

Members Present:

Peter Klose (Chairman)

Alan Englander

Peter Voletsky

Seth Kestenbaum-Alternate Member

Donald Wilen-Alternate

Also Present:

Don Yacopino, Building Inspector

Bob Galvin—Village Planner

Architectural Review Board (“ARB”) -- Members also present Eileen Kuster-Collins, Paul Curley, Mary Mathews and Lisa Buckley - for special meeting for Item #7.

Absent: Glen E. Keene , Daniel Jean-Gilles and Walter Sevastian

Other Business: Motion to approve the July 6, 2015 Minutes-- second by Wilen-- Vote 5-0 approved.

1. 7 Prospect Street. Mark Comito and Robert Hoene for Snedens Land Holding. Site Plan Application for the construction of a single family house on a previously approved Subdivision.

Building Inspector-- *Property is in TFR Zoning District. With respect to lot and bulk requirements, the proposal complies with Zoning requirements. The applicant appeared before the ARB on July 15, 2015 where the issue of attached garages, as proposed for this project, was discussed. Applicant has submitted revised drawings to comply with the requirements of Article II VON§360-2.3E(3) which indicates a preference for detached garages but does not mandate them.*

360-2.3E(3) GARAGES

(a) Detached garages are preferable to attached garages. Detached garages shall comply with the requirements for accessory buildings and structures contained in § [360-3.2E\(1\)](#).

(b) Garage doors for attached garages shall face the side or rear of the lot when possible.

(c) When garage doors for an attached garage cannot be designed to face the side or rear of the lot, such garage doors may face the street in accordance with the following requirements:

[1] Garage doors for an attached garage facing the street shall be setback a minimum of four feet behind the front facade of the dwelling portion of the structure.

[2] Garage doors for an attached garage facing the street shall not comprise more than 15% of the front facade of a principal dwelling structure that is greater than one story in height, or 25% of the front facade of a principal dwelling structure that is one story in height.

360-3.2E(1)(c)[2](e): Any accessory building shall be located at least four feet behind the front facade of the principal building on the lot. Accessory buildings in the SFR, TFR, MFR and CC Districts shall be located to the rear of the principal building. Freestanding garages in the SFR and TFR Districts should be located in the rear corner of the lot when possible.

It should be noted that three of the properties in the subdivision are encumbered by a conservation easement. Planning Board resolution of May 5, 2008, drainage plans approved with subdivision and comments from the Village Engineer regarding drainage included. Because all proposed houses will face the same issues, applicant has submitted renditions of all houses for review.

SEQRA - The proposed action is a Type II action under NYS DEC 617 (c) (9) "construction or expansion of a single-family, a two-family or a three-family residence on an approved lot including provision of necessary utility connections as provided in section 617.5 (c)(11) and the installation, maintenance and/or upgrade of a drinking water well and a septic system;" No additional SEQRA review is required. **LWRP** - As a Type II action, the Nyack Village Code considers such actions to be consistent with the Village's LWRP policies.

Applicant-- Glenn McCreedy - Center Point-- Robert Hoene and Marc Comito --Started with the issue of the side access point-- to the building the architect and ARB creating -- The ARB is significantly against having garages in the front yard.

Concerned about the prototype--ARB did photo composites of Sickles and Franklin with garages-- consistent with the plans and provide concerned about the garden and pedestrian friendly-- front yard is filled with cars-- Franklin-- does not like the cars in the front entry garage-- facing commercial building. However, as pointed out by the applicant and members of the Planning Board, there is a large parking lot-- this is atypical-- does not like the the prototype-- consistently approved--ARB Eileen Custer-Collins objects to the particular approach.

Applicant- addition 3700 feet of asphalt paving-- blocks access to the rear yard-- not just the drainage that is the side dealing with 34 foot drop down along the property-- creating a terraced look-- detracts from the view of the house-- complications of the site make it appropriate-- case by case basis.-- no pedestrian traffic-- four houses-- not just one house--

ARB is arguing that the CMP -- discourages the front loaded garage-side driveway-- separate small garages-- having the garage in the rear yard-- buffer between the neighbors-- with driveways. Here the side yards ar 15 feet so an 11 foot driveway could fit with a garage in back, however, the homeowner would lose privacy in the rear and these particular locations all have conservation easements in the rear.

Applicant is concerned about the drainage- wants to limit and minimize the front garage.

ARB Curley-- aesthetic concern relative to this particular lot-- he's not sure about the compromise-- but thinks the particular lot is much different from other locations.

ARB Buckley-- believes that 8 feet setback may be more important--more aesthetic-- wants the garages pushed back into the house by 8 feet, which applicant objects to and believes that the structural integrity is compromised by such.

Village Planner is concerned by the safety, drainage and conservation easement does not see how to fit side driveways that would go into the rear yard without impacting the 25 foot wide

Nyack Planning Board-- August 3, 2015

conservation easement at the rear property line. There would also be an additional 25 foot rear yard setback for the property.

Seth Kestenbaum-- observes that LOT 1 may have some turning issues and screening concerns due to its proximity to Rt. 9W.

Public Comment - NONE

Board--

ARB-- made comments - on the elevations-- 4 foot setback to comply with the Elevations-- aesthetics- - looking to change the design of the peak area- to de-emphasize the right hand side.

To de-emphasize the left hand area of the front facade where the garage is located, and to place emphasis on the main body of the house on the right hand side

Kuster Collins -- moves and Buckley seconds motion to close the ARB public hearing-- Vote 4-0 in favor.

ARB then discusses with the applicant the movement of the left handed peak over the imbedded front yard garage and Applicant agrees to submit revised plans with mirrored Peaks left and right over the right hand front facade.

Motion by Mary Mathews ARB with second by Buckley to accept the application to accept as drawn dated A1.0 three pages 6-23-2015 of elevations provided that the applicant will move the peak to the right hand side of the house as committed to in the the August 3, 2015 hand rendering done during the Board meeting with the Applicant's approval. Peak will now be over the porch with set back under the structure garage and roof peak shifted over the right hand side of the house and the peak will be set back. ARB Vote 4-0.

