

Planning Board
Village of Tarrytown
Regular Meeting 7 pm
August 28, 2023

PRESENT: Chair Raiselis, Members Friedlander, Aukland, Alt. Member Mezey
Counsel Zaltantis; Village Engineer Pennella; Planner Galvin, Secretary
Meszaros

ABSENT: Member Gaito, Member Mendez-Boyer

Ms. Raiselis called the meeting to order at 7:00 p.m. She announced that the public will be given the opportunity to address the Board on agenda items only. Each speaker will be given 3 minutes during the public comment period. The Board welcomes public written comments emailed to lmesaros@tarrytowngov.com or mailed to the Village of Tarrytown, Planning Dept. - 1 Depot Plaza, Tarrytown, NY 10591, and should be received no later than the Friday before the meeting, in order to be distributed to the Board and the applicant in advance of the meeting.

APPROVAL OF MINUTES - June 26, 2023

Mr. Aukland moved, seconded by Dr. Friedlander, to approve the minutes of the June 26, 2023 meeting, as submitted.

The secretary recorded the vote:

Member Aukland:	Yes (with exception of 23 Browning Lane application minutes due to his recusal)
Member Mezey:	Yes
Chair Raiselis:	Yes
Member Friedlander:	Yes
All in favor. Motion carried. 4 - 0	

APPROVAL OF MINUTES - July 24, 2023

Mr. Aukland moved, seconded by Dr. Friedlander, with Ms. Mezey abstaining, to approve the minutes of the July 24, 2023 meeting, as submitted.

The secretary recorded the vote:

Member Aukland:	Yes
Chair Raiselis:	Yes
Member Friedlander:	Yes
Alt. Member Mezey:	Abstain
All in favor. Motion carried. 3-0	

Mr. Raiselis announced the following adjournment:

First Korean Methodist Church of NY - 500 South Broadway

Site plan approval for the construction of a parking lot with related stormwater and site improvements to include ingress and egress access from properties located at 14 and 18 Walter Street, respectively.

CONTINUATION OF PUBLIC HEARING – Hudson Harbor Station LLC– 29 S Depot Plaza

Ms. Raiselis acknowledged a public comment letter from Paul Stone, a Hudson Harbor resident, which will be reviewed at the next work session.

Mr. Aukland moved, seconded by Dr. Friedlander, to declare the Planning Board as Lead Agency for this unlisted action for the purpose of a SEQRA review.

The secretary recorded the vote:

Member Aukland:	Yes
Member Mezey:	Yes
Chair Raiselis:	Yes
Member Friedlander:	Yes
All in favor. Motion carried.	4-0

George Distefano appeared, representing the applicant, Hudson Harbor Station, LLC. He introduced Daniel Pennessi, ESQ., the applicant's attorney, David Lombardi and Lucille Munz, with JMC Site Development Consultants, the project design engineers and landscape architects, and Veronica Prezioso, the project traffic consultant, with the firm of Kimley Horn. Mr. Distefano briefly went over a PowerPoint Presentation (attached as "Exhibit A" to these minutes), and noted the major points and significant changes that they have made to the site plan since the last submission.

They have revised the plan to make it zoning requirement with respect to the height. They have received a memo from Planner Galvin, on behalf of the Board, regarding specific information that they will need to provide as part of the SEQRA review process and will be submitting responses to each comment.

Based on conversations that the MTA has had with the village staff regarding other potential locations for the Mobility Hub, the location of the hub may be relocated and they will work with MTA and the village to finalize the location. They will also work with the village as they proceed with the traffic circulation study in this area and will continue to work to integrate the Franklin Courts property with their project. They are prepared to begin the Architectural Review process and will like to begin that review process.

With regard to the building height, they have reduced the height to 48 feet and have lowered the parapet, measured from the average grade elevation of +5.24 feet. Mr. Galvin confirmed with Mr. DiStefano that the 48 feet includes the solar panels and condenser units.

Mr. DiStefano showed the artist workshop spaces on the plan which have been revised to count toward the residential program. They are 300 s.f. each and will comply with ADA standards. He showed the additional space added to the art gallery and they believe these changes have made the plan zoning compliant. As a result of the

changes to the artist space, three additional parking spaces will be required, raising the parking requirement from 98 to 101 spaces. Two of these spaces are proposed under the building and one space will be added to the MTA lot, for a total of 33 spaces in that lot. They have also prioritized the pedestrian pathway material at the crosswalks to emphasize the pedestrian connections. They have added a very nice landscape buffer between the Franklin Courts as part of their ongoing discussion with Franklin Courts, which is an improvement to the existing, and they will continue to work with the Courts if they come back with other considerations. Franklin Courts has advised that they do not have any solid plan at the moment to offer any direction.

With regard to the landscaping strip at the southern end, they have updated the plan which consists of a combination of 18-foot sweetgum and 8-foot Juniper, alternating, with a 6-foot private fence.

The MTA is proposing a larger piece of land, closer to the bus stop, to locate the Mobility Hub to integrate it onto the MTA property. If it is moved, they can use the area they proposed as a landscape plaza. They could also keep both locations and are happy to continue the discussion. With regard to the traffic improvements they are unclear about the timeline that the village has but are happy to incorporate the edge of their property as things move forward.

Dr. Friedlander asked about the height of the proposed trees on the southern end. He is still concerned about having a more substantial buffer. Lucille Munz explained that the Junipers will be planted at 8 to 10 feet and will grow to 20 feet. The sweetgum will be planted at 18 feet and will grow to 50 feet, but they grow faster over time. It will take 15 years for full growth. Dr. Friedlander asked if the trees can be planted at a larger height. Ms. Munz explained that the smaller the trees are when planted, allows them more of an opportunity to grow more vigorously. If they are planted taller and in harsh conditions, such as concrete and sidewalk areas in this case, they tend to struggle. The goal is to mitigate the 35 foot height industrial building and the sweetgum will do that. They could propose all sweetgum planted closer together which will create some buffering in the winter. Dr. Friedlander advised that the Norway Spruce by Greystone grew very quickly (in about 8 years or so) and they look very good. He believes that the more you can screen the project from the industrial site will be better for the residents both aesthetically and health-wise. He is concerned that the trees proposed won't grow as fast. Ms. Munz said they are trying to provide trees that are narrow and upright that will thrive not strive, while still providing a view from the higher floor without blocking light coming into the building. It is a balancing act. Dr. Friedlander asked Ms. Raiselis how she felt. Ms. Raiselis commented that sweetgum are beautiful and columnar and will block some in the winter. They are lovely during each season. Ms. Munz believes they are also a nice choice that thrives in harsh conditions. They could add more sweetgum for the height and take out some Juniper if the Board prefers.

Ms. Raiselis asked if anyone in the public would like to comment.

PUBLIC COMMENT PERIOD:

Joyce Lannert, a Hudson Harbor resident, is amazed that the village is moving forward with another project from this same developer. They moved in to Hudson Harbor in May of 2010 and they are still looking at an ugly patch of land and a decaying decrepit building. She asked why anyone consider moving ahead with the same developer when this project is only two thirds complete. The buildings have had serious problems. Terraces had to be replaced and the owners had to pay for half the costs. Hudson View Way is the only building that has not had any problems so far. The Riverhouse façade, in Sleepy Hollow, also built by the same developer, has had to have the façade repaired. The developer has walked away from Hudson Harbor and she asked how this Board is going to cover themselves with this new project. There was talk of requiring a bond for the Cooney Building, but that never happened. She wants the Board to cover themselves and ask for a bond if they are going to continue with the project since the prior project at Hudson Harbor has not been completed.

Evan Norris, a Lookout North resident, said this is Déjà vu all over. Two plus years ago there were equally ambitious plans for the Cooney Building, but nothing has been done. As part of that project, the developer committed to remediating the private roads so that they could be dedicated to the village. At that time, the residents implored this Board, as a condition of approving the plan for the Cooney Building, to require a performance bond to ensure that the roads would be completed. The Board felt that a performance bond was not needed and imposed a condition that a certificate of occupancy for the Cooney Building would not be issued until the roads were completed. Two years later, the Cooney building is a disaster; the roads have not been touched and it does not look like the developer has plans to do anything. He asked if this Board is going to get played by him again. It is very frustrating to the Hudson Harbor residents.

David Barnett, 104 Main Street – see attached Exhibit A-1 for comment

Dolf Beil, 108 Main Street, believes that it is very important to pay attention to the Cornell Study with regard to environmental impact of the flood zone. The game has changed and there are many new factors in play that were not known in the past. The Planning Board has a responsibility to the citizens of Tarrytown. Once fooled, shame on you. Twice fooled, shame on me. He thinks serious attention needs to be paid to the developer's performance in the past and more importantly, what is the developer doing today? He has not replaced the windows at the Cooney site. There is broken glass and the site has not been cleaned up for 4 years. He encourages the Board to look at the applicant's history and the current conditions of Hudson Harbor which is indicative of what they can reasonably project will be the situation at 29 S. Depot Plaza. He is not a lawyer, but he believes that a bond can be played forever and suggested that the Board consider a letter of credit in lieu of a bond. If the terms of the letter of credit are not met, then the money comes in.

Paul Stone, 2 Orchard Drive, returned from last month. He has strong opposition to the Board entertaining this project. This is an audacious, irresponsible developer who has left what he calls, "Cotter's wasteland", for everyone to see near "Road E". The developer just notified the Board's of Hudson Harbor that the tenant for the Cooney Building has been lost so the residents will have to suffer for another 10 years. Something needs to be done. This developer chooses to fund this new project, make more money, and laugh all the way to the bank. It is an exploitation of the village. His other tactic is to extort the village by leaving the empty lot vacant and then asking for 60 units (rather than the approved 20 units) unless people succumb to his demands. This is a horrible practice and should not be tolerated. If the Board is interested in entertaining this, there must be a SEQRA review because there are traffic impacts.

Ms. Raiselis advised that the Board is reviewing the project under SEQRA.

Tom Coughlin, a Sunnyside Avenue resident, does not claim to be well versed with this proposal, but the proposal is for a 360-foot-long building with no break in it so it will look like a large wall. He is disappointed to see that. He would like a two-segment building with some type of view shed between them. In addition, part of the parking is coming from the MTA property and he asked if the property will be deeded over to the owner, or will it just be leased for a period of time. That could be a problem if the MTA decides that they need this area for another use. He also asked if the tracks to the east of the structure that are not used will be removed.

Daniel Pennessi, General Counsel to applicant, wanted to follow up on comments made by some of the Hudson Harbor residents and reminded the Board that they are here for the 29 South Depot Plaza application. They do remain committed to completing Hudson Harbor and the contents of the letter that Mr. Stone recited were in response to some of the work that they have been doing with village staff on the roads. The solution to complete the roads was submitted back in April of 2023. They are open to completing that solution, or the solution that the associations have offered. Equally, they made application for the Cooney Building and unfortunately, the tenant did not work out, but they are actively seeking a suitable tenant for that building. In March of this year, they did submit an application for the 60 units for Phase V, and they are still awaiting the procedure from the village and are open to discussion with the associations. They are committed to completing the last two phases of Hudson Harbor. With regard to this project at 29 S. Depot Plaza, they are in complete compliance from a zoning perspective as it relates to the negative declaration and the rezoning of the district.

Raphael Sultran, a former Irvington resident for 15 years, who now lives in Hudson Harbor, has been speaking with his old Irvington friends and he keeps hearing repeated news about the bad things going on in Tarrytown, specifically, Cotter's buildings. He doesn't think this is the kind of reputation that the village of Tarrytown should have. He urges Board to be strict about who they let build. He is relying and depending on this Board to do the job.

Ms. Raiselis is not happy about the trouble in Hudson Harbor. 29 S Depot Plaza is a piece of property that National Resources, or Hudson Harbor Station LLC owns, and she doesn't think that anyone would like it if they owned a piece of property and a neighbor said they don't want them to build on their property because they don't like what they built before. It is the job of this Board and staff to prevent things from happening. This Board will do the best they can to make this SEQRA review tight and the resolution will be drafted with extreme caution and thoughtfulness. All the steps will be dependent upon completion before another step is allowed to happen. They will be adamant about the impacts through the SEQRA process. They are going to do the best they can and are trying to learn from things that happened in the past. They will move forward with eyes wide open to make it the best project it can be.

Dr. Friedlander agrees with the Chair and said that the project should have been completed. He does not know why they have not made more progress. There should be continuous meetings to resolve the two lots that are involved (the Cooney building and the parking lot). He is sympathetic, but, at this point, he agrees with the Chair that the Board has this project before them. He understands how they feel about Hudson Harbor, but from an outside perspective, there were many benefits to this project, such as the park, the pool and recreation center. The Board would like to see the problems resolved properly and more expeditiously. He does not know what progress has happened over the past 2 years. He has not heard any comments except that Cotter is not reliable and is a bad builder. The job of this Board is to make this project before them now, the best project it can be. The village needs more affordable housing and he would like to hear suggestions from the public how to make this project a good project. He asked Ms. Lannert about the status of these projects.

Joyce Lannert advised that they hoped to have a meeting with the Mayor and Board of Trustees in September. The point they are trying to make is that there is enough about the behavior and there should be a caution light as to why this guy gets a second chance. How did he get this without finishing the first project? She does not feel there is enough affordable housing proposed. The applicant is meeting the bare minimum.

Counsel Zalantis stated that there is no standard allowing a Planning Board to reject an application. The application has been filed by a different entity. The Board cannot refuse to hear an application. Ms. Lannert said Cotter has 4 different company names. Counsel Zalantis said under the law, there is no basis to refuse to hear a site plan application. This is not a public works contract.

Ms. Raiselis understands the frustration, but this is a private project and people have the right to develop their properties, and added that this project is also zoning compliant.

Ms. Lannert asked about the requirement to break up the 300 feet. Ms. Raiselis said they have designed the building to break up the mass. The Board and staff are cognizant of the concerns of the Hudson Harbor residents and they are doing the best

they can. Counsel Zalantis added that Hudson Harbor is not a public partnership. It is private property. The Village can only review an application presented to the village. Mr. Pennessi commented earlier that applications have been submitted to the village and they are waiting for a response, but that is not the case. She advised that an application must be submitted before it can be presented to the Planning Board.

Mr. Pennella also sympathizes with the residents and agrees that a bond and/or a letter of credit are important considerations. He noted that the distinction between this project and Ferry Landings (Hudson Harbor) is that the units proposed at 29 S Depot Plaza are rental units. There will be no individual certificate of occupancy's issued for individual units until all of the units are complete. In addition, the infrastructure will need to be completed and scheduled with the MTA and it will need to be looked at carefully.

Ms. Lannert asked Counsel Zalantis if the Board could condition some sort of reasonable time limit (4 or 5 years) to finish this project and perhaps impose a penalty if it is not completed within that time frame. Counsel Zalantis advised that it would be up to the Planning Board to condition a time frame. Mr. Pennella said that typically building permits are issued for one year with two extensions, which is why the village will ask for a bond or letter of credit. With regard to the Cooney Building, the applicant has not applied for a building permit yet. They have built the park, but we have just learned that they lost the tenant. Counsel Zalantis said the applicant could ask for an extension of site plan approval before it expires, and would not have to start the entire approval process over.

Mr. Aukland endorses the Chair's earlier comments and as they go through the SEQRA process, there will be ample opportunity for public to comment on this application.

Ms. Raiselis commented that all public comments regarding projects should be directed to the Board and emailed to the Secretary so they can be recorded appropriately and distributed. She cannot read the emails during the session due to time constraints. She encourages the public to make comments at the podium as well so that everyone can hear them. This Board will continue to work hard, without pay, and will always do their best as long as there are applications to review.

Ms. Raiselis moved, seconded by Mr. Aukland, to continue the Public Hearing.

The secretary recorded the vote:

Alt. Member Mezey:	Yes
Member Aukland:	Yes
Chair Raiselis:	Yes
Member Friedlander:	Yes

All in favor. Motion carried. 4-0

CONTINUATION OF PUBLIC HEARING – Benjamin and Julie Green – 25 Rosehill Avenue

Ms. Raiselis advised that the most recent landscape report was received and has been forwarded to the applicant.

David Verespy, Landscape Architect, with Rock Spring Design Group, appeared before the Board and presented the site plan. David A. Goessl, PE, the project engineer, was also present.

Mr. Verespy showed a detailed presentation on the monitor for the benefit of the public and the Board, which is attached as "Exhibit B" of these minutes. He briefly showed the existing site plan and pictures of the neighborhood from different views and noted that there are many retaining walls up and down Neperan and Altamont. He showed the neighbor's property with the existing retaining walls with the steps leading down to Neperan. He noted that these walls have no shrub layer in the woods. He showed the view near the park entrance across from Altamont and noted that the steep slope cuts off the view into their property and it is heavily vegetated. He noted that the proposed plantings on the slope and in front of the walls will further screen the project. The neighbor will see a 5-foot high wall about 14-feet long which will be heavily planted with vines. The terraced areas will also be planted to screen the walls. The walls will have a stacked stone texture and natural color to blend into the surroundings. He briefly went over the 4 plan alternatives which were discussed in detail at the last meeting and are included in the presentation, noting that the walls have been placed on the most stable portion of the property. The proposed plan which includes 3 retaining walls holding up the terraced area with a pool, patio, lawn space. The space has been designed at a minimum with the goal to create space to utilize as a family. The pool area at the bottom is 10 to 12 feet so that chaise lounges can fit and to allow enough room for people to move around safely. There is no flat area on the existing property to play and balls often end up on the neighbor's property for Neperan Road.

The project site is 70 feet into the woods. He showed the existing wall where plant material, understory trees, shade trees and native shrubs will be added as you look up Neperan Road, which will grow over time. As you move up the hill, by the rain garden, there will be understory trees with more mass to further screen the walls with planting in between the tiers. He advised that in about 3 to 5 years from now, there will be a green wall with only part of the railing above the wall visible. He showed the existing 9-foot wall on his neighbor's property which is visible to his client and also from Neperan Road with no screening at all.

The walls have been located on the most stable portion of the property. They have provided an engineering analysis for review. The soil analysis shows soils that exceed the design criteria for the wall systems. The project engineer added that the slope analysis was also provided and the overall average of the slope has not changed.

Mr. Verespy noted that the proposed drainage plan was designed in keeping with the village code and the NYS DEC drainage manual. A rain garden with native plants is proposed with a level spreader outlet per the recommendation of the Village Engineer which will reduce the runoff and slow down the water. There are existing areas of exposed erosion and soil and the water currently races down the hill. The project engineer noted that there is currently no stormwater management system for the rear of the property so this project will capture the water and tie into the liters and it will be an improvement.

Mr. Verespy quickly went over the landscape plan which exceeds the village requirements for tree replacement. They are proposing over 180 shrubs and more ornamental plantings. Trees and shrubs are best for stabilizing the slope and preventing erosion. The Forest Management Plan will reduce Norway Maples over time and reintroduce trees that will propagate and fill the area below the property which will benefit the community.

