

**Members Present:**

Peter Klose (Chairman)  
Daniel Jean-Gilles  
Alan Englander  
Glen E. Keene  
Peter Voletsky

**Also Present:**

Steve Knowlton, Deputy Village Attorney  
Don Yacopino, Building Inspector  
Bob Galvin—Village Planner

**Absent:** Seth Kestenbaum-Alternate Member

**Other Business:** Motion to approve the January 7, 2015 Minutes-- second by Voletsky -- Vote 4-0 approved.  
Alan Englander-- recuses from #2 and Voletsky from #1.

***BOARD ACTION-- Motion to change the regularly scheduled Planning Board Meetings from 7:30 PM to 7:00 PM on a trial basis by Klose, seconded by Voletsky Vote-- -- Approved- 5-0 - meetings will convene at 7 PM until further motion or Notice.***

This February Meeting was duly noticed for the First Monday of February and then the second Monday, but snowstorms intervened, and has been re-noticed for this evening.

***1. 104 Jackson Avenue. Eric Caoili. Site Plan application to permit two storage containers on property along with existing shed and request for recommendation to Zoning Board of Appeals.***

***ARB did not approve this submittal and suggested applicant re-design storage containers.***

***Applicant-- no applicant.***

***Public Comment -- none***

***Board-- Application carried through to next meeting-- NO action, NO appearance.***

***2. 2-6 North Midland Avenue. Barry Terach for Joseph Lagana. Site Plan application to demolish existing structure. Property is in TFR zoning district. Member Alan Englander recuses self.***

***Building Inspector-- Architectural Review Board offered a positive recommendation for demolition at 12/17/2014 meeting. Architectural Review Board offered a positive recommendation for demolition at 12/17/2014 meeting.***

***Tax maps and prior Site plan drawings indicate this to be a two parcel property. A subdivision and special permit will be required to merge properties. A Site Plan of existing conditions should be provided. Density calculations indicate 41 dwelling units are permitted @ 50 units per acre. With a 10% increase in density for Affordable Housing (+4), a 10% increase for Brownfield Cleanup (+4) and a 10% increase for exceeding NYS Energy Code requirements (+4), 53 Dwelling units would be permitted. Applicant must provide details outlining how requirements will be met for the requested additional dwelling units. Proposal is for 48 DU's.***

***PARKING The following Parking requirements have been calculated for 48 Dwelling***

***Units: 26 1 bedroom units @ 1.25 spaces per DU=36.25 spaces required.***

***19 2 bedroom units @ 1.70 spaces per DU=32.3 spaces required.***

***68.55=69 spaces required.***

**67 off street parking spaces are being provided.**

*Per Article IV VON§360-4.5B (3), the previous use of an 8,000 sf retail space would have required 20 parking spaces (8,000/400=20). With a change of use the zoning code requires off street parking to be met by calculating the difference of parking requirements between previous and new use. In this case, proposed use requires 69 spaces, previous retail use required 20 spaces. 69-20=49 required spaces with 67 provided. Parking requirements are deemed to be met.*

**Building Height**

- 1. Proposal presents as a 4 Story building where 3 Stories are permitted which would require an area variance. Applicant is unable to lower ground floor because of potential flooding issues caused by Nyack Brook as it traverses his property.*
- 2. An area variance will be required from Article IV VON§360-4.3 Dimensional Standards Table 4-1 for a four story building where three stories are permitted.*

**BASEMENT** *That portion of a building that is partly below grade. A basement shall be considered as a story for purposes of height measurement where the finished floor above the basement is: A. More than six feet above the grade plane; B. More than six feet above the finished ground level for 50% or more of the total building perimeter; or C. More than 12 feet above the finished ground level at any point.*

**Background** *That portion of a building between the surface of any floor and the surface of the floor above it or, if there is no floor above it, then the space between the floor and ceiling next above it. A basement shall be counted as a story for purposes of height measurement if the floor-to-ceiling height is more than six feet above the grade plane, more than six feet above the finished ground level for 50% or more of the total building perimeter, or more than 12 feet above finished ground level at any point. An area variance will be required from **Article IV VON § 360-4.3** Dimensional Standards Table 4-1 for an FAR of 2.4 where 2.0 is permitted.*