Klose moves to close Site Plan application, with second by Englander and Vote of 5-0 to approve the ARB comments on the elevations, the 4 foot setback to comply with the law, all exterior lighting to be down facing and not leave the location. motion to approve the site plan 6-18-2015 -- subject to repositioning the peak of the roof -passed by Vote 5-0.

2. 263 Main Street. Continuation of Site Plan application for demolition of existing building and construction of three story multi-family dwelling.

*Building Inspector--Proposal is to demolish single story structure and construct a three story multifamily apartment building with parking below ground. Property is in both the DMU (Main Street) and TFR (Depew Avenue) zoning districts, with the rear of the building encroaching into the TFR 25'+/-. An **area variance** will be required from **Article II VON 360-2.2C** which states: "**Lots in two or more districts**. Where a single lot is divided by one or more district boundary lines, the regulations for the less restrictive portion of such lots shall not extend into the more restricted portion of the lot."*

*An **area variance** will be required from **Article IV VON§360-4.3 Dimensional Standards Table 4-1, footnotes (g) and (k)** which requires a 15' rear yard building setback from an adjacent residential zone (TFR). GRANTED by prior resolution*

*With a density of 50 units per acre and a ½ acre parcel of land 25 Dwelling Units are permitted by right. **The applicant proposes to implement green infrastructure incentives which will bring the number of permitted DU's to the requested 33.***

PARKING

Per Article IV VON§360-4.5B (3), the current use of a 5,040 sf retail space requires 13 parking spaces (5,040/400 =13). 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 43 spaces with 41 being provided. Previous retail use required 13 spaces (43-13=30) required spaces with 41 provided. Parking requirements are deemed to be met.

Applicant returns with design changes as discussed at recent workshop meeting with ARB. ARB approved application on March 18, 2015 with conditions agreed to by applicant. They offered a recommendation to Planning Board regarding front yard plantings. Variances granted by ZBA on April 27, 2015. Revised site plan included, addressing Village Engineer's comments. Lighting and planting plans included. Hydraulic Analysis and Storm Water Design Calculations included. Four seepage pits to be installed.

Public Comment - Kier Levesque approves of the project from the perspective of the public The Member of the Board asking about HCR-- lead architect - they asked to move the elevator to the front of the building-- front access for pedestrians-- confirmed moved to of the front

Klose moves to close the public hearing-- second by Voletsky motion to close approved -- 5-0.

Village Planner-- Memo dated 7/28/2015-- Project Summary *The proposed action is a redevelopment project on 0.493 acres predominantly located in the DMU (Downtown Mixed Use) District. A small portion is in the TFR District along Depew Avenue. It includes the construction of 33 affordable rental family apartments. The developer is the Rockland Housing Action Coalition (RHAC). The development is being funded through 9% tax credits from the NYS Housing Trust Corporation and Rockland County Community Development. The bedroom mix consists of 9 efficiencies, 12 one bedroom and 12 two bedroom units. RHAC will set aside 8 units for individuals with disabilities and provide supportive services. These individuals will have a van pick them up during the day to drive them to their destinations and back home. The remaining units are being targeted at low and moderate income households. RHAC has provided information on parking utilization for their comparable Murphy Manor Apartments in Haverstraw. This project includes 26 rental family units with 4 units set aside for individuals with disabilities. None of the supportive households have vehicles and there are approximately 12 spaces out of 52 or almost 25% which are not used on a daily basis. This is similar for their other family and senior housing projects. The parking being provided is 41 spaces with 32 in a garage under the building and 8 spaces outside at the rear of the site. A playground is planned at the rear of the building which will be fenced with a gate. The proposed action will utilize a number of green infrastructure practices including permeable paving, increase above the NYS Energy code and repurposing of materials from the existing structure being demolished. The Project is completely affordable being targeted for*

Nyack Planning Board-- August 3, 2015

households at 30% - 50% of Rockland County's median income.

A Hydraulic Analysis and Stormwater Design prepared by Bart Rodi, PE (Applicant's Engineer), dated 6/13/15 has been reviewed by the Village Engineer. The proposed action will not result in an increase in impervious area but Applicant will install four 6' x 6' seepage pits. The Applicant's Engineer has provided a memo dated July 21, 2015 addressing the Village Engineer's comments and will include all revisions on the final site plan. The Applicant is providing a 10 foot sidewalk in front of the project with a planting bed which aligns at east end with the building street line and at west end with the entrance posts. The planting bed provides a variety of shrubs and trees to soften the scale and increase pedestrian friendliness.

On April 27, 2015, the Village ZBA approved the applicant's requested Variances required for the Project. The Village ARB has reviewed the revised architectural drawings at its public hearing on March 18, 2015 and found that the proposed alterations are in harmony with and compatible with the existing design and architecture of the Village. The ARB did make a recommendation to the Planning Board to include a tree in the front planting bed to assist in reducing scale and increasing pedestrian friendliness.

SEQRA *The Planning Board as Lead Agency for the project has conducted an extensive review of the project including a review of agency correspondence from Rockland County Planning (5/4/15), memos from the Village Engineer (11/13/14, 2/24/15, 4/9/15 and 7/3/15), memos from the Applicant's Engineer (7/21/15), parking utilization information, the short-form EAF (4/8/15), an analysis of Part 2 of the EAF, the Coastal Assessment Form (4/9/15) and other information provided to the Planning Board, the proposed action is not expected to result in any significant adverse environmental impacts that would rise to the significance required for a Positive Declaration.*

LWRP *Once SEQRA has been completed, the Planning Board can make a determination of LWRP consistency for the project. As part of the review, I have reviewed the applicant's Coastal Assessment Form (CAF), the complete Short Form Environmental Assessment Form (EAF), and the Village's LWRP policies and comments. I have reviewed applicable policies and provided commentary below for the Board's review. Since this is an upland site, very few of the policies apply. Policy # 13 (Stormwater) has been addressed in the commentary below. Based on this review, I believe that the Board can make a finding that the Application is consistent, to the maximum extent practicable, with the policies of the LWRP and that the Application will not substantially hinder the achievement of any of the policies set forth in the LWRP.*

LWRP Policies *Many of the LWRP policies do not apply to this property since it is an upland site. The following reviews the categories in Part III of the Coastal Assessment Form (CAF) which were all marked no impact.*

A. Will the proposed action be located in, or contiguous to, or to have a significant effect upon any of the resource areas identified in the Local Waterfront Revitalization Program?