Mr. Verespy commented that there was a question about whether or not the applicant is even allowed to do any work on the property. After reviewing the code sections, he believes that the steep slope waiver is the vehicle by which projects like the one they have proposed can be approved to go forward. He noted that the area calculations provided have excluded 50% of the steep slope areas for principle and accessory structures, in accordance with the code. He believes that the term "exclude" in this section does not mean that the Board shall forbid development in the areas; otherwise that would preclude the construction of any primary or accessory use on a steep slope and, in his opinion, this is not the way the code reads. He has read and re-read this section of code many times and wanted to address it. They have also received a variance from the Zoning Board for the accessory use.

Mr. Verespy advised that a question was raised at the site visit about which is the best way to stabilize the slope. He researched this and found that the most effective way is having a low fast-growing fibrous root system, mostly grass. They propose a mixture of cover, shrub layer, and trees to stabilize the slope. Right now, the existing Norway Maples do not provide a ground cover or shrub layer and there are many roots exposed with soil erosion down the hill.

Mr. Verespy wanted to go through each item of the code to make sure that the Board understood that they have addressed each item for the waiver. Ms. Raiselis noted that the Board has read through Mr. Verespy's submission in detail. Counsel Zalantis suggested that the presentation be submitted for the record. Mr. Verespy briefly touched on each item for the benefit of the public and noted that there are retaining walls all over

Tarrytown and very much within the character of the neighborhood. The homeowners will have improved the property which will have a positive effect on the neighborhood.

With regard to the granting of a waiver by the Planning Board, Section 305-67 F, Mr. Verespy read through the criteria for the justification which is detailed in the presentation. He noted that anything built 5-feet off the property would require a steep slope waiver. There are benefits to the neighborhood such as slope stabilization and ground water collection. They have kept the project to a minimum by not overdesigning it and have provided 100 trees and shrubs in excess of what is required. They will be addressing the landscape memo, received earlier this afternoon. In conclusion, the proposal meets or exceeds all engineering, building and zoning requirements in the code. The proposed plantings and Forest Management Plan exceed the tree replacement guidelines and will positively impact the environment. There are no better alternative locations on the property to do the improvements. There are no alternative locations that this work can be done without requiring a steep slope waiver. They don't believe that there will be any detrimental effects to the neighbors or to the village and the project is not out of character with the neighborhood or overall character of Tarrytown.

Ms. Raiselis commented that from the very beginning the Board has been pretty clear that the quantity of area exceeded what the Board was comfortable with. Mr. Verespy said, it was referred to as, "A big ask". Ms. Raiselis advised that it was said at the work session and at the site meeting. It is clear that the majority of the Board is not comfortable granting a waiver as big as this. She is not saying that they are not comfortable granting a waiver because this Board has granted waivers before, but, yes this is a big ask and the Board is asking if the applicant would consider reducing the project scope. The Forest Management and Stormwater Plans are good but the Board would like the project to be smaller. She advised the applicant that they can either make it smaller or expect a denial.

Mr. Verespy advised that they have brought two design alternatives that look at ways to reducing the scope of the project and they would like to present them now if possible. Ms. Raiselis said that it would be better to present them before the next work session to give the Board time to review.

Mr. Verespy asked for more direction from the Board, i.e., what is the most objectionable part of the plan. Is it the square footage, etc.? How can they sharpen the pencil since making it smaller is a broad comment? He would like more direction from the Board as to how they want them to make the project smaller.

Dr. Friedlander asked what the total disturbance was. The project engineer said that 25% of the total depth of the property will be disturbed. It is a 68-foot linear dimension. They would like to know what areas the Board has the most concern with, the pool, the patio, or lawn area? He noted that the pool is the main objective and they want to keep it. It is 16 feet x 32 feet with 5 to 6 feet around the sides and 2 feet on one side to sit.

Ms. Raiselis said that this discussion is a work session exercise. Dr. Friedlander said that the Board should be clearer. Ms. Raiselis said they have been speaking about a reduction for 3 months but have not seen a reduction. Mr. Verespy advised that the first time he heard that the Board wanted it smaller was at the work session. Ms. Raiselis advised that she spoke to the property owner at the site visit and advised him that they thought it was too big and a waiver this large has never been granted and that it was unprecedented.

Mr. Verespy said they would like to work with this Board to get a project that can be approved and would like some guidance on how they can reduce the project, which he does not think is a huge ask. The project engineer asked if it was the coverage that the Board was concerned with since they could possibly reduce it.

Dr. Friedlander would like to know the square footage of each disturbance in order to give the applicant some guidance. If the priority is the pool, then the starting point would be to start with the pool first, and then start cutting it back. Otherwise, there is no point in doing the project. With no pool, there is no project. The applicant agreed.

Dr. Friedlander asked about the walls. Mr. Pennella said the applicant is proposing a redi-rock wall, not a mesa block wall. This wall has more style too it and is textured.

Mr. Pennella said that 7,500 s.f. is the amount of disturbance for the entire project. He recalls a comment made at the site visit concerning the impact on the neighboring properties. There is a comment in the construction sequence plan which states that disturbance to neighboring properties is inevitable. The project engineer said that is a poor choice of words and the impacts will be mitigated with control measures. They will revise the report to further explain the disturbances and mitigation.

Mr. Aukland agrees that the scale should be more modest. The aim of code is to preserve steep slopes and this Board can grant a waiver. The code clearly states that the waiver "is the minimum relief necessary to relieve the extraordinary hardship by the applicant". He is still struggling to understand the extraordinary hardship. Wanting a pool is not a hardship. He suggests that they establish with the client, just what the priority is to intrude into the steep slope, which will give them an idea of what scale can be justified to this Board. Otherwise, if the Planning Board approves a waiver just

because a resident wants it, the code might just as well not exist. It is on the applicant to persuade the Board of the specifics that need to be provided to prove the hardship.

Mr. Verespy appreciates the feedback. They don't want to keep coming back with versions that the Board does not feel they can approve. They just want to get to a reasonable minimum that they can achieve the project with. Mr. Goessl said they will present a couple of variations at the next work session to get the Board's feedback. Mr. Aukland would also like the hardship justification associated with the plan variations that will be submitted.

Ms. Raiselis advised the applicant to submit the variations before the next work session so they can be reviewed at the work session. There are really no discussions with applicants at work sessions unless the Board has questions. They want to work with the applicant, but again, this is a big ask.

Mr. Aukland moved, seconded by Ms. Mezey, to continue the public hearing.

The secretary recorded the vote:

Alt. Member Mezey:	Yes
Member Aukland:	Yes
Chair Raiselis:	Yes
Member Friedlander:	Yes
All in favor. Motion carried.	4-0

CONTINUATION OF PUBLIC HEARING- Gotham Design, Planning & Dev. 25 S. Washington St.
Site plan approval for the redevelopment of property to include the razing of the existing two-story single-family home and 1 ½ story detached garage. Proposed is the construction of new three-story primary structure with 4 dwelling units.

Mr. Aukland moved, seconded by Dr. Friedlander, to declare the Planning Board as Lead Agency for this unlisted action for the purpose of a SEQRA review.

The secretary recorded the vote:

Alt. Member Mezey:	Yes
Member Aukland:	Yes
Chair Raiselis:	Yes
Member Friedlander:	Yes
All in favor. Motion carried.	4-0

Padriac Steinschneider, the applicant, appeared on behalf of the property owner. He presented the application and advised that after hearing the Planning Board work session, it appears that the Planning Board has no objection to the concept of the

project. He advised that they require 9 variances from the Zoning Board and in addition, a variance of 10 parking spaces will be required since the Board of Trustees was not favorable to granting an access easement through the village owned parking lot to their property. Mr. Steinschneider advised that until the variances have been secured, they have not completed a formal landscaping or stormwater plan.

A brief discussion took place about possible alternatives to create some parking on site such as using the shared driveway between the neighbor. Mr. Pennella suggested exploring this option with the neighbor since it may be in the interest of both parties. Mr. Steinschneider said that he will try to explore this option and hopefully they will be able to see the benefit.

There were no additional questions from the Board or staff.

No one in the public wished to comment.

Mr. Aukland moved, seconded by Ms. Mezey, to continue the public hearing, pending the approval of variances from the Zoning Board.

The secretary recorded the vote:

Alt. Member Mezey:	Yes
Member Aukland:	Yes
Chair Raiselis:	Yes
Member Friedlander:	Yes
All in favor. Motion carried.	4-0

CONTINUATION OF PUBLIC HEARING – Gracemere Partners, LLC- 23 Browning Lane
Site plan approval for the demolition of an existing single-family residence and the construction of a new single-family residence.

Mr. Aukland has recused himself from this application and noted that he will also recuse himself from the Jardim Estates East Subdivision Amendment application by Gracemere Partners, LLC, following this application. He will return to the meeting room after both applications have been heard.

Ms. Raiselis noted that the Landscape report has been forwarded to the applicant and they have received correspondence from Linda Viertel, a resident of Gracemere, which has been read by the Board and will become part of the record.

Brandon Zappi, with Gracemere Partners, LLC, appeared before the Board. He advised that there have been no changes to the plans for the past 4 months and they are seeking site plan approval for this lot.

He advised that they have received Ms. Nolan's landscape review just before the meeting.

Ms. Raiselis said that according to the Nolan report, the planting plan remains schematic and additional information needs to be put on the drawings. Brandon Zappi advised that they have provided the same level of information to this Board that they do for all towns. Ms. Raiselis commented that you are in the Village of Tarrytown and the Board follows the direction of the Village Landscape Consultant and the Village Code. She asked the applicant to review the report and make the necessary updates.

Counsel Zalantis advised that the applicant still has time to address the Nolan report because there are still open conditions that need to be satisfied before site plan approval can be granted which we can go over now.

Brandon Zappi said that Ms. Nolan needs to be more specific as to what has to be put on the plans. He believes they have complied with the code. They are happy to add more plants. Ms. Nolan only noted in her report that the plan is not consistent with the customary level required by the Board. Counsel Zalantis asked if it would make sense to have their landscape architect reach out to Ms. Nolan for a resolution. Brandon Zappi said that would be appropriate but last time they tried to reach out to Ms. Nolan she told them that she was advised not to communicate with them. Counsel Zalantis said we can facilitate that conversation. Ms. Raiselis agreed and said it seems productive to have the professionals speak directly to each other. She is not aware of any guidance given to Ms. Nolan that she should not speak to the applicant. Jim Zappi asked Mr. Pennella to comment on this issue. Counsel Zalantis advised that comments should be directed to the Board. Brandon Zappi is concerned that they are getting the runaround since Ms. Nolan could have advised them in earlier reports that she needed more information. Counsel Zalantis said Ms. Nolan did raise this in her initial report and it was a comment that was never addressed; the plan still remains schematic. Jim Zappi asked if this could be a condition of approval prior to getting a building permit. Ms. Raiselis said these plans will not get approved until the subdivision application issues are resolved anyway and she is not sure why the applicant cannot just put the information on the plans. Jim Zappi said we had a meeting with you and this was discussed and they are only minor details. Ms. Raiselis said we did not discuss the landscape plan at that meeting and if they are only minor changes than updating the plans should not be a problem.

Ms. Raiselis said we can go through the drawings, sheet sets 1-4, but they do not seem to have all of the details of the original set. Brandon Zappi said that they have submitted this plan and would like it to stand for itself without referencing the Cronin plans. He does not know why the Ms. Nolan is referring to the Cronin plan. Counsel Zalantis said the goal is to have these 4 sheets satisfy the conditions of the subdivision approval.

Counsel Zalantis said Lot 1 for 23 Browning Lane will stand by itself but the plans need to be more than schematic in accordance with the Nolan report; the board does not want to have any condition of approval for the landscaping on this lot. The 4-page plan was reviewed and we went through the conditions at the work session. The plan does satisfy

some of the conditions but we should go through the conditions that need to be satisfied prior to site plan approval.

Ms. Raiselis referenced some conditions that have been addressed.

- Condition 6 – part of condition was discussed regarding individual lots
- Condition 7 – signage plan reviewed, need review of landscape.
- Condition 8 – intersection plan submitted
- Condition 9 – guide rail and mail box plan submitted
- Conditions 12, 14, 15, 21, 23, 24, 25, 27, 28, 31 and 33 are addressed in notes or schedule.
- Conditions 22 and 30 – staging and construction plan is a new plan
- Condition 29 – construction signage plan submitted.

Outstanding conditions which were discussed at work session.

- Condition 11 - revise to include more detail about the sediment trap
- Condition 18 - revise and change back to the original language.
- Condition 2 and 10, basin planting plan. – Brandon Zappi said that Suzanne Nolan comments refer to a previous plan and they want to use different plants. Counsel Zalantis said that the details still need to be put on the plan.
- Condition 5 - Hahn Engineering reviewed report submitted by the applicant. Brandon Zappi received the report this afternoon. He commented that the original resolution required the applicant to hire an independent engineer to provide a report. He does not understand why Hahn is reviewing a report already submitted by his independent consultant. If he had known that Hahn would review the report, then he would have hired Hahn to do the study. Ms. Raiselis said that is it customary to have the Planning Board have an independent review of what is submitted by an applicant. The applicant's consultant is not independent if they are paying for them to do this study. This is a normal Planning Board procedure.

Mr. Pennella said the applicant hired their consultant to do an independent review and the village reviewed the report through Hahn Engineering. Hahn is not in disagreement with the report. It appears to be consistent with the applicant's consultant report. They have made some recommendations. Ms. Raiselis asked the applicant to review the Hahn Report and make the changes on the drawings.

The remaining portions of Conditions 6 and 7 – Counsel Zalantis said the landscape report was just received; changes need to be made and reviewed by Ms. Nolan.

Ms. Raiselis advised the applicant that if they can make these changes by the work session, they will review and determine if the conditions have been satisfied at the work

session. If satisfied, the can ask staff to prepare a draft resolution to approve the revised set.

Counsel Zalantis advised that if revisions are made, they can include conditions 2,10, 5,6 and 7, but there are still some outstanding conditions that need to be satisfied.

Ms. Raiselis referenced Condition 3D which is the Department of Health approval. Brandon Zappi advised that they are waiting for approval from the Health Department. Ms. Raiselis said lots 1 and 2 will be connected to the Browning Lane sewer line which is separate from the other lots. It would make sense to make this a condition of site plan approval before the issuance of Lots 3 -9, so that it will not hold up site plan approval for this application, but it would have to be approved before site plan approval of lots 3 through 9. Brandon Zappi said they will give this some thought and respond back.

Ms. Raiselis referenced Condition 3C which relates to the stormwater and SPDES permit. Brandon Zappi advised that they just received the draft back from their consultant and they will forward that to Mr. Pennella for review and submission to the DEC. Mr. Pennella said that could be a condition of building permit and not site plan approval.

Easement agreements - Brandon Zappi advised that they will be submitted and forwarded to Counsel Zalantis.

Ms. Raiselis referenced Conditions 18,19,14 and 16 regarding the SWPPP – Brandon Zappi advised that the revised SWPPP will be submitted soon. They have received a draft NOI, but will need to address the Hahn review memo just received. Counsel Zalantis advised that it will have to address the entire subdivision.

Ms. Raiselis referenced Conditions 34 and 35 and noted that the HOA Agreement was submitted to the Attorney General in November of 2022. Jim Zappi said it is just about done. When the Board is ready to approve, it will be ready. Ms. Raiselis asked that a final copy of what was submitted to the Attorney General be provided to the Board.

Ms. Raiselis referenced Condition 32 and noted that the recreation fees have not been paid according to village records. The village provided a ledger which had no record of payment. Brandon Zappi said the two meetings that are normally recorded were not on the website and this is when the Recreation Fees would have been discussed. They asked for copies of the videos and are hoping they will be provided. Counsel Zalantis said the actual document showing payment would be more relevant than the videos but if they can be found they will be provided. Brandon Zappi said he would like to see them since this is not an insignificant amount of money.

Ms. Raiselis referenced Condition 37 regarding the affordable housing component and she asked the applicant how they plan to comply with providing affordable housing.

Jim Zappi advised that he spoke with Rose Noonan and she thought something was done. Mr. Zappi would again like to see a ledger and any relevant videos. Counsel Zalantis said she will ask the Village Treasurer if any fees were paid for affordable housing for this project and see if there are any videos. She advised the applicant that, under the code, they can either pay a fee of \$300,000, or designate an affordable unit. Counsel asked that an email request be sent to her and the secretary so that she can ask the Treasurer to check the ledger.

Ms. Raiselis advised that if these issues can be addressed by the next work session, they can ask that a draft resolution be prepared for September.

Ms. Raiselis asked the applicant if there are any other items that they would like to discuss regarding this application.

Brandon Zappi commented that out of all 37 conditions, not all needed to be done before site plan approval. Counsel Zalantis advised that the conditions that are not required before site plan approval are the ones that have been discussed.

There were no additional questions from the Board or staff.

Ms. Raiselis asked if anyone in the public would like to comment on the 23 Browning Lane application.

A brief conversation took place and it was decided that if the public wishes to make comment about the amendment to the subdivision, they should comment on the next application for the Jardim Estates East Subdivision Amendment.

Ms. Mezey moved, second by Dr. Friedlander, to continue to the public hearing.

The secretary recorded the vote:

Alt. Member Mezey:	Yes
Chair Raiselis:	Yes
Member Friedlander:	Yes
All in favor. Motion carried.	3-0

NEW PUBLIC HEARING- Gracemere Partners, LLC - Jardim Estates East Subdivision Amendment

Ms. Raiselis read the following public hearing notice into the record:

PLEASE TAKE NOTICE that the Planning Board of the Village of Tarrytown will hold a public hearing on Monday, August 28, 2023, at **7:00 p.m.** at the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear and consider an application by:

Gracemere Partners, LLC
17 Saw Mill River Road
Hawthorne, NY 10532

To consider an amendment/modification to certain conditions of the Conditional Final Subdivision Plat for the Jardim Estates East Subdivision (filed December 2, 2014 under Map No. 28829), a 45-acre site subdivided into 9 single-family lots which included the creation of 28 acres for preserved open space adjacent to Taxter Ridge Park. The applicant is seeking to modify/amend the following conditions of the Conditional Final Subdivision plat approval:

- **Conditions 1 and 17** to require proof of recording of the Homeowners' Association Agreement or the Declaration prior to issuance of any building permits for any subdivision lot, but not prior to site plan approval for any lot.
- **Condition 1** to remove the requirement to file a maintenance bond.
- **Condition 13** to require that the new road and utilities (except the road top course) be installed within 30 months of the modification grant or before issuance of the fourth building permit issuance, whichever's sooner.
- **Condition 16** to remove (i) the requirement in subsection (c) to provide an easement to address roadway encroachment over 8 Gracemere and 12 Gracemere and (ii) the requirement in subsection (e) to preserve existing trees consistent with Village roadway specifications and the safety of emergency vehicles as determined by the Village Engineer.
- **Condition 20** to remove the requirement to post a construction bond of \$1.3 million and to instead post a \$25,000 cash performance bond to cover the water main tie-ins in Village-owned property and a \$25,000 cash performance bond to cover the sewer main tie-ins in Village-owned property. Applicant will also pay \$5,199.25/lot for sewer improvement costs prior to the issuance of each building permit.