*Application before ARB remains open for design changes. A workshop is scheduled with the ARB prior to the 2/2/2015 Planning Board meeting. Architect indicated to Building Department revised drawings will be submitted which will eliminate the need for variance for fourth story. Proposed action is more than 500 ft. from State Road Rte. 9W. The action does not meet any other GML threshold and therefore it does not need to be referred to Rockland County Planning under GML.*

**SEQRA** – *This is an unlisted action. The Planning Board should declare its intent to be Lead Agency and authorize staff to circulate Notice of its Lead Agency Intent to interested and involved agencies. At the end of 30 days, if no objection is raised, the Planning Board will assume Lead Agency status for SEQRA review of this action.*

*Klose proposes - with Jean Gilles as seconded vote passes 5-0*

**LWRP** – *The Planning Board is responsible for the determination of consistency with the Village’s LWRP policies for this application. Such determination would be made*

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*after the Planning Board makes a SEQRA determination. Escrow – Applicant has been requested to open an escrow account in the amount of \$9,500 for review of the application. This will include engineering and traffic review.*

**Applicant**-- Mr. Lagana not present-- Barry Terach (architect) -- Anthony Celentano (engineer) -- similar program-- then it was 50 units looked like stacked units-- one entrance per 6 units, the thought process has moved along, project considerations including parking, Nyack Brook, and looking at the Architectural Review Board-- After consideration they have decided to change the project to a single entrance (off of Midland), with traffic flow onto site from Midland and off the site about 120 feet from intersection of Midland and Main. The new apartment complex-- come in with entry etc. ADA accessible-- more flexibility with unit sizes and architectural design --48 units 100% residential, parking is buffered - enter from Midland-- 230 feet from Main -- separate exit 120 feet from Main - exit only. Circulation below the building. Change to the Brook-- lowered the entire building by 18 inches-- No longer four stories-- exposure above the grade plane- involves and was triggered by doing exploratory and applicant is aware of various issues including a possible risk of sinkhole in the middle of the property. Activities will include excavating the Nyack Stream and re-encasing.

Height of the building and massing of the building is going to change, more industrial style finishes-  
- Escrows for traffic and engineering studies -- 48 units -- requires 68 with 67 shown-- only required to supply 47--

Issues for the traffic study-- review of the Main and Midland intersection, driveways on Midland, bus stop to be studied, turning lanes-- set back and sight lines-for entrance and exit-- traffic study the flow for this location-- does it interfere with the other locations -- need for turning lanes-- queuing on Midland striping on Main--

Engineering issues-- Brooker is working on various Brook, stormwater, drainage etc. Planning Board expressed strong desire for trees, shrubs, permeable pavers, and other environmentally friendly seepage pits, etc. Drainage Study-- to be submitted, hopefully to reduce the impervious pavement-- shrubs and trees.

With respect to the density Bonuses-- Planning Board requested detailed analysis of all claimed density credits, including the brownfield assessment credits etc. Remediation issues have to be updated -- theory is that you don't get credit unless it was really contaminated-- over credited - 41 units as of right and 53 with all of the credits-- as of right.- Village Engineer-- re-encapsulated-- 60 inch pipe-- issues for the engineer.

Planning Board significantly concerned that the view of the elevation along the south side (Main Street will read as the "side" of the building, making no sense to those on Main Street. Member Klose concerned about the lack of an entrance on Main Street.

**Public Comment** -- Patricia Patterson-- lives across from the Adair-- huge impact upon the community, too close to the street huge building Glenmare-- concerned about another "Motel 6"-  
- parking is a problem-- proposed project would eliminate two on-street neighborhood-- parking

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on Midland -- parking and pedestrian activity concerns.