1. Significant fish/ wildlife habitats

The proposed action is upland from the Hudson River. There are no significant fish or wildlife habitats on the site. This policy is not applicable.

2. Flood Hazard Areas

The proposed action is not located in the 100 year and 500 year floodplain. This policy is not applicable.

3. Tidal or Freshwater Wetland

The site is not adjacent or near to any tidal or freshwater wetlands. The Project is the redevelopment of an existing impervious property. This policy is not applicable.

4. Scenic Resource

The proposed action is a redevelopment project located in the DMU/TFR Districts. The property is on 0.493 acres formerly occupied by a Fabric store on an almost completely impervious property. The property is not adjacent to the Hudson River or any other area of scenic significance. This policy is not applicable.

5. Critical Environmental Areas

Not applicable.

6. Structures, sites or sites districts of historic, Archeological or cultural significance

Not applicable.

B. Will the proposed action have a significant effect on any of the following?

1. Commercial or recreational use of the fish and wildlife resource

No construction or development activity is proposed within the Hudson River. This policy is not applicable.

2. Development of the future or existing water-dependent uses

Not applicable.

3. Land and water uses

The Project is not near the Nyack Brook or any other water uses. It is an upland site. This policy is not applicable.

4. Existing or potential public recreation opportunities

Not applicable.

5. Large physical change to a site within the coastal area which will require the preparation of an environmental impact statement

Not applicable.

6. Physical alteration of one or more areas of land along the shoreline, land underwater or coastal waters

The proposed action is a redevelopment of a site not located adjacent to the Hudson River. This policy is not applicable.

7. Physical alteration of three or more acres of land located elsewhere in the coastal area

The proposed action will affect 0.493 acres and is not applicable.

8. Sale or change in use of state-owned lands, located under water

This policy is not applicable.

9. Revitalization/redevelopment of deteriorated or underutilized waterfront site

The proposed action is not adjacent to the waterfront but will redevelop a Main Street property upland from the River.

10. Reduction of existing or potential public access to or along coastal waters

Not applicable.

11. Excavation or dredging activities or the placement of fill materials in coastal waters of Nyack

The proposed action does not include such activities.

12. *Discharge of toxic, hazardous substances, or other pollutants into coastal waters of Nyack*
The proposed action does not include such activities.

13. *Draining of stormwater runoff either directly into coastal waters of Nyack or into any river or tributary which empties into them*

A Hydraulic Analysis and Stormwater Design prepared by Bart Rodi, PE, dated 6/13/15 has been reviewed by the Village Engineer. The proposed action will not result in an increase in impervious area but Applicant will install four 6' x 6' seepage pits. The property is currently almost completely impervious. The proposed action will increase permeable surfaces on the site to over 30% including additional landscaping. Water from all roof leaders will be captured on site and grading has been revised to prevent runoff from the site. The proposed peak runoff rates post development will be equal to or less than the peak runoff for the pre-development conditions. The Applicant's Engineer has provided a memo (7/21/15) addressing the Village Engineer's comments and will include all revisions on the final site plan. All stormwater will be treated for water quality and flow rates will conform to DEC and local requirements. The Village Engineer will approve the final SWPPP as a condition of site plan. All significant stormwater and drainage issues have been addressed.

14. *Transport, storage, treatment or disposal of solid waste or hazardous materials*
Not applicable.

15. *Development affecting a natural feature which provides protection against flooding or erosion*

Not applicable.

C. Will the proposed activity require any of the following:

1. Waterfront site

The proposed action is not adjacent to the waterfront and does not apply.

2. Construction or reconstruction of a flood or erosion control structure

The proposed action does not include such activities and is not applicable.

Motion by Klose to issue a Neg Declaration relative to environmental concerns on the grounds that Planning Board considered the various Environmental issues and addressed by the various items mentioned above and considered the Village Engineer's letter dated -- 7-21-15-- parking and rockland department of planning- analysis CAF and all of the various report and considering that any traffic pattern will be one direction into the site and off the site onto Depew. voletsky second -- Finds no negative impact-- Vote 5-0.

Klose moves to accept site plan dated 7-21-2015 three sheets-- site plan SP-1 through 3 -- Elevator shall be in the front of the Building, and proposes a resolution to authorize the Village Planner and Planning Board Chairman and Village Attorney to finalize the Resolutions for acceptance of the Site Plan to follow with - elevator -- in the front and no driveway exit from the front-- one way into the site for traffic. Englander seconds and vote-- 5-0 to approve.

3. 60 Cedar Hill Avenue. Pavion. Continuation of site plan application to demolish existing buildings and construct mixed use residential and commercial structures. Property is in RMU zoning district.

Building Inspector-- Because of the ongoing, unresolved, deliberations between applicant and Village of South Nyack applicant has not submitted revised drawing. A response to each of

Nyack Planning Board-- August 3, 2015

the Village Engineer's comments of July 6, 2015 has been submitted, dated July 21, 2015.

Applicant-- supplies a Letter to the Village of South Nyack proposing the following additional improvements (which has been incorporated into the Draft Resolution provided to the Board:

Proposed improvements to be performed by the applicant are as follows:

1. The applicant has agreed to the widening of Cedar Hill Avenue on the North side of the street, east of the entrance to the site to the east border of the property. This widening will eliminate the 5' wide grass strip between proposed sidewalk and the street. This strip would have been for street trees and new street lights. There is no room for moving the Cedar Hill building back any further to accommodate the widening and a grass strip. This is due to the ground floor patios fronting on Cedar Hill Avenue and the NYS Building Code safety requirement that parking spaces be 15' from building walls with windows with a sill height of less than eight feet above said parking. This improvement would include approximately 1,400 sf of full depth new pavement and 280 L.F. of new curb.
2. Improvements to the southeastern corner of Depot Place and Cedar Hill Avenue that includes a new curb radius, ADA accessible ramp and relocation of the existing fire hydrant.
3. Drainage improvements at the intersection of Depot Place and Cedar Hill Avenue to re-align the storm sewer to eliminate sharp turns and add a new catch basin with associating storm piping at the southeast corner of intersection of Cedar Hill Avenue and Depot Place.
4. Provide crosswalk striping on Cedar Hill Avenue for the Esposito Trail crossing along with ADA compliant ramps on North and South side of Cedar Hill Avenue.
5. Provide "Left Turn Only" "Right Turn Only" signs at the exit of the site to discourage through traffic onto Depot Place. Provide a "No Thru Traffic" sign at the southwest corner of Depot Place and Cedar Hill Avenue.
6. The applicant has agreed to the curb to curb milling (top 2") and repaving of Cedar Hill Avenue fronting the Nyack Pavion property. This would include approximately 17,000 sf of "mill and fill".
7. Provide "Tenant Parking Only" at the entrance of the site.

