

RESOLUTION

LIGHTHOUSE PLEASANTVILLE, LLC –  
1 VANDERBILT AVENUE, 52 DEPEW STREET

APPLICATION FOR PRELIMINARY AND FINAL SUBDIVISION, SITE PLAN,  
SPECIAL PERMIT, AND WETLANDS PERMIT APPROVAL

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

WHEREAS, Lighthouse Pleasantville, LLC has submitted an application to the Planning Commission of the Village of Pleasantville for approval of a Subdivision (lot merger), Site Plan, Special Permit, and Wetlands Permit pertaining to a property approximately 1.04 acres in area as depicted on a plan labeled Sheet SD-101, “Site Layout Plan,” last revised 3/13/20, prepared by Papp Architects, P.C., said properties being known as tax lots 106.5-2-1, 2 and 4 on the Village of Pleasantville tax assessment maps and are located at 52 Depew Street and 1 Vanderbilt Avenue within the Central Business A-1 zoning district (the “Site”); and

WHEREAS, the Proposed Action consists of Subdivision, Site Plan, Special Permit and Wetland Permit Approval to construct a 71-unit residential building with associated improvements including 104 parking spaces (the “Project”); and

WHEREAS, in connection with the current application the Applicant has submitted the following materials, among others, for the Planning Commission's review:

- Application for Site Plan dated January 29, 2019;
- Application for Subdivision dated January 29, 2019;
- Full Environmental Assessment Form (Part 1) last revised June 5, 2019;
- A Wetlands Permit Report prepared by Thomas B. Olley, P.E., P.L.L.C., dated March 18, 2019;
- A Traffic Impact Study prepared by Provident Design Engineering, dated January 8, 2019, last revised May 20, 2019;
- Response to Village Planning Commission Traffic Comments prepared by Provident Design Engineering dated September 3, 2019;
- Supplement Traffic Counts prepared by Provident Design Engineering, dated September 19, 2019;

- Wetland Report prepared by Ecological Solutions, LLC dated June 28, 2019, last revised September 4, 2019;
- A Stormwater Pollution Prevention Plan prepared by Bowman Consulting, dated January 18, 2019, last revised January 29, 2020;
- A set of plans generally entitled “Proposed Mixed Use Development 1 Vanderbilt Avenue” prepared by Papp Architects, P.C.:
  - Sheet SD-001, “Site Development Data,” last revised 3/13/20;
  - Sheet SV-1, “Survey of Property for Lighthouse Enterprises, LLC,” dated 11/15/17;
  - Sheet SD-100, “Site Demolition Plan,” last revised 1/27/20;
  - Sheet SD-101, “Site Layout Plan,” last revised 3/13/20;
  - Sheet SD-102, “Site Landscaping Plan,” last revised 3/13/20;
  - Sheet SD-103, “Site Lighting Plan,” last revised 1/16/20;
  - Sheet SD-401, “Floor Plans,” last revised 2/17/20;
  - Sheet SD-402, “Building Sections,” last revised 1/16/20;
  - Sheet SD-403, “Elevations,” last revised 1/16/20;
  - Sheet SD-501, “Site Details,” last revised 11/27/19.
- A set of architectural renderings generally entitled, “1 Vanderbilt Avenue,” prepared by Papp Architects, P.C., dated February 12, 2020:
  - “Site Plan;”
  - “Site Plan with Roof;”
  - “North and West Elevations;”
  - “South and East Elevations;”
  - “View from Depew Street Looking North;”
  - “View from Saw Mill River Parkway Looking South;”
  - “View from Saw Mill River Parkway Looking North.”
- A set of Engineering plans generally entitled “Proposed Multi-family and Commercial Building 1 Vanderbilt Avenue,” prepared by Bowman Consulting:
  - Sheet C-1, “Grading and Utility Plan,” last revised 2/17/20;
  - Sheet C-2, “Soil Erosion & Sediment Control Plan,” last revised 2/17/20;
  - Sheet C-3, “Construction Details,” last revised 2/17/19;
  - Sheet C-4, “Construction Details,” last revised 2/17/19.
- A Subdivision Plat entitled, “Merger & Re-Appportionment Map prepared for Lighthouse Pleasantville LLC” prepared by Ward Carpenter Engineers, Inc., dated 2/22/20; and

