

Members Present:

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

Also Present:

Walter Sevastian, Village Attorney
Don Yacopino, Building Inspector
Bob Galvin—Village Planner (present)

Absent: 0

Other Business:



A motion was made by Chairman Klose, seconded by Member Keene, to accept the April 1, 2013 Minutes. Passed 5-0. Voletsky second -- Approved 5-0.

1. 170 North Franklin Street. Dana Harkrider. Application for a tree removal. Property is located in SFR-1 Zoning District.

No objections- by neighbors-- Only one tree is at issue, and it appears proper to remove.

Type II action-- for SEQRA-- no action needed.

Motion to close Englander, second by Keene--(5-0.)

Klose moves to grant removal of the tree application dated April 5, 2013-- Second by Englander-
Vote 5-0 approved.

2. 160 North Midland Avenue. LRC Engineering and Surveying for Nyack Hospital. Informal discussion for improved stormwater management at Route 9W entrances and internal site work.

Building Inspector-- *This primarily requires input from the Village Engineer. An official escrow account must be approved at this time.*

May 3, 2013 FROM: Eve Mancuso, P.E., Village Engineer

· "Nyack Hospital Site Improvements, Route 9W" prepared by LRC Group, dated 3/22/013, sheets- Title sheet, DC-1, GU-1, LL-1, DN-1.

· Drainage Report for Nyack Hospital – Route 9 W Drainage Improvements. Dated 3/22/2013.

The scope of work for the project includes the removal and replacement of concrete curbs, sidewalk and drive aprons along the property frontage on Route 9W, the removal and replacement of the on- site stormwater management conveyance system and the installation of landscaping along the Route 9W corridor. There are no new structures or expansions proposed.

It is my understanding the purpose of these improvements is to address an on-going drainage problem which has adversely affected the Hospital. The road drainage run-off from Route 9W currently flows down the hospital drive aprons under high intensity storm events causing flooding of the structures. The regrading of the aprons and sidewalk will

help alleviate the stormwater flow traveling down the drive aprons and maintain the road run-off within the roadway itself and not on hospital property. The stormwater run-off will travel along the road gutterline to the nearest piped stormwater conveyance system within the Village ROW.

VE comments as follows:

- 1 All plans and report shall be signed and sealed by the Professional Engineer preparing them.*

Applicant to be done on final plan submitted to Building Department

- 2 All survey and As Built topographic data provided shall be signed and sealed by the land Surveyor preparing the same.*

Applicant to be done on final plan submitted to Building Department.

- 3 The Drainage Report demonstrates there is no increase of stormwater run-off or change in the peak rate of run-off.*

Applicant to add a note -- on the final plans to be signed off on by building Department.

- 4 We recommend best management practices in terms of infiltration of stormwater be introduced to the greatest extent practicable. This may be accomplished by providing seepage pit structures in lieu of some of the existing catch basins and/or providing perforated pipe for those sections that are proposed to be removed and replaced.*

Applicant will provide the perforated pipe-- as per recommendation.

- 5 Sight distance lines at each driveway shall be indicated to ensure the proposed plantings do not obscure sight lines.*

Applicant will supplement and be added to the plan.

- 6 Handicapped ramps shall be provided at the drive crossings. Construction details shall be shown on the plans.*

Applicant will provide.

- 7 NYSDOT approval is required for this work.*

Chairman Klose and Member Englander were concerned about the sight lines along the Fifth Avenue Exit to Route (W south-- There is a prominent sign obstructing the view southbound. Applicant will review this, but it is not part of the application.

Unlisted action motion by Klose that Planning Board declared itself as lead agent for SEQRA purposes during the April 2103 Meeting.

SEQRA-- Klose makes motion to declare the Nyack Planning Board as lead agency to review the EAF and Make negative declaration based upon the facts of the application and reports of the engineers. Second by Jean Gilles- vote 5-0-- Board as Lead Agent.

Chairman Klose makes a motion finding no significant environmental impacts of the proposed project and to make a negative declaration finding that there are no significant environmental impacts, in part because this project is designed to alleviate the environmental impacts of drainage runoff at the location and the results of the work will have zero net increase in runoff. Englander Seconds, Vote- 5-0. Planner will prepare the final EAF and issue a DEC form for the Negative Declaration based upon the report of the Village Engineer and testimony of the Applicant.

