

Village of Tarrytown, NY

One Depot Plaza, Tarrytown, NY 10591-3199
ph: (914) 631-1885

Planning Board Special Meeting Minutes 11/13/2014

Planning Board
Village of Tarrytown
Special Planning Board Meeting
November 13, 2014; 5:00 p.m.

PRESENT: Chairman Friedlander; Members Tedesco, Aukland, Raiselis, Birgy; Counsel Shumejda; Village Administrator Blau; Village Engineer McGarvey; Secretary Bellantoni

Mr. Aukland recused himself.

CONTINUATION OF PUBLIC HEARING – HSA - Jardim East Subdivision

Chairman Friedlander opened the meeting. He stated the all of the changes have been given to the Planning Board members so they have had a chance to go over them.

Keith Staudohar of Cronin Engineering pointed out the changes that were made as a result of the November 10th meeting.

Counsel Shumejda went over the changes that he requested. He said the bonding company did not like the language that has been used in the past. In order to protect the Village he discussed it with Mr. Kirkpatrick and it was agreed to put it into the resolution so that they have to adhere to it. The amount of the bond is \$1.3 million.

Counsel Shumejda added a new sentence at the end of item #5 regarding maintenance. He said maintenance was discussed and agreed to but was not stated in the resolution. The proposed wording is as follows: *The applicant/property owner shall be responsible for on-going maintenance for all open areas including Gracemere Lake, also known as "the pond."*

Item #32, an addition to the sentence regarding when the trail will be constructed: The applicant/property owner shall construct walking trails with signage pursuant to the subdivision plans *as approved by the planning board subject to site plan approval.*

Chairman Friedlander felt that the trails should be installed when the road goes into the cul-de-sac so that they can be made available to the public sooner. There was concern that people will be walking on the trails during construction. Chairman Friedlander said not if they come in from Sheldon Avenue. Mr. Kirkpatrick said the road, with the exception of the top course, will be done when we are putting the trails in; he does not feel it is a safety issue. It was agreed that the trails should go in at the completion of the binder course.

Mr. Blau stated that we are talking about all of the trails, including the ones through the 28.36 acre open space A. Mr. Kirkpatrick agreed.

Chairman Friedlander commented that the Maselli fence should be along the property line, not in the middle of the road. He said it is easier access to the park. Mr. Blau said it is the access point for the Village who has to maintain that open space. It was agreed. Mr. McGarvey said just for clarify, the small piece of fence at the Maselli property is only to prevent people from going onto their property from the open space.

Counsel Shumejda spoke about the 8 year bond wording. The bonding company will only give a two year renewable bond. It may be acceptable but it has to be an automatic renewal stating an 8 year bond with two year renewals for the entire 8 years without any action to be taken by the Village for this renewal - it must be automatic.

Ms. Raiselis asked about the trees on the lots that are slated for removal for no good reason. She would like to save the tree issue for site plan review. Mr. Staudohar said the tree plan is old; many of the trees are down already. It was agreed that all trees will be addressed at the site plan review and added to the resolution as item #6. Mr. Staudohar

said he will make the change. The exception is trees that must be removed for roadway construction and infrastructure improvements.

Mr. Fish said what if the lot is not developed for a few years and a tree dies. Chairman Friedlander said the owners can get a tree permit to remove it.

Mr. Kirkpatrick discussed his changes: Item #1: Gracemere Lane also known as "the pond." Open space B & C: after the initial clean-up, they will not be responsible.

Ms. Viertel spoke about a tree by the lake which is listing and may be dangerous. She asked if someone (the Village or HSA) could hire an arborist to look at it for safety reasons. Mr. Kirkpatrick said the tree can be evaluated at the time they evaluate the pond.

Mr. Tedesco moved, seconded by Ms. Raiselis to close the public hearing. All in favor; motion carried.