Kathy and Bruce Kaminer-- Main and Midland-- sight lines-- side of the building- rear of the building-- and the height of the building-- expressed concerns about the parking, losing the parking along Midland, and the intersection traffic. Height of the building view from the rear of the building-- does not want it to read as a “rear” of the building

**Board--** *Agreed with all of the comments, promised to do a scope of the traffic study.*

**Board Actions and Resolutions:**

**With respect to SEQRA--** *Chairman Klose proposes a resolution seconded by Jean Gilles that the Planning Board declare itself lead agency under SEQRA since it is an Unlisted Action under NYSDEC 617.5, and the Planning Board as Lead Agency will determine consistency with the LWRP. Passed 5-0.*

**Site Plan--** *remains open for additional development by the Applicant, additional Elevations to be drawn showing the view sheds and comparing the heights to surrounding buildings, attempting to show the massing, etc.*

**3. 8 & 10 Park Street. Site Plan application to renovate front façade and extend front of building. Property is in DMU zoning district. Elmwood Playhouse-- lighting and sound tech must –**

Building Inspector Proposal complies with zoning Regulations. Proposal received conditional ARB approval 1/21/201 **SEQRA** – Type II action - not subject to SEQRA NYSDEC 617.5 (c) (7) – see below Elmwood Playhouse – non-residential use “*construction or expansion of a primary or accessory/appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls, but not radio communication or microwave transmission facilities.*” **LWRP** Consistency – As a Type II action, this is considered to be automatically consistent with the policies of the Village LWRP per the Village Code.

**Applicant--** Jan Dagenstein-- permeable pavement installed, removing the ramp and improving the building and water. Applicant’s plans appeared in order, the Planning Board and public had no real comment because this was a very minor project which improves a valuable community resource.

**Public Comment** - NONE.

**Board--** *Klose moves to close the public hearing for Site Plan-- second by Keene-- approved 5-0.*

**Board Actions and Resolutions:**

**With respect to SEQRA--** Type II action-- no SEQRA reviewed required by the Board. The Board indicated that as a Type II action, the project is consistent with the Village LWRP

**Site Plan -- RESOLUTION** by motion of Chairman Klose and [seconded by Voletsky] Plans dated 9-7-12-- 12 sheets the Site Plan is approved -subject to reasonable restrictions proposed by the ARB and the Building Department; and provided that all exterior lighting is down facing. **Vote: Passed in favor 5– 0.**

4. **60 Cedar Hill Avenue. DCAK for Pavion Project. Continuation of Site Plan application and subdivision to demolish existing structure and construct a mixed use building, Special Permit from the Planning Board for an increase in FAR from 0.75 to 1.0 for a Mixed Use building and an increase in building height from two to three stories for a LEED Certifiable building, and a recommendation to Zoning Board of Appeals for increased density.**

Building Inspector-- The permitted FAR permits a building larger in size than the permitted dwelling unit density requirements. For various reasons the applicant chooses not to use the “additional” floor area space for commercial purposes. Rather, the proposal is to seek a variance for an increase in density to enable that floor space to be used for additional dwelling units.

*Per Article IV VON§360-4.13F (2) a subdivision approval by the Planning Board is required for the merging or consolidation of lots.*

*Per Article V VON§360-5.9 the merger of two or more lots requires Special Permit approval from the Zoning Board of Appeals.*

*Per Article IV VON§360-4.3, Table 4-1, footnote (h) a Special Permit is required from the Planning Board for an increase of FAR from 0.75 to 1.0 for a Mixed Use Building and increase in building height from two to three stories for a LEED certifiable building on a lot of 15,000 sq. ft. or larger.*

**With a density of 18 units per acre in the RMU Zoning District at 3.935 acres 70 dwelling units are permitted. A 40% increase in the number of DU’s is permitted for taking advantage of the green infrastructure incentives of the Code, adding another 29 DU.s along with a 10 DU increase allowed for affordable housing units, totaling 109 permitted DU’s. The applicant proposes 133 Dwelling Units. An area Variance is required from Article IV VON§360-4.3, Table 4-1 for 24 DU’s more than the permitted 111.**

**DENSITY**

|                                  |              |
|----------------------------------|--------------|
| 3.935 Acres@ 18 units per acre = | 70 DU        |
| 40% increase for incentives=     | 29 DU        |
| Affordable Housing Units=        | <u>10 DU</u> |

**PERMITTED** 109 Dwelling Units

**Area Variance** for 24 DU’s (Request to use additional FAR space for DU’s) 26  
135 DU’s **PROPOSED**

**HEIGHT**

2 Stories permitted in RMU.

3 Stories permitted if building is LEED certifiable, which this proposes to be.

**FAR**

Building calculated at 171,420 sq. ft. (Indicated as 1.0).