SEQRA - *On March 6, 2015, the Planning Board as Lead Agency issued a Negative Declaration for the proposed action including both site plan and subdivision plat. SEQRA has been closed.*

LWRP - *Since the subject property is over 3 acres, the Board of Trustees is responsible for determining consistency with the LWRP. On July 16, 2015, the Village Board reviewed the application and determined that it was consistent with the Village's LWRP policies. The Board has received the Village Board's consistency resolution and included it in the Planning Board's record.*

PUBLIC-- NONE-- CHAIRMAN OF THE PLANNING BOARD APPEARED for South Nyack.

Motion to close the Public Hearing by Member Klose, Second by Voletsky Vote 4-0 Approved

RESOLUTION-- Chairman proposes that the Board adopt and vote on the following:

VILLAGE OF NYACK PLANNING BOARD Adopted August 3, 2015

RE: Nyack Pavion, 60 Cedar Hill Avenue – Resolution of Site Plan and Subdivision Approval

After due discussion and deliberation, on motion by Klose, seconded by Englander and carried, the following resolution was adopted:

SEE THE ATTACHED MEMORANDUM AND FINDINGS FOR THE RESOLUTION THAT WAS ADOPTED:

VOTE: Second by Englander-- 5 – 0 Ayes: Klose, Englander, and Voletsky, Wilen and Kestenbaum

Nays: None

3. 60 Cedar Hill Avenue. Pavion. Preliminary subdivision application to merge five parcels into one. Property is in RMU zoning district. Notably absent from the submitted information is “the title abstract, and a municipal violation report indicating that the premises are free from violations” as required by Article V VON§360-5.8C(2)[18]. (Subdivision of Land). Although the narrative indicates underground utility connections on Hudson Avenue, the sewer connection is not evident on the subdivision plat but appears to have been located on site plan documents.

The Village Engineer --submission consisted of the following:

- a. *Plans entitled “Nyack Pavion, Subdivision”, prepared by DCAK MSA, sheets TS-001, S-100, S-101, S-102, dated 11/07/14.*
- b. *Plans entitled “Nyack Pavion, Site Plan”, prepared by DCAK MSA, last revised 6/11/15, sheets TS-001, GN-001, C-100, C-100A, C-101 through C-105, C-106 A, C-106 B, C- 500- C-503, C-507, C-508. Landscaping Planting Plan prepared by Kala, sheet L-1.*

Subdivision Plat

1. *The Subdivision Plan should be called a Subdivision Map or Plat. A plat must be prepared and signed by a Licensed Surveyor. The Plat shall be prepared in accordance with the application standards for map filing.*
2. *All existing and proposed cross access and utility easements and agreements shall be noted on the Subdivision Plat. **Applicant-- shall submit the title report.***

Member Klose moves to accept the Subdivision Plan dated 11-7-14 subject to the Village Attorney, Village Engineer and Building Department approvals for the actual Map to be filed Second by Voletsky and Vote of 4-0 to approve the combination of the Tax Lots.

4. 283 High Avenue. Kier Levesque for Derek & Dwanda Davis. Site, Application for a rear addition and creation of a two family dwelling.

Property is in RMU zoning district. With respect to Lot and Bulk information, the proposal complies with zoning requirements. The three trees to the west, proposed to be removed, are in the Village ROW and may require Village Board approval to remove.

SEQRA - *The proposed action is a Type II action under NYS DEC 617 (c) (9) and related to “construction or expansion of a single-family, a two-family or a three-family residence on an approved lot including provision of necessary utility connections as provided in section 617.5 (c)(11) and the installation, maintenance and/or upgrade of a drinking water well and a septic system;”No additional SEQRA review is required.***LWRP** - *As a Type II action, the Nyack Village Code considers such actions to be consistent with the Village’s LWRP policies.*

Applicant-- looking to take the down trees and to add a single family attached home-- landscaping plan is to remove the trees on the Village easement, plan to replace with proper trees, possibly the

king arbor vitae--

Public Comment -none.

Board-- *Motion by Chairman Klose-- Moves to close the public hearing as to Site Plan Application and tree removal application. Second by Kestenbaum with Vote 5-0. Approved subject to landscape being replaced as appropriate, all down facing lighting to remain on site, and reasonable considerations or recommendations inserted by the ARB.*

*RESOLUTION By motion of Chairman Klose and seconded by Kestenbaum that to remove the trees by application and maps date approve the site plan dated 6-25-15 and application drawing set; subject to applicant replacing the landscaping with appropriate landscaping selected by the applicant; new curbs and sidewalk to be re-installed-- match the sidewalks along this street., subject to the above. **Vote: 5-0 in favor.***

OTHER BUSINESS-- Motion to adjourn by Chairman Klose, seconded by member Voletsky - passed by a vote of 5-0. Meeting adjourned at 10 PM

VILLAGE OF NYACK PLANNING BOARD Adopted August 3, 2015

RE: Nyack Pavion, 60 Cedar Hill Avenue – Resolution of Site Plan and Subdivision Approval

After due discussion and deliberation, on motion by Klose, seconded by Englander and carried, the following resolution was adopted:

