revised shared parking analysis may be required.

As per Chairman Gerver and Mr. Golden it was suggested to create a checklist and have the consultants get together and work on technical issues not to be resolved by any of those consultants but simply to be clarified and pointed and presented to the Planning Board, for the Planning Board to decide on all those issues. The Board members agreed. Mr. Cordisco agreed.

Chairman Gerver asked about the access lanes, thinking they were widened to 12.5 ft. Mr. Canning said it may be less than 12.5 by Avril Avenue, which is on DOT property and the DOT designed that intersection. He said no lanes on the property are less than 12.5 ft. Chairman Gerver said that would have to be checked out. Ms. Barber said she would look into it.

Traffic Consultant, Phillip Grealy said the right turn lane drop as you come in, he believes is still labeled as 12 ft. He said Mr. Canning can adjust the striping because the outbound lane is about 18 feet, so a striping adjustment can be made to 12.5 to meet the letter of the law.

Village Planner, Jonathan Lockman said looking at the landscaping plan that the applicants acknowledge, they don't have the asbuilt locations of the rights of way and pavement edges surrounding their site and they are still trying to obtain that from New York State DOT and that should be added into the plan set. Also, to see the retaining walls pavement edges finish grading and all around the outside of the site as it meets the perimeter.

Chairman Gerver asked for both parties to come up with a checklist so that everything gets squared away, a collaborative effort.

Chairman Gerver asked the Board members if they had come to a decision on the parking waiver. Chairman Gerver asked if the Board would prefer to have the checklist come back and decide then. Mr. Deluca prefer the checklist done to then make a decision.

Mr. Canning tried to explain to the board and council that they are not over parked. He shared his screen showing a picture of the parking lot of Woodbury Centre and Woodbury Commons taken October 2011. He made the comparison of the congestion of cars in one lot with the other: showing Woodbury Centre not being full. He said he's looked at the code, done the shared parking, done some land bank spaces and is convinced they have enough parking.

Mr. Lockman had a question for Mr. Canning. He asked how he felt on over parking when his submission of code-based shared parking had some projections on parking demand. The report showed a number of 474 maximum spaces during the week around noon and the Shops of Woodbury is providing 468.

Mr. Canning said the code is ancient and based on retail. He said they have done an ITE Industry based parking demand and the number was lower. He said the parking spaces can be increased because there are landbank parking spaces. His suggestion to the Planning Board was as this project is built, they will be pulling building permits, the Board can require as a condition of approval that the land bank spaces would be constructed if it was determined spaces are needed.

Mr. Lockman suggested to present the Planning Board the industry-based projection rather than the code base shared parking, doing so the Planning Board may be comfortable in waving parking spaces (pending results).

Mrs. Capriglione asked Mr. Golden, once the applicant is approved and the parking waiver given, can the building uses change. Mr. Golden said if the building uses change then it would require an approval from the Planning Board and the parking requirements could change as a result ; or if there's no available land for a propose use, then the applicant can't have that use. It will become restricted someway in order to fit the parking. To have a better understanding, Mr. Lockman set an example using other applications he's familiar with. Mr. Golden said he can add it in the resolution as a condition indicating that if any of the uses proposed use has changed it has to be approved by the Planning Board. Mrs. Capriglione was comfortable with that addition.

Chairman Gerver regarding SEQRA said the Board has not received anything from the Water Sewer Superintendent, so at this time no action will be taken from the Board.

Mr. Esposito said he met with H2M and the Water Sewer Superintendent and the project was reviewed and went back to the applicant with a number they thought would be appropriate contribution for eliminating the INI in the existing system. He said they have requested to be on the Village Board agenda and are awaiting confirmation. He said in that meeting they will go over a few things, for instance the Melody Lane acquisition, the contribution for the INI, contribution the applicant is willing to make towards the 100 ft. ladder the Fire Department is looking to purchase, amongst other things.

Chairman Gerver asked Mr. Golden if the Board only needs a letter from the Water Sewer Superintendent saying he's okay; a "will serve" letter for this project. Mr. Golden said if the Village Board is satisfied then all that will be given to the Planning Board is a will serve letter. Chairman Gerver asked if that was needed in order to complete SEQRA and Mr. Golden said yes.

Mr. Barber added that in that meeting with Mr. Esposito, the applicant, and the Water Sewer Superintendent there were other comments from the Water Sewer Superintendent as far as televising the downstream line and parging of manholes, having his personnel present during those inspections.

Mr. Lockman brought to the attention of Chairman Gerver that in his memorandum he mentioned ridge preservation. He said a local law was introduced making a few amendments to ridge preservation. Saying those amendments may make it less strict on sites that have been already developed by others previously. He asked if that local law was moving forward. Mr. Golden said it has not passed as of yet, and he has no updates on it. Mr. Golden said it was asked before, for the applicant to identify the area subject to ridge preservation. He said that will determine whether or not the buildings proposed need to have a review.