Klose makes motion to close the public hearing to discuss the Site Plan, second by Keene, Vote 5-0-- hearing closed.

Klose makes a motion to accept the site plan dated March 22, 2013, subject to the applicant reviewing and providing the the perforated pipe, amending the site plan as recommend be sure that the plantings do not obstruct the view; and add the plantings requested by NY DOT and the Village Engineer, and provide the handicapped ramps as suggested. Second by Englander, Vote 5-0.

3. 235 High Avenue. Eric Osborne for David Makan, DM Equities. Site plan application to demolish existing house and rear yard garage and construct a new single family home. Property is in TFR Zoning District.

Building Inspector--Current proposal reflects result of recent, 3/6/2013, ARB workshop. Proposed drainage calculations have not been supplied for the possible increase in permeable surface created by the increased size of the house.

Per VON§360-5.16B(3)&(6) the ARB shall offer an advisory recommendation prior to review by the Planning Board, which will make the decision to permit demolition of existing house. Engineer's report regarding structural stability of house referenced.

Proposal complies with zoning requirements. Conditional ARB approval and recommendation to Planning Board for demolition was granted 3/20/2013. NO APPEARANCE by the Applicant- 4/1/13.

Current proposal reflects result of recent, 3/6/2013, ARB workshop.

Proposed drainage calculations have not been supplied for the possible increase in permeable surface created by the increased size of the house.

Per VON§360-5.16B(3)&(6) the ARB shall offer an advisory recommendation prior to review by the Planning Board, which will make the decision to permit demolition of existing house.

Engineer's report regarding structural stability of house enclosed.

Proposal complies with zoning requirements.

Conditional ARB approval and recommendation to Planning Board for demolition was granted 3/20/2013.

Type II Action for SEQRA provisions-- Exempt from review under such law.

Marylin Taylor 237 High Avenue-- house in dilapidated condition, and the neighbors wanted it to be removed. Excited to have good neighbors.

Letter from the Engineer indicating that the runoff will be less than before, zero net increase.

Klose moves to close the public hearing, second by Voletsky, vote 5-0-- closed.

Klose moves to accept the site plan as drawn on plans dated March 21, 2013 (three pages), subject to all exterior lighting be non-invasive and down facing, and compliance with building department and other municipal requirements. Second Keene, Vote 5-0- Passed with approval.

4. 159 Main Street. Ricardo Cerdeira. Proposal to convert space previously used as a hair salon to a wine bar. Applicant is seeking recommendation to ZBA for variance required for two off street parking spaces. Use is permitted in DMU Zoning District.

Applicant cannot supply off street parking. They would need to secure parking off site.

Village Attorney -- stated that there is no policy for the village to lease spaces to business.

Applicant was encouraged to complete a full package for the ZBA, as the package that was presented to the Board was missing significant analysis, including testimony as to whether the applicant has made a significant effort to find or review additional parking locations to prevent the need for a "Variance."

Variance required from the parking law--Minimum Parking Requirements. Applicant made preliminary submission to building department, but it is lacking in any analysis of what the ZBA might consider in granting this variance from the parking rules.

"Comprehensive Master Plan- page 13.- Parking *Issue among both residents and businesses alike. A quarter of residents surveyed indicated that parking regulations and the lack of parking are what they like least about downtown Nyack. Nearly 60 percent of residents and over two-thirds of merchants rated the availability of parking in downtown as poor or very poor. Of those few merchants who complained about a loss of customers in the past five years, most attributed the cause to parking problems. However, residents and businesses were not so aggravated as to rank parking improvements over other spending priorities. Also, residents and businesses differ as to whether the construction of a garage is the solution to the perceived parking problems. The public submitted comments during the Public Hearing process suggesting that the Village Board consider reconciling a recent parking study commissioned by the Village Board with the language of the Comprehensive Master Plan. This issue may warrant further more detailed analysis. Strengthen regulations for bars and outdoor dining to address concerns such as noise, crime and proximity to residences. Nyack increasingly has become a nightlife destination for Rockland County and nearby areas. While bar and restaurant patrons generally are responsible and add to downtown's vitality and economic health, there are impacts on adjacent areas from rowdy patrons as well as increased traffic and parking demand. Noise is a particular concern where bars*

are located in proximity to residential uses. Zoning regulations should be tightened to address these concerns.

