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**VILLAGE OF WARWICK
VILLAGE CLERKS OFFICE**

RESOLUTION OF APPROVAL

FINAL SITE PLAN

FOR

16 ELM ST. LLC

Nature of Application

16 Elm Street, LLC has applied for site plan approval allowing construction of a new restaurant establishment on one tax lot being a \pm 3.6 acre parcel upon which is 51,584 sq. ft. of useable area after deduction of flood plain area, all located within the village.

The property affected by this resolution is shown on the Tax Maps of the Village of Warwick as parcel 210-12-14.

Zoning District

The property affected by this resolution is located in the Light Industrial (LI) zoning district of the Village of Warwick.

Variance

All bulk area requirements are met by the existing lot except for street frontage for which a variance was previously granted by the Village of Warwick Zoning Board of Appeals pursuant to a Decision made March 26, 1990.

Plans

The Site Plan materials being considered consist of the following:

1. An eleven (11) sheet set of plans entitled "SITE PLAN ELM STREET RESTAURANT VILLAGE OF WARWICK ORANGE COUNTRY, NEW YORK" first dated 01/05/16, last revised 01/24/18; inclusive of an overall Planting Plan by Landarch Studios, P.L.L.C. made 05/04/07, revised 12/18/17 consisting of pages 8- 11 thereof.
2. A Traffic Study by Maser Consulting made June 27, 2017.
3. A Long Form EAF revised 5/8/2017.

4. A Phase I Archaeological Investigation by Cammisa and Padilla of Tracker Archaeology Services made March 2017 and revised July 2017.
5. An Environmental Site Investigation by William Going & Associates made 08/03/17.
6. A set of plans sheets 1 – 3 entitled “Proposed Building for Yesterdays” dated Jan. 9, 2017, last revised 1/24/18 made by Greig Andersen Architect.
7. Permit Application for Development in Flood Hazard Areas dated 9/21/17.
8. Stormwater Pollution Prevention Plan made March 2017, revised May 2017.

History

Date of Application

An abbreviated history of the procedural aspects of this project follow:

The application dated 1/5/2017 was filed with the Planning Board on or about January 6, 2017.

The Planning Board undertook its first review of the application on January 19, 2017. At that meeting the Board declared itself lead agency for the project, resolved to conduct an uncoordinated review, and typed the action as Unlisted.

On February 16, 2017 the Board again reviewed the application.

On March 16, 2017, the Board again reviewed the application and renewed its previous intention to be lead agency and again typed the action as Unlisted.

On April 20, 2017 the Board again took up the application for its review. A site visit was schedule to take place on April 29, 2017.

On May 18, 2017 the Board again reviewed the application.

A revised long form EAF was presented and dated 5/8/17.

On June 15, 2017 the matter was again heard by the Board.

On September 21, 2017 the matter was again heard by the Board. At that meeting the Board undertook a review of the long form EAF at the conclusion of which a determination was made that no significant adverse environmental effects would result from the project and thereupon a resolution was made to adopt a negative declaration of environmental significance.

On October 19, 2017 the Board again convened a public hearing. A written elaboration of the negative declaration previously resolved was reviewed and approved by the Board. A public hearing

was thereupon opened to members of the public and all interested persons therein were heard at the conclusion of which the public hearing was closed.

On January 18, 2018 the Board again convened to discuss the application and the additional materials received after the close of the public hearing. The matter was adjourned for further consideration.

GML 239 Referral

This application was not required to be referred to the Orange County Planning Department for review.

SEQRA

Lead Agency & Type of Action:

The Village of Warwick Planning Board is the lead agency in regard to this action. The Planning Board's status as lead agency was established on January 19, 2017. At that meeting the Board declared itself lead agency for the project, resolved to conduct an uncoordinated review, and typed the action as Unlisted. On March 16, 2017, the Board again reviewed the application and renewed its previous intention to be lead agency and again typed the action as Unlisted.

Declaration of Significance:

On September 21, 2017 The Village of Warwick Planning Board undertook a review and examination of the Long Form EAF provided by the applicant. The Planning Board determined that no significantly adverse environmental impacts would result from the project. Thereupon the Board resolved that a Negative Declaration be issued. A Public Hearing on the site plan application was thereupon scheduled for October 19, 2017. Prior to the opening of that meeting to the public the Board reviewed and adopted a written elaboration of the reasons for issuing a Negative Declaration.

FLOOD PLAIN DEVELOPMENT PERMIT

A portion of the premises are located in the 100 year flood plain and a flood plain development permit is required from the Planning Board.

On 9/21/17 the Board undertook a review of the submitted permit and the site plan information then available and thereupon resolved to issue any necessary flood plain development permit necessary for the project.

