

Memo

To: Mayor and Trustees,
Cc: Village Attorney, Building Inspector
From: Bob Galvin, AICP - Village Planner
Date: 9/8/2017
Re: TZ Vista – Review of Special Permit: Criteria and Process

Planning Board – Site Plan Review (TZ Vista)

The Planning Board issued a Negative Declaration under SEQRA on July 21, 2017 after reviewing over 1,000 pages of environmental review and more than six public meetings and reviews by its planning and traffic consultants. Planning Board continued its site plan review on August 7, 2017. Applicant has provided revised plans for the Planning Board’s continued site plan review at its September 11, 2017 meeting. There are only a few remaining site plan issues for review. The Planning Board will include any of the Village Board’s conditions under the special permit in their site plans and any potential resolutions. The application will also entail a merger of lots which will require a subdivision approval from the Planning Board. The Planning Board is considering the site plan and subdivision simultaneously.

I have been requested to review for the Village Board whether the application submitted by TZ Vista meets the requirements for the issuance of a special permit under the Waterfront Development District (WF) 360 - 2.S(B)(2)(c). These generally consist of the WF District Purpose and the Design Guidelines which must be achieved before any special permit is approved by the Village Board.

Both the Village’s Planning Consultant (VHB) and the Building Inspector have submitted their reviews and findings to the Village Board. I have reviewed these memoranda, the minutes of the Planning Board, the submissions by the Applicant including the latest revised plans. After the review of these materials, I would agree with the conclusions of both of the reviews by the Planning Consultant and Building Inspector. I will specifically comment on each of the salient special permit criteria.

Background

By way of background, this application has seen a significant number of changes from its original submission through the review by the Planning Board, the Building Inspector and Village Planning Consultant. The interpretation of the Building Inspector maintaining that the

application included only two viewsheds at High/Gedney and Lydecker/Gedney resulted in a significant change to the application. It resulted in a reduction in the cumulative building width along Gedney to no more than 60% which totals 297' instead of a proposed original cumulative building width of 359'. The Building Inspector's careful review and interpretation of the Code has resulted in significant improvements and better outcomes for the Project including setbacks along Gedney and Main Street to conform to building height requirements, water- dependent amenities, design of stairs, waterfront public access, Fire/emergency access and phasing.

Architectural Review Board

The ARB last reviewed the application on July 26, 2017. It appears that the revised plans represent a vast improvement over the original plans presented. The ARB indicated that the applicant has been successful in treating the lower two-story façade elements but the upper level needs further work. The applicant agrees with this assessment and has revised his plans for the next ARB meeting. He has also revised his plans to reflect the recommendations of the ARB regarding landscaping and design elements to emphasize the public nature of the walkway. A copy of the ARB minutes have been provided to the Village Board.

Suggested Special Permit Conditions

In addition to the evaluation of the development incentives and design guidelines, the Village Board is uniquely positioned to address operational and maintenance issues of public amenities, ownership, easements, temporary transfer of ownership, future improvements, public access agreements and timing of construction phasing. These suggested conditions can include but are not limited to the following:

- The area to be dedicated to the Village is described in the Applicant's *Special Permit Compliance Narrative section 360-2.5 B 2 (c) (5) (Waterfront Access)*. The area of dedication also needs to be delineated on the Applicant's site plan. Agreement by Village Attorney shall be developed for review and approval by the Village Board.
- The applicant has provided an option to extend ownership of the property's underwater lands extending out to end of the Clermont Pier. This would provide the Village with ownership of the complete waterfront extending past the rip rap to the end of the Clermont Pier. Any Agreement should indemnify the Village for any remaining environmental cleanup.
- Set time constraints on the proposed construction phasing plan, completion of the public access walk and dedication of land to the Village. Time table is covered in Applicant's Narrative.
- Granting of special permit should be conditioned on Planning Board approval of Development Incentives and Site Plan as required by 360-2.5 B (c).

- Final details from applicant regarding the brownfield site remediation including during construction and ongoing and DEC involvement in monitoring, reporting and future responsibilities of the applicant.
- Finalizing details on the ownership or easements including timing.
- Set hours of operation for public area on waterfront.
- Applicant’s treatment of entry for vehicular access shall be included on site plan.
- Village Board can address the question of requiring emergency phones in the garage and river walk.

Special Permit

Special use permits authorize a particular land use that is permitted as a matter of right by the zoning ordinance but only if certain pre-established requirements are met. The purpose of the requirements is to assure that the proposed use is in harmony with the zoning ordinance and will not adversely affect the neighborhood. If these code requirements are met in the opinion of the Village Board, the special permit should be issued with any appropriate conditions imposed by the Village Board.

The Applicant has provided a *Narrative on Special Permit Compliance* which goes into great detail on specific elements. The Village Board should review each of these elements with the Applicant and ensure that such responses are included in the site plan and/or any agreements developed as a condition of the special permit.

The Village Code establishes the following requirements for the issuance of a special permit to achieve development incentives outlines in the “WF” section of the Code. If the Village Board determines that these requirements have been met, then a special permit providing for development incentives shall be issued by the Village Board. The special permit can also generally include specific agreements regarding the operation of the waterfront access, amenities and policies regarding bonding, phasing, ownership of waterfront and amenities and access to public during construction phasing.

The criteria includes adherence to the purpose of the “WF” zone. The design guidelines have provided objective standards that can be reviewed by the Board.

Purpose

Achieved.

The applicant’s provision of waterfront amenities both water –enhanced as well as water-dependent including the 30’ river walk, public access through the site, café and seating areas with a lookout. Applicant is also installing stormwater management system with 100% WQ treatment before discharge into tidal waters, the location of residential buildings 50’ distance from the river

and no disturbance below the MHL. These elements were all reviewed by the Planning Board and in issuing a Negative Declaration for this proposed action.

Development Incentives and Design Guidelines

Achieved and in conformity with WF District Regulations

The applicant's proposed plans and Narrative incorporate the development incentives and design guidelines specified in the WF District standards.

The Building Inspector in his memorandum dated 9/5/27 has determined that the development incentives standards of the WF District. Please refer to his report for details regarding his determinations and drawing references.

The Village Planning Consultant in her memorandum dated 8/23/17 provides specific examples of the Applicant's conformance with the development incentives and design standards as expressly indicated on the Applicant's plans and written Narrative submitted as part of this application.