WHEREAS, the Site will be excavated to remove and remediate the impacted soils associated with the prior use of the Site as an auto-related business as part of the New York State Department of Environmental Conservation (NYSDEC) Brownfield Cleanup Program. All work will be performed in accordance with a Remedial Action Work plan approved by NYSDEC for the cleanup; and

WHEREAS, the Westchester County Department of Planning has reviewed the Application pursuant to the provisions of Sections 239 L, M, and N of the General Municipal Law and Section 277.61 of the County Administrative Code, and has determined, in a letter dated August 9, 2019, that the Project is consistent with the County Planning Board's long-range planning policies, as set forth in *Westchester 2025 – Context for County and Municipal Planning and Policies to Guide County Planning*, and its recommended strategies set forth in *Patterns for Westchester: The Land and the People*, because the Project will direct new development to an existing center where infrastructure can support growth, where public transportation can be provided efficiently, and where redevelopment can enhance economic vitality; and

WHEREAS, during the course of its review, the Planning Commission raised concerns that the design and architecture of the originally proposed building was too contemporary and felt very different from the adjacent residences and was inconsistent with the predominant character of the neighborhood; and

WHEREAS, the Applicant redesigned the building to a row house concept with clapboard siding, raised panels, cornice lines, white mineral fiber with batons to make it look like wood, the top floor was pulled back twelve (12) feet at the corner with the addition of a pergola, and the rooftop mechanical equipment behind the parapet resulting in the building being more compatible with the predominant character of the existing neighborhood; and

WHEREAS, during the course of its review, the Planning Commission reviewed the traffic analysis memoranda and finds that the additional traffic resulting from the Project will not have a significant impact and can be mitigated through the installation of traffic signage for the restriction of left turns into Depew Street from Grant Street; and

WHEREAS, the Applicant has offered to fund an escrow account for the purposes of police enforcement of the turning restriction at the intersection of Grant Street and Depew Street during AM and PM peak hours for a period of time following substantial occupancy of the building; and

WHEREAS, the Applicant is seeking relief from the requirements of Section 182-6 to allow a portion of the building, the outdoor permeable parking area, a portion of the stormwater infiltration planter and earthwork associated with remediation of the site to encroach into the wetland buffer which are prohibited activities in accordance with Section 182-6 of the Village Wetlands Law unless the Planning Commission finds pursuant to

Section 182-9 that, because of the special circumstances of a particular case, an extraordinary hardship may result from strict compliance with the provisions of the Village Wetlands Law in which case the Planning Commission may adjust the provisions of the Village Wetlands Law so that substantial justice may be done and the public interest secured; and

WHEREAS, during the course of its review, the Planning Commission raised concerns about the portion of the proposed building and parking area within the wetland buffer; and

WHEREAS, as originally proposed, 1,815 square feet of the building and 735 square feet of the permeable parking area were located within the wetland buffer; and

WHEREAS, the Applicant revised the footprint of the building to reduce the encroachment into the wetland buffer from 1,815 square feet to 31 square feet and reduced the permeable parking area from 735 square feet to 309 square feet; and

WHEREAS, during the course of its review, the Planning Commission raised concerns regarding adequate screening of the building from the Saw Mill River Parkway; and

WHEREAS, the Applicant has revised the site plans to include additional evergreen plantings and the use of taller Spruce trees as screening between the parking lot and Saw Mill River Parkway; and

WHEREAS, the Planning Commission determined that the Proposed Action is an Unlisted Action with respect to the New York State Environmental Quality Review Act (SEQRA); and