WHEREAS, on October 3, 2014 and November 10, 2014, a site plan and subdivision application respectively were submitted to the Planning Board of the Village of Nyack (“Planning Board”) by Pavion Holdings, LLC (“the “Applicant”), (all references to which shall include and be binding upon the Applicant’s successors and/or assigns), to demolish all existing structures and construct a mixed use development consisting of 135 residential units comprised of 18 townhouses, 8 live/work and 109 apartments in two buildings, 9,482 square feet of retail space, clubhouse and outdoor swimming pool and underground and surface parking for 213 vehicles. The proposal includes the widening of South Franklin Avenue to accommodate new parallel parking, a bike path, rain gardens and sidewalk as well as the daylighting of approximately 130 feet of the Nyack Brook at the premises known as 60 Cedar Hill Avenue, Nyack, NY, and formerly occupied by the Pavion Cosmetics Factory (“Project”). The Project consists of several parcels of land totaling approximately 3.935 acres, and identified on the tax maps of the Town of Orangetown as Section 66.45, Block 1, and Lots 34, 35 and 36 and Section 66.46. Block 2, Lot 54; and

WHEREAS, the Applicant is located at 60 Cedar Hill Avenue (“Property”), within the RMU – Residential Mixed Use Zoning District; and

WHEREAS, after due notice to all involved and interested agencies, the Planning Board declared its intent to be Lead Agency for this unlisted action under SEQRA on December 1, 2014, and accepted a Long Form Environmental Assessment Form (EAF) prepared by the Applicant with a view towards identifying the relevant potential environmental impacts that could result from the approval and development of the project, and assumed Lead Agency on January 5, 2015 to consider the proposed action’s environmental impacts; and

WHEREAS, a duly advertised public hearing was held on the Application by the Planning Board on December 1, 2014, January 5, 2015, February 2, 2015, March 2, 2015 and July 6, 2015 and closed on August 3, 2015, at which time all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, the Planning Board has carefully considered all public comment, and reviewed, inter alia, the following documentation submitted by the Applicant, interested and involved agencies, and comments from the Village Planner, Building Inspector, Village Engineer and consultants retained by the Village:

Drawings

- Drawing TS-001 “*Nyack Pavion, Subdivision, Title Sheet*”, prepared by DCAK-MSA Architecture & Engineering dated 11/7/14.

- Drawing S-100 “*Nyack Pavion, Boundary Survey*”, prepared by Atzl, Nasher & Zigler P.C. Engineers, Surveyors and Planners dated 6/18/15 and revised 9/26/15.
- Drawing S-101 “*Nyack Pavion, Topographic Survey*”, prepared by Atzl, Nasher & Zigler P.C. Engineers, Surveyors and Planners dated 8/18/14 and revised 9/26/14.
- Drawing S-102 “*Nyack Pavion, Proposed Subdivision Plan*”, prepared by DCAK-MSA dated 11/7/14 and revised 7/28/15 for the addition of the water main easement.
- Drawing TS-001 “*Nyack Pavion Site Plan, Title Sheet*”, prepared by DCAK-MSA Architecture & Engineering dated 11/7/14 and revised 6/11/15.
- Drawing GN-01 “*Nyack Pavion Site Plan, General Notes*”, prepared by DCAK-MSA Architecture & Engineering dated 11/7/14 and revised 6/11/15.
- Drawing C-100 “*Nyack Pavion Site Plan, Topographic Survey*”, as submitted by DCAK-MSA Architecture & Engineering and prepared by Atzl, Nasher & Zigler P.C. Engineers, Surveyors and Planners dated 8/18/14 and revised 9/26/14.
- Drawing C-100A “*Demolition Plan*”, prepared by DCAK-MSA Architecture & Engineering dated 1/15/15 and revised 6/11/15.
- Drawing C-101 “*Nyack Pavion, Site Plan Layout*”, prepared by DCAK-MSA Architecture & Engineering dated 9/29/14 and revised 6/11/15.
- Drawing C-102 “*Nyack Pavion Site Plan, Grading & Drainage*”, prepared by DCAK-MSA Architecture & Engineering dated 11/7/14 and revised 6/11/15.
- Drawing C-103 “*Nyack Pavion Site Plan, Utility Plan*”, prepared by DCAK-MSA Architecture & Engineering dated 11/7/14 and revised 6/11/15.
- Drawing C-104 “*Nyack Pavion Site Plan, Erosion & Sediment Control Plan*”, prepared by DCAK-MSA Architecture & Engineering dated 11/7/14 and revised 6/11/15.
- Drawing C-105 “*Nyack Pavion Site Plan, Lighting Plan Layout*”, prepared by DCAK-MSA Architecture & Engineering dated 11/7/14 and revised 6/17/15.
- Drawing C-106A “*Nyack Pavion Site Plan, Nyack Brook Profile*”, prepared by DCAK-MSA Architecture & Engineering dated 2/23/15 and revised 6/11/15.
- Drawing C-106B “*Nyack Pavion Site Plan, Sewer Profile*”, prepared by DCAK-MSA Architecture & Engineering dated 5/13/15 and revised 6/11/15.
- Drawing C-500 “*Nyack Pavion Site Plan, Erosion & Sediment Control Plan, Details*”, prepared by DCAK-MSA Architecture & Engineering dated 11/7/14 and revised 6/11/15.
- Drawings C-501 and C-502 “*Nyack Pavion Site Plan, Site Details*”, prepared by DCAK-MSA Architecture & Engineering dated 11/7/14 and revised 6/11/15.
- Drawing C-503 “*Nyack Pavion Site Plan, Sewer Details*”, prepared by DCAK-MSA Architecture & Engineering dated 11/7/14 and revised 6/11/15.
- Drawing C-507 “*Nyack Pavion Site Plan, Site Lighting Details*”, prepared by DCAK-MSA Architecture & Engineering dated 11/7/14 and revised 6/11/15.
- Drawing C-508 “*Nyack Typical Water Main Detail*”, prepared by DCAK-MSA Architecture & Engineering dated 6/12/15.
- Drawing L-1 “*Nyack Pavion Site Plan, Landscape Plan*”, prepared by KALA dated 6/15/15.
- Drawing A-200 “*Franklin Building Elevations*”, prepared by DCAK-MSA Architecture & Engineering dated 4/30/15.