**PLANNING BOARD
VILLAGE OF TARRYTOWN**

**RESOLUTION
CONDITIONAL FINAL SUBDIVISION PLAT APPROVAL**

Name of Project: Jardim Estates East

Date of Action: November 13, 2014

Former Tax Map Identification Number: Section 3, Sheet 27, Parcels P9, P9B, P9E, P9F, P6 & P11
Section 3, Sheet 29, Parcels P50 & P50A

On a motion of Ron Tedesco, seconded by Joan Raiselis, the following resolution was adopted:

WHEREAS, the Planning Board confirms that the requirements of the State Environmental Quality Review Act (SEQRA) have been met and that proposed mitigation measures will avoid significant adverse environmental impacts to the maximum extent practicable;

WHEREAS, in accordance with Chapter 263 of the Code of the Village of Tarrytown, a formal and complete application for Preliminary Subdivision Plat Approval for the project known as **Jardim Estates East** ("Proposed Project"), which provides for a 9 lot subdivision on the subject property, prepared by the **Holy Spirit Association for the Unification of World Christianity** ("Applicant/property owner") and dated **September 30, 2014** was submitted to the Planning Board and the Applicant/property owner has represented to this board that they are the owner or the lawful contract vendee of the land to be developed; and

WHEREAS, the Applicant/property owner submitted to this Board as part of the application the following drawings and reports:

- Large-scale Subdivision and Site Plans prepared by Cronin Engineering, entitled *Final Subdivision Plat and Site Development for Jardim Estates East*, dated February 6, 2014, including:
 - CS: Cover Sheet
 - EX-1.1: Existing Conditions Plan
 - EX-1.2: Existing Utilities
 - L-2.1: Zoning & Layout
 - GU-3.1: Overall Grading and Utilities Plan

- GU-3.2: Existing Roadway Improvement Plan
- GU-3.3: Traffic, Pedestrian and Signage Plan
- GU-3.4: Traffic, Pedestrian and Signage Plan
- GU-3.5: Grading & Utilities Plan
- GU-3.6: Grading & Utilities Plan
- EC-4.1: Erosion Control Plan
- EC-4.2: Erosion Control Details
- PR-5.1: Profiles
- PR-5.2: Profiles
- TP-6.1: Tree Plan
- CD-7.1: Construction Details
- CD-7.2: Construction Details
- *Phase 1A/IB Archaeological and Architectural Investigation*, dated February 2009, prepared by Historical Perspectives, Inc.
- *Traffic Impact Study*, dated January 2009, revised October 2, 2009, prepared by John Collins Engineers, PC
- *Earth Cut/Fill Analysis*, dated October 2011, prepared by Cronin Engineering, PE, PC
- *Rock Removal, Blasting and Trucking Program*, dated October 2011, prepared by Cronin Engineering PE, PC
- *Breeding Bird Atlas and Field Survey Data*, prepared by Tim Miller Associates and Wetland Mitigation, Inc., dated February 2009
- *Natural Resources Inventory*, prepared by Michael Klemens, Ph.D. and Stephen Coleman for the Westchester County Land Trust, dated September 2001
- *Tree Survey Data*, dated February 2009
- *Stormwater Pollution Prevention Plan*, dated January 2009 and revised October 2011, prepared by Cronin Engineering, PE, PC
- *Zero-Discharge Program for Development on Slopes in the Village of Tarrytown*, dated March 2006, prepared by Paul S. Mankiewicz, Ph.D.
- *Draft Environmental Impact Statement*, dated January 2012, revised March 13, 2012, accepted March 26, 2012, prepared by VHB
- *Final Environmental Impact Statement*, accepted October 22, 2012, prepared by VHB

WHEREAS, the Town of Greenburgh has offered to purchase two lots for open space preservation and title to said lots and the open space will be accepted by the Village of Tarrytown; and

WHEREAS, the Applicant/property owner has provided an plan, dated November 10, 2014, which depicts the resulting 9 lot subdivision; and

WHEREAS, the Planning Board has reviewed said drawings in addition to reports and correspondence filed with those drawings and has caused the same to be reviewed by its consultants and Village staff; and

WHEREAS, the Planning Board has determined on the basis of its own review and the review comments received from its consultants and Village staff that the drawings and reports and other information submitted by the Applicant/property owner are in substantial compliance with Chapter 263, *Subdivision of Land*, and Chapter 305, *Zoning*, of the Village of Tarrytown Code;