WHEREAS, on November 20, 2019, the Planning Commission, serving as Lead Agency, adopted a Negative Declaration under SEQRA, finding that the proposed Project will not have a significant adverse effect on the environment, based on the criteria listing in 6 NYCRR Section 617.7(c), including the Full Environmental Assessment Form, the Application, and all materials submitted by the Applicant relating thereto, as well as comments from Involved and Interested Agencies, Village staff, Village consultants, and the public; and

WHEREAS, on January 2, 2020, the Village of Pleasantville Zoning Board of Appeals approved an area variance from the criteria of § 185-19.C.(5) “Uses subject to special permit” of the Village Zoning Law, allowing the Applicant to have a zero-foot depth of commercial space where a depth of fifty (50) feet is required; and

WHEREAS, a duly advertised public hearing on the application was held by the Planning Commission on February 12, 2020 at the Village Hall, 80 Wheeler Avenue,

Pleasantville, New York, at which times all those wishing to be heard were given an opportunity to be heard; and

WHEREAS, on February 12, 2020, on motion by Mr. Leyva, seconded by Mr. Myrick and carried, the public hearing on said application was closed; and

WHEREAS, on February 26, 2020, on motion by Mr. Myrick, seconded by Mr. MacDonald, the Planning Commission cast votes on a Resolution approving the Project which resulted in a tie of 3 in favor and 3 against; and

WHEREAS, under New York State law a tie vote on an application of original jurisdiction results in a non-action; and

WHEREAS, as referenced herein, the Applicant submitted revised plans which are the subject of this Resolution; and

WHEREAS, the Village Superintendent of Public Works reviewed the stormwater designs and calculations and determined that they are acceptable; and

WHEREAS, in granting an special permit to allow residential use on the first floor in accordance with the provisions of § 185-19.C.(5), the Planning Commission has determined the following:

1. All proposed structures, equipment and material are readily accessible for fire and police protection;
2. The proposed use is of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties, in accordance with the zoning classification of such properties;
3. The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets will be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to or incongruous with the district or conflict with the normal traffic of the neighborhood;
4. The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of screening and landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof; and

WHEREAS, the Planning Commission is familiar with and has inspected the

premises; and

WHEREAS, the Planning Commission has carefully considered all of the comments raised by the public and other interested agencies, organizations and officials, including those presented at the meetings of the Commission; and

WHEREAS, the Planning Commission has determined that the proposed addition of seventy-one (71) new residential units will contribute to the existing unmet need for additional park and recreational facilities in the Village, which need cannot be met on the subject site in accordance with the provisions of § 159-24A(4) of the Code of the Village of Pleasantville given its size and characteristics, and on that basis, has determined that the best interests of the Village and future residents of the proposed subdivision will be better served by requiring a cash payment to be earmarked for park, playground and/or other recreational purposes; and

WHEREAS, under the Village Law the approval of said application for Site Plan approval by this Planning Commission does not affect the power of the Village to change zoning regulations, nor act as an assurance of the granting of any building permits; and

WHEREAS, pursuant to Chapter 159 of the Village Code, the Planning Commission has reviewed the Subdivision Plat in accordance with the design standards set forth in Article V of such Chapter, and has determined that the Subdivision Plat is consistent with the requirements set forth therein as the Project represents an orderly, efficient and economic redevelopment of the Site.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission hereby grants Preliminary Subdivision Plat Approval to the Project as herein defined.

BE IT FURTHER RESOLVED, that the Planning Commission hereby waives the Public Hearing on the Final Subdivision Plat because the Final Subdivision Plat is in substantial conformance with the Preliminary Subdivision Plat.