**PARKING 21[3] Parking Spaces required. 220 Spaces to be provided with proposed angled parking of 16 Spaces on Franklin Street side. If angled parking is not approved there are 9 proposed parallel parking spaces on Franklin Street side (totaling 213). These spaces will be on Pavion property even though they appear to be on Village r-o-w. There is an inclination by the**

**developer that this property would be deeded to the Village.**

**As a reminder, Article IV VON§ 360-4.5B(3) states:**

*Change of use. When the use of a lot or building changes, additional off-street parking facilities must be provided when the number of parking or loading spaces required for the new use exceeds the number of spaces required for the use that most recently occupied the building, based on the minimum parking standards of this Zoning Chapter. In other words, the owner must provide (or receive a variance for) parking equal to the difference between the parking requirement for the existing use and the parking requirement for the new use, not the difference between the actual existing parking and the parking requirement. There are currently three structures on the property consisting of a 1 story auto repair building @ approximately 2,400 sq. ft., a 2 story warehouse structure @ approximately 7,800 sq. ft. and a 1 story manufacturing facility @ approximately 33,760 sq. ft. These uses are not permitted in the current RMU zoning district but the warehouse and manufacturing buildings were when this was a Manufacturing district. The parking requirements would have been 8 spaces for the warehouse, 34 spaces for the manufacturing facility and 7 spaces for the repair garage equaling 49 required spaces. The current proposed required and supplied parking spaces total 213 parking spaces, minus 49 spaces for previous uses resulting in a requirement to provide 164+/- parking spaces. The applicant is providing the required 213 parking spaces.*

**GENERAL NOTES:**

1. **360-3.2(4)(b)** Professional office or studio accessory to a residential building requirement
2. of 30% of first floor of principal building does not apply to multifamily building in RMU district.
3. **360-3.2B (8)** Individual retail sales or services shall not exceed 5000 sq. ft. in floor area.
4. As proposed, the combination of commercial and residential units comprise 137,398 sq.ft. of 171,420 sq. ft. of permitted FAR. Applicant requires a variance for 26 DU's and will seek to use remaining FAR square footage for residential use as opposed to commercial/retail use. The remaining undeveloped square footage permitted for construction would be 34,022 sq.ft. Rather than create additional commercial space, the applicant is seeking an area variance for an increase in density to develop the 34,022 sf. as dwelling units. (**Article IV VON§360-4.3 Dimensional Standards Table 4-1 for 135 Dwelling Units where 109 Dwelling Units are permitted**).
5. Traffic Study, Child Impact Study and hydrant flow test enclosed.
6. After much discussion and request for modifications and further clarification, the application before the ARB remains open. All members of the ARB "agree that there is no objection to the demolition of the existing structures" at its October 15, 2014 meeting.
7. After much discussion and request for modifications and further clarification, the application before the ARB remains open. All members of the ARB "agree that there is no objection to the demolition of the existing structures" at its October 15, 2014 meeting.
8. Revised plans indicate bike path moved to originally proposed location.
9. Applicant's response to South Nyack traffic concerns and Village traffic consultant's comments included.
10. Frederick P. Clark Associates, Inc. Traffic Report dated January 28, 2015 submitted.