WHEREAS, the Surety, for value received, hereby stipulates and agrees, if requested to do so by the Village of Tarrytown, up to the sum of this Bond in the amount of \$1,300,000, to either pay to complete the work and/or obligations of the site improvements as per the Village of Tarrytown Engineer's estimate dated October 30, 2014 (the "Work") which is attached hereto and made a part hereof for the subdivision known as Jardim East, or to fully complete the Work specified therein to be performed, pursuant to its terms, conditions, and covenants, if the Principal, for any cause, has failed or neglected to fully perform and complete such Work. The Surety further agrees to commence and diligently perform the Work, within thirty (30) business days after written notice thereof from the Village and to complete the Work within such time as the Village may reasonably fix. If the Village elects to require the Surety to make payment under this Bond, such payment must be made within a reasonable time period. The Surety and the Village reserve all rights and defenses each may have against the other; provided, however, that the Surety expressly agrees that its reservation of rights, including challenging the Village's determination that the Principal failed or neglected to fully perform and complete such Work, shall not provide a basis for non-performance of its obligation to commence and to complete all Work or pay the Bond as provided herein;

WHEREAS, the Surety, for value received, for itself and its successors and assigns, hereby stipulates and agrees that the obligation of said Surety and its Bond shall be in no way impaired or affected by any extension of time, modifications, omission, addition, or change in or to the said work, or by any waiver of any provisions thereof, or by any assignment, subletting or other transfer thereof or of any work to be performed; and said Surety does hereby waive notice of any and all of such extensions, modifications, omission, additions, changes, waivers, assignments, subcontracts and transfers, and hereby expressly stipulates and agrees that any and all things done and omitted to be done by and in relation to assignees, subcontractors, and other transferees shall have the same effect as to said Surety as though done or omitted to be done by or in relation to said Principal. In no event shall the aggregate liability of the surety for all claims under this Bond exceed the sum of this Bond; and

WHEREAS, the required improvements must be completed within nine (9) months and the sum of \$130,000 shall be retained to assure the satisfactory condition of the improvements for a period of one year and that the required improvements shall be completed to the satisfaction of the Village Engineer.

NOW THEREFORE BE IT RESOLVED that pursuant to the authority vested in the Planning Board by Chapter 263, *Subdivision of Land*, of the Village Code, the Planning Board hereby grants Final Subdivision Plat Approval for the 9 lot Proposed Project, as defined above, subject to the following conditions identified below. For purposes of compliance, these conditions and any other conditions identified in the environmental review of the Proposed Project shall be enforceable by the Village of Tarrytown in accordance with the Village Code of the Village of Tarrytown.

Conditions:

- The new cul-de-sac will be owned and maintained by the Jardim East Homeowners Association. 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 as provided by existing filed deeds and covenants. A maintenance bond shall be required to ensure the proper maintenance of all private roads including snow plowing, cleaning and removing debris from Gracemere Lake (also known as the pond) as well as mowing of the property(s) as determined by the Village Engineer, and ensuring that open space parcels B and C and wooded areas are kept clear of debris. The maintenance bond shall be in place for two years with automatic two year renewals for an eight year period from filing of the final plat and the amount of the bond shall be \$320,000. Such maintenance measures shall be monitored by the Village Engineer or his/her designee.
- The two existing structures known as "Gracemere Courts" will be demolished in accordance with all federal, state and local laws. The site of the two existing structures will be planted with non-invasive, native species approved by the Village's Consulting Landscape Architect.
- Approvals by:
 - The Board of Trustees for acceptance of any open space areas offered to the Village
 - The County Health Dept. for water and sewer extensions
 - NYS DEC for general stormwater SPDES Permit prior to construction
- The Planning Board approves a reduction in some dimensional parameters required for an R-60 Zone to permit the clustering proposed.