The subdivision, known as Jardim Estates East Subdivision, is located in the Gracemere neighborhood, south of Sheldon Avenue in the R-60 zone in the Village of Tarrytown, identified as Subdivision Map No. 28829, filed with the Westchester County Division of Land Records, on December 2, 2014.

Documents are available for inspection in the Planning and Zoning Office. All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing-impaired; request must be made to the Village Clerk at least one week in advance of the meeting.

By Order of the Planning Board.
Lizabeth Meszaros - Secretary to the Planning and Zoning Board
Dated: August 18, 2023

The mailing receipts have been received and the signs have been posted.

Brandon Zappi appeared seeking to amend conditions to the Resolution for the Subdivision which they believe are no longer relevant or required due to the elapse of time, and some are out of their control. He referenced condition 16 which required them to provide an easement to address roadway encroachment over 8 Gracemere and 12 Gracemere. He noted that they can make their best effort but they should not be obliged to do that since they do not own the properties.

Ms. Raiselis advised that is it better to go over all of the conditions in the notice and started with:

- **Condition 20:** to remove the requirement to post a construction bond of \$1.3 million and to instead post a \$25,000 cash performance bond to cover the water main tie-ins in Village-owned property and a \$25,000 cash performance bond to cover the sewer main tie-ins in Village-owned property. Applicant will also pay \$5,199.25/lot for sewer improvement costs prior to the issuance of each building permit.

With regard to the 1.3 MD bond, Brandon Zappi believes that what they do on their own property should not require a bond. This bond relates to the new road that will be built, it is not related to the existing road. The previous owner took care of the existing roadway, but the Homeowner's Association is also responsible for sharing the road maintenance. He read a portion of the Resolution condition 1, which states, *"All existing roadways and existing easements will be maintained by the Jardim East Homeowners' Association in combination with all other property owners with frontage on such roadways..."*

Ms. Raiselis said the existing road is shared by multiple existing landowners. The concern is that the 5 homes in this area are protected. She asked staff for an estimate of how much it would cost if the applicant abandoned the project and left the roadway in disrepair and torn up. She is referring to the section of road from Browning Lane to where the cul-de-sac starts. Jim Zappi said that was not part of the resolution.

Ms. Raiselis said the cul-de-sac area does not have to be included in the Bond, but the Board wants to make sure that this portion of roadway is protected for the 5 homes from Browning Lane to the cul-de-sac and that is where the bond comes into play.

Mr. Pennella showed the common area and the new road on the subdivision map. He showed the private red area which has no impact if it were not built and the blue area which is the area that needs to be protected from Browning Lane to the cul-de-sac. Jim Zappi advised that before they open the road, they will need a permit and that permit will have a bond associated with it to ensure the work is done. Mr. Pennella believes that the bond was issued to protect the utilities. Counsel Zalantis said the bond was required for this area and permits are not issued for private roads. The Planning Board agrees that the red area is private and it should not be included in the bond, but the common area that the five

homes rely on, will require a bond sufficient enough to protect the area shown in blue on the map. Brandon Zappi said they are not interested in increasing the scope of the bond for this area which was not originally included in the resolution. Counsel Zalantis said you are asking the Planning Board to decrease the bond and they are willing to decrease the bond for the red area, but they would like a bond amount for the common area in the blue to protect the existing five homes should the applicant go belly up. Ms. Raiselis said that is why the Board asked for an estimate should the village have to come in and repair the road if it was left abandoned. Brandon Zappi asked if the village would improve a private road if they provide a bond. Counsel Zalantis said in this case, it is a private road that residents rely on for emergency services and access, and the village may be forced to come in and repair the private road. She advised that the construction cost of the red area should be removed for the bond calculation. Jim Zappi said they will provide an amount that they think is appropriate for that part of the road. Dr. Friedlander added that they are not trying to be onerous but the purpose of the bond was to protect the residents. Counsel Zalantis said she believes the applicant just said that they will provide a construction estimate for review.

Ms. Raiselis advised that the HOA filing is critical to making other decisions about this subdivision. The Board wants to make sure that it has been done, that the neighborhood is protected, and that the residents understand what they signed up for. Mr. Zappi said a final draft was sent to Counsel Zalantis and approved. There will be no tweaks made to the agreement. When they are done with the plan revisions, the HOA will be ready to be submitted.

Dr. Friedlander asked for clarification about **Conditions 1 and 17** to require proof of recording of the Homeowners' Association Agreement **or the Declaration prior to issuance of any building permits for any subdivision lot, but not prior to site plan approval for any lot.** Counsel Zalantis advised that the applicant would like to amend this condition to require that the declaration be submitted prior to the issuance of a building permit, not prior to site plan approval. Brandon Zappi agreed and said that they would like to move forward and go to the ARB. Ms. Mezey asked if Counsel has a copy of the HOA, but not a recorded copy. Counsel Zalantis commented that she only has a copy of a version of what she reviewed and approved, but not a copy of what was actually submitted to the Attorney General.

Dr. Friedlander asked about the maintenance bond for \$320,000. Ms. Raiselis noted that the applicant would like this condition removed since it is tied to the HOA. Counsel Zalantis advised that the applicant's rationale is that they should not be required to file a maintenance bond because the HOA is responsible for the maintenance of the roads, but there is no filed HOA yet. Ms. Mezey said so it is either one or the other. Counsel advised that the Board could still require a bond should the HOA not fulfill their obligation.

Brandon Zappi said the original maintenance bond was supposed to be in place in 2014. The time period has elapsed so it does not make sense to have a bond if they provide the village with the filed HOA. Mr. Galvin asked if there is seed money in the HOA. Mr. Zappi said they thought there was some seed money in the HOA. Ms. Raiselis would like to confirm that there is seed money.

Condition 13 – The applicant agreed to revert back to original wording.

Condition 16c – Brandon Zappi said they will make their best effort to approach the homeowner's but cannot guarantee that they will grant the easement to them. Mr. Pennella explained that the original intent for the easement was to protect an existing tree. The tree is in front of 8 and 12 Gracemere. The current road exists over property at 8 and 12 Gracemere because they could not align the road in an effort to protect the tree.

Counsel Zalantis advised that if the applicant is doing work on these properties, they will need an easement. If there is a road on these properties, they cannot use that portion of road unless they have an easement. The Board will modify that condition and not require the easement, but the applicant will have to come up with a plan to push the road off of these properties. Brandon Zappi said it says nothing about a tree, it refers only to the roadway. Counsel Zalantis stated if the property owners like the tree, maybe they will agree to an easement. Brandon Zappi said they will have to review this further.

Dr. Friedlander asked about 16e - to preserve existing trees consistent with Village roadway specifications and the safety of emergency vehicles as determined by the Village Engineer. Counsel Zalantis said this language does not make sense. It refers to an easement but what would the easement say. She understands about the work on 8 and 12 Gracemere, but who would be granting an easement for general trees in a road. Mr. Zappi agreed and said this is purpose of the tree removal plan. The Board and Counsel agreed to eliminate this language and Counsel Zalantis said the Board is not giving up the authority to review the roadway plan. The applicant agreed which is why they asked that the condition be removed.

The conditions have all been discussed. Brandon Zappi said they will make another submission before the next work session.

Ms. Raiselis asked the applicant, as a good faith effort, if they can fill in some of the potholes on the road. Brandon Zappi said they offered to do that last year. Ms. Raiselis asked if they would consider doing it now. Jim Zappi said he believes that the village is not working in good faith. Ms. Raiselis said they have been sitting here for over an hour going through the conditions. They have been working to compromise with the applicant in order to get this development done. The Board has to protect the village and the applicant has to protect themselves and we have to come to a compromise were

everyone is happy. The homeowners are not happy because the road is in horrible shape and they are afraid that they are going to break an axle.

Brandon Zappi said the homeowner's have an obligation to repair the road as well. It is not only on them. There has to be some give and take. Dr. Friedlander said the applicant is not recognizing the historical nature of the project. Dr. Friedlander said the church maintained the road in the past and the residents are used to having the road repaired. They feel that whoever owns the land should be repairing it in good faith. It is what the people are used to. Brandon Zappi believes that the people who have lived there for 40 years should have contributed as is noted in their deeds. Dr. Friedlander is not sure if they have not contributed but the residents supported the development back then and he wonders if they would have supported it if they knew that the road was not going to be taken care of. He is just giving the applicant perspective of why it is important. He is not saying whether it is right or wrong. As a new owner of the property, the residents are expecting the road repairs be made in good faith. No one is trying to hold the applicant up, they just want the applicant to keep the history going as best they can and move on.

Brandon Zappi agreed and said they offered to do repairs last year with the promise that the village would work with them. Jim Zappi commented that his sons met with Mr. Pennella and Counsel Zalantis. He was not there. Mr. Pennella said to them that if they take the road, they don't have to, but if they do, the village will work with them. If they don't, then the village is going to make their lives miserable.

Counsel Zalantis stated that that is not an accurate presentation at all. Mr. Pennella said those were not my words. Jim Zappi asked Brandon Zappi how many months he sent emails to Mr. Pennella without getting a response. He advised that the road would have been done last year if Mr. Pennella answered his 15 emails (which were also sent to Richard Slingerland). The reason why the road is not done is because of Mr. Pennella. Ms. Raiselis asked if they will consider making repairs now. Mr. Zappi said no, they will do it the day after they get their approvals.

Counsel said for the record, ultimately the HOA will be responsible for the roadways. The version of the agreement that she read, spelled out that the blue common area was included in the agreement. So, ultimately, the applicant will have to construct the road and remedy it.

Dr. Friedlander said this is an entire subdivision and the lot the applicant is asking for site plan approval is part of the subdivision. The Board is asking the applicant to take their responsibility seriously and repair the road and show the required HOA. The owner of the land is responsible until the HOA takes over. There is no HOA yet, but the applicant has resisted doing some things for a year for whatever reason. Jim Zappi said he did not resist and he is not going to forget about the reason. He pointed at Mr.

Pennella and said that he has tortuously interfered on this whole project and he is going to pay.

Dr. Friedlander said he saw the first presentation and the applicant separated the project because they wanted one home built and were trying to escape doing the whole subdivision. Jim Zappi said they separated it so that they could move along and get the building started. Jim Zappi said this Board signed a plat and did not follow their own law. They are in a better position than the village is and they want to work with this Board.

Dr. Friedlander referred to the 1.3 MD bond and asked how much it would cost to get that. Jim Zappi said about \$50,000. Dr. Friedlander said that is not a lot of money for a big project like this. Jim Zappi said they are in a better position and want to work with the village and that is their position.

Ms. Raiselis would like to move on and she said advised the applicant that if they feel like they want to do the repairs, then that's good, but they are not obligated to do it. She asked the applicant to submit the revised plans for review at the work session and for the September meeting. Jim Zappi said the problem with that is when they get the comments back from the consultants too late, they don't want to talk to them. He asked the Board to ask Mr. Pennella if he told Suzanne Nolan not to talk to them.

Counsel Zalantis advised Jim Zappi to stop making claims that are not supported. You keep saying you are ready to go and you don't have a DOH approval. Jim Zappi said that is because somebody called the Board of Health and said they are using someone else's plans without even looking at them. Counsel Zalantis said there are open conditions and if you want to litigate, we will be in court for 4 years, or you can work with this Board to satisfy the open conditions which could be done in one more meeting. Jim Zappi said he is going to call all of the consultant's and have the plans done by the work session and he is going to litigate against Mr. Pennella.

Ms. Raiselis asked if anyone in the public wished to comment on this application.

PUBLIC COMMENT PERIOD

Greg Nilsson, 30 Woodlawn Avenue, is unclear what is up for discussion at this hearing. Ms. Raiselis said the approved 2014 subdivision came with conditions and the applicant is requesting that some of the conditions be modified or removed. In addition to that, the applicant is seeking site plan approval for the property at 23 Browning Lane.

Mr. Nilsson is concerned about the sewer line that will go right passed his fence. He showed the walkway and the proposed sewer easement by lots 8 and 9. He is also

concerned about the stormwater runoff. The water will come down to his home and it will need to be diverted away from his property.

Ms. Raiselis advised that each individual lot will require site plan approval and these items, including tree removal, will be addressed with each application. She noted that the sewer location will not change. Mr. Pennella agreed that when Lots 8 and 9 are before the Board, these items will be addressed. The plans are conceptual in nature. He asked about the electrical and internet facilities and if they will be underground.

Ms. Nilsson came up and also expressed her concern about the proximity of the sewer easement where there is a walkway. She has concerns about privacy and it seems a little close. There is an existing walkway, but they will be going right along their fence. She suggested maybe adding some plantings to screen the area. Mr. Nilsson also asked that these items be addressed for privacy concerns. Dr. Friedlander said the walkway is there for access to the school bus since it will not go on a private road.

Ms. Raiselis said they will discuss this at the work session. Mr. Nilsson said he will follow up with an email to the Board and watch the work session through zoom. Mr. Nilsson also mentioned that there are two dead trees at the top of the property which are ready to fall and tall enough to reach their home. They removed one tree and the applicant agreed to let them do that. They have not gotten back to them on these other two trees. There is general neglect of trees which have been marked to come down for years, but some are coming down on their own. He asked if there is any obligation to look at the health of the trees before they fall down. Ms. Raiselis said it is private property and the owner has no obligation for removing the trees. Many trees will be coming down to build the homes. Since it is private property, Ms. Raiselis suggested following up with the applicant.

Robert Kearns, appeared on behalf of his wife, the owner of 23-25 Gracemere. The roadway is deplorable. It looks like a mine field. There are 2 feet deep potholes all over and cars can barely transverse over the road. Mr. Cohen is 100 years old. His father-in-law is 97, who lives at 23 Gracemere and is not in good shape and there is concern about emergency vehicles being able to get through. Something has to be done with the roadway before the applicant gets any approvals.

Dan Fried, 20 Woodlawn, is also concerned about water runoff onto his property which is adjacent to lot 8. He would like this matter and the privacy concern also addressed.

Mary Bushman Kelly, a Gracemere resident is concerned about area between the pillars and the lake at the end of Gracemere Road. She asked if this is part of the discussion. Ms. Raiselis said that the hill area is not part of the discussion. Ms. Bushman Kelly advised that this past weekend, a woman got her axle stuck in one of the potholes. She went out after that and painted around all of the potholes and asked the Board to drive down to see how bad they are. The area in bad shape abuts the

front of the Gracemere stone home. She asked when that will be considered. Ms. Raiselis advised that the applicant does not want to do anything until they get approval, next month. She said if she lived there, at this point, she would get the wheelbarrow out and fix the potholes herself, but not everyone can do that. She has no answer.

Counsel Zalantis said it is a private road, the village has no obligation to repair the road and cannot make applicant do the repairs.

END OF PUBLIC COMMENT.

Ms. Raiselis is hoping that they have made progress this evening and looks forward to next month. She appreciates the public comments which will be discussed at the work session.

Ms. Mezey moved, seconded by Dr. Friedlander, to continue the public hearing.

The secretary recorded the vote:

Alt. Member Mezey:	Yes
Chair Raiselis:	Yes
Member Friedlander:	Yes
All in favor. Motion carried.	3-0

Mr. Aukland returned to the meeting room.

NEW PUBLIC HEARING - Joseph G. Thompson Architect, PLLC - 93A Highland Avenue

Ms. Raiselis read the following public hearing notice into the record:

PLEASE TAKE NOTICE that the Planning Board of the Village of Tarrytown will hold a public hearing on **Monday, August 28, 2023, at 7:00 p.m.** at the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear an application by:

Joseph G. Thompson Architect, PLLC
108 N Division Street, Ste 100
Peekskill, NY 10566

For site plan approval for the construction of a single-family home.

The property is located at 93A Highland Avenue in the Village of Tarrytown and is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.110, Block 75, Lot 5.2 and is located in the R-10 Zone.

Documents are available for inspection in the Planning and Zoning Office. All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing-impaired; request must be made to the Village Clerk at least one week in advance of the meeting.

By Order of the Planning Board.

Lizabeth Meszaros
Secretary to the Planning Board

DATED: August 18, 2023

The mailing receipts were received and the signs were posted.

Joseph Thompson, RA, appeared before the Board and presented the site plan. The property owner, August Nigro, is also present. The property was recently acquired by his client, but was subdivided back in 2014. They are proposing the construction of a 3,000 s.f. modern tudor style home. The prior plan proposed a shared driveway on the property, but this plan proposes a separate driveway. They have received comments from Mr. Pennella and will revise the plan to rotate the house to observe the 25-foot setback and will be submitting a revised plan. They will also comply with the FAR and will slightly alter the plan to pull the ceiling heights and lower the pitch of the roof to reduce the FAR, eliminating the need for any variances for the project.

They are before this Board this evening to hear initial feedback from the Board and the public and come back with revised plans. They would like to proceed to the ARB as soon as possible. Mr. Pennella advised that they can go before the ARB, but they cannot approve that application until they receive site plan approval.

Ms. Raiselis asked if the Landscaping plan was forwarded to Suzanne Nolan. Mr. Pennella advised that the applicant will be revising the plan which may affect the landscaping. Once the new plan is submitted, it will be forwarded to Suzanne Nolan for review. The applicant showed a revised plan showing the proposed changes that will be made that were just discussed. They will submit a revised landscaping plan for review.

Ms. Raiselis asked the applicant about the separate driveway. Mr. Thompson showed the new driveway. Most of the existing driveway is on 93A which would require an agreement between the properties. They believe it is best to have it divided. It will be a cleaner structure with divided driveways.

There were no questions from the Board or staff.

Ms. Raiselis asked if anyone in the public wished to comment.

PUBLIC COMMENT PERIOD

Ida Doctor, lives across the street from the property at 93 Highland. She is confused about the new location of the driveway. In addition, the house looks big and is not in line with the surrounding homes. She is also concerned about stormwater runoff. There has been quite a bit of runoff from Highland and most of the water currently goes down her driveway.

Ms. Raiselis advised that the proposed driveway will be on Highland. Stormwater will be collected on site and stored in a drywell which will improve the drainage condition.

Mr. Pennella said the house will be 25 feet from the street. The applicant will move the home to meet these requirements and they will also lower the pitch of the roof to reduce the FAR which will make the home look smaller. Mr. Pennella advised that the neighbor at 93 Highland Avenue also has an application before them for a curb cut for the driveway. Mr. Pennella noted that on the upper northwest corner of property there is a parking area that has to come out as part of the application. Ms. Doctor asked about the electrical units. Mr. Pennella advised that this is a backflow preventer for the restaurant, not an electrical unit, and it will remain since it is on the restaurant property.

The applicant will enhance the landscape plan and re-submit for review by Suzanne Nolan. The driveway curb cut will be more narrow than the current, about 12 feet. The stormwater will improve the condition. Ms. Raiselis asked for a streetscape to include other homes in the area on the same scale. Mr. Thompson said the neighboring lot is wooded so that may be difficult. A photo montage will be sufficient. The applicant said they can get some photos and piece them together.

Mr. Aukland confirmed with Mr. Pennella that the applicant will not be required to have the curb cut approved by the Board of Trustees.