11. *January 5, letter and Email from South Nyack Planning Board--*
12. *Receipt Review and Comment by Attorneys for South Nyack responded to by Village of Nyack Attorney dated January 16th 2015, with responses by Pavion Developers to the concerns of the Village of South Nyack.*
13. *Response by Developer to the South Nyack Concerns about Critical Environmental Area which were formally consider and discussed during January Meeting;*
14. *Harry Baker responses sent to County of Rockland Planning Department dated February 2, 2015-- considerations of application.*
15. *Responses by the Developer to the South Nyack comments, considerations dated February 6, 2015*
16. *Chairman Klose seeking a school response-- 23 children projected and 13 conservative estimate based on actual child generation at recent Nyack developments -- based upon the tax improvement-- fiscally responsible-- wants response from the Nyack School District.*
17. *The South Nyack reasonable requests would be addressed in any Resolution taken with respect to the project. Officials asked:*
  - a. *That appropriate left turn and right turn signage be placed at the egress point for the development on Cedar Hill to discourage traffic from proceeding down Depot Place. **Planning Board specifically discussed, considered and agreed that any Resolution shall include the Right and Left Turn signs at the Exit, with the goal to reduce the traffic's intent to use Depot Place to go to the Thruway.***
  - b. *That the developer be required to widen the curb along the north side of Cedar Hill so that it is not on an angle as it runs along the project site. **To be studied by the applicant and experts and commented upon.***
  - c. *That any road opening done on Cedar Hill will result in the roadway being repaved curb to curb. **Applicant will be required as part of site plan conditions.***
  - d. *That the Applicant be required to improve the landscaping, tennis and basketball courts in the Depot Place park in anticipation of increased use from project residents. **To be studied by the applicant and experts and commented upon.-- Planning Board has no position.***
  - e. *That the traffic consultants consider whether moving the bus stops on Cedar Hill to the segment of the roadway between Depot and Franklin (with improve stops or shelters) would be desirable. **To be studied by the applicant and experts and commented upon after discussing with the Private Bus Companies--Planning Board has no comment.***
  - f. *That the applicant widen Depot Place at its intersection with Cedar Hill if South Nyack requests that improvement. **To be studied by the applicant and experts and commented upon, however, this seems counter-intuitive if South Nyack is trying to keep people off their local streets.***

**SEQRA** – Unlisted action – Planning Board is the Lead Agency for SEQRA review. Board will need to review Traffic Study and the FP Clark Traffic Review. Rockland County Planning has submitted its GML review. Applicant prepared a narrative addressing the adjacent Village of South Nyack CEA.

**LWRP** – Since the site is over 3 acres, the Village Board of Trustees is responsible for the determination

of consistency with the policies of the LWRP. This would be done after the Planning Board completes its SEQRA review.

Village Traffic Consultant Report (Mike Galante, EVP) January 2015-- **Findings:** Our final conclusions cannot be provided until the Applicant provides additional information, with regard to accident history, pedestrian traffic count data at each of the intersections included in the Study Area surrounding the subject property, additional information to support the use of a significant reduction in site traffic estimates for the commercial use of the subject property and any other modifications to the traffic analysis. The results of the analyses, as provided by the Applicant, and our knowledge of the surrounding roadways and field observations during several different time periods, indicate that from a traffic engineering perspective these roads are considered to carry a low volume and operate at acceptable Levels of Service, and with minimal delays during the two peak hours included in this analysis. Therefore, based on our preliminary review and all the information provided, it is likely these intersections will continue to operate at acceptable Levels of Service and with a reasonable level of delay during the two weekday peak hours included in this analysis. Therefore, it is very likely that the current traffic control at each of the intersections included in the Study Area should be maintained. The following is a summary of the findings to date:

1. It is recommended that additional crosswalks be provided at the intersection of South Franklin Street and Hudson Avenue so that each approach to the intersection has a crosswalk and is connected to an existing or improved sidewalk. Each of these corners should have the current handicap accessible ramp configuration, which meets the current standards provided in the Manual of Traffic Control Devices (2009).
2. At the intersection of South Franklin Street and Cedar Hill Avenue, and with the cooperation of the Village of South Nyack, it is recommended that this intersection maintain the ALL-WAY STOP sign control and that the intersection includes crosswalks on each approach, as well as updated STOP bars to enhance the overall safety.
3. Based on a review of the traffic data and the results of analyses provided in the Traffic Report from the Applicant, it is our opinion that modifications to the type of traffic flow and control at these intersections and area roadways, as noted above, should not be modified.
4. It is also our opinion that each of the adjacent roadways, except Hudson Avenue, should maintain two-way traffic flow and provide a double yellow centerline on

*each of these roadways. Hudson Avenue should be maintained as a one-way traffic flow in a westbound direction due to its pavement width. This will provide a provision for on-street parking along both sides, only if the appropriate no parking zones are provided, as noted above, on the approach to the South Franklin Street intersection and in the vicinity of any existing or proposed driveway to enhance overall turning maneuverability of emergency vehicles and maintain acceptable sight lines for motorists exiting driveways.*