These parameters would be reduced from R-60 to R-30 requirements:

- Lot size
- Width at building front
- Street frontage
- Yard setbacks

The Planning Board approves this reduction to achieve the following environmental benefits:

- The open space is enhanced significantly,
 - Linkages to other open space areas are provided,
 - Viewsheds are protected, and
 - Environmental features, including specimen trees, steep slopes, wetlands, hilltops, and other features are protected.
- The Applicant/property owner will conduct an environmental assessment of the pond to evaluate the need for dredging of the pond and the trees on the site. The assessment will be completed by professional consultants with experience in these fields. The assessment will be reviewed by the Village Engineer. If the assessment indicates that dredging of the pond is required, Applicant/property owner will be responsible for dredging the pond to the extent indicated by the assessment or as determined by the Village Engineer. The Applicant/property owner will also conduct a structural assessment of the retaining wall on the north bank of the pond. If the assessment indicates that structural reinforcement or other remedial work of the retaining wall is required, the Applicant/property owner will be responsible for conducting the improvements. The Applicant/property owner will have the site inspected each spring and each fall for three years following final stabilization of the retaining wall. Plant material displaced during dredging and other site improvements will be replaced as required and deficiencies in site stability corrected immediately. Upon acceptance of open space area A by the Village, the Applicant/property owner will remove dangerous items, including trash, debris and rusted cars, to the satisfaction of the Village engineer, within six months of subdivision approval. No building permits will be issued until open space areas are cleared of trash, debris, rusted cars, or other dangerous items to the satisfaction of the Village Engineer. The Applicant/property owner shall be responsible for the maintenance of all open space, including the pond.
 - Notwithstanding anything in this resolution, no tree will be removed on individual lots prior to individual site plan approval by the Planning Board. Trees may be removed for roadway and utility construction, in accordance with the Village's Consulting Landscape Architect's approval.
 - A landscaping plan must be provided for roadway landscaping along the new cul-de-sac prior to the issuance of the first building permit. The landscaping plan shall be submitted to the Village's Consulting Landscape Architect for review and approval. The cost of this review and approval shall be the responsibility of the Applicant/property owner. Installation of landscaping shall be done consecutively with installation of the road top course. Wayfinding signs acceptable to the Village Engineer shall be provided to direct hikers to Taxter Ridge Park. The landscaping and signage plans must be presented to the Village Planning Board for approval before building permits are issued.
 - A design for the intersection of Gracemere and Gracemere Lake Drive must be submitted to the Village Engineer for review and approval and must also be reviewed by the Village Fire Chief. The intersection should be designed to deter cut throughs and should include landscaping and mountable curbs. The intersection design must be presented to the Village Planning Board for approval before a building permit is issued for any residence in the subdivision.
 - The wooden guard rail to be provided along Gracemere at Gracemere Lake which shall include break points to allow for access to the lake, as delineated on the subdivision plan. The guardrail plan and mailbox placement must be presented to the Village Planning Board for approval before a building permit is issued for any residence in the subdivision.
 - 10 Within Wetland B, in conjunction with road construction the two existing dwellings will be razed. The area will be restored to a wetland/buffer habitat or a retention basin will be provided in this location with appropriate landscaping, as determined by a wetland consultant and the Village's Consulting Landscape Architect. The Planning Board approves a Wetlands Permit for this action.
 - In Wetland C, there is a culvert that has been entirely blocked by sedimentation.
 - To remedy this, the sediment is to be removed and the culvert restored, allowing for a resumed flow of the watercourse in its original path. A sediment trap will be needed on the upstream side of the culvert for future maintenance of the culvert.