Ms. Hanes, of 90 Highland Avenue, commented that the runoff seems to be getting worse after every rain. Mr. Pennella advised that a drain will be installed at the bottom of the property line which will improve the condition.

Ms. Mezey moved, seconded by Mr. Aukland, to continue the public hearing.

The secretary recorded the vote:

Alt. Member Mezey:	Yes
Member Aukland:	Yes
Chair Raiselis:	Yes
Member Friedlander:	Yes
All in favor. Motion carried.	4-0

NEW PUBLIC HEARING – Samson Management, LLC – 177 White Plains Road

Ms. Raiselis read the following public hearing notice into the record:

PLEASE TAKE NOTICE that the Planning Board of the Village of Tarrytown will hold a public hearing on **Monday, August 28, 2023, at 7:00 p.m.** at the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear an application by:

Samson Management, LLC
977-77 Queens Blvd. Suite 710
Rego Park, NY 11374

For site plan approval for the construction of a dumpster enclosure area on the side of buildings 9 and 10 with related site improvements.

The property is located at 177 White Plains Road in the Village of Tarrytown and is shown on the Tax Maps of the Village of Tarrytown as Sheet 1.201, Block 121, Lot 3 and is located in the M-4 Zone.

Documents are available for inspection in the Planning and Zoning Office. All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing-impaired; request must be made to the Village Clerk at least one week in advance of the meeting.

By Order of the Planning Board

Lizabeth Meszaros
Secretary to the Planning Board

DATED: August 18, 2023

The mailing receipts were received and the signs were posted.

Steve Wrabel, the project attorney, with the law firm of McCullough, Goldberger and Staudt, LLC, appeared before the Board, and presented the site plan. He introduced Brian McCarthy and Mike Santoro, with Samson Management and the project engineer, who are here to answer any questions.

Mr. Wrabel showed the small portion of the property where they propose to install a larger dumpster for use by the residents to store occasional bulk items. They currently do not have storage for these items. This dumpster is not intended for the storage of food garbage. The dumpster will be placed on a concrete pad and enclosed with a 6-foot chain link fence with slats. It is situated away from the road and the residential buildings and there will be approximately 543 s.f. of disturbance of the steep slope. They have submitted the criteria to justify the steep slope waiver for the Board's consideration.

In addition, stormwater, including a dry well, and rain garden will be provided with an oil separator. They will be making some additions to Mr. Pennella's markup plan which also included changes to the landscape plan, provided by Suzanne Nolan, the village landscape architect.

Mr. Santoro, with Samson Management came up and showed the truck route for the pickup. Ms. Raiselis asked why there was so much slope disturbance if that is the way they are going in and out. Mr. Pennella advised the Board that Ms. Nolan was looking at the plan and trying to address screening comments of the Board. They worked together and revised the layout a bit. A marked-up plan was sent to the applicant which reduces the disturbance a bit. The project engineer came up and showed the revised plan and explained that with the new plan there will be less impact to the slope. They will be making minimal contour changes and the disturbance will be less than the 543 s.f. They did not have enough time to revise the plans but are agreeable to the plan changes which have been discussed with Mr. Pennella and Ms. Nolan.

Mr. Pennella advised that he gave the layout to Ms. Nolan and she put the trees on this plan which should be recorded.

Mr. Wrabel asked if the Board could approve this application subject to the submission of the revised plans. Ms. Raiselis said that a revised plan will need to be submitted and reviewed before they can vote. Mr. Wrabel asked if the public hearing could be closed this evening. Counsel advised that the public hearing cannot be closed since the final plan has not been submitted and there may be additional comments.

There was no one in the audience to comment on this application.

Mr. Aukland moved, seconded by Ms. Mezey, to continue the public hearing.

The secretary recorded the vote:

Alt. Member Mezey:	Yes
Member Aukland:	Yes
Chair Raiselis:	Yes
Member Friedlander:	Yes
All in favor. Motion carried.	4-0

ADJOURNMENT

Ms. Mezey moved, seconded by Mr. Aukland, to adjourn the meeting at 11:55 p.m.
All in favor. Motion carried. 4-0

Liz Meszaros, Secretary

EXHIBIT A
Hudson Harbor Station – LLC
29 S Depot Plaza Presentation
August 28, 2023

HUDSON HARBOR STATION



DEPOT BUILDING

Overview

Project Revisions & Zoning Compliance

- . Based on comments and feedback from our previous meeting, as well as subsequent conversations & reviews with Village staff, our team has revised our project to fully comply with zoning height and program requirements.

SEQRA Review

- . Our team has reviewed the "SEQRA Process" document provided by the Village after the previous Worksession and will be addressing each comment in our next submission package.

Coordination with MTA

- . Our team is in the process of finalizing the agreement with the MTA as well as studying potential locations for the proposed Mobility Hub.

Coordination with Village & Franklin Courts

- . Hudson Harbor Station LLC is open to continued coordination and integration with both of these projects, with the understanding that the timelines for both are unknown and that our approval should not be tied to the timeline of either.

Next Steps

- . Our team is prepared to submit an application for the upcoming Architectural Review Board hearing. If the Planning Board agrees, we would like to begin the facade review process.

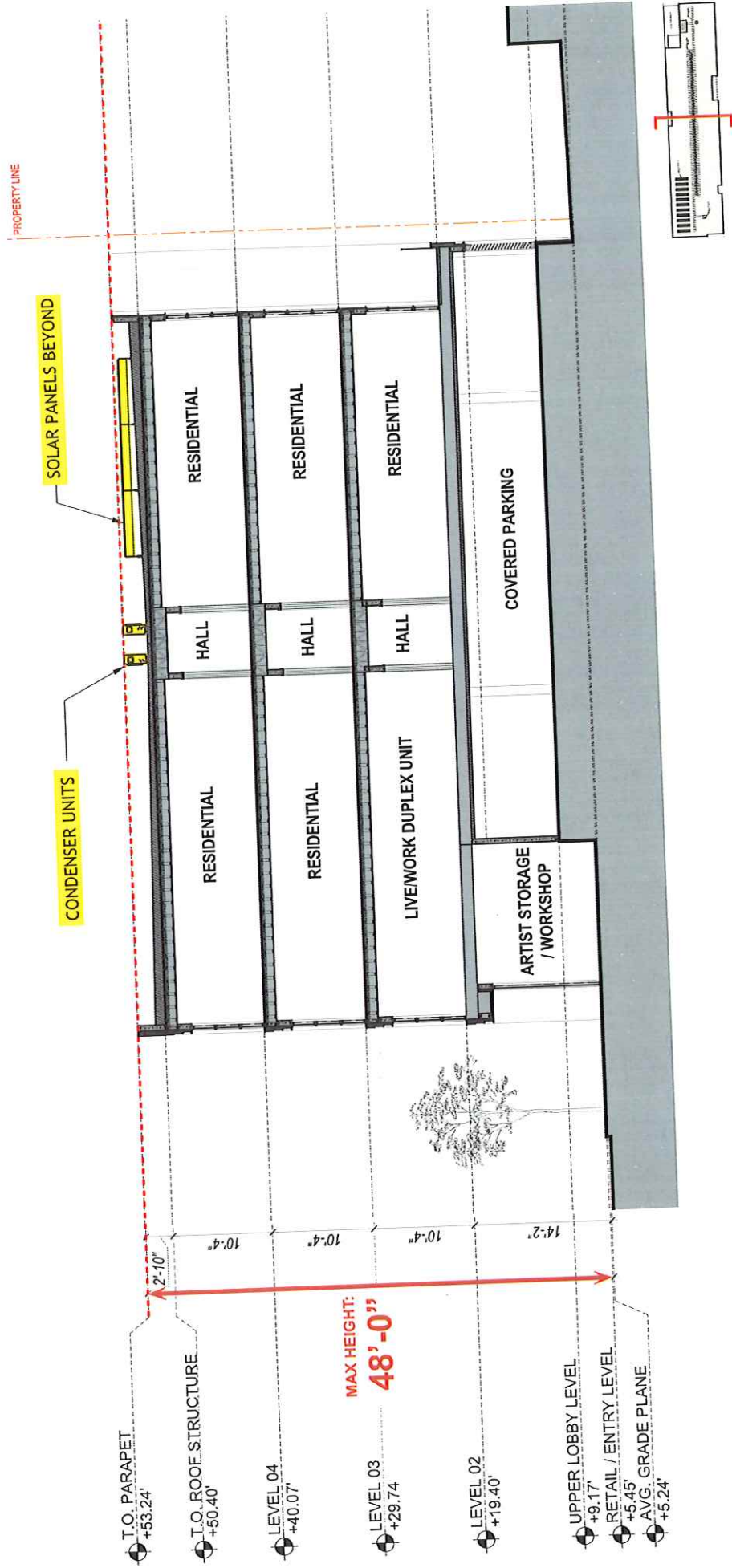
Building Height

Max Building Height of 48'-0"
(calculated from Average Grade Plane elevation of +5.24')



Building Height

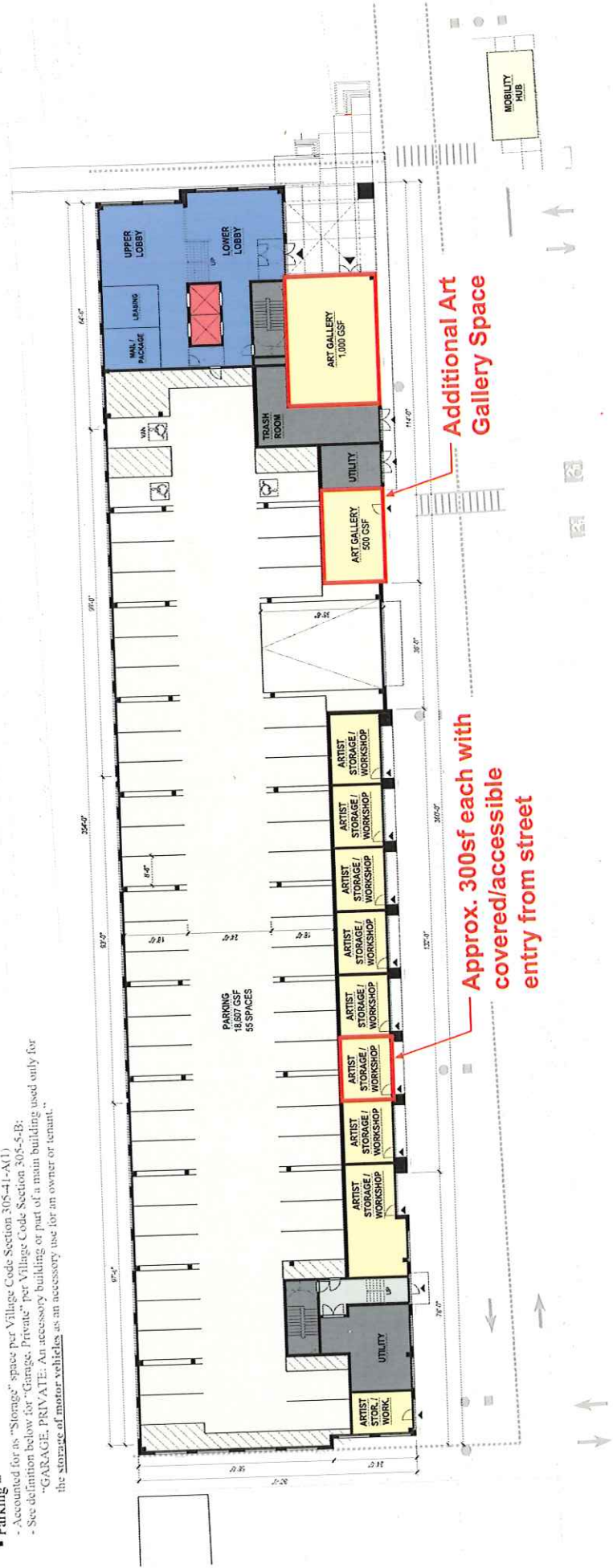
Solar panels & condenser units to sit entirely below top of parapet



Ground Floor Program

Revised with increased nonresidential program (Reviewed with Village staff)

- o Total ground floor area = 27,471 sf
- o 50% requirement for "nonresidential" = 13,736 sf
- o 84% proposed as "nonresidential" = 23,091 sf
- Art Gallery area = 1,500 sf
 - Accounted for as "Art Gallery" space per Village Code Section 305-41-A(9-F)
 - Satisfies requirement of at least 8% of area being those uses listed in Subsection A(8) or (9)
- Artist Storage/Workshop = 2,984 sf
 - Accounted for as "Storage" space per Village Code Section 305-41-A(1)
- Parking = 18,607 sf
 - Accounted for as "Storage" space per Village Code Section 305-41-A(1)
 - See definition below for "Garage, Private" per Village Code Section 305-5-B:
 - "GARAGE, PRIVATE: An accessory building or part of a main building used only for the storage of motor vehicles as an accessory use for an owner or tenant."

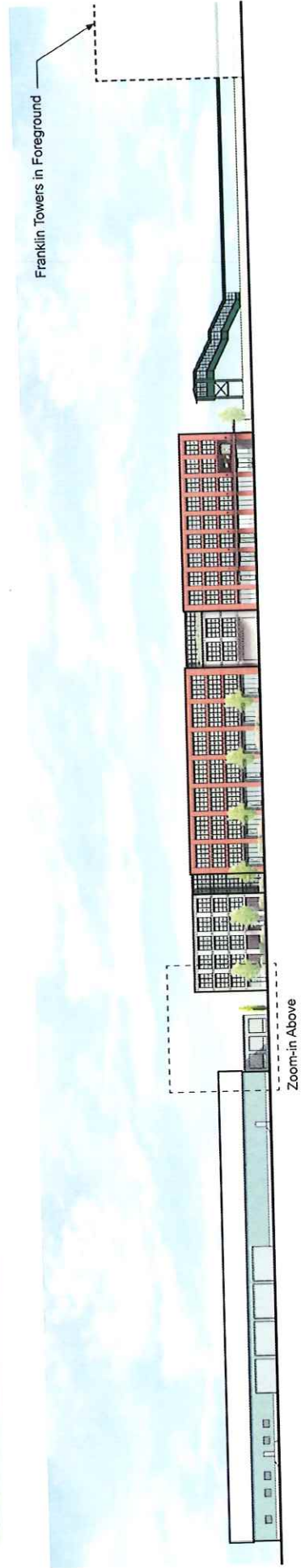
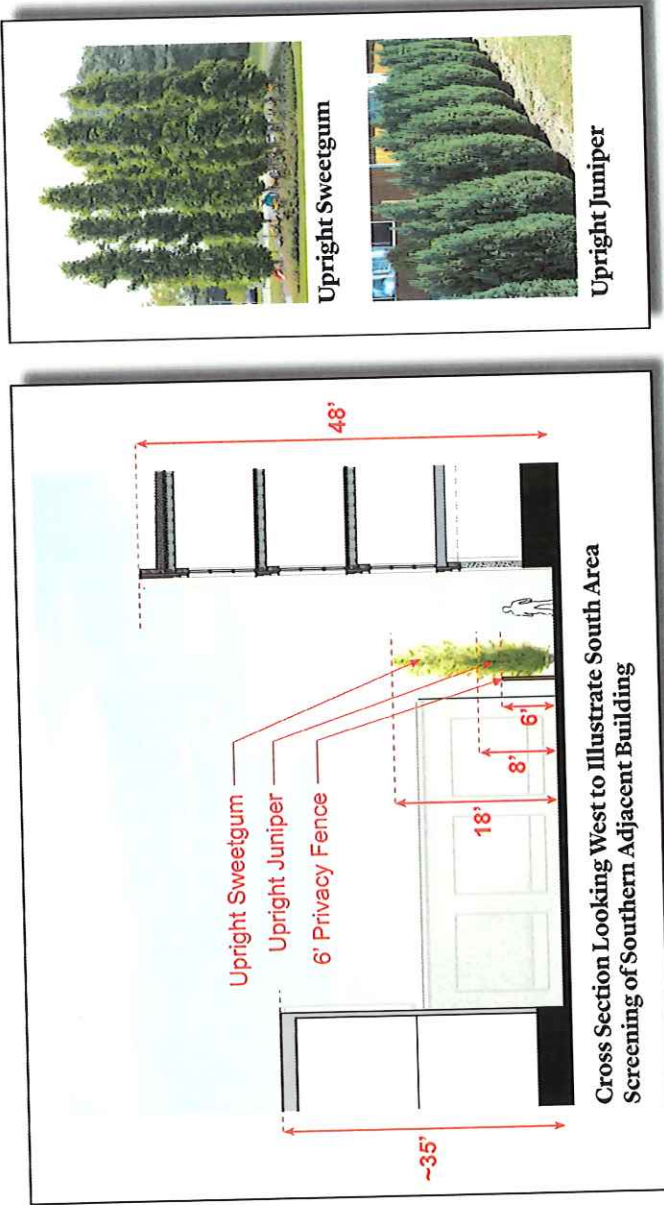


Site Plan

- Parking increase of 3 spaces (from 98 to 101)
- Prioritize pedestrian path material over asphalt at crosswalks
- Landscape buffer between MTA lot Franklin Courts
- Landscape screening at southern edge of project