Chairman Gerver went back to Ms. Barber's comment on using belgian block versus concrete curve. He said he personally prefers belgian block, he likes the way it looks and if for any reason it needs to be repaired it's an easier fix than concrete. He asked the Planning Board if they agree. All members agreed the applicant as well.

Chairman Gerver spoke with the applicant earlier about the poly sign. He said the applicant told him he has reached out to a design firm. Since time is of essence Chairman Gerver is suggesting as a condition on the resolution that the poly sign go through its own ARB. Mr. Golden said it be best if the resolution would say within three months of the resolution of approval or six. Chairman Gerver suggested for it to say 90 days from the site plan approval. Mr. Golden said if the Planning Board is in agreement it shouldn't be an issue. The Board agreed. The applicant asked it be changed to "up to 120 days" from the site plan approval. Planning Board was fine with 120 days.

Mr. Anzalone asked about the commuter buses. He said he read somewhere commuter buses not being allowed. Ms. Barber said it was discussed and the applicant agreed to a condition. The buses are not allowed to the hotel only the park and ride.

Mr. Anzalone asked if the cars going to the park and ride will have to have a sticker or a permit. Chairman Gerver said that was discussed in the ESO meeting and the suggestions that were given was the coloring of the parking lines. Park and Ride is white while the Shops of Woodbury parking lines can be yellow. There will be also signage at the entrance, and it would be up to the applicant to enter into an enforcement agreement with eh Town of Woodbury Police Department and towing company to have it enforce.

Mrs. Capriglione was concerned with the applicant telling apart from a commuter and or shopper parking in the Shops of Woodbury parking lot. Mr. Canning assured her it wouldn't be an issue with the signage and the enforcement from the Town of Woodbury Police Department. He set some examples of cars being noticed and towed for parking illegally. The Planning Board showed concerns with the Shops of Woodbury parking filling up and spilling into the park and ride. Mr. Golden said that as the Shops of Woodbury is built out slowly and it goes in front of the Board for approval, there will be real time information on the utilization of parking spaces. Mr. Golden said the applicant may be limited on what they can do with the property if some of their parking spaces are used up by commuters. He said then the applicant may have to work something out with the state in order to not be restricted of their use by the Planning Board.

Mr. Deluca said what needs to be decided is who will lead the enforcement on the parking. Chairman Gerver said that would be up to the applicant since its private property. Mr. Esposito said they intend to contact the Town Board and work out an agreement with the Town of Woodbury Police Department.

Mr. Canning had a screen shot of the industry-based parking. It showed the numbers based on 5 restaurants in the middle of the afternoon. It showed 312 out of 461, the reason why he believes they are over parked.

Ms. Barber brought up the topic of loading births. She said for the hotel, 3 loading births are required due to the code. Per the code 25, 000 sq. ft. per loading births. She said according to the correspondence there are 3 docks, not meeting the code criteria. Chairman Gerver said he doesn't believe there's a waiver for loading docks in the code.

Mr. VanHise said as per the memo received prior to the last public hearing was that the applicant needed to show large trucks able to access those docks. He said in their last submission it was provided that they can maneuver into as well as the one on the surface. Ms. Barber said she did not receive that last submission Mr. VanHise spoke off and so he said he will get it to her as soon as possible.

Traffic Consultant, Phillip Grealy spoke of his memo dated November 24, 2020. He said the applicant has addressed everything. Most of his concerns were addressed due to previous memos from consultants. There are a couple of items that needs to be taken care of like signage (reserve labels). He spoke of the parking spaces and agreed with Mr. Golden comments on parking.

Mr. Lockman refer to his memo dated November 25, 2020. He said the applicant was responsive to his comments which had to do with emergency driveway, the site context with the DOT as built condition around the perimeter of the site, planting schedule of the plants, code-based shared parking vs industry-based shared parking, and ridge preservation. He said he be happy to participate in any of the meetings with consultants.

Chairman Gerver question the access driveway if it was going to be all macadam or have part of it look like grass. He asked Mr. VanHise if it was decided what would be done. Mr. VanHise said he didn't recall but the first part can be changed to grass if it's okay with ESO. Chairman asked for the Board members opinion sharing the concern that people may miss the main entrance. Suggestions were made due to other applications and Ms. Barber refer to the IBEW application (concrete blocks and grass growing in between) said she would share the information with the applicant. The Planning Board agreed that material would be best.

Mr. Anzalone mentioned tractor trailers parking in the parking lot overnight. It was a major concern in the past, not as much now but he would like post signs that would prohibit such actions. Chairman Gerver asked if that can be done. Mr. Canning they can find a place for those signs.

Adjournment:

With no further business to discuss, a motion was offered by Chairman Gerver, seconded by Thomas Deluca to adjourn the meeting at 9:36 PM.

ADOPTED

AYES 5 Chairperson Gerver, R. Anzalone, S. Capriglione, R. Cataggio, T. Deluca
NOES 0

Claudia Romanisin, Planning Board Secretary