5. *At the intersection of Cedar Hill Avenue/site driveway and Depot Place, it is recommended that the ALL-WAY STOP sign control be maintained. In addition to the crosswalk provided on the southerly side of this intersection (in South Nyack) crosswalks should be provided on each of the approach legs along Cedar Hill Avenue to complement the one existing crosswalk noted above and the recommendation to include a crosswalk across the proposed site access drive. It is further recommended that the existing STOP bar location for westbound traffic flow on Cedar Hill Avenue be shifted to the west to be closer to the intersection. It is assumed this STOP bar was placed at the location as currently found in the field to accommodate turning vehicles from Depot Place. It is noted that the curb radii on the southwest and southeast corners of this intersection (in the Village of South Nyack) are very tight and limit turning maneuverability of emergency vehicles. It may be appropriate for the Village of South Nyack to consider improving these radii if sufficient right-of-way is available to provide this improvement. However, it is also important to note that there is a utility pole located in the southwest corner of this intersection, which would need to be relocated.*
6. *We are not providing any recommendations on street lighting and assume the Applicant will be providing appropriate lighting at its access drive, as well as internally. This will enhance the one overhead street light located at the intersection of Cedar Hill Avenue and Depot Place.*

**Applicant Discussion--** *Mike Galante -- EVP, FPClarke Associates (for the Village)-- Howard Baker (Applicant) -- since the letter was supplied-- the applicant is working with the issues- waiting for a second traffic report. The traffic experts are working hard to agree on various improvements. Still waiting for pedestrian counts and added traffic counts-- looking at the more minor comments-- credits were raised traffic concerns-- does not raise to any level of concern-- Recommends a 4 way stop sign at all approaches -- minimum volumes 600 to 900 vehicles would require a signal but we are nowhere near that level of traffic (approximately 300 vehicles), so all way stop-- recommend stop crosswalk-- current control-- recommending offset center line-- South Nyack side would retain-south parking on the south- maintained-- makes it a better situation to*

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*retain the parking; school bus will not pull into private property-- will stop typically near the main drive. Recommends the parallel parking on S. Franklin -- 16 angled vs. 9 parallel spaces-- on site parking will accommodate parking. Does not recommend the angled parking mostly because there are no other angled spots in the Village. Experts are using a very conservative ITE standard which suggests 186 spaces--more than reasonable and appropriate. Here applicant is providing 213 parking spots on site.*

*Planning board analyzed and discussed the Offset Intersection of Depot Place and the entrance to this location- one particular issue is the off set with Depot-- keeping through traffic off of Depot and push traffic to S. Franklin and Broadway -- all way stop at the entrance-- widening the turning radii-- South Nyack may not want to widen the radii-- improve the radius-- make the turn into and out of Depot Place. Final Resolution to include required left and right turn arrows for residents exiting the building with appropriate signage. Awaiting accident reports -- four accidents in four years (low rate) -- 4 way stop sign limits the traffic flow at the entrance Site plan to restrict right and left hand turning--*

*South Nyack-- talking about Broadway-- looking to put the bus stop on Cedar Hill-- west of Depot. Consultants are going to discuss whether there should be bus-stops signs or structure-- to see if there is a way to change the bus traffic-- taking the bus stops off of busy street such as South Broadway --*

**Public Comment** -- NONE - other than the Jerry Idewhyte, Chair of the South Nyack Planning Board -- we have carefully considered those aspects of the plan within the purview of the Planning Board and specifically referred all other comments to the Village of South Nyack as well as the applicant's consultants and our own traffic expert. Found: No Through Traffic on Depot-- concerned about the use of the Parking- - whether it would exceed capacity-- not a private parking lot-- parking for tenants and residents-- during the daylight hours, there is going to be plenty of overflow parking (Urban Land Institute studies on shared parking show approximately 45% occupancy in the residential units until the evening. Comment from Building inspector, Don Yaccopino, -- never have there been any real complaints about the parking-- retail use--