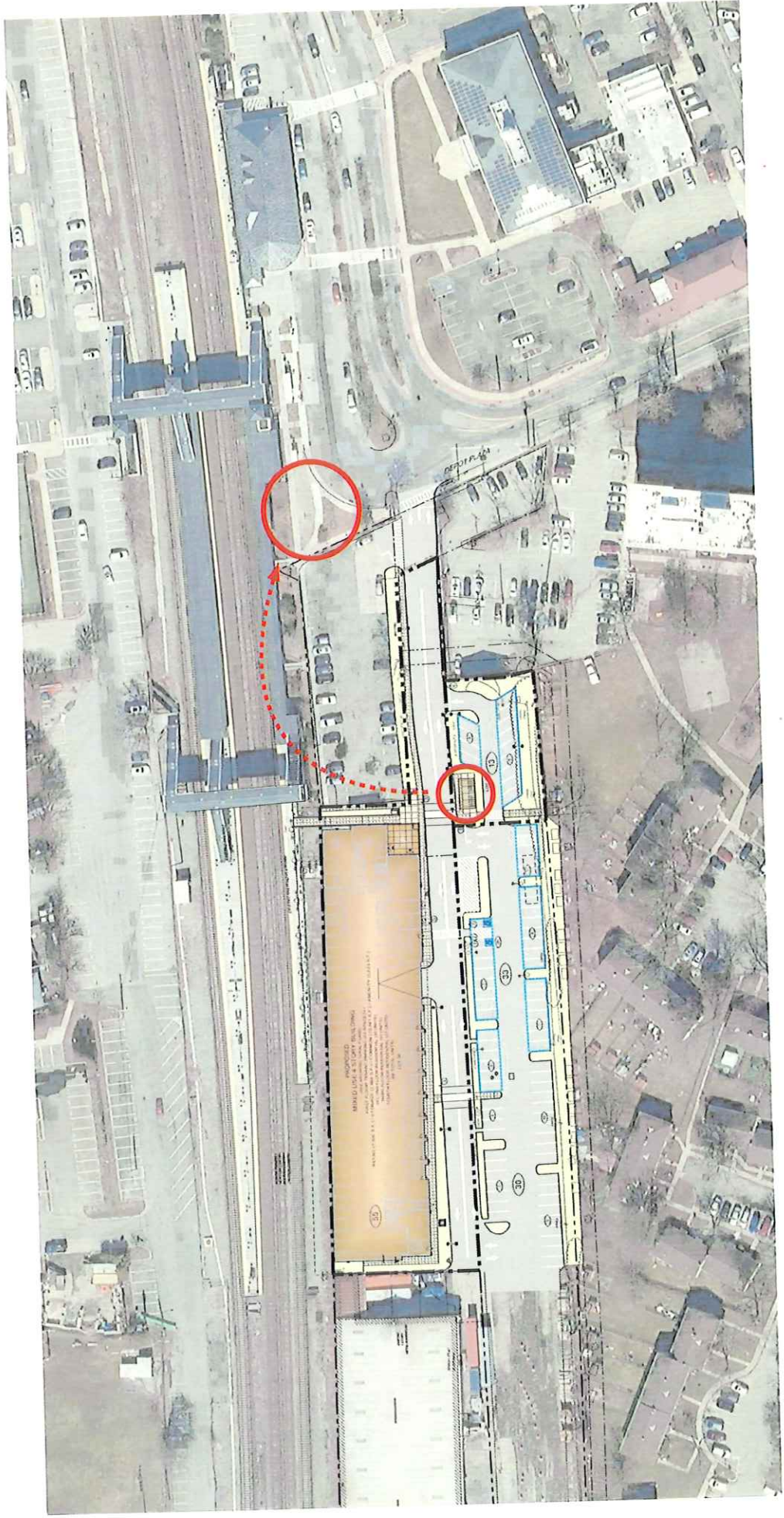
- #### 4. Landscape screening at southern edge of I

Contextual Site Section Looking West



Mobility Hub

Coordinating with MTA to potentially relocate Mobility Hub
(Applicant is prepared to include current mobility hub in site plan, and revisit if MTA and Village deem it appropriate)



Station Area Traffic Study/Plan

- **Current Proposal by Kimley Horn**
- **Applicant is happy to integrate the edge of the project into any traffic plans the Village may proceed with in the future.**

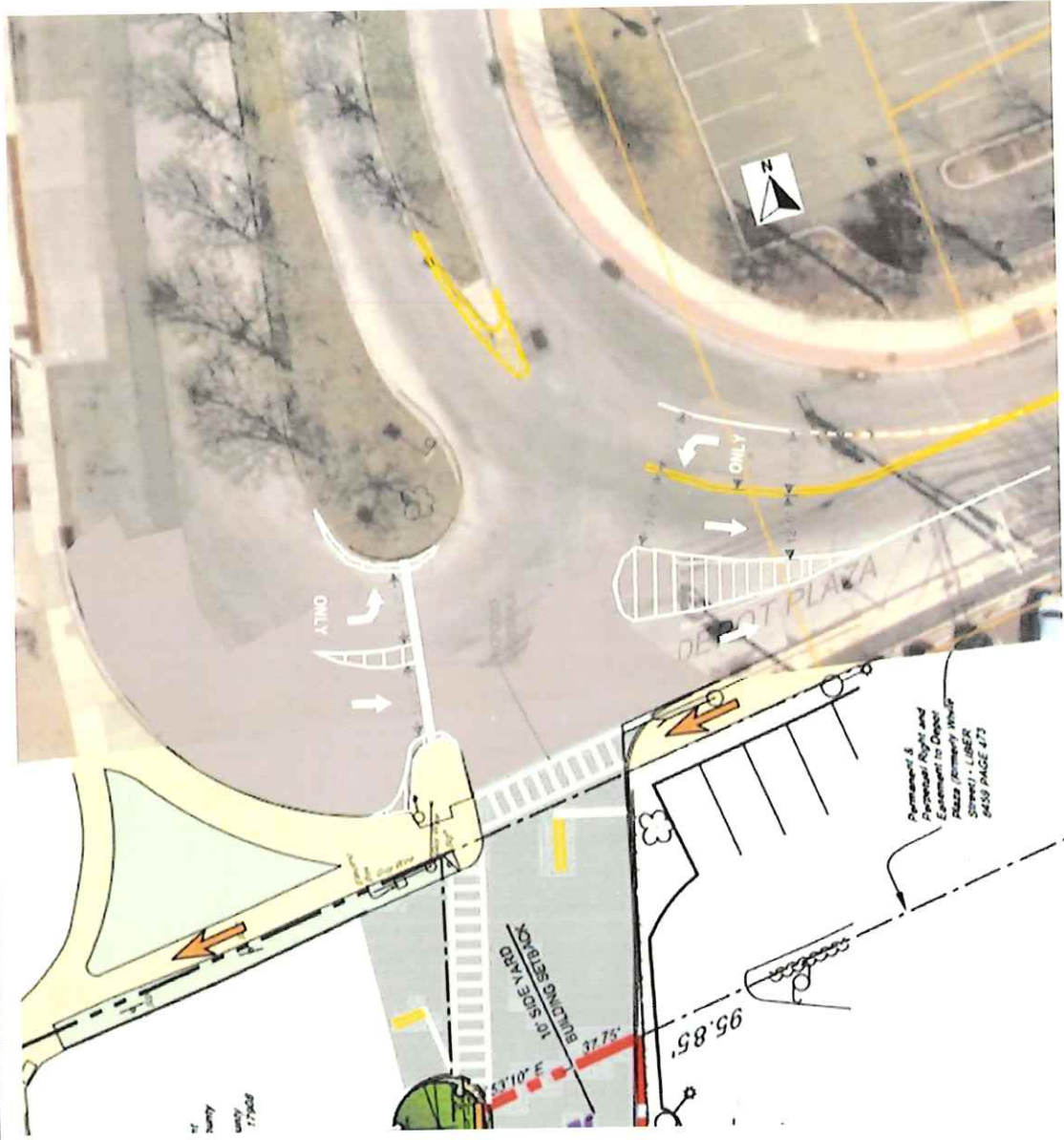


EXHIBIT A-1
Hudson Harbor Station – LLC
David Barnett Public Comment
August 28, 2023

I'm in support of development at 29 South Depot Plaza. However the **entire area** around the train station needs attention, but that's for another time. Tonight I'm here to raise 4 objections regarding the current proposal.

#1. The Height

The proposal meets the 48 foot requirement however once you add the solar panels and top it off with arborvitae trees that grow 1 to 2 feet per year, your at 60 feet. With that you can say goodbye to the beautiful views of the Hudson River and the Palisades.

#2. Affordable Housing

With only 9 units out of 88 specified as affordable housing, I believe this proposal does not sufficiently meet the needs of that community.

#3 The Cornell Study

The study states this area is in a precarious position regarding the impact of future sea level rise. This proposal doesn't meet the future requirements sufficiently. Why would we commission a study if we weren't going to consider their recommendations.

#4. Lastly I'd like to share an article from the *Westfair Business Journal* regarding this developer. I'll summarize because I only have three minutes.

The headline reads, *National Resources* **principals accused of building defective Sleepy Hollow condominium.**

It goes on to say, "for the third time in four years, a homeowners' association has sued *National Resources* for allegedly building a defective condominium. The board of managers of The River House at Sleepy Hollow Condominium is demanding \$7 million from Joseph Cotter and Lynne Ward, in a lawsuit.

According to the complaint Cotter and Ward had knowledge of the defective and non-conforming conditions, they concealed them and failed to correct them.

For instance, balconies drained poorly, water, snow and air seeped through windows and doors, and the façade had loose and deteriorated masonry. River House has already spent \$225,000 in repairs which should have been paid by the sponsor, and it estimates that more repairs will cost \$6.8 million.

They purportedly found 42 substantial design and construction defects and determined that the building did not conform with the offering plan that buyers relied on when they bought the apartments.

The condominium board accuses the sponsor, Cotter and Ward of fraud, negligence, publishing false brochures and advertisements, and breaches of contract.

In 2016, Cotter and Ward were sued for \$1.2 million by Hudson Harbor Condominium I and in 2018 for \$6.2 million by Lookout Condominium II.

Are we seriously considering this firm for developing 29 South Depot Plaza? REALLY?
I wouldn't trust this firm to do an extension I my house.

Tarrytown boards and the village administration need to find a way to protect and defend residence and future residence of this village from National Resources' defective and fraudgilent schemes.

National Resources principals accused of building defective Sleepy Hollow condominium Condo board seeks \$7M in lawsuit

By Bill Heltzel - August 20, 2020

For the third time in four years, a homeowners' association has sued officials of Greenwich-based National Resources for allegedly building a defective condominium.

The board of managers of The River House at Sleepy Hollow Condominium is demanding \$7 million from Joseph Cotter and Lynne Ward, in a lawsuit filed Aug. 12 in Westchester Supreme Court.

They "had knowledge of the defective and non-conforming conditions," the complaint states, "concealed them and failed to correct them."

Cotter did not immediately respond to a phone message requesting his side of the story.

In 2016, Cotter and Ward were sued for \$1.2 million by the board of managers of Hudson Harbor I Condominium, Tarrytown, and in 2018 for \$6.2 million by the board of managers of Lookout II Condominium, Tarrytown.

The allegations in those cases were strikingly similar to the claims in the new lawsuit. The previous cases were settled without public disclosure of terms.

National Resources, also known as National RE/sources, has created more than \$1 billion in real estate projects nationally, according to its website. It specializes in redeveloping former corporate and industrial properties, such as iPark Hudson on a former Otis Elevator site in Yonkers and iPark 84 on a former IBM campus in East Fishkill.

River House, at 11 River St., Sleepy Hollow, was built on an industrial site on the Tarrytown border. The five-story condominium has 56 apartments, a restaurant and a parking garage.

Cotter and Ward, as the principals of the project sponsor, Rivers Edge Tarrytown LLC, were frequently at the construction site, according to the complaint, controlled River House's board of managers until June 2017, and should have known about design and construction defects.

The project was completed and the first apartments were sold in early 2016. Joanne Sold, River House's current board president, and her husband, Kenneth, bought their apartment in 2017 for \$1,029,100.

Shortly after buyers took possession of their apartments, the complaint states, they began to complain to the sponsor "about problems with the condition of the building and surrounding property."

Water leaked through the façade, roof and balconies, according to the complaint, wind and water penetrated windows and balcony doors, balcony railings were secured improperly. The offering plan called for the façade to be made of metal and stone, but instead it was built with wood and stone.

The sponsors allegedly took no meaningful actions to fix the alleged defects.

River House hired Kamen/Tall Architects to inspect the property. KTA purportedly found 42 substantial design and construction defects and determined that the building did not conform with the offering plan that buyers

National Resources principals accused of building defective Sleepy Hollow condominium Condo board seeks \$7M in lawsuit

By Bill Heltzel - August 20, 2020

FacebookTwitterEmailLinkedInShare

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National ReSources

The River House at Sleepy Hollow. Image via National ReSources website

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River House hired Kamen/Tall Architects to inspect the property. KTA purportedly found 42 substantial design and construction defects and determined that the building did not conform with the offering plan that buyers

relied on when they bought apartments.

For instance, a glass panel had fallen from a balcony because of a failed fastener, KTA reported. Balconies drained poorly; water, snow and air seeped through windows and doors; the façade had loose and deteriorated masonry; compressors on the roof were not secured.

River House has already spent \$225,000 to fix leaks that should have been repaired by the sponsor, according to the complaint, and it estimates that more repairs and remediation will cost \$6.8 million.

The condominium board accuses the sponsor, Cotter and Ward of fraud, negligence, publishing false brochures and advertisements, and breaches of contract, fair dealing and fiduciary duty. Rivers Edge Tarrytown LLC is also named as a defendant.

River House is represented by Yonkers attorney Charles S. Welcome.

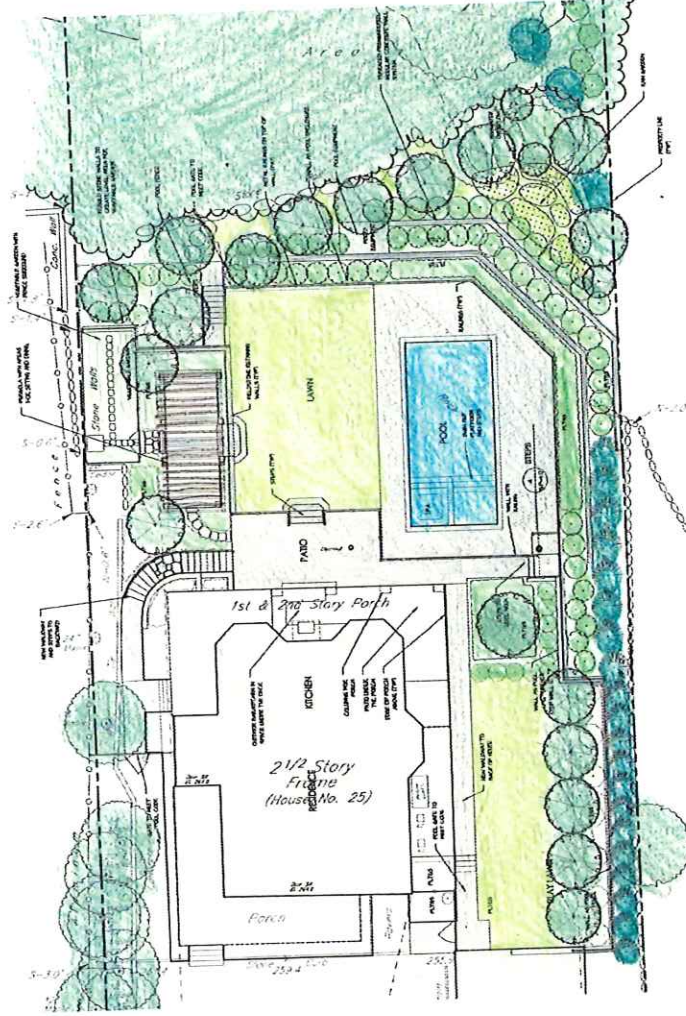
DAVID BARNETT

(5)

EXHIBIT B
Benjamin and Julie Green
25 Rosehill Avenue Presentation
August 28, 2023

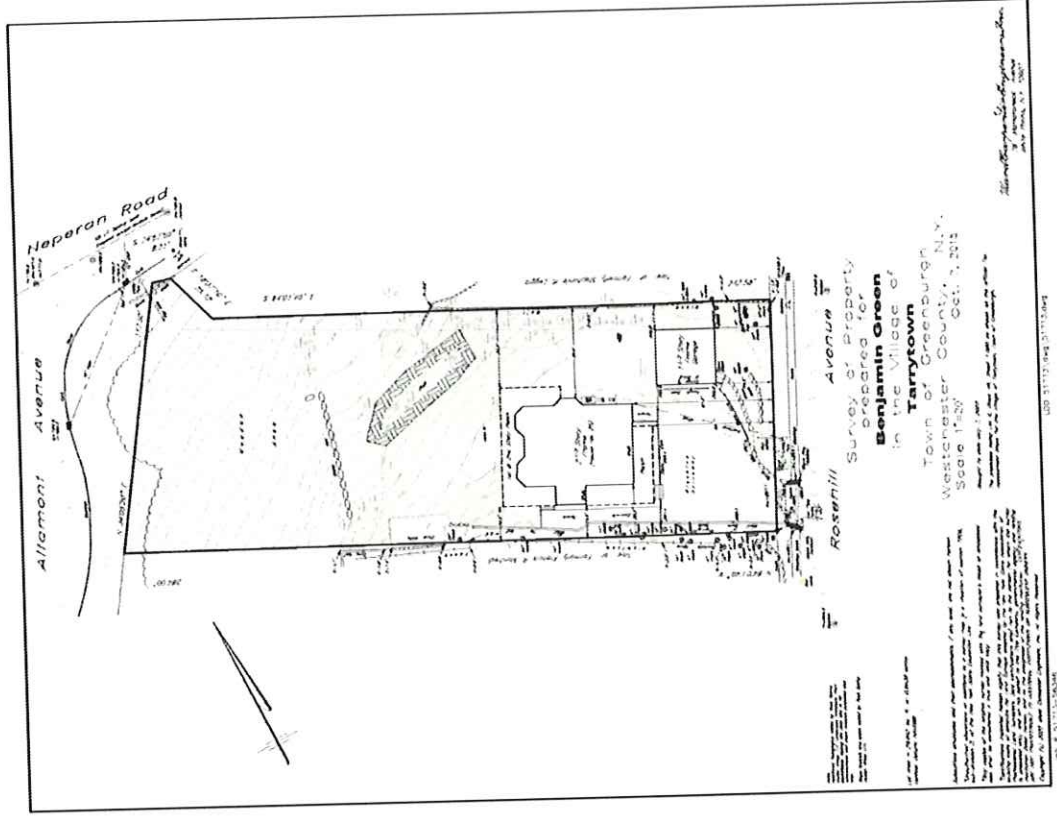
Green Property Proposed Site Improvements