While there is no one solution to this problem, options that should be considered include: (1) modifying closing hours, (2) restricting access of new patrons to bars after a certain time, (3) enacting clustering or spacing requirements, and (4) providing increased enforcement of “nuisance” offenses in the late night and early morning hours. Page 22CMP

The Nyack Destination Parking Study found that there are 280 curbside parking spaces, and a demand for 355 spaces. The goal should be to increase on-street parking by 75 spaces. It is stated goal of the Comprehensive Master Plan is to advance business interests in the downtown, especially on lower Main Street and the feeder streets off Broadway. It is another stated goal of the CMP to enhance the mixed-use character of downtown and to maintain a diverse mixes of land use.

In this case, the owner testified that the wine bar is only going to be open between 5 PM and Midnight-- and sell only wine and beer and light snacks. Total capacity of the bar to be 20 people -- one employee. No Sidewalk permit. The upstairs is residential.

Member Keene moves (Second by Klose) to make a positive recommendation to the ZBA to grant the requested two (2) additional parking space variance and permit the temporary change of use from Retail Hair Salon to Wine Bar, provided however, that the ZBA consider such conditions as might reasonable under the circumstances, including the condition that the variance (agreed to by the Applicant), be limited to the Applicant's establishment of a wine bar use at the premises serving food and beverages between the hours of 5 pm and 12 pm; requiring the Applicant to return to the Planning and Zoning Board to renew the variance upon each change of use, and stating that the variance will otherwise lapse or expire upon any change of use. Klose second-- 5-0-- Vote to recommend the requested variance, subject to the conditions above stated.

8. 400 High Avenue. Kerry Wellington for WY Management. Property is in Manufacturing (M) Zoning District. Proposed site plan application to demolish portion of existing building and construct a multi story hotel, a subdivision application to merge separate parcels comprising proposed site plan and recommendation to Zoning Board of Appeals. Hotel is a permitted use in the M district by a Special Use Permit from the Zoning Board of Appeals. 132 room hotel, and 400 High Avenue. Kerry Wellington for KY Management. Property is in Manufacturing (M) Zoning District. Continuation of site plan application to demolish portion of existing building and construct a multi story hotel, a subdivision application to merge separate parcels comprising proposed site plan

SUBDIVISION APPLICATION Proposal is to combine several parcels of land residing in both the town of Orangetown and the Town of Clarkstown which comprise the property at 400 High Avenue. Article V VON§360-5.8C(2) provides a comprehensive list of Preliminary Plat items to be supplied on preliminary plat-some of which, including the following items, do not appear to be there:

1. Exact boundary lines of zoning district. [ADDED].

2. Location of existing sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow. [PART OF THE SITE PLAN]

3. Approximate locations and size of all proposed water lines, valves and hydrants and sewer lines and fire alarm boxes; connections to existing lines or alternate means of water supply.

[ALL OF THESE HAVE BEEN SHOWN on Site plan C-201-- revised 4-19-03].

4. A title abstract, and a municipal violations report indicating that the premises are free from violations. [Title Abstract submitted].

5. Storm drainage plan indicating the approximate location, size, type of storm drains and their proposed lines and profiles. Connection to existing lines or alternate means of disposal [shown on Site plan c-201]. THE NOTES ON THE SITE PLAN AND SUB-DIVISION PLAN CROSS REFERENCE AND ARE TO BE READ TOGETHER.

6. Plans for sanitary sewers, connections to existing lines or alternate means of treatment and disposal [shown on Site plan c-201]. TO BE READ TOGETHER

Final subdivision plat approval requirements are found in VON§360-5.8D. Of particular interest with this application will be 360-5.8D(3)(e) and the status of sewer connection requirements with the Orangetown Sewer District. Applicant has proposed to make all updates to sewer lines as requested by sewer district.