- Drawing A-201 “*Cedar Building Elevations*”, prepared by DCAK-MSA Architecture & Engineering dated 4/30/15.
- Drawing A-202 “*Clubhouse Plan & Elevations*”, prepared by DCAK-MSA Architecture & Engineering dated 4/30/15.
- Drawing A-203 “*Streetscape*”, prepared by DCAK-MSA Architecture & Engineering dated 4/29/15.
- Drawing A-204 “*Building Elevation Heights*”, prepared by DCAK-MSA Architecture & Engineering dated 4/30/15.
- Matthew Sheffield, PE, Senior Engineer, *drawing C-101 “Prop. Cedar Hill Improvements*”, prepared by DCAK-MSA Architecture & Engineering dated July 28, 2015.

Environmental Forms

- *Coastal Assessment Form (“CAF”)* dated 2/6/15.
- *Long-Form Environmental Assessment Form (“EAF”)* dated 2/5/15.
- *Environmental Assessment Form, Part 2 and 3, Nyack Pavion, and Enhanced EAF Part 3* prepared by the Village Planner for the Lead Agency, the Village of Nyack Planning Board, dated 3/2/15.

Correspondence/Meetings

- County of Rockland Department of Planning, GML Review: Pavion Holding LLC, Letter to the Village of Nyack Planning Board from Douglas Schuetz, Acting Commissioner of Planning, February 2, 2015.
- New York State Department of Transportation, Letter to Village of Nyack Planning Board from Jennifer Clark, PE, Resident Engineer, Rockland County Residency, January 22, 2015.
- Bonnie Christian, Mayor, Village of South Nyack, *Letter to Village of Nyack Planning Board Chair, Comments on Land Use Application of Pavion Holdings*, December 31, 2014.
- Walter Sevastian, Esq., Nyack Village Attorney, *Response to Ms. Christian’s Correspondence dated December 31, 2014*, January 16, 2015.
- Bonnie Christian, Mayor, Village of South Nyack, *Letter to Village of Nyack Planning Board Chair, Comments on Infrastructure Improvements, Nyack Pavion, March 30, 2015*.
- Keith Cornell, Esq., Village Attorney, South Nyack, *Letter to Walter Sevastian, Village Attorney, Nyack re: Pavion Project*, January 10, 2015.
- Walter Sevastian, Esq., Nyack Village Attorney, *Response to Mr. Cornell’s Correspondence dated January 10, 2015*, January 16, 2015.
- Walter Sevastian, Esq. Nyack Village Attorney, *Letter Confirming Meeting Date w/South Nyack Officials on February 13, 2015 in Village of Nyack*, February 3, 2015.
- *Meetings between Village of Nyack and South Nyack Staff on Nyack Pavion Project in Courtroom at Village of Nyack*, February 13, 2015, March 12, 2015 and June 5, 2015.

Reports/Memorandums

- Harry Baker & Associates, *Nyack Pavion Traffic Impact Study, October 23, 2014.*
- Harry Baker & Associates, *Letter in Response to Comments from the Village of South Nyack, January 15, 2015.*
- Michael Galante, EVP, *Review of Traffic Impact Study – Nyack Pavion, Frederick P. Clark & Associates, Inc., January 26, 2015.*
- Michael Galante, EVP, *Second Review of Traffic Impact Study – Nyack Pavion, Frederick P. Clark & Associates, Inc., March 2, 2015.*
- Eve Mancuso, PE, *Memorandum: Site Plan and Stormwater Review for Nyack Pavion, Brooker Engineering, September 8, 2014, October 3, 2014, January 5, 2015, February 5, 2015, March 2, 2015 and July 6, 2015.*
- Matthew Sheffield, PE, Senior Engineer, *Preliminary Stormwater Pollution Prevention Plan (SWPPP) Nyack Pavion, DCAK-MSA Architecture & Engineering, December 12, 2014.*
- Riddick Associates PC, *Letter to Matthew Sheffield, Senior Engineer, DCAK-MSA re: Nyack Pavion Water Service, February 4, 2015.*
- Robert Galvin, AICP, Village Planner, Nyack, *Memorandum to the Village of Nyack Board of Trustees: LWRP Consistency Recommendation for Nyack Pavion Multi-Use Development, 60 Cedar Hill Avenue, June 18, 2015.*
- Robert Galvin, AICP, Village Planner, Nyack, *Memorandum: Pre-Application Meeting for Nyack Pavion Site, September 3, 2014 and August 29, 2014.*
- Urbanomics, *School Child Impact Study, Analysis of School Child Fiscal Impacts for a Proposed Rental Apartment Community in the Village of Nyack, January 9, 2015.*
- MJS Engineering, PC, *Draft Hydrologic and Hydraulic Analysis Nyack Pavion Culvert Replacement, December, 2014.*
- Ruth Pierpont, Deputy Commissioner for Historic Preservation, *Letter of No Impact for Nyack Pavion, Demolition and Residential/Commercial Development, New York State Office of Parks, Recreation and Historic Preservation (OPRHP), December 11, 2014.*
- Joel Chaim, President, *Hydrant Flow Test Results, Active Fire Protection, August 12, 2014.*
- Ira Emanuel, Esq. (Applicant's Attorney). *Narrative Summary on Nyack Pavion Site Plan to Village of Nyack Zoning Board of Appeals for Density Variance for Nyack Pavion, February 27, 2015.*
- Matthew Sheffield, PE, Senior Engineer, *Letter to Village of Nyack Planning Board Chair, Nyack Pavion Multi-Use Development, Consideration of South Nyack Critical Environmental Area, January 28, 2015.*
- Steven Collazuol, PE, Village Engineer, Village of South Nyack, *Drawing with Proposed Comments by Village of South Nyack on Nyack Pavion Site Plan Layout, March 27, 2015.*

- Matthew Sheffield, PE, Senior Engineer, *Letter to Village of South Nyack Planning Board Chair* (July 29, 2015), and drawing C-101 “*Prop. Cedar Hill Improvements*” (July 28, 2015).