Planning and Zoning August 28, 2023



Existing Conditions

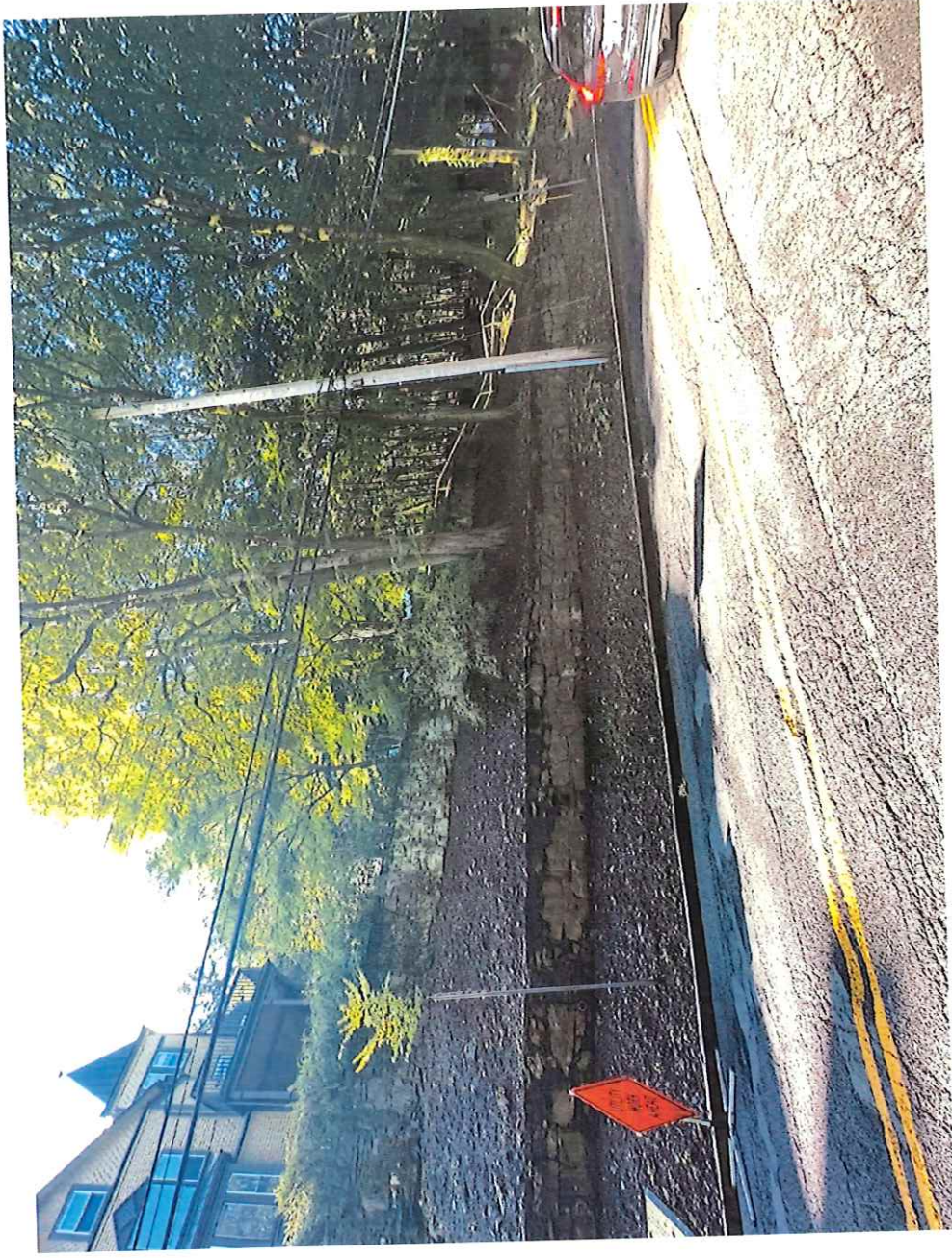
- .06438 Acres – Oversized Lot in the R-10 zone
- Dominated by steep slopes
- Norway Maple Wooded area
- Exposed unstable ledge



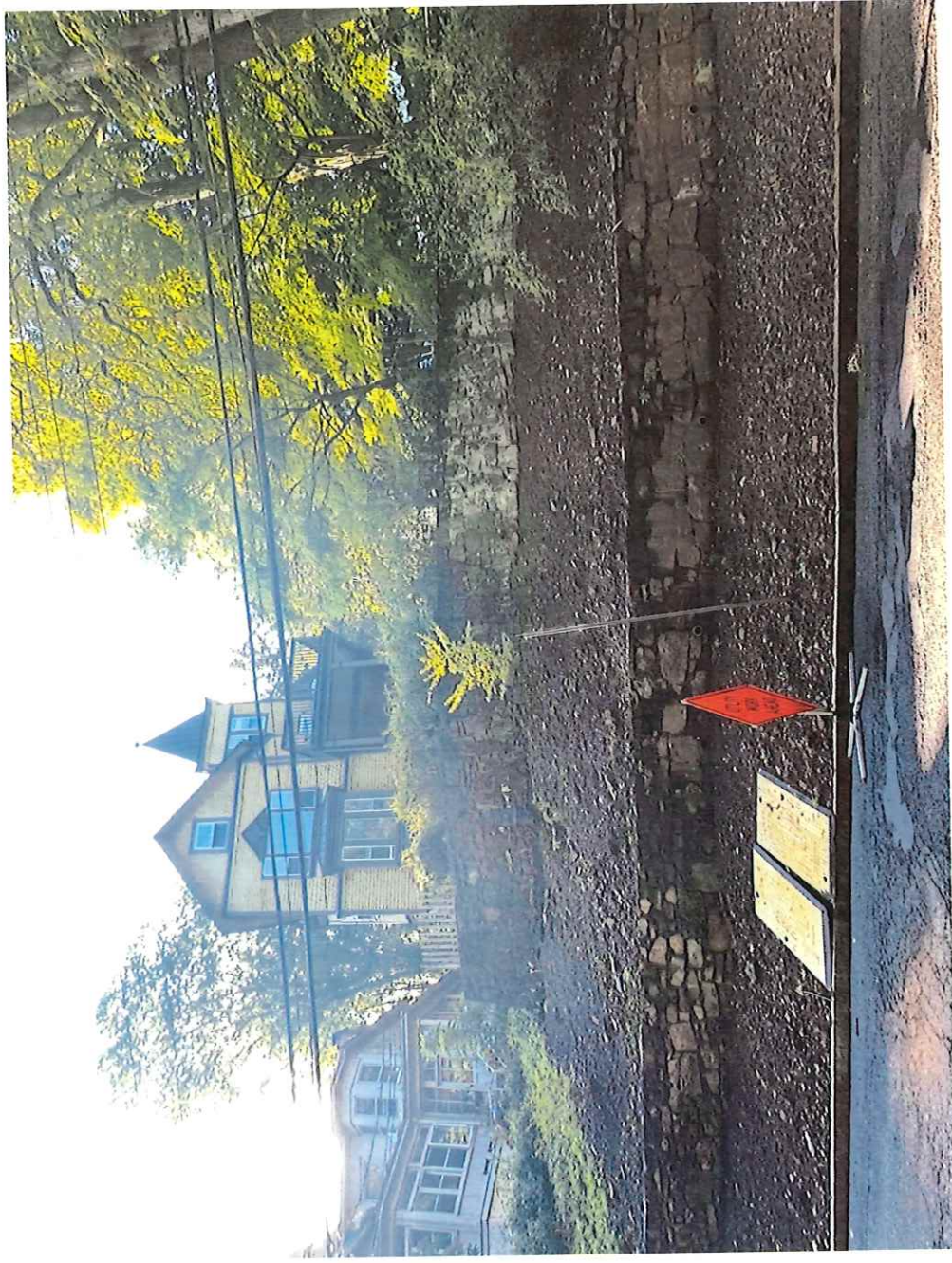
Neighborhood

Driving down Neperam Road

Neighbors property with
extensive retaining walls and no
plantings for slope stabilization



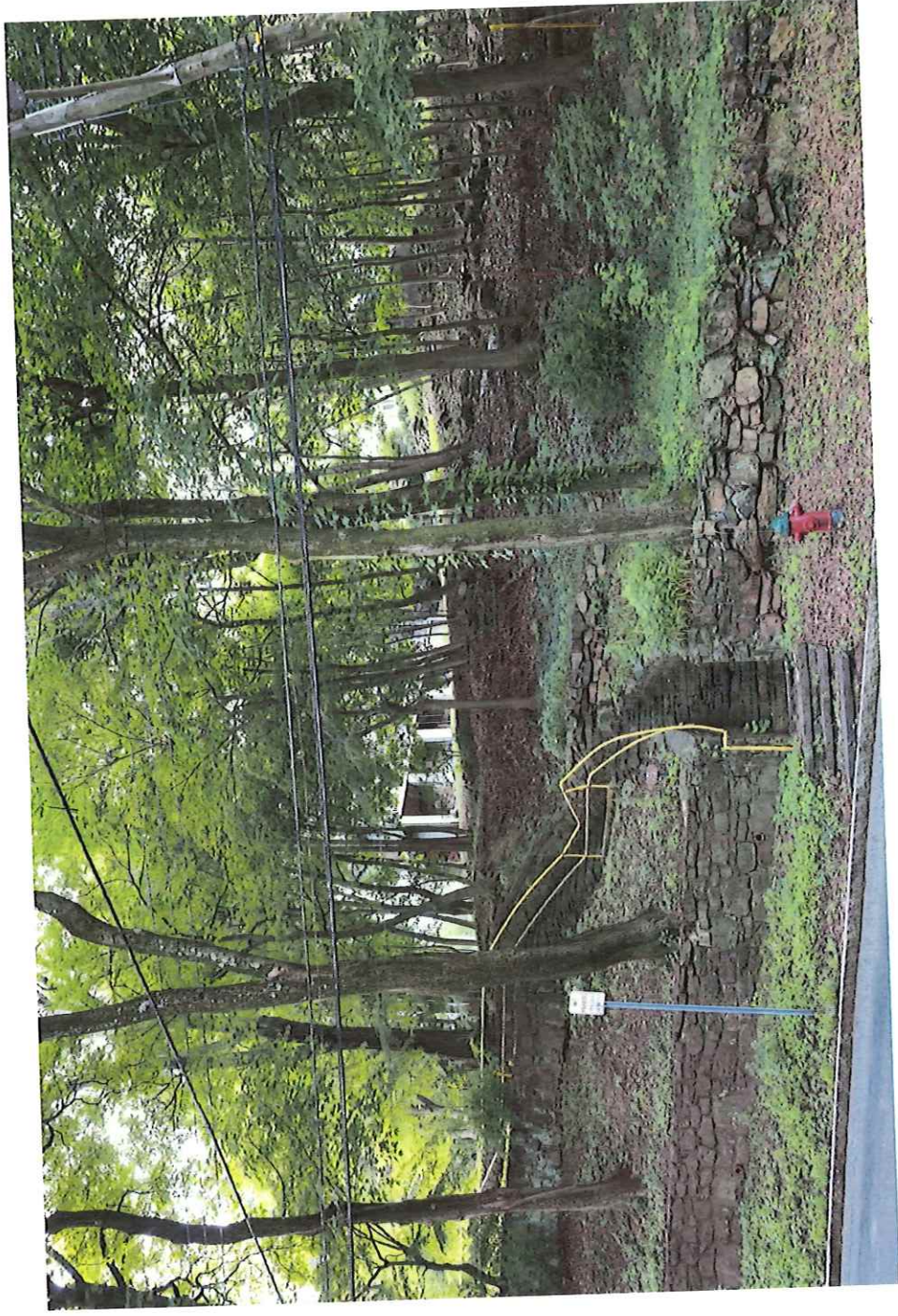
Neighborhood



Neighborhood

View into the property from across the steps.

- No understory or shrub layer in the woods.
- Retaining walls on the neighbors property



Neighborhood

View from near the park entrance across from Altamont Avenue

- Heavy vegetation limits the views into the property
- Steep slopes cut off views into the property from Altamont Ave.
- No vegetation removal along the roads



Neighborhood

View from Neperam Road
below the entrance to the
park

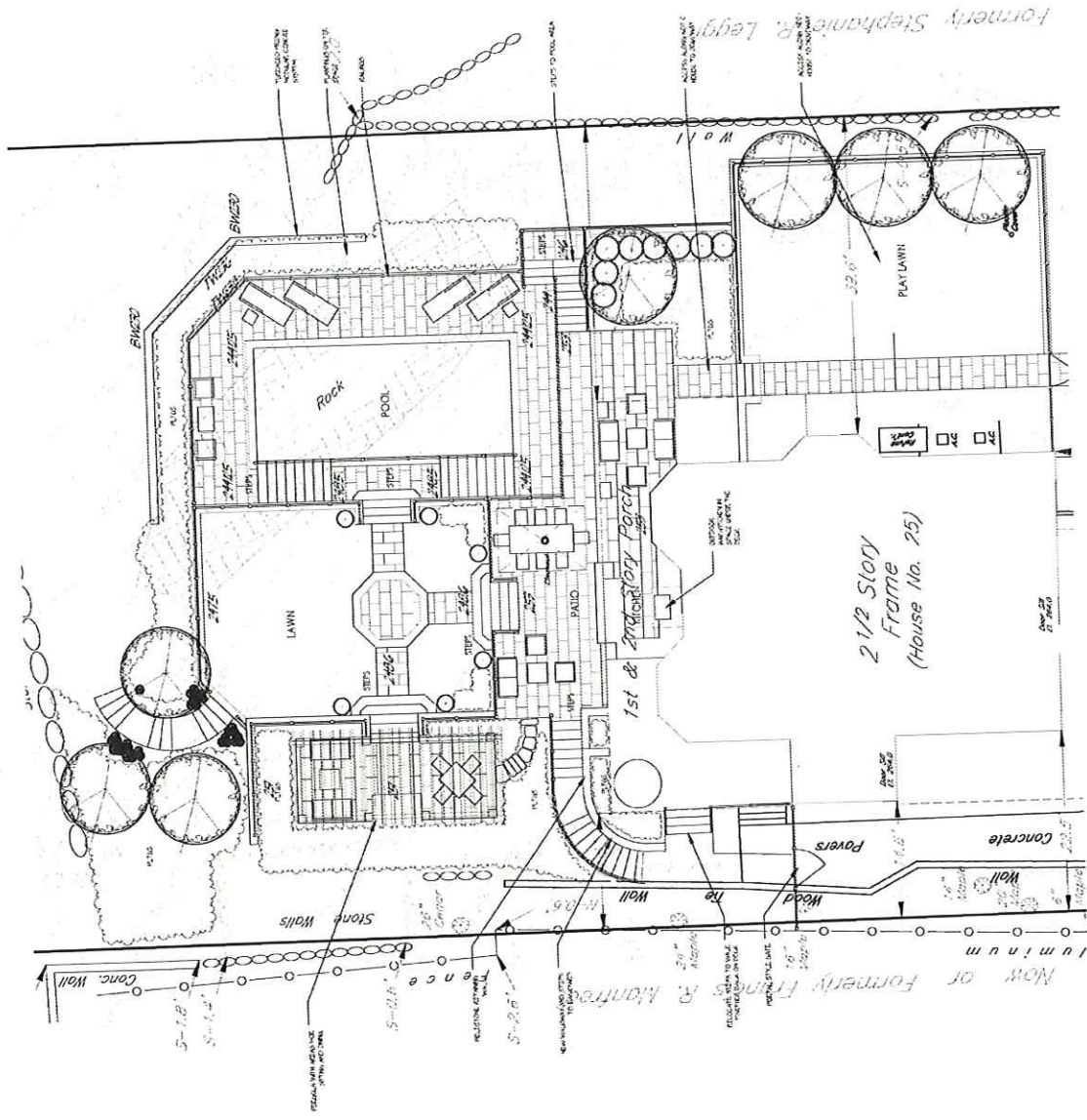
- Heavy Vegetation
obscures views into the
property



- Pool most likely require chipping/rock removal
- Insufficient wall heights
- Walls located on the most unstable parts of the slope – not a recommended condition.

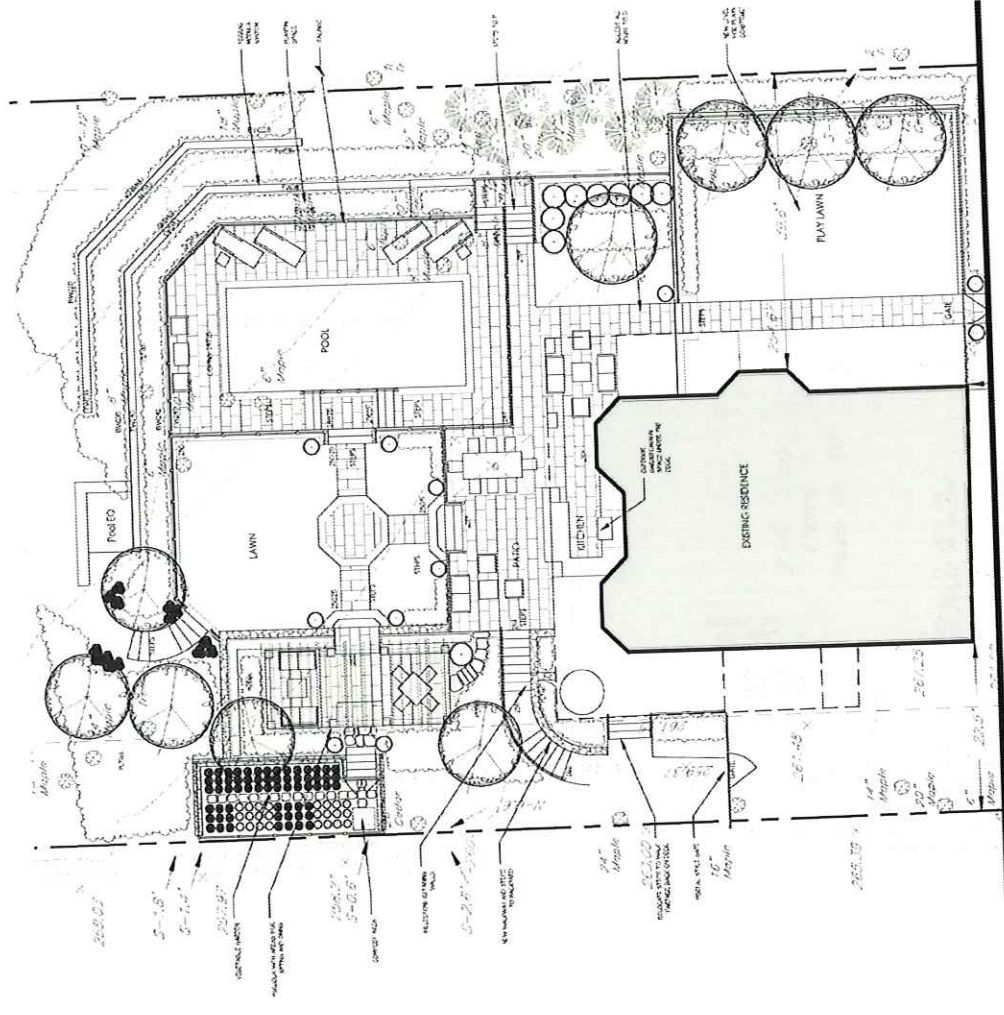
Plan Alternatives

- Better wall placement on most stable part of slope
- Wall heights in excess of 9' by house would require a variance
- Complicated design with many walls and steps



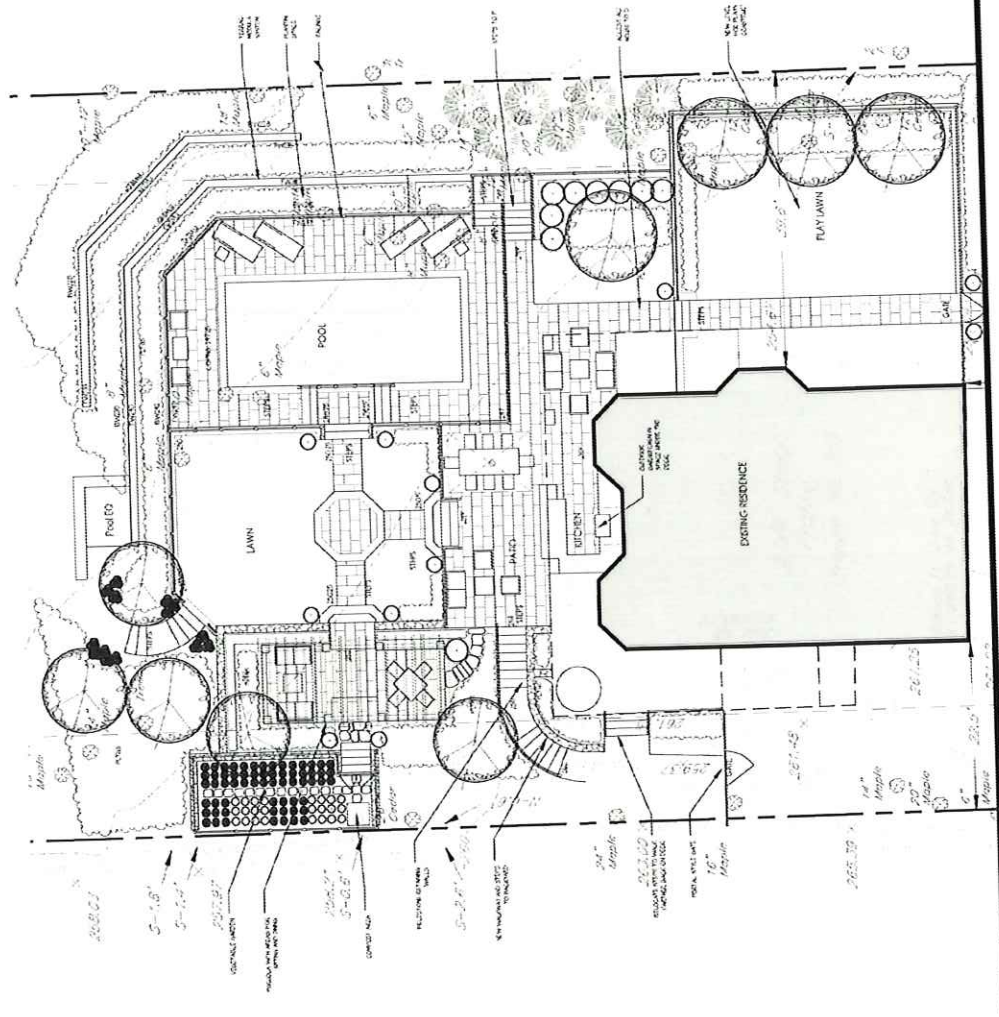
Plan Alternatives

- Better wall placement on most stable part of slope
- 3 terraced walls
- Complicated design with many walls and steps
- Better wall heights no variances required for wall heights



Plan Alternatives

- Better wall placement on most stable part of slope
- 3 terraced walls
- Complicated design with many walls and steps
- Better wall heights no variances required for wall heights



[illegible]

- Minimizes disturbance by keeping the project in the developed portion of the property
- Locates the walls on the most stable portion of the site.
- All walls are 6' or under
- All walls are screened with plantings
- Native trees and shrub planting exceeds code requirements
- Includes a rain garden to accommodate drainage per Village Forest Management Plan to improve wooded areas.
- Improves drainage
- Reduces erosion
- Consistent with Neighborhood
- No detrimental effects.
- Majority of existing woods remain undisturbed

Proposed Plan

View From Neperam Road

- Distance from Road, elevation change and existing dense vegetation obscure views of the project
- Heavy planting on the slope, along the woods edge and in front of the walls will further screen the project.