BE IT FURTHER RESOLVED, that the Planning Commission hereby grants Final Subdivision Plat Approval to the Project which consists of the consolidation of three (3) existing tax lots into one (1) tax lot, as herein defined and as shown on the subdivision plat entitled “Merger & Re-Appportionment Map prepared for Lighthouse Pleasantville LLC” prepared by Ward Carpenter Engineers, Inc., dated 2/22/20, subject to the following conditions and modifications which must be satisfied prior to the signing of the Final Subdivision Plat by the Chairman of the Planning Commission:

- a. All references to “the Applicant” shall include the Applicant’s successors and assigns.
- b. The preparation and submission to the Village of Pleasantville, subject to the approval of the Village of Pleasantville Building Inspector and the Village of

Pleasantville Superintendent of Public Works, of a plat in final form suitable for filing, to be signed by the Planning Commission Chairman within one hundred eighty (180) days of the date of this resolution granting conditional final subdivision plat approval, showing all items of information enumerated in §§A-1 and A-3 of Appendix A of Village Code Chapter 159. Ninety (90)-day extensions may be granted by the Planning Commission provided that the Applicant makes application to the Planning Commission not less than thirty (30) days prior to the expiration of the original approval. A request for an extension of time to submit a final plat must include information regarding the date that the Planning Commission granted final subdivision approval and a statement as to whether any prior application for extension of time had been made by the Applicant and the action taken by the Planning Commission on such application. The Applicant shall file the Final Subdivision Plat in the Office of the Westchester County Clerk no less than sixty-two (62) days after the Final Subdivision Plat has been signed by the Planning Commission Chairman. The Applicant shall submit five (5) copies of the filed Final Subdivision Plat with proof of filing to the Building Inspector within 30 days of the date of filing.

- c. The Applicant shall secure approval and endorsement of the subdivision plat by the Westchester County Department of Health. A copy of the plan containing the endorsement of the Westchester County Department of Health shall be submitted to the Village Building Inspector prior to the signing of the final subdivision plat.
- d. Payment of all fees for the cost of engineering, planning, environmental or other technical services required in connection with the review of this application shall be required.
- e. Except as otherwise provided herein, all agreements that are intended to be recorded in the office of the Westchester County Clerk shall be recorded simultaneously with the filing of the final subdivision plat.
- f. Prior to the filing of the final subdivision plat with the Village of Pleasantville, the Applicant shall furnish a certificate from the tax collecting officer of the Village of Pleasantville stating that all taxes levied and, in addition, all taxes that are a lien against the property, have been paid.
- g. Prior to the signing of the Final Subdivision Plat by the Planning Commission Chairman, the Applicant shall submit for review by the Village Attorney as to form pursuant to Sections 153-9.B and 153.9.D, a Stormwater Control Facility Maintenance and Easement Agreement.

- h. Compliance with all applicable local laws and ordinances of the Village of Pleasantville and any conditions attached to the permits issued thereunder; and

BE IT FURTHER RESOLVED, that if said conditions be not fully complied with within the above time limit, that said preliminary subdivision plat and final subdivision plat shall be disapproved.

BE IT FURTHER RESOLVED, that the Planning Commission hereby grants Site Plan and Special Permit Approval to the Project, as shown on the Site Plan Drawings and other application materials enumerated above, subject to compliance with the following conditions and any other requirements which must be met by law:

- A. Prior to the signing of the Site Plan Drawings by the Planning Commission Chairman, the following conditions shall be fulfilled to the satisfaction of the Planning Commission:
  - 1. Compliance with all applicable local laws and ordinances of the Village of Pleasantville and any conditions attached to the permits issued thereunder.
  - 2. Proof of filing of the approved Subdivision Plat with the Westchester County Clerk.
  - 3. The Applicant shall pay all outstanding consultant review fees in connection with the Planning Commission's review of this Application.
- B. Prior to the issuance of a Building Permit or Street Opening Permit, the following conditions shall be fulfilled to the satisfaction of the Village Building Inspector and/or the Village Superintendent of Public Works:
  - 1. The Applicant shall submit an estimated cost for construction of all required public improvements to be reviewed and approved by the Village Building Inspector and/or Village Engineer.
  - 2. Pursuant to Sections 159-14 and 185-50.F(10) of the Village Code, the Applicant shall provide a performance bond, letter of credit or other security in a form acceptable to the Village Attorneys and approved by the Village Board in an amount as determined by the Village Building Inspector and/or Village Engineer as sufficient to secure to the Village the satisfactory construction, installation and completion of the required public improvements, and roadways, water and sewer facilities, drainage and erosion controls and soil stabilization improvements, as applicable.