WHEREAS, on or about March 2, 2015, having found that it was in possession of all documentation reasonably necessary to determine the environmental impact of the project, and having reviewed Parts I, II, III and the Enhanced Part III of the EAF, as well as various supplemental material listed above, the Planning Board adopted a Negative Declaration under SEQRA, determining that there were no adverse environmental impacts associated with the development proposal that could not be mitigated; and

WHEREAS, on March 30, 2015, the Village of Nyack Zoning Board of Appeals resolved to grant the requested area variance for density allowing an additional 26 units for a maximum of 135 units required for the Applicant to proceed with the Project; and

WHEREAS, on May 20, 2015, the Village of Nyack Architectural Review Board approved the Project;

WHEREAS, the Board of Trustees after having reviewed the Coastal Assessment Form and supplemental material as well as a memo from the Village Planner dated June 18, 2015 determined on July 16, 2015 that the Project is consistent, to the maximum extent practicable, with the policies of the Village’s Local Waterfront Revitalization Program (“LWRP”) pursuant to Chapter 342 of the Village Code; and

WHEREAS, the Planning Board is familiar with the current status of the proposed off-site improvements being negotiated between the Applicant and the adjacent Village of South Nyack, and is satisfied that the gratuitous offer of off-site improvements reflected in the correspondence of Matthew Sheffield, PE, Senior Engineer, *Letter to Village of South Nyack Planning Board Chair* (dated July 29, 2015), and shown on drawing C-101 “*Prop. Cedar Hill Improvements*” (dated July 28, 2015), are adequate and reasonable in the context of the minimal impact of the Project on the Village of South Nyack, which minimal impact is reflected in the SEQRA Determination and the review of the Project impacts by the various professionals whose reports and recommendations are referenced hereinabove; and

WHEREAS, the Planning Board is familiar with the Property and all aspects of the proposed action and has been satisfied that the proposed site plan and subdivision plat will conform to the requirements of the Village Code:

NOW, THEREFORE, BE IT RESOLVED that the Site Plan and Subdivision Plat application submitted by Pavion Holdings, LLC to demolish all existing structures and construct a mixed use development consisting of 135 residential units comprised of 18 townhouses, 8 live/work and 109 apartments in two buildings, 9,482 square feet of retail space, clubhouse and outdoor swimming pool and underground and surface parking for 213 vehicles and including the widening of South Franklin Avenue to accommodate new parallel parking, a bike path, rain gardens and sidewalk as well as the daylighting of approximately 130 feet of the Nyack Brook at the premises

known as 60 Cedar Hill Avenue, Nyack, NY, as reflected on Site Plan dated 1/2/13 and revised through 5/6/13 and the Subdivision Plat dated 3/14/13 and revised through 5/6/13 is hereby granted, subject to the following conditions:

1. The Applicant shall pay all outstanding consultant review fees in connection with Planning Board review of this application prior to the issuance of a building permit.

2. The Applicant, in form satisfactory to Counsel to the Village shall submit to the Village a written offer of dedication of the widening of South Franklin Avenue and all improvements shown on the site plan to be developed by the Applicant including widening of South Franklin Avenue to accommodate new parallel parking, a bike path, rain gardens, sidewalks and all streetscape improvements with all maintenance to be the responsibility of the Applicant; and (2) a written offer of easements as required across lots or parcels of land not covered by the above offer of dedication, giving the Village the right to install, construct, reconstruct and maintain therein all storm and sanitary sewers, water services and other Village services. Any work in the r-o-w shall be performed to Village standards.

3. The Applicant shall provide performance bond, letter of credit or other security acceptable to the Village Board, as required, for utilities, streets, landscaping, curbing, lighting, stormwater improvements, Nyack Brook improvements, off-site stormwater/catch basin improvements and construction in form acceptable to counsel to the Village in an amount or amounts to be established by the Village Engineer.

4. Prior to the issuance of a building permit, a Construction, Maintenance and Inspection Agreement for the stormwater management facilities including rain gardens, green roofs and permeable paving to be installed related to the redevelopment of the mixed use project at 60 Cedar Avenue, in form satisfactory to the Village Engineer and Village counsel, shall be fully executed and submitted to the Building Department with proof that the Agreement has been submitted for recording in the Rockland County Clerk's Office.

5. Prior to the issuance of any certificate of occupancy, the Applicant shall submit to the Building Department a copy of the fully executed Construction, Maintenance and Inspection Agreement with proof of its recording in the Rockland County Clerk's Office.

6. If the Applicant, during the course of construction, encounters such conditions as flood areas, underground water, soft or silty areas, improper drainage, insufficient sized piping or any other unusual circumstances or conditions that were not foreseen in the original planning, he shall report such conditions immediately to the Village Engineer. The developer may submit, if he so desires, his recommendations as to the special treatment to be given to alternate solutions to secure adequate, permanent and satisfactory construction. The Village Engineer, without unnecessary

delay, shall investigate the condition or conditions, and shall either approve the Applicant's recommendations to correct the conditions, order a modification thereof, or issue her own specifications for the correction of the conditions.

7. That additional crosswalks be provided at the intersection of South Franklin Avenue and Hudson Avenue so that each approach to the intersection has a crosswalk and is connected to an existing or improved sidewalk.

8. That 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.

9. That the Applicant will perform permeability tests in the area of the proposed porous pavement to ensure the system is viable to be reviewed and approved by the Village Engineer.

10. Prior to the issuance of a building permit, Applicant shall make application to the Army Corps of Engineers (ACOE) for a Nationwide Wetlands Permit (NWP 29) and receive same.

11. Applicant will make application to the New York State Department of State (DOS) for a LWRP consistency review. This NYSDOS review is necessary since there is a Federal Nationwide Permit (NWP 29) required from the Army Corps of Engineers (ACOE). The consistency review will be provided to the Village prior to the issuance of a building permit.

12. Prior to the issuance of a building permit, the sewer design and details will shall be reviewed and approved by the Town of Orangetown Sewer Department and any required Rockland County Health Department approvals shall be obtained.

13. Parking stall striping should be added to the Site Plan. Residential parking for the Project will not be assigned in the exterior residential parking lots, however, the Interior residential parking may be assigned by the Owner.

14. All retaining walls over four (4) feet in height shall require structural calculations prepared by a Licensed Professional Engineer and shall be submitted to the Building Department prior to the issuance of a building permit.

15. A full Stormwater Pollution Prevention Plan (SWPPP) will be developed for the project for the review and approval of the Village Engineer.