Proposed Plan

View from neighbors property

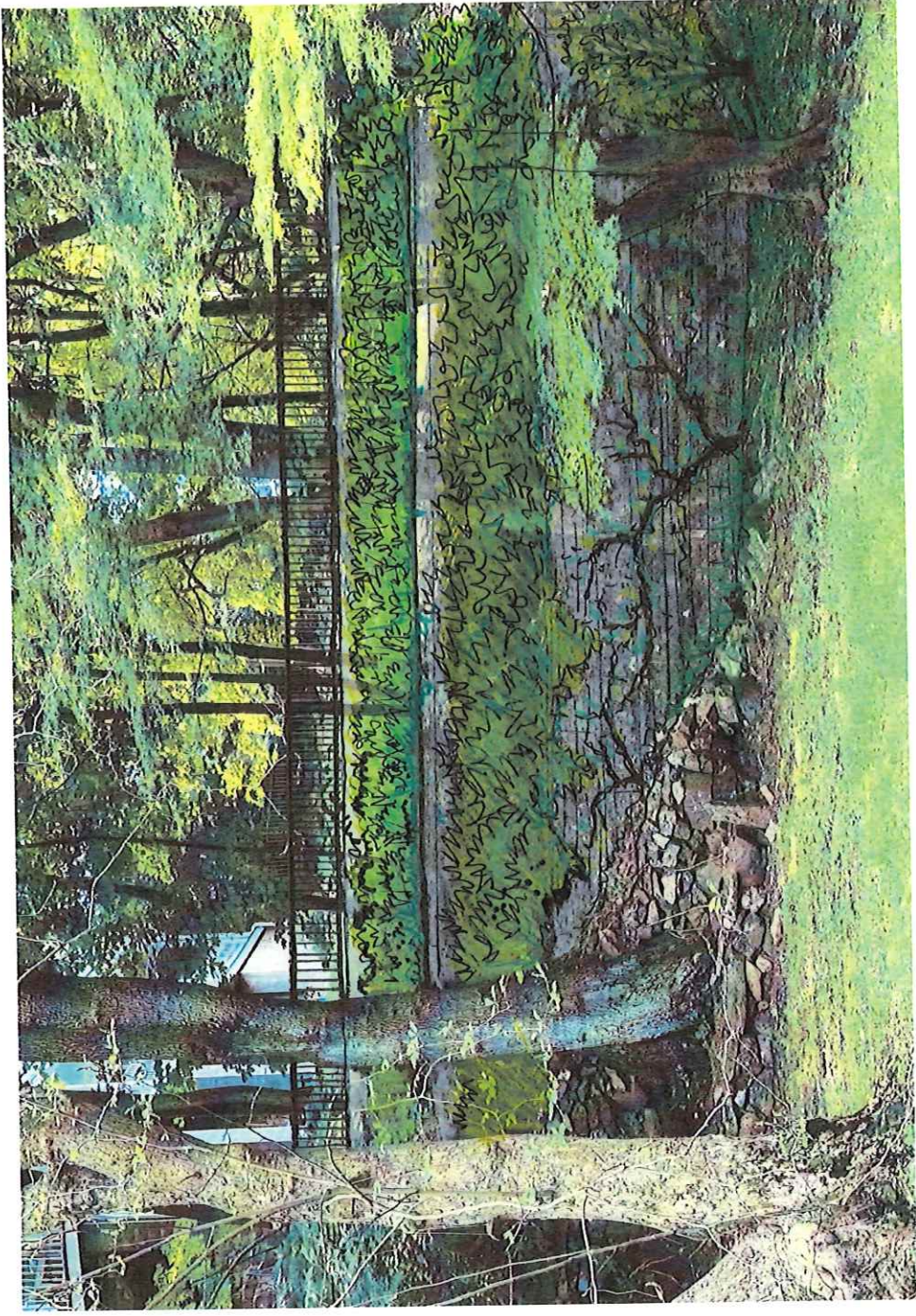
- 5' ht. wall along the property for 14'
- Wall planted with vines.
- Terraced areas between walls will be planted with native shrubs to screen the walls.
- Wall will have a stacked stone texture and natural color blend to blend into the surroundings.



Proposed Plan

View from neighbors property

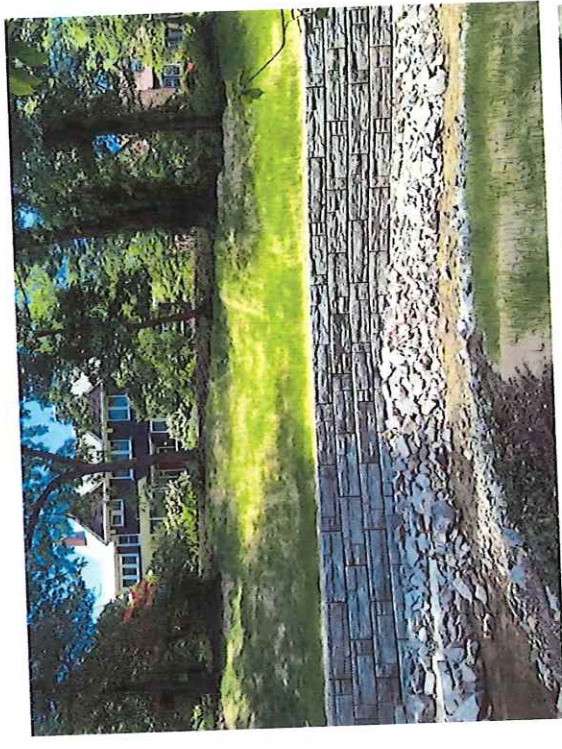
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Proposed Plan

Engineering

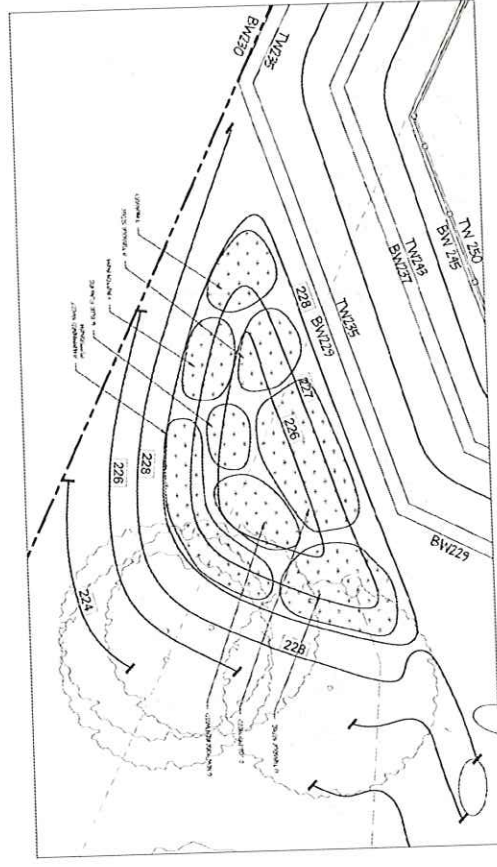
- The proposed walls have been engineered and the calculations have been provided showing the suitability of this wall system to the project.
- The walls have been located on the most stable portion of the site
- The soils in the area have been tested and the engineering report provided showing the soils exceed to design criteria for the wall systems.



Proposed Plan

Drainage

- The proposed drainage plan has been designed in keeping with Village code and the NYS DEC drainage manual.
- A raingarden with native wetlands plantings and a level spreader outlet has been included in the design per the recommendation of the town engineer.
- The proposed plan will reduce overland flow onto the adjacent property
- The proposed plan will reduce runoff



RAIN GARDEN PLANT LIST

1. *CAREX STRICTA*
 2. *CLETHRA ALNIFOLIA 'HUMMINGBIRD'*
 3. *CLETHRA ALNIFOLIA 'HUMMINGBIRD'*
 4. *CLETHRA ALNIFOLIA 'HUMMINGBIRD'*
 5. *CLETHRA ALNIFOLIA 'HUMMINGBIRD'*
 6. *CLETHRA ALNIFOLIA 'HUMMINGBIRD'*

TUSsock EDGE
 HUMMINGBIRD SWEET PEPPERBUSH
 NEW YORK IRIS
 BLUE FLAG IRIS
 NEW YORK IRIS

1 GAL
 2 GAL
 18" 24" HT.
 1 GAL
 18" 24" HT.
 1 GAL
 18" 24" HT.
 1 GAL
 18" 24" HT.

CONT FULL
 CONT FULL
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RAIN GARDEN PLANTING

3
 SP-S2

Plantings

- The proposed plan exceeds the Village requirement for tree replacement.
- The proposed plan includes over 100 native shrubs not required by Village code
- Mixture of trees and shrubs is best at stabilizing slopes and preventing erosion.
- The proposed plan includes a forest management plan designed to increase native species with the wooded area



Code Review

Village Code Section 305-67 Visual Character and Environmentally Sensitive Areas provides the following design guidelines. Provided are references as to the project's conformance to such standards.

[A] The purpose of this section is to define and quantify particular environmental and aesthetically sensitive characteristics of the Village of Tarrytown in order to preserve and safeguard those features that identify its landscape: steep slopes, areas of high ground, hilltops and vegetation. Toward this end and in the course of subdivision, site development plan, compatible use permit or any other regulatory procedure embraced by this chapter or other local laws, codes or ordinances of the Village of Tarrytown, the Planning Board shall restrict new construction and/or vegetation removal in such designated areas.

- The code does not specifically prohibit or preclude new construction or vegetation removal in these areas but does restrict development in these areas.
- The Steep slopes waiver is the mechanism that allows the commission to review and approve development activities on steep slopes.

[B] The Planning Board, the Zoning Board of Appeals and the Building Inspector of the Village of Tarrytown shall ensure that those portions of sites under review which contain wetlands or steep slopes shall be excluded from use in the construction of principal or accessory uses permitted within the district in which said sites are located. Fifty percent of said wetlands and steep slope areas shall be excluded from any and all density calculations pertaining to minimum lot size, coverage and other density calculations. The Planning Board may permit the use of said wetlands or steep slopes for flood control and other land protection and management practices and/or uses considered to be of a similar beneficial nature by the Planning Board.

- The area calculations provided have excluded 50% of the steep slope areas.
- The term "exclude" in this section does not mean the board shall forbid development in these areas. It only refers to the area calculations.

Code Review

Village Code Section 305-67 Visual Character and Environmentally Sensitive Areas provides the following design guidelines. Provided are references as to the project's conformance to such standards.

[1] Minimizing erosion and sedimentation, including the loss of topsoil:

- The site is very steep and as a result has numerous areas of erosion on the slopes extending down the hill and onto the adjoining property.
- Erosion is undermining some of the footings around the house.
- The Proposed project will slow down the water coming off the developed portions of the property.
- The proposed drainage system will allow the storm water to have an opportunity to infiltrate on the property.
- The proposed walls and drainage systems will direct water away from the neighbor's property and into the drainage system rectifying current adverse impacts on the neighbor's property.
- Existing Norway Maples shade out ground cover leaving bare soil



There was a question from the commission about whether trees or shrubs are better for slope stabilization and erosion control.

- "Fast growing low plantings with a fibrous root system is the best for erosion control and soil stabilization".
- Long term a mixture of low plantings, shrubs and trees is the best solution.
- The Norway maples prevent any growth underneath them leaving bare soils susceptible to erosion.

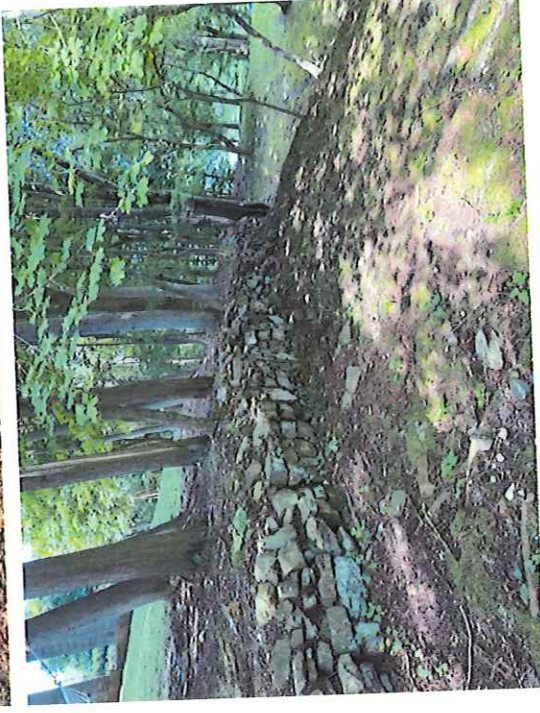
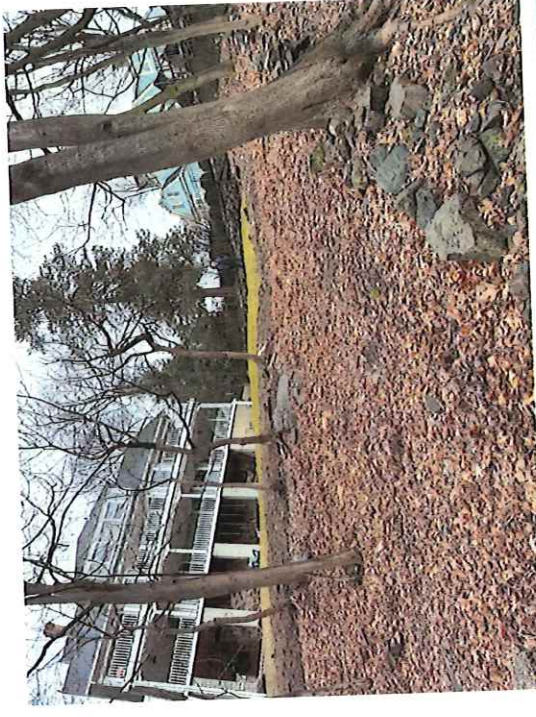
Code Review

- [2] *Preventing habitat disturbance*
- The majority of the proposed project occupies the developed portion of the property which will minimize disturbance to wildlife
- The current wooded area provides minimal habitat opportunity for wildlife due to the lack of understory vegetation, lack of food sources and cover.
- The existing lack of diversity in the forest has compromised the areas ecological resources and effectiveness.
- The proposed project will create a **permanent demarcation** between the developed areas of the property and the woods below creating a discreet habitat zone improved with native vegetation.
- The Proposed plantings and forest management plan will increase biodiversity, provide habitat opportunities and provide much needed ecological services.
- 8,676 Sf of the existing lot including woods and steep slopes will remain undisturbed



Code Review

- [3] *Protecting against possible slope failure and landslides*
- The existing slopes are subject to erosion. This condition is visible in many areas
- The exposed ledge is unstable and unconstituted and breaks away contributing to overall slope instability.
- The Proposed project will provide a stable way for the slope to transition from the house to the wooded area
- The proposed wall are located to utilize the most stable areas and encapsulate the most unstable areas



Code Review

- [4] *Minimizing stormwater runoff and flooding*
- The Proposed project will slow down the water coming off the developed portions of the property by creating level landscaped terraces and heavily planted shrub areas.
- The proposed drainage system and rain garden will capture the stormwater and allow it to have an opportunity to infiltrate on the property improving water quality, increasing the time of concentration and decreasing the chances of erosion.
- The proposed walls and drainage will direct water away from the neighbor's property and into the drainage system.
- Increased understory vegetation and shrubs will increase water uptake and minimize run-off.



Code Review

- [5] *Providing safe and stable building sites*
- The existing footing on the house are currently being undermined by the erosion on the steep slopes.
- The existing slope and exposed ledge are unstable and show signs of failure.
- The proposed proposed project will provide structurally sound and secure walls which will stabilize the slope, stabilize the foundation and create a safe and stable building site.



Code Review

- *[6] Protecting the quantity and quality of the Village's surface water and groundwater resources:*
- The existing slopes are eroding, sending sediment and debris down the existing slopes towards the adjoining property
- The steep slopes move water off the site very quickly and do not allow any time for infiltration, cooling, or opportunities for increased water quality.
- The proposed project includes a drainage system and rain garden.
- The terraced walls with landscaping will slow the water down and increase infiltration and time of concentration.
- The drainage system and rain garden will improve water quality and a decrease in total runoff.