3. Pursuant to Section 159-15.C of the Village Code, the Applicant shall submit an inspection fee in an amount set forth in the Village Master Fee Schedule.
4. The lighting plan shall be coordinated with Metro-North Railroad to ensure that the railroad is not negatively impacted by the additional lighting in the area. Proof of acceptance of the lighting plan shall be submitted to the Village Building Inspector.
5. Entry permits shall be obtained from Metro-North Railroad for the construction due to the proximity of the building to the Metro-North tracks. Approval of a Site Management Plan shall be obtained from the Environmental Compliance Department of Metro-North Railroad. The Site Management Plan shall also be approved by the Village Building Inspector and the Village Superintendent of Public Works.
6. The water main trench detail shall be revised to show “k-crete” backfill to the satisfaction of the Village of Pleasantville Superintendent of Public Works.
7. The submission of final construction drawings showing all items of information enumerated in §A-4 of Appendix A of Village Code Chapter 159.
8. The Planning Commission determines that the proposed addition of seventy-one (71) new residential units will contribute to the existing unmet need for additional park and recreational facilities in the Village, which need cannot be met on the subject site in accordance with the provisions of § 159-24A(4) of the Code of the Village of Pleasantville given its size and characteristics, and on that basis, has determined that the best interests of the Village and future residents of the proposed subdivision will be better served by requiring a cash payment to be earmarked for park, playground and/or other recreational purposes. Prior to the issuance of a building permit, the Applicant shall submit payment of the recreation fee to the Village of Pleasantville in an amount as set forth on the Village of Pleasantville Master Fee Schedule.
9. Ten percent (10%) of the seventy-one apartment units, or seven (7) units shall be designated as affordable pursuant to the requirements of Section 185-44 of the Village Zoning Law for a period of no less than fifty(50) years, and such affordable units shall be dispersed throughout the building, shall be distributed among various sizes (studio, one- and two-bedroom units) in the same proportion as all other units in the development, and shall not be distinguishable from other units when viewed from the exterior. Prior to the issuance of a Building Permit, the Applicant shall submit, pursuant to Section 185-44.D of the Village Zoning Law, a mechanism such as a declaration of restrictive covenants in recordable form acceptable to the Village Attorney

which shall ensure that the affordable units shall remain subject to affordable regulations for the minimum fifty-year period of affordability and shall contain such other provisions as are required by Section 185-44 of the Village Zoning Law. Such mechanism shall be recorded in the Westchester County Clerk's Office and proof of such recording submitted to the Village Building Inspector prior to the issuance of the first Certificate of Occupancy for the Project.