16. The Applicant and the Village of South Nyack have attempted to negotiate certain improvements to areas outside of the Village of Nyack, culminating in the correspondence of Matthew Sheffield, PE, Senior Engineer, *Letter to Village of South*

Nyack Planning Board Chair (dated July 29, 2015), and shown on drawing C-101 “*Prop. Cedar Hill Improvements*” (dated July 28, 2015). The Planning Board, taking into account that such negotiations have been ongoing for over six (6) months, is satisfied that the gratuitous offer of off-site improvements reflected in the documents referenced in this paragraph are adequate and reasonable in the context of the minimal impact of the Project on the Village of South Nyack. In a good-faith effort to support a neighboring municipality, the Planning Board conditions this approval on the completion of the improvements shown therein by agreement between the parties (if such an agreement can be reached). Specifically, such off-site improvements shall include but not necessarily be limited to:

- That any road opening done on Cedar Hill Avenue will result in the roadway being re-paved curb to curb;
- That the developer be required to widen the curb along the north side of Cedar Hill Avenue an additional proximate 5 feet so that it is not on an angle as it runs along the project site, as illustrated on a submitted drawing shown on drawing C-101 “*Prop. Cedar Hill Improvements*” (dated July 28, 2015);
- This widening will eliminate the 5’ wide grass strip between proposed sidewalk and the street. This strip would have been for street trees and new street lights. There is no room for moving the Cedar Hill building back any further to accommodate the widening and a grass strip. This is due to the ground floor patios fronting on Cedar Hill Avenue and the NYS Building Code safety requirement that parking spaces be 15’ from building walls with windows with a sill height of less than eight feet above said parking. This improvement would include approximately 1,400 sf of full depth new pavement and 280 L.F. of new curb.
- That the applicant widens Depot Place at its intersection with Cedar Hill Avenue as illustrated on a submitted drawing shown on drawing C-101 “*Prop. Cedar Hill Improvements*” (dated July 28, 2015); Drainage improvements at the intersection of Depot Place and Cedar Hill Avenue to re-align the storm sewer to eliminate sharp turns and add a new catch basin with associating storm piping at the southeast corner of intersection of Cedar Hill Avenue and Depot Place.
- That the ALL-WAY STOP sign control be maintained at Cedar Hill Avenue driveway and Depot Place. 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 including a crosswalk connecting the existing Esposito Trail in the Village of South Nyack with the proposed extension of such trail along South Franklin Avenue. These will include ADA ramps as specified by the Village of South Nyack as illustrated on a submitted drawing shown on drawing C-101 “*Prop. Cedar Hill Improvements*” (dated July 28, 2015);

- That the Applicant realign the Project’s proposed 30” diameter storm drain at the site’s curb cut on Cedar Hill Road extending across Cedar Hill Avenue as illustrated on a submitted drawing shown on drawing C-101 “Prop. Cedar Hill Improvements” (dated July 28, 2015);
 - 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.
 - That should a written agreement signed by both parties be reached within thirty (30) days from the date hereof (and provided to the Village Attorney), that the off-site improvements reflected therein shall be bonded with the review and approval of the Nyack Village Engineer, included in any performance bond otherwise required under this approval, and be the responsibility of the developer as included in any signed agreement between both parties.
 - * If the Applicant, during the course of construction, encounters such conditions as flood areas, underground water, soft or silty areas, improper drainage, insufficient sized piping or any other unusual circumstances or conditions that were not foreseen in the original planning for the improvements in the Village of South Nyack, he shall report such conditions immediately to the South Nyack Engineer, and if desired, submit his recommendations as to the special treatment to be given to alternate solutions to secure adequate, permanent and satisfactory construction.
- Provide crosswalk striping on Cedar Hill Avenue for the Esposito Trail crossing along with ADA compliant ramps on North and South side of Cedar Hill Avenue.
 - Provide “Left Turn Only” “Right Turn Only” signs at the exit of the site to discourage through traffic onto Depot Place. Provide a “No Thru Traffic” sign at the southwest corner of Depot Place and Cedar Hill Avenue.
 - The applicant has agreed to the curb to curb milling (top 2”) and repaving of Cedar Hill Avenue fronting the Nyack Pavion property. This would include approximately 17,000 sf of “mill and fill”.
 - Provide “Tenant Parking Only” at the entrance of the site.

NOW BE IT FURTHER RESOLVED that in the event that the Applicant and the Village of South Nyack cannot come to an agreement as to the scope of off-site improvements referenced in condition #16 above, the Applicant shall only be required to complete the off-site improvements reflected in the correspondence of Matthew Sheffield, PE, Senior Engineer, *Letter to Village of South Nyack Planning Board Chair* (dated July 29, 2015), and shown on drawing C-101 “Prop. Cedar Hill Improvements” (dated July 28, 2015). In the further event that the Village of South Nyack does not approve, or fails to grant any necessary consent or approvals for the

work contemplated and shown on the drawing C-101 “Prop. Cedar Hill Improvements” (dated July 28, 2015), the Applicant shall be relieved of responsibility for satisfying the requirements of condition #16 hereinabove to the extent that approvals for such work are not given by the Village of South Nyack.

NOW BE IT FURTHER RESOLVED that the recommendations of the Rockland County Planning Department set forth in the General Municipal Law Review letter dated February 2, 2015, have been accepted except that the Planning Board overrides the following recommendations:

1. Paragraphs #2 and #31 of February 25, 2013 letter, to the extent that are superseded by the approval granted herein, are done so for the reason that the Planning Board has required as a condition of approval that the Applicant merge all existing tax lots so that single lots exist the Towns of Orangetown and Clarkstown respectively, and that same be shown on the subdivision plat attached to the Site Plans.
2. Paragraphs #26, #27 & #28, to the extent that they are superseded by the approval granted herein, are done so for the reason that the Planning Board believes that the traffic study submitted by the Applicant, the review by the Village’s traffic consultant, and the responses made by the Applicant to the recommendation of the Village’s expert adequately address the safety concerns for adjacent properties nearby roadways.

VOTE: Second by Englander-- 5 – 0 Ayes: Klose, Englander, and Voletsky Wilen Kestenbaum

Nays: None