#### **BOARD ACTION ON THE VARIANCE-**

**Variations--** RESOLUTION By motion of Chairman Klose and seconded by Englander- at this time the Applicant is requesting the Planning Board to consider and comment upon the recommendations for Zoning Variance related to the limitation on the number of dwellings permitted [i.e., 135 Units, where 109 are permitted (26 unit Area Variance)], after extensive review, and consideration of the arguments by the Applicant and input from the community and the Village Planner, the Planning Board hereby resolves to issue a positive recommendation to the ZBA to permit the limited AREA variance under the circumstances. The Planning Board has weighed the testimony of the applicant, reviewed the Site Plan and makes this recommendation upon the ground that the Applicant is going to LEASE various sized apartments to a wide range of apartment seekers, from loft artisans to three (3) bedroom families. In particular, we note and find convincing

the various arguments why the FAR in this zone unnecessarily limits the number of units at the site. Specifically, with respect to the FAR - we agree that the surrounding DMU district across the street on South Franklin and along South Broadway are much higher density and allow 50 dwellings per acre with an FAR of 2.0 in those locations (here at the project site the applicant is limited to only 1.0 FAR). The Planning Board finds that the Application actually mitigates the potential for huge commercial space which may not be appropriate in this location (and is installing various different types of housing alternatives). We note that the code requirement of the FAR for this particular project seem to unnecessarily limit the unit count. The Applicant has offered more than sufficient on site parking, exciting green infrastructure components, a great variety of units (actually penalizing himself by asking for different size units); is installing a neighborhood mix of housing that includes 13 units of affordable housing; and modernizing almost 4 acres of Village property, while providing work-live spaces which make this a fabulous project for the Village. **Vote to issue Positive Recommendation was 4-0 in favor with Jean-Gilles abstaining.**

**Future issues for the Board--** *Rockland County Planning Overrides re: the comments of County concerning (1)South Nyack's comments and concerns and (2) NYSDOT Jurisdiction (3) on and upon the advice of counsel specifically override that comment by a supermajority Vote.*

**SITE PLAN REMAINS OPEN PENDING THE TRAFFIC AND ZBA TO RULE - Planning Board will review SEQRA at next meeting and consider a NEG DEC for this proposed action.**

5. **60 Cedar Hill Avenue. DCAK for Pavion Project. Application for a subdivision.**

Property is in RMU Zoning District. Proposal is to merge four properties into one.

**Per Article IV VON§360-4.13F (2)** a subdivision approval by the Planning Board is required for the merging or consolidation of lots. **Per Article V VON§360-5.9 the merger of two or more lots requires Special Permit approval from the Zoning Board of Appeals. A title abstract, and a municipal violation report indicating that the premises are free from violations is required per Article V VON§360-5.8C (2)[18], has not yet submitted.**

**Applicant--** *site plan and subdivision held in abeyance until the entire process is reviewed further at March 2, 2015 meeting* **The PUBLIC MEETING REMAINS OPEN.**

**6 & 7. 59 South Broadway. Nyack Library. Continuation of Site Plan application for a subdivision and Special Permit (Per Article V VON§360-5.9A regarding the consolidation of lots), and recommendation to Zoning Board of Appeals for required variances.** Property is in DMU and OMU Zoning Districts.

**§ 360-5.9 Special Use Permits**

*A. Purpose and applicability. This section provides for the review and approval of special permit uses, as identified by Table 3-1 of this chapter[1], by the Zoning Board of Appeals. Such uses typically have unique or widely varying operating characteristics or unusual site development features.*

*While they may be appropriate in a given zoning district, the procedure below encourages public review and evaluation of the specific characteristics of the proposed use and the site in order to assure that proposed special permit uses are in harmony with this chapter and will not adversely affect the surrounding neighborhood or the community at large. **In addition, the merger of two or more lots requires a special permit approval***

**Subdivision application for consolidation of four lots to three lots, as required by Article IV VON§360-4.13F (2).** *Proposal is to relocate lot lines creating three separate lots to accommodate three separate structures and to incorporate parking lot into lot containing library building. Once accomplished, Library would petition Village Board to have area consisting of parking lot incorporated into DMU Zoning District.*