Code Review

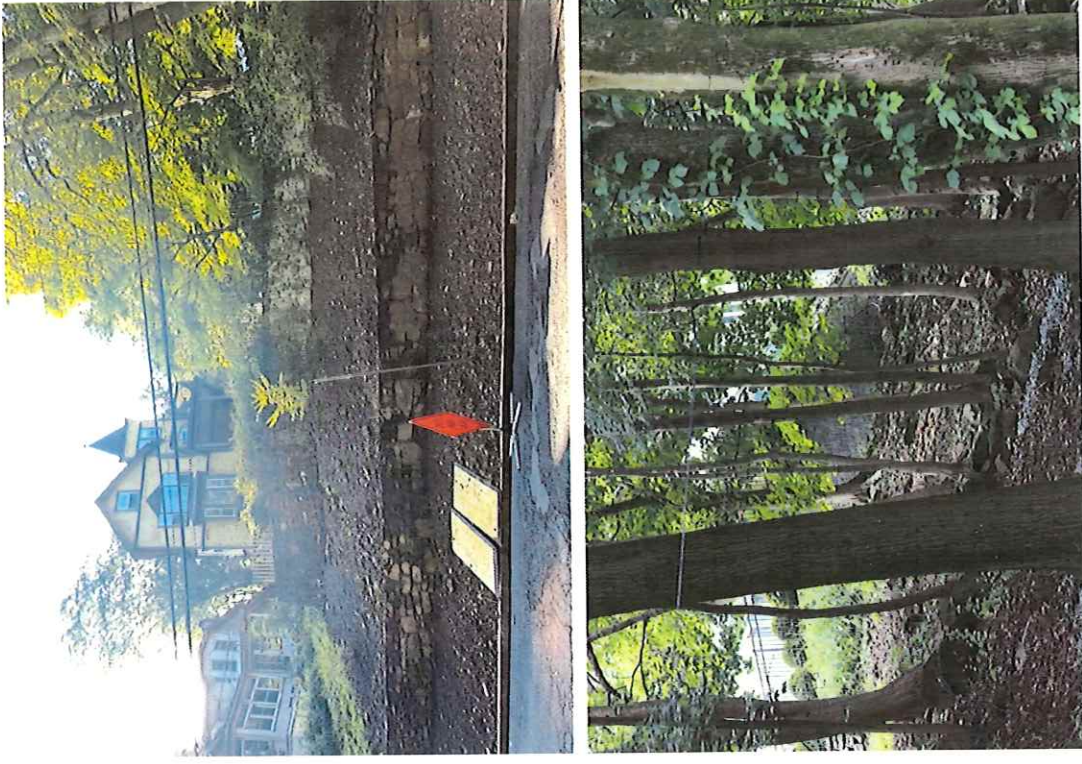
[7] Protecting important scenic vistas, slopes, rock outcroppings and mature vegetation:

- The existing site has no scenic vistas, the project area is set over 100' from the road and uphill from any viewpoints. The proposed landscaping will screen the project from adjoining roads.
- There are no major rock outcroppings.
- The majority of the existing slopes and woods will not be touched maintaining the visual character from Neperam and Altamont roads. Evergreen shrubs and native evergreens will be planted below the project area along the property line to limit views into the property.
- The majority of the trees on the property are invasive Norway Maple trees. There several mature oak trees and sugar maple trees in the wooded area below the project site which will not be disturbed. The proposed forest management plan will provide a better environment for these trees to survive and flourish.
- The Norway Maples along the sides of the house are leaning and overarching the house which creates a hazardous situation and the possibility of trees falling on the house. These will be replaced with new Armstrong Swamp Red Maples.
- The existing cedars and Norway spruce along the property line are beyond their useful life. Several are dead or have very minimal canopy left and provide more hazard than benefit. These will be replaced with new native evergreen trees in accordance with the requirements set forth in the village code.
- The proposed project will replace all existing trees scheduled to be removed in accordance with the requirements set forth in the village code.
- New understory trees and shrubs will be added to supplement the wooded areas to increase ecological services decrease erosion, increase water uptake and limit views into the property.
- Shrubs on the terraced areas below the walls and in between the walls will provide additional root mass to stabilize the slopes, decrease erosion, increase water uptake and visually mitigate the walls.
- A forest management plan will be implemented as part of the landscaping to increase biodiversity, encourage the existing desirable species and replace the Norway maples with native desirable species.

Code Review

[8] Preserving the Village's attractive aesthetic character and property values:

- The existing project site is not readily visible from the roads or surrounding area. What is visible is trees and leaf litter on the ground.
- The proposed walls have been selected to mimic the large granite walls seen in the area.
- The dark color of the walls is selected to blend with the native granite and recede in the landscape
- The walls will not be visible after the plantings are established.
- Evergreen shrubs as a screen plantings lower portion of the slope will further limit views into the site while improving the aesthetic from the local roads.
- The proposed project will increase the value of the property and will not have an adverse effect on the adjoining properties.
- Many of the properties in Tarrytown are built on steep slopes with retaining walls. The properties to the north and south of this property were developed with retaining walls. Properties developed with retaining walls is very much in the character of Tarrytown



Code Review

[9] Otherwise protecting the public health, safety and general welfare of the Village of Tarrytown and its residents.

- The existing site is a private residential property and as such has limited effect on the overall public health, safety and general welfare of the Village of Tarrytown and its residents.
- The existing erosion and uncontrolled water coming off the site poses a specific hazard to the health, safety and general welfare of the adjoining properties, the people and village of Tarrytown. The proposed project will rectify and improve these issues.
- The existing large stand of invasive Norway maples has decimated the native habitat and ecology of the wooded areas on this site and throughout the village of Tarrytown. The proposed project will remove several and replace them with native long lived canopy trees improving habitat and the local ecology. This will benefit the community at large.
- The proposed forest management plan will reduce the quantity of Norway Maples in the wooded area and replace them with long lived native trees improving habitat and the local ecology.

Code Review

- **Per village code: Section 305-67 F**

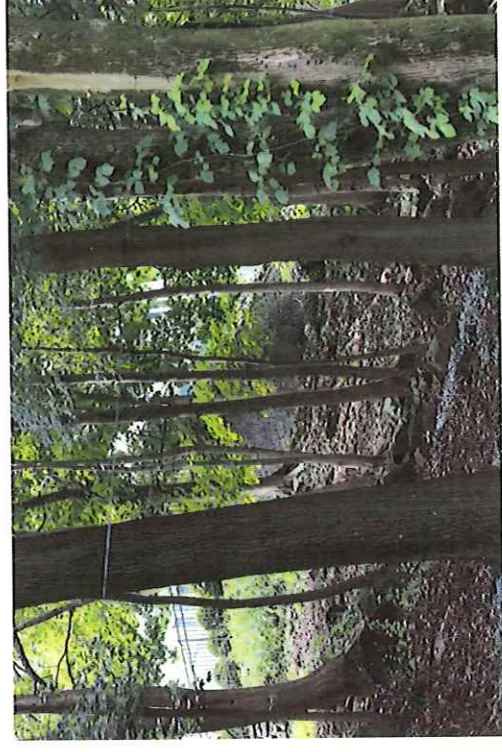
- *Activities within the very steep and excessively steep slopes require review and issuing of a waiver from the Planning Board. A waiver may be granted if the applicant establishes that the benefit to the applicant outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant. The following is a list of relevant review standards contained within the Steep Slopes Ordinance, Justification for Waiver and the Proposed Action's compliance with those standards:*

- The applicant has shown a history of improving their property for the overall benefit of the neighborhood and community at large. This project will be completed in keeping with this pattern.
- The improvements occupy a small portion of the property and are far removed from adjacent streets.
- There is no detriment to the health, safety and welfare of the adjoining properties, the neighborhood or community
- The proposed plantings will enhance the wooded area and provide a net benefit to the community

Code Review

[1] Whether an undesirable change will be produced in the character of the neighborhood:

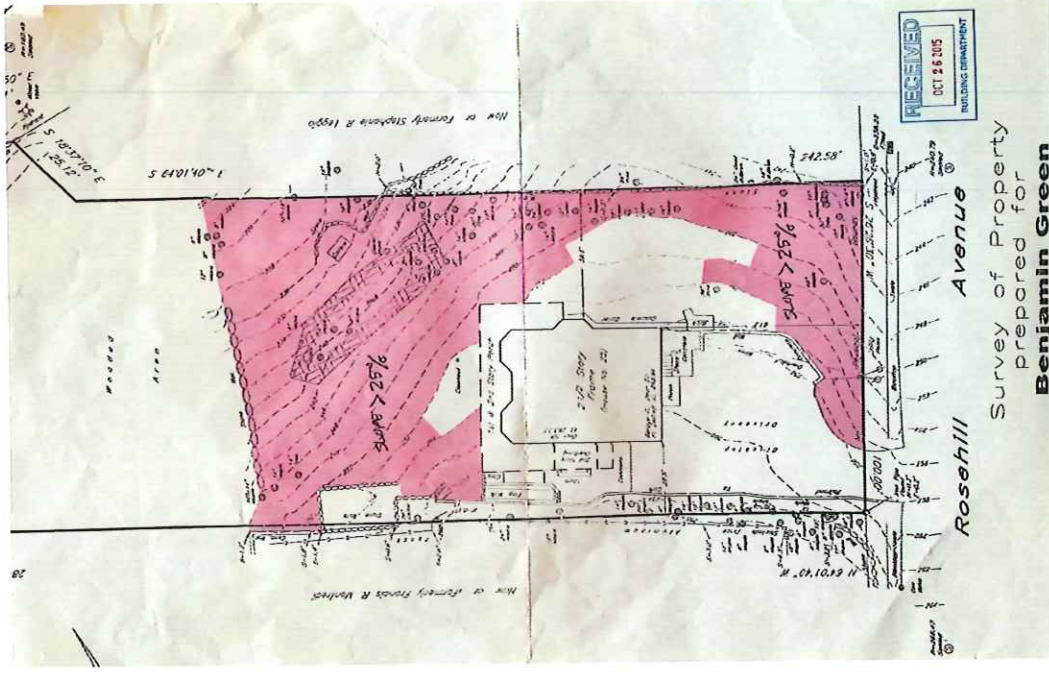
- The proposed changes will not produce an undesirable change in the neighborhood.
- Several properties on the road have been developed similarly with retaining walls to create a more level back yard. Several also have pools.
- The proposed improvements will improve the property of value of the subject property and as a result the overall neighborhood and adjacent properties.
- The proposed improvements will elevate and improve the character of the neighborhood.
- The visual character from adjacent roads will not be changed
- The houses immediately on either side have large retaining walls 4-6 feet to the north and 8-10' on the south



Code Review

[2] Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a steep slopes waiver:

- The existing conditions on the property are such that the entire portion of the rear of the property are encumbered by steep slopes. No site improvements of any kind can be undertaken on this property without a steep slopes waiver granted by the planning board.
- There is nowhere on the property the proposed improvements or any improvements can be implemented without a steep slopes waiver.



Code Review

[3] Whether the waiver will result in a change which will be materially detrimental or injurious to other properties or improvements in the area in which the subject property is located, increase the danger of fire or flood, endanger public safety or result in substantial impairment of a slope area:

- The proposed improvements will not a detrimental or injurious effect on the neighboring or adjoining properties. All measures will be taken to protect neighboring properties from any detrimental effects during and after construction.
- The proposed improvements will reduce runoff and erosion on the adjoining property.
- The proposed improvements will not increase the danger of fire or flood.
- The proposed improvements will not endanger the public or create a safety hazard.
- The proposed improvements will not result in substantial impairment of the slope area. The proposed improvements will stabilize the slope, reduce erosion and provide improved storm water management.
- The proposed improvements will result in an improved ecological state on the property and in the neighborhood by removing invasive species and replacing them with a variety of native trees and shrubs.



Code Review

[4] Whether the waiver will be inconsistent with the purposes, objectives or the general spirit and intent of this chapter:

- The proposed improvements are not inconsistent with the purposes of this chapter.
- The proposed improvements will stabilize the steepest slope, reduce erosion and provide improved storm water management.
- The proposed improvements will provide protection to the remaining steep slopes on the property by controlling run-off and maintaining them in an undisturbed state.
- The proposed improvements will result in an improved ecological state on the property and in the neighborhood by removing invasive species and replacing them with a variety of native trees and shrubs as outlined in the proposed forest management plan.
- The proposed improvements will have no negative or adverse impacts on the neighboring properties, the village of Tarrytown, its residents or community.

Code Review

[5] The waiver is the minimum relief necessary to relieve the extraordinary hardship established by the applicant.

- The entire back portion of the site consists of steep slopes, given these extraordinary and unique conditions, no improvements of any kind can be made on this property without a steep slopes waiver granted from the board.
- The proposed improvements have been designed to minimize risk and create structural stability by locating the proposed improvements on the most stable portion of the site.
- The proposed improvement area has been limited to the developed and previously disturbed portions of the site. The wooded area at the bottom of the property will remain unchanged and protected.
- The proposed improvements have been designed using the minimum space and area standards in an effort to limit the overall project footprint.

Code Review

Trees

(1) *The Village of Tarrytown wishes to preserve the large number of long-lived specimen trees on its developable land, where practicable. In accordance with the provisions of Chapter 281 of the Village Code, it is recommended, therefore, that the developers take every precaution toward the preservation of major existing trees, as well as to promote the maintenance of major open spaces which may enhance these trees. Every effort must be made to preserve existing trees and shrubs of unique value. If practical, plant material may be transplanted on site. All existing trees of unique value and those that are noted to be preserved and which may subsequently be lost as a result of site development and which were:*

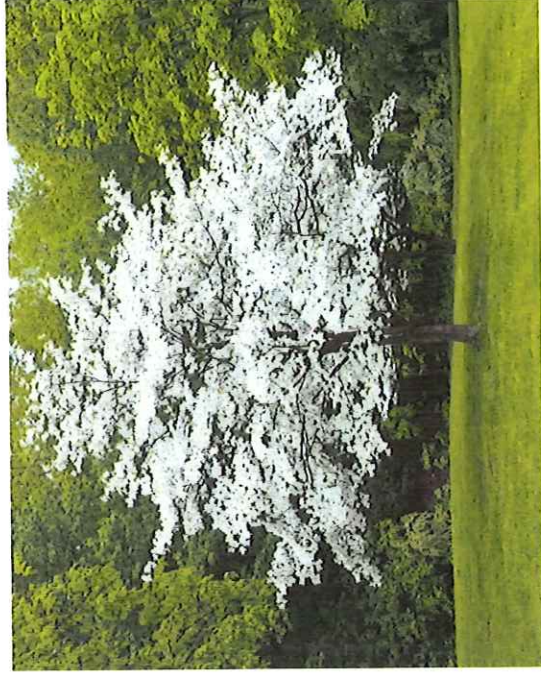
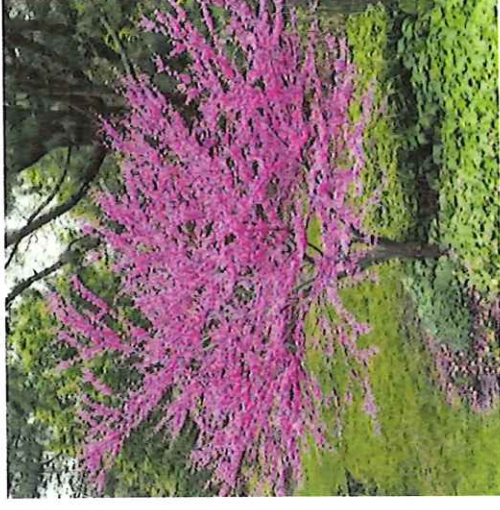
- The trees shown to be removed are not long lived specimen trees per Village Code 281-14. The proposed tree removal plan does not include any: American beech, European beech tree, Eastern white pine, American elm, Ginkgo (male), Canadian hemlock, American sycamore, Littleleaf linden, Larch, Red oak, White oak or shagbark hickory.
- The proposed tree removal plan does not include any “major existing trees”
- The existing site does not have any trees or shrubs of “unique value”. The majority of the trees identified to be removed are NYDEC Listed invasive Norway Maple trees. The remainder of the trees are older evergreen trees with little to no landscape value and have the potential for more harm than good. There is little to no understory tree canopy or shrub layer. There are no unique or native shrubs in the wooded area.
- There are no trees or shrubs of unique value to be removed.
- Many of the existing trees to be removed have been topped to maintain views and have compromised structure and canopy.
- 8,676 Sf, 31%, of the overall site including woods and steep slopes will remain undisturbed.

Code Review

- Based on the survey and the Village Code: Article XVI Site Development Plan Review Item F

A – Trees of less than 10 inches' caliper may be required to be replaced by one tree per two trees removed, at a minimum of six feet in height.

- The proposed plan includes the removal of 11 Norway Maple trees in the 4-10" Caliper Range.
- Therefore, requires replacement with 22 trees 6' ht.
- The proposed plan includes 24 Deciduous Trees min 8-10' ht. and 5 evergreen trees 6-8' ht.



Code Review

Based on the survey and the Village Code:Article XVI Site Development Plan Review Item F

B- Trees of 10 inches' caliper to 20 inches' caliper may be required to be replaced at one tree per one removed, at a minimum of nine feet 11 inches in height, 1 1/4 inches' caliper to 1 1/2 inches' caliper.

- The proposed plan includes the removal of 12 evergreen (2 Cedar appear to be dead) and 2 Norway Maple trees
- Therefore requires 14 Trees min 1.5" cal. Or 11' ht.
- The proposed plan includes 9 Deciduous trees 1.5" cal. or 12' in height. and 21 Evergreen trees 12' ht.



Code Review

Based on the survey and the Village Code:Article XVI Site Development Plan Review Item F

C – Trees of 20 inches' caliper to 30 inches' caliper may be required to be replaced at one tree per one removed, at a minimum of 13 feet to 15 feet in height, 2 1/2 inches' caliper to three inches' caliper

- The proposed plan includes removal of 1 tree in the 20-30" cal. Range
- Therefore , requires replacement with one tree 13 feet to 15 feet in height, 2 1/2 inches' caliper to three inches' caliper
- The plan includes one deciduous tree 14-16' ht.



Code Review

Based on the survey and the Village Code:Article XVI Site Development Plan Review Item F

D – Trees of 30 inches' caliper or specimen quality may be required to be replaced at one specimen tree of the same species per one tree removed, minimum 16 feet in height, four inches' caliper to 4 1/2 inches' caliper.

- The plan does not remove any trees in excess of 30" caliper

Code Review

The village code does not require any shrubs or herbaceous plantings

- The plan includes over 100 native and ornamental shrubs.
- The Plan includes a raingarden which includes native shrubs and herbaceous wetlands plantings.
- There will be additional planted areas on the property which will include both native and ornamental shrubs and herbaceous plantings.

Conclusion

- The proposed meets or exceeds all engineering, building and zoning requirements and pertinent sections of the village code.
- The proposed plantings and forest management plan exceed the tree replacement guidelines set forth in the code and will have a positive impact on the environment.
- There are no better alternative locations on the property to do the improvements.
- There are no alternatives to improve the property other than a steep slopes waiver.
- There are no detrimental effects to the neighbors or village of Tarrytown.
- The project is not out of character with the neighborhood or overall character of Tarrytown.