- The trail would then remain as a walking path for access to the open space area and, ultimately, to Taxter Ridge Park.
- The Applicant/property owner shall submit a site plan application for each lot of the approved subdivision where a home is to be constructed. Conceptual layouts or building envelopes do not constitute a site plan.
- Construction of all infrastructure shall commence within six (6) months from receipt of all permits and approvals associated with the infrastructure and shall be completed within thirty (30) months.
- The Applicant/ property owner shall furnish "as-built" drawings (both paper and disc) when site work is completed.
- Before beginning land clearing, placing construction equipment on site or actual construction, the boundary of each lot must be staked out by a licensed surveyor. The parking of construction equipment and storage containers shall not occur within the drip line of any tree.
- Easements relating to infrastructure shall be prepared and properly executed between the owner of the subject property, future purchasers and adjacent property owners, where applicable. Said easements and agreements shall include, but not be limited to:
 - Easements for wastewater collection and water distribution mains located on private property, including the existing private roadways;
 - An easement to allow the Homeowners' Association access to maintain the retention basin referenced in #10 above, in Lot "Open A;"
 - An easement to address roadway encroachment over 8 Gracemere and 12 Gracemere; and
 - Easements for trails.
 - Preservation of existing trees consistent with Village roadway specifications and the safety of emergency vehicles as determined by the Village Engineer.
 - A Pedestrian easement shall be provided that extends from the western corner of Outparcel A on Gracemere to Open Space Parcel A at the eastern edge of the subdivision that provides access to Taxter Ridge Park.

These easements and agreements shall be submitted to the Village Attorney and Village Engineer for review prior to their recordation to ensure consistency with the purpose and intent of subdivision approval and subsequent site plan approval. In addition, notes shall be added to the site plan listing these and all other easements on the property.

- A Draft Homeowners' Association (HOA) Agreement shall be submitted to the Village Attorney for confirmation that the HOA is consistent with the purpose and intent of the conditions for site plan and subdivision approval at least two (2) weeks prior to submission to the New York State Department of State for approval. The Draft HOA must also be provided to the out-parcel property owners for review. A Final HOA Agreement must be approved by the Village Attorney prior to the issuance of a building permit for the first residence. The Village Attorney shall consult with the Planning Board and the affected out-parcel owners prior to approving the Final HOA Agreement. Out-parcel property owners will have the option, but will not be required, to join the HOA. These properties include those owned now or formerly by Cohen, Rachlin, Maselli, Kearns, Aukland and Viertel on Gracemere, and Baer, Heller and Golub on Gracemere Lake Drive.
- Implementation of the Erosion and Sediment Control Plan, which is to include the following:
 - the above for approval prior to commencing site work.
- The Applicant/property owner shall provide detailed monitoring, maintenance and inspection of erosion control measures as follows:
 - A qualified inspector shall be designated by the Applicant/property owner to maintain and inspect the effectiveness of the erosion control;
 - The Applicant/property owner's designee shall inspect all erosion and control measures during and after rainfalls;
 - Erosion and sedimentation problems shall be identified and corrected as soon as possible with immediate notification to the Village Engineer or his/her designee;
 - Additional hay bales, silt fencing and wood stakes shall be stored on site for emergency use;
 - A written weekly inspection and maintenance report shall be prepared by the Applicant/property owner's designee and submitted to

the Village Engineer until the proposed stormwater management plan is determined to be fully installed.