**Article IV VON§360-4.13F (2): Subdivision Design Standards Consolidation of lots.** *Subdivision approval shall be required for the merger or consolidation of lots. Applicants seeking to consolidate lots shall demonstrate that such consolidation will not result in lot sizes that are inconsistent with the established character of the surrounding area. Such applications shall be viewed more favorably in nonresidential areas located along state highways and less favorably in residential and/or more densely developed areas.*

**Proposed Lot#7:** *Variances would be required for the following:*

*Minimum Side yard of 0.7ft. where 5ft is required.*

*Minimum total of both side yards of 2.4ft. where 5ft'is required.*

*Minimum 15ft. setback required above first floor where 0.0ft is proposed.*

**Proposed Lot #8:** *The existing building to the north is on the rear lot line. A variance is required for a 0ft. setback above the first floor where 15ft. is required. A March 28, 2005 parking variance (included) appears to indicate parking has been satisfied for the library structures.*

**Proposed Lot #11:** *A variance will be required for a rear yard setback of 1.2ft. where 25ft. is required. A variance will be required for a building height of 2 1/2 stories where 2 stories are permitted. A parking variance will be required. For fire and life safety reasons, the Building Code of New York State regulates where buildings are located on the property with respect to property lines, as well as the type of construction and exterior wall material within 5ft. of the property line and openings, such as doors and windows, permitted in exterior walls.*

**Briefly:** *Exterior walls between 0' and 10' from the property lines must have a 1 hour fire resistive rating which these old wood clad buildings do not have. No openings are permitted in walls 3ft. or less from the property line. No unprotected openings are permitted in exterior walls between 3ft. and 5ft. from the property line. Only 15% of exterior wall area is permitted to have protected openings when between 3ft. to 5ft. from property line. With the proposed subdivision several walls of these buildings will be either on or less than 3ft. from the property line, with window openings.*

**Article IV VON§360-5.8A** *says, among other things, "that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or*

*peril from fire flood or other menace...”*

**SEQRA** – *Planning Board has issued a Neg. Dec. on this unlisted action and SEQRA has been closed out. Record includes signed copy of the SEAF indicating no significant environmental impact. Part 3 of the SEAF has been included in the record discussing modifications and mitigation for this action.*

**LWRP Consistency** – *Planning Board has evaluated the application and the Coastal Assessment Form and has determined that the proposed action is consistent, to the maximum extent practicable, with the policies of the LWRP and the application will not substantially hinder the advancement of any of the policies set forth in the LWRP.*

**Zoning Board of Appeals** *approved the Special Permit for subdivision and six requested variances, with conditions on January 29, 2015. A complete SUPE has not been submitted*

**Applicant--** David MacCartney, Esq. for applicant - relative to conditions - shared parking agreement no northern parking on lot 11 - no construction without ZBA approval-- Applicant agrees with all restrictions and comments and will undertake that all these comments will appear on the Subdivision Final Plat.

**Board Actions and Resolutions:**

**Motion to Close Public Hearing as to Subdivision by Klose seconded by Keene- Vote 5-0 to close the Public Hearing. NO CONSIDERATION HAS BEEN MADE OF SITE PLAN ISSUES AS ALL FUTURE CONSTRUCTION AND SITE PLAN APPLICATIONS FOR ANY AND ALL LOTS MUST BE FILED WITH BUILDING DEPARTMENT AND CONSIDERED BY LAND USE BOARDS IN DUE COURSE.—THIS NOTE SHALL ATTACH TO THE MYLAR TO BE SUBMITTED TO THE COUNTY Subdivision Approval** - Chairman Klose moves and Englander Seconds the proposal to grant final Subdivision Approval for all of the lot line alterations that have been proposed, subject to (1) no construction without formal Site Plan approval by applicable Nyack Land Use Boards, (2) all restrictions, modifications and requirements imposed by the ZBA in their approval; (3) preparation and recording with the County Clerk Shared Use/Parking and Utility Easements acceptable to the Village Attorney; (4) no parking on the North side of the Depew House, and all other restrictions imposed by any prior Planning and ZBA board resolutions. Vote-- 5-0 to approve the Subdivision.

**OTHER BUSINESS--** Motion to adjourn by Chairman Klose, seconded by member Voletsky. Vote 5-0. Meeting adjourned at 10:25 PM.