Howard Dean-- working with the Town Sewer Connections shall be in condition with the Town of Orangetown-- Condition of Certificate of Occupancy-- be resolved.

Sub-division is to combine (and otherwise define) the various lots so that there are clear tax lots between the towns -- two parcels, two different lots.

Condition of Site plan the Applicant will defend and indemnify the Village of Nyack from the NYS Thruway Authority to deal with the title to the various parcels along the edge of the Thruway right of way.

Sewer Agreement between the Town and the Applicant -- signed agreement prior to issuance of Note number 5 (c) on the resolution it will Note 6.

Subdivision Application fees have been paid.

All fees must be paid in full prior to final plat being executed by the Chairman of the Planning Board.

Zoning Board of Appeals granted Special Use Permit and all area variances requested on April 29, 2013.

Outstanding Adler traffic consultant fees still to be paid-- dispute with Adler-- review the invoices and resolve that- asking for justification on the hours.

Orangetown Assessors Office regarding the disposition of certain properties combined in the proposed subdivision. AGREEMENT TO BE PART OF CONDITIONS.

The subdivider shall discuss the requirements for street improvements, drainage, sewage, water supply, fire protection and similar aspects, as well as the availability of existing services and other pertinent information.

Criteria. The Planning Board HAS STUDIED the practicability of the proposed subdivision plat, taking into consideration the requirements of the community, arrangement, location and width of streets; preservation of view corridors to the Hudson River sewage disposal; drainage; lot sizes and arrangement; the future development of adjoining lands as yet unsubdivided; neighborhood traffic patterns; and the requirements of the Master Plan, the Official Zoning Map and the zoning laws

Comments have been received from Rockland County Planning Department; Rockland County Highway Department; Rockland County Drainage Agency; NYSDOT; NYSDEC; municipalities located within 1,000 feet of the proposed subdivision; New York State Thruway Authority; Rockland County Health Department).

The sub-division and Site Plan have been double tracked throughout the process.

NOTES

Applicant by Dennis Michaels- attorney for the applicant WY Wellington Yanko-- Steve Silverburg for SEQRA; Joseph Siegel; Hans Erenberger; Steven Drye, Joe Motiferri (landscape) John Meyer consulting-- (traffic)-- Steve Grogg, McLaren Engineering.

Public--

No Public comments-- this has been one of the least controversial matters.

BOARD-- interspersed above.

Motion to close the public hearing -- by Klose, second by Jean Gilles 5-0- hearing closed.

Klose moves to approve Site Plan and Sub-Division Application, and grant approvals based upon all of the documentation and under the terms and conditions of a written resolution the sum and substance of which has been read in the Planning Board meeting tonight, and subject to a written resolution to be signed by the chairman upon its completion by the Planner, and specifically permit the Chairman to Sign on behalf of the Board. (Second Voletsky-- Approved 5-0).

**RESOLUTION
VILLAGE OF NYACK PLANNING BOARD
Adopted May 6, 2013**

RE: 400 High Avenue, NYLO Hotel - Resolution of Site Plan Approval

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

WHEREAS, a site plan application has been made to the Planning Board of the Village of Nyack ("Planning Board") by WY Management, LLC (the "Applicant"), to demolish an existing building and construct a four story hotel at the premises known as 400 High Avenue, Nyack, NY, being comprised of several parcels of land totaling approximately 2.77 acres, and identified on the tax maps of the Town of Orangetown as Section 65.28, Block 2, Lot 2 and Lot 11, and on the Town of Clarkstown tax maps as Section 65.27, Block 1, Lot 27; and

WHEREAS, the Applicant is located at 400 High Avenue, within the M Manufacturing 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 February 4, 2013, 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 March 4, 2013 to consider the proposed action's environmental impacts; and

WHEREAS, on or about February 4, 2013, March 4, 2013, April 1, 2013 and May 6, 2013 the Planning Board held duly advertised public hearings on the application, accepting all public comment, and reviewing, inter alia, the following documentation submitted by the Applicant, interested and involved agencies, and reviewed by various consultants retained by the Village:

Drawings

- Architectural and Engineering Plans entitled "*Nyack Hotel Survey*", prepared by Environetics, dated 9/20/13.
- Nyack Hotel Survey prepared by Landmetrics, dated 9/20/13.
- Drawing C-100 "*Overall Site Plan, NYLO Hotel*", prepared by McLaren Engineering Group dated 1/2/13 and revised 4/19/13.
- Drawing C-101 "*Site Plan*", prepared by McLaren Engineering Group dated 1/2/13 and revised 4/19/13.