- No building permits will be issued until the qualified inspector approves the implementation of erosion control measures.
- An amount of \$5199.25 shall be paid for sewer improvement costs prior to the issuance of each building permit. A construction bond of \$1,300,000 shall be required for all other infrastructure improvements. The Applicant/property owner shall be required to install all sediment and erosion control measures and make sure that they are in place and functioning throughout the entire construction process. Such measures shall be monitored by the Village Engineer or his/her designee.
- The Applicant/property owner shall submit a schedule for all earthwork and land disturbance to the Village Engineer for approval prior to commencing site work. The Applicant/property owner shall notify the Village Engineer or Building Inspector with confirmation at least 72 hours in advance of any site disturbance to provide sufficient advanced notice for the inspection of the installation of erosion and sediment control devices and tree and stream protection measures.
- The Applicant/property owner shall provide to the Building Inspector or Village Engineer a staging and construction plan to identify the location of construction equipment, construction materials and debris on the Jardim East site. This plan shall be submitted prior to any site disturbance.
- All slopes shall be graded to a slope of 3:1 or less and shall be planted with a non-invasive ground cover or shrub and tree plantings to ensure long-term stability of the slope. Any slopes 2:1 shall be provided with rolled erosion control blankets.
- All applicable local, county, state and regional permits shall be obtained prior to receiving a building permit. In the event that such permit(s) requires a modification to the subdivision approved by this resolution, a determination shall be made by the Building Inspector or Village Engineer as to whether the modification is substantive and should be returned to the Planning Board.
- All Village engineering, inspection, and planning consulting fees shall be paid prior to the issuance of a certificate of occupancy for each house constructed.
- Prior to any construction, the Applicant/property owner must prepare and submit a Notice of Intent to NYSDEC to seek coverage under General Permit GP-0-10-001 for Construction Activity. The Applicant/property owner shall copy the Village on all correspondence relevant to the NYSDEC permit.
- The Applicant/property owner shall provide an on-site and qualified arborist or landscape architect in advance of all grading activities that are occurring within 100 feet of any healthy tree shown on the subdivision plan as to be preserved, as required by the Village Engineer or his/her designee. The arborist or landscape architect shall ensure that the tree protection measures shown on the tree protection and preservation plan are in place and properly maintained throughout all grading activities.
- Subsequent site plans for individual lots shall comply with the Village's Tree Replacement and Maintenance Policy and Tree Replacement Fund. Each site plan application shall include a landscaping/planting plan and a tree protection and preservation plan. The proposed houses shall be located such that existing topography, trees, and wetlands are preserved to the maximum extent practicable. Within the limits of disturbance for the individual site plans, all efforts shall be made to avoid removal of existing mature trees through site design and construction best practices, including the use of smaller construction equipment.
- Construction vehicles with more than six wheels must use Browning Lane, not Gracemere. Signage must be provided at appropriate locations, per Village code, to direct construction vehicles to access the site via Browning Lane. Construction vehicles with six wheels or fewer may access the site via either Browning Lane or Gracemere.
- All construction activities shall be performed during the times permitted under the Village Code. If deemed necessary by the Village Engineer/Building Inspector or Chief of Police, the Applicant/property owner shall pay for a police officer or certified flagger to direct traffic at the entrance to the site on weekdays during the permitted hours of construction until the time when the level of construction activities at the site no longer warrants the officer or flagger. Prior to any site disturbance or the location of construction equipment on the site, the location of construction vehicle signage, a construction plan and construction schedule shall be provided and approved by the Village Engineer/Building Inspector.
- All blasting shall be carried out by a licensed professional and shall be done in full conformance with New York State and the Village of Tarrytown ordinances governing the use of explosives.
- Prior to site development, the Applicant/property owner shall provide recreation fees per lot pursuant to the fees established by the Village Board of Trustees. The Applicant/property owner shall construct walking trails with signage in accordance with the submitted plans. These will be installed at the time of the binder course of the asphalt of the road.

- For lots abutting open space areas, lot lines must be demarcated with monuments at lot corners. A covenant shall be placed in each of the subject homeowners' deeds prohibiting solid and/or opaque fencing along or near lot lines abutting designated open space areas.
- A covenant shall be placed in each homeowner's deed, in the miscellaneous document of each property, and in the Homeowner's Association Declarations that prohibits the use of phosphate fertilizers and Roundup herbicide. Organic, non-phosphate fertilizers may be used.
- A deed restriction will appear on the final subdivision plat requiring the Homeowners' Association to maintain Gracemere Lake. A covenant shall be placed in the HOA declarations stating that the HOA is responsible for maintenance of Gracemere Lake.
- No performance bond shall be released until all of the conditions and improvements are met to the satisfaction of the Village Engineer and the Village Attorney.
- Applicant/property owner shall comply with the affordable housing provision in the Village Code.

DATE OF RESOLUTION: November 13, 2014

SIGNED BY: _____

Dr. Stanley Friedlander, Chairman

ROLL CALL:

AYES: 4

NAYS: 0

ABSTENTIONS: 1

ADJOURNMENT

Mr. Tedesco moved, seconded by Ms. Raiselis, and unanimously carried, that the meeting be adjourned – 5:45 p.m.

Dale Bellantoni
Secretary