10. Prior to the issuance of a Building Permit, the Applicant shall record the aforementioned Stormwater Control Facility Maintenance and Easement Agreement in an approved form in the Westchester County Clerk's Office and submit proof of recording to the Village Building Inspector.
  11. The Applicant shall pay all outstanding consultant review fees in connection with the Planning Commission's review of this Application.
- C. The Applicant agrees that prior to the issuance of the first Certificate of Occupancy, the Applicant shall submit to the Village payment of \$7,000 to fund an escrow account for the purposes of police enforcement of the turning restriction at the intersection of Grant Street and Depew Street. Subject to police officer availability as determined in the sole discretion of the Village of Pleasantville Police Department, enforcement will take place as directed by the Village Police Department targeting the AM and PM peak hours (7:15AM-8:15AM; 5:00PM-6:00PM) three (3) weekdays per week for the period commencing upon 75% occupancy of the building (54 units) and continuing for one (1) month thereafter ("Police Enforcement Period"). Any unexpended funds shall be returned to the Applicant upon the expiration of the Police Enforcement Period. In the event the building does not become 75% occupied within a period of three (3) years following the issuance of the first Certificate of Occupancy the escrow funds shall be returned to the Applicant.
- D. The following are general conditions which shall be fulfilled:
1. Pursuant to Section 185-50.F(11) of the Code of the Village of Pleasantville, this site plan approval shall expire one hundred and twenty (120) days from the date of signing of the final site plan by the Planning Commission Chairman, unless a building permit has been issued or an extension has been granted by the Planning Commission as permitted by the Village Zoning Law.
  2. Significant deviation, as determined by the Building Inspector, from the Approved Site Plan shall require an Amended Site Plan Review and Approval from the Planning Commission.

3. All landscaping shown on the approved Site Plan shall be maintained in perpetuity in a healthy growing condition. All plants not so maintained shall be replaced with new plants of comparable size and quality at the beginning of the next immediately following growing season.
4. The Applicant shall be responsible for maintaining in perpetuity all stormwater management measure and the permeable pavement as indicated in the approved Site Plan. Such maintenance shall ensure the functionality and effectiveness of all stormwater management measures and permeable pavement are preserved.
5. Prior to the commencement of any construction work, the Applicant shall submit to the Village Building Inspector a construction phasing plan, including plans for the phased installation of soil erosion and sedimentation control measures and a plan for construction supervision. Said construction phasing plan may be amended from time to time as needed, with the approval of the Village Building Inspector.
6. Throughout the construction phase, the Applicant shall maintain compliance with all applicable Village regulations, including but not limited to the Village's noise regulations. The Applicant shall designate a contact person to handle any complaints or concerns from residents within the vicinity of the Site. Said person shall be on-site during construction hours, and a telephone number and/or email address for the contact person shall be made publicly available.
7. Notification shall be sent to New York State Department of Transportation regarding the installation of the "No Left Turn" signs on Grant Street.
8. The Applicant shall pay all outstanding consultant review fees in connection with the Planning Commission's review of this Application.

BE IT FURTHER RESOLVED, regarding the applicant's request for the Planning Commission to exercise its discretion pursuant to Section 182-9 to permit otherwise prohibited activities within the wetland buffer (i.e. a thirty-one (31) square foot portion of the building, the outdoor permeable parking area, a portion of the stormwater infiltration planter and earthwork associated with remediation of the site to encroach into the wetland buffer as shown on the Site Plan Drawings and other application materials enumerated above), the Planning Commission finds that the special circumstances of this particular Project which includes the excavation of the Site to remove and remediate the impacted soils associated with the prior use as an auto-related business as part of the New York State Department of Environmental Conservation (NYSDEC) Brownfield Cleanup Program results in an extraordinary hardship pursuant to Section 182-9 of the Village Wetland Law and hereby adjusts the provisions of the Village Wetlands Law to allow for the above-referenced encroachments into the regulated wetland buffer so that substantial justice may be done and the public interested secured through the environmental remediation of the

Site.

BE IT FURTHER RESOLVED, that based on the findings above, the Planning Commission hereby grants Wetlands Permit Approval to the Project to allow a thirty-one (31) square foot portion of the building, the outdoor permeable parking area, a portion of the stormwater infiltration planter and earthwork associated with remediation of the site to encroach into the wetland buffer as shown on the Site Plan Drawings and other application materials enumerated above.

VOTE:       Ayes –  
              Noes –  
              Abstentions -  
              Absent –

DATE:

CERTIFICATION:

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Russell Klein, Chairman  
Village of Pleasantville Planning Commission