- Drawing L-100 “*Landscaping Plan, NYLO Hotel*”, prepared by Environetics Group Architects and JMC, John Meyer Consulting dated 1/30/13 and revised 3/14/13.
- Drawing C-201 “*Grading and Utility Plan*”, prepared by McLaren Engineering Group dated 1/2/13 and revised 4/19/13.
- Drawing C-401 “*Erosion and Sediment Plan*”, prepared by 1/2/13.
- Drawing C-501 “*Sediment and Erosion Control Details*”, prepared by McLaren Engineering Group dated 1/2/13.
- Drawing C-502 “*Details*”, prepared by McLaren Engineering Group dated 1/2/13 and revised 3/14/13.
- Drawing C-502 “*Details*”, prepared by McLaren Engineering Group dated 1/2/13 and revised 4/19/13.
- Subdivision Plat prepared by Landmetrics dated 3/14/13 and revised 4/19/13.

Environmental Forms

- Coastal Assessment Form (“CAF”) dated January 3, 2013 and revised March 19, 2013.
- Long-Form Environmental Assessment Form (“EAF”) dated January 2, 2013 and revised March 15, 2013.
- Environmental Assessment Form, Part 3, NYLO Hotel, prepared by McLaren Engineering Group for WY Management, LLC dated January 2013 and revised March 12, 2013.

Correspondence

- County of Rockland Department of Planning, GML Review: NYLO Hotel, Letter to the Village of Nyack Planning Board from Thomas Vanderbeek, PE, Commissioner of Planning, February 25, 2013.
- County of Rockland Department of Planning, GML Review: NYLO Hotel, Letter to the Village of Nyack Zoning Board of Appeals from Thomas Vanderbeek, PE, Commissioner of Planning, February 25, 2013.
- Rockland County Department of Health, Letter to Village of Nyack Planning Board from Scott McKane, PE, Senior Public Health Engineer, February 4, 2013.
- New York State Thruway Authority, Letter to Village of Nyack Planning Board from Kristen Resnikoff, Division Capital Program Manager, February 18, 2013.
- County of Rockland Drainage Agency, Letter to Village of Nyack Planning Board from Vincent Altieri, February 25, 2013.
- Town of Clarkstown Department of Planning, Letter to Village of Nyack Planning Board from Shirley Thormann, Chairwomen of Planning Board, March 5, 2013.

- County of Rockland Department of Highways, Letter to Village of Nyack Planning Board from Sonny Lin, PE, February 11, 2013.
- Department of Environmental Management and Engineering, Town of Orangetown, Letter to Village of Nyack Planning Board, February 1, 2013.
- New York State DOT, Letter and email to Village of Nyack Planning Board from Mary Jo Russo, Rockland County Permit Engineer, February 8, 2013 and May 1, 2013.
- JMC, John Meyer Consulting, Memorandum Addressing the Concerns Raised in the Adler Consulting Comment on Traffic and Parking Studies, prepared by Richard J. Pearson, April 17, 2013.

Reports/Memorandums

- JMC, John Meyer Consulting, *Traffic Study for NYLO Hotel Nyack*, December 29, 2012.
- JMC, John Meyer Consulting, *Supplemental Traffic Information for the Village of Nyack Planning Board*, February 21, 2013 and revised March 14, 2013.
- JMC, John Meyer Consulting, *Memorandum to Village of Nyack Planning Board: Response to Adler Consulting Comments*, March 14, 2013 and April 17, 2013.
- Bernard Adler, PE, President and Michael O'Rourke, PE, Senior Associate, *Review of JMC Traffic Study, Adler Consulting*, March 4, 2013 and April 1, 2013..
- Michael Mueller, CEO, NYLO, *Parking for NYLO Hotel, Analysis of Parking and Comparable NYLO Properties*, March 7, 2013.
- Eve Mancuso, PE, *Memorandum: Site Plan Review for NYO Hotel, Brooker Engineering*, February 1, 2013.
- Steven L. Grogg, PE, VP, *Stormwater Pollution Prevention Plan (SWPPP) NYLO Hotel*, McLaren Engineering Group, January, 2013.
- Eve Mancuso, *Review of SWPPP for NYLO Hotel*, Brooker Engineering, March 4, 2013.
- Steven L. Grogg, PE, VP, *Memorandum: Response to Brooker Engineering Comments*, McLaren Engineering Group, February 19, 2013 and March 18, 2013.
- Village of Nyack Board of Trustees, *Resolution of Nyack Village Board to Obtain Real Property by QuitClaim Deed and to Convey Real Property by QuitClaim Deed*, February 28, 2013.
- Robert Galvin, AICP, Village Planner, Nyack, *LWRP Consistency Recommendation for NYLO Hotel*, April 1, 2013; and

WHEREAS, on or about March 14, 2013, the Village of Nyack Planning Board provided the Town of Clarkstown with Supplemental Traffic Information for additional traffic count information prepared by JMC Consulting as of March 14, 2013 as requested by the Town of Clarkstown Planning Board. The Town of Clarkstown did not provide further comment nor request additional information; and

WHEREAS, on or about April 1, 2013, 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 and 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, the Planning Board after reviewing the Coastal Assessment Form and supplemental material as well as a memo from the Village Planner dated April 1, 2013 and a positive recommendation from the Village Board of Trustees determined on April 1, 2013, that the Project is consistent with the Village's Local Waterfront Revitalization Program ("LWRP") pursuant to Chapter 342 of the Village Code, and

WHEREAS, on or about April 29, 2013, the Village of Nyack Zoning Board of Appeals resolved to grant the Special Use permit and area variances required to proceed with the project, 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 will conform to the requirements of the Village Code; and

WHEREAS, the Applicant has satisfactorily addressed those comments from the Village's Consultants; and

WHEREAS, in considering the site development plan for any particular use, the Planning Board has given specific consideration to the design of the following:

- (1) Traffic access: parking, traffic flow, emergency access, etc.
We have studied, negotiated, reviewed and considered various attributes of this design plan, including extensive parking, traffic, and flow reviews by the Applicant's consultants, the Village consultants, including Adler Consulting and Brooker Engineering, and received reports from local fire and building inspectors to consider whether the emergency access to this location and traffic flow will be conducive to this project and the Village. Although various issues have arisen about width of the right of way, signage, and other parking specific questions,

we believe the Applicant has competently solved all of the issues presented and raised by effectively planning these elements.

As modified above, the Site Plan that calls for one way flow to parking attended spaces are adequate but not excessive in number; adequate in width, grade, alignment and visibility; not located too near street corners or other places of public assembly; provide for safe and adequate pedestrian access to and from the site and do not curtail safe and adequate pedestrian access or circulation on adjacent lots; and other similar safety considerations.

(2) Circulation and parking.

We have considered the off-street parking and loading spaces and negotiated the design so as to prevent parking in public streets at times of heightened use, have requested the use of shuttle buses and parking agreements at times of high volume, and the Applicant has agreed to such mitigating measures to encourage the orderly and safe flow of both on the interior circulation system and to any off-street parking.

(3) Landscaping and screening.

The facilities, including green infrastructure developments, snow removal, utility and garbage screening, bike storage, and other parking and service areas are reasonably screened at all seasons of the year from the view of adjacent lots and streets and that the general landscaping of the site is in character with that generally prevailing in the neighborhood. Preservation of existing trees over 12 inches in diameter will be attained to the maximum extent possible, and as many as 50-75 additional trees will be planted to soften this presently industrial type site.

(5) Utilities: that all utilities, including electric service, shall be underground.

(6) Although this building has been granted a height variance, we have decided that the increased height will not interfere with adjacent properties, and will be designed to reasonably preserve and maintain view corridors and sight lines (particularly Hudson River views) throughout the commercial zones in the Village of Nyack.

NOW, THEREFORE, BE IT RESOLVED that the Site Plan and Subdivision Plat application submitted by WY Management, LLC to demolish an existing building and construct a four story hotel at the premises known as 400 High 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 will construct and be responsible for the maintenance of the approximately 15 foot wide landscaped island along Cemetery Lane.

2. Applicant will share in the 50/50 construction of a 4 – 5 foot sidewalk along the eastern side of High Street between Cemetery Lane and High Avenue. (The Village will establish the ROW based on surveys and attempt to obtain sidewalk easements for the owners of the property affected.)

3. Any conditions related to traffic access imposed by NYS DOT shall be met with the approval of the Village of Nyack and NYS DOT, as may be required:

- The Applicant will complete striping improvements on High Avenue east of Polhemus Street to provide a separate left turn lane along the westbound High Avenue. It is understood that this improvement will eliminate not more than one parking space on the north side of High Avenue and not more than three parking spaces on the south side of High Avenue.
- The Applicant's engineer will submit timing changes to NYS DOT and review potential implementation with NYS DOT for the signals at the following intersections:
 - a- High Avenue and Route 9W
 - b- Route 9W and Route 59
- The Applicant's engineer will recommend to the Village an extension of the existing raised concrete median approximately 32 feet eastward toward the Village downtown and discuss with the Village and NYS DOT the implementation of the recommended improvement.
- Applicant will address any other NYSDOT comments to the satisfaction of that Department and the Village Building Department.
- Applicant will address any other fire department concerns regarding the fire department access and circulation.

4. Applicant shall provide the Village Clerk with copies of the recorded deed for the property exchanged with the Village of Nyack on the north portion of the site; provide the Village Clerk with written proof of the merger of the various parcels on the site so that single parcels of land exist in Orangetown and Clarkstown as shown on the subdivision plat; that Applicant shall provide, in form approved by the Village Attorney, a hold harmless agreement in favor of the Village of Nyack providing that the Applicant shall defend, indemnify and hold harmless the Village of Nyack from all claims made relating to the premises by New York State or the New York State Thruway Authority relating for any interest or property rights to any of the land shown on the Applicant's Site Plan and Subdivision Plat. This condition relates to the unusual state of title of a portion of the premises shown on the Applicant's Site Plan and underlying documentation.

5. Applicant shall include Notes on all applicable plans and specifications that will require that all utilities, including electric service, shall be underground.

6. Applicant will enclose all electric generators and return to the Building Department or the Planning Board, if and when any future improvements are contemplated for the Electrical Backup Generators that will be supplied for the Hotel.

7. Prior to a building permit being issued:

a. structural calculations and details shall be submitted to the Building Department for review for the proposed concrete retaining wall; and

b. all consultant fees shall be paid by the Applicant incurred in the Planning Board's review of this site plan; and

8. Prior to a Certificate of Occupancy being issued:

a. Applicant will produce a signed agreement between the Applicant and the Town of Orangetown as to the status and responsibility for the required connection with the Town of Orangetown sewer. No Certificates of Occupancy will be issued until this issue is addressed to the satisfaction of the Village Attorney and the Building Department.

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 25, 2013, have been accepted except that the Planning Board overrides the following recommendations:

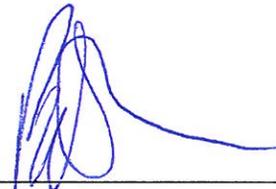
1. Paragraphs #2 and #31 of February 25, 2013 letter, to the extent that are superseded by the approval granted herein, are done so for the reason that the Planning Board has required as a condition of approval that the Applicant merge all existing tax lots so that single lots exist the Towns of Orangetown 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. More specifically, the addition of a left turn lane from High Avenue to Polhemus Street, and potential striping, and barrier modifications near the site will help mitigate the traffic impact of the project.

VOTE: 5 - 0

Ayes: Klose, Englander, Keene, Jean-Gilles and Voletsky
Nays: None

PLANNING BOARD
Village of Nyack



Peter Klose, Chairman

Date: May 6, 2013