PUBLIC HEARING

A public hearing on this application was convened on October 19, 2017, concluded and closed on the same date. The matters brought forth by the persons attending the meeting inclusive of persons generally in favor and opposed to the project included comments concerning:

- Traffic impacts
- Noise impacts
- Lighting impacts
- Soil and groundwater impacts
- Mistaken zoning district classification of the property

Since the date of said public hearing the Board received and reviewed numerous materials including:

- 12/8/17 - John Cappello: letter regarding the schedule of submitted materials

- 12/11/17 – Stephen Gross of Hudson Highlands Environmental Consulting: letter regarding SEQRA
- John Cappello: cover letter dated 1/3/18
- William L. Going & Associates: environmental report dated 12/1/17
- Maser Consulting: memorandum on traffic and noise dated 12/7/17
- 1/9/18 – Lehman & Getz: letter with engineering review comments
- 1/12/18 – Stephen Gross of Hudson Highlands Environmental Consulting: letter regarding noise analysis, environmental site investigation, and SEQRA
- 1/17/18 – Maser Consulting: memorandum on noise
- 1/17/18 – William L. Going & Associates: letter regarding environmental site investigation.
- 1/29/18- Ross Winglovitz Letter
- Bond Estimate dated 1/29/18
- Plan and description of Proposed Drainage Easement dated 1/29/18
- Site plans 1 thru 11, prepared by Engineering & Surveying Properties and Landarch Studios, revised 1/24/18
- 2/1/18 – Lehman & Getz: letter with engineering review comments
- 2/8/18 - Stephen Gross of Hudson Highlands Environmental Consulting: letter regarding SEQRA and Soil contamination

Findings

SEQRA

Pursuant to the statutory procedure found at 6 NYCRR 617.7(f) the Board considered the information and comments received at and after the public hearing in deciding whether a rescission of its previously issued negative declaration should be considered.

The Board reviewed the information and materials as presented by the “public” and the opponent’s experts as well as the additional materials as submitted by the applicant and its consultants since the time of the public hearing and thereupon determined that (i) no substantive changes are proposed for the project; nor has (ii) new information been discovered that would change the findings or conclusions of the Planning Board; nor have (iii) changes in circumstances related to the project arisen that were not previously considered whereupon the Board determines that no significant adverse environmental impact may result therefrom.

Based upon the foregoing determination the Board determines that the criteria for rescission of the previously issued negative declaration have not been met and the Board resolves to reaffirm its previously issued negative declaration.

Project

The Planning Board has determined that final approval of the site plan will substantially serve the public convenience, safety and welfare in that the permitted construction of the proposed restaurant facility is in the best interest of the applicant and the Village.

Resolution of Approval

NOW, THEREFORE, THE PLANNING BOARD RESOLVES to grant final approval to the site plan application of 16 Elm Street, LLC as depicted on the plans identified above upon the conditions outlined below, and the Chairperson (or his designee) is authorized to sign the plans upon satisfaction of those conditions below noted to be conditions precedent to such signing.

General Conditions

1. This approval is conditioned upon the applicant submitting all necessary copies of the plans to be signed, including mylars as required, to the Village of Warwick Planning Department.
2. This approval is further conditioned upon the applicant paying or depositing into escrow all applicable review, inspection and any other applicable fees.
3. This approval is further conditioned upon the applicant delivering (prior to signing of the plans) proof, in writing, that all fees—engineering, legal and otherwise—in regard to this project have been fully paid.
4. The plans shall not be signed until proof, satisfactory to the Chair, has been presented showing that all conditions of this approval have been fulfilled or otherwise satisfied.
5. All conditions of this conditional approval shall be fulfilled within twelve (12) months from the date set forth at the foot of this resolution unless the applicant shall, within said twelve (12) month period and prior to expiration of said time, file with the Planning Board a request for an extension of this conditional approval and prove to the satisfaction of the Planning Board that such extension is justified based upon such matters as are outside the control of the applicant. Upon expiration of said twelve (12) month period without an extension having been granted this conditional approval shall lapse.
6. All conditions precedent to this approval shall be satisfied prior to issuance of a Building Permit for the new structure.
7. No approval is intended to be given or is given by this resolution for site plan elements depicted on adjoining properties.

Specific Conditions

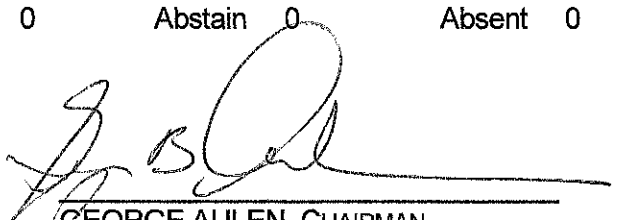
8. The applicant is to prepare and submit to the attorney for the Planning Board for his review and in such form as may be satisfactory to him and the Village Attorney an offer of dedication and deed in recordable form for an easement running to the Village for an existing drainageway to allow for the entry upon, repair, maintenance and replacement as deemed necessary by the Village.
9. The Village is to complete recommended improvements for traffic impacts as noted by the traffic study.
10. As-built" plans shall be provided to the Village Engineer for review and approval upon completion of the improvements. The Village Engineer may require a preliminary "as -built" plan sooner if he/she determines that such a preliminary "as-built" plan is required to ensure the suitability and safety of the ongoing construction.
11. Construction hours at the project site shall be limited to the hours of 7:00 a.m. and 7:00 p.m. on weekdays and 8:00 a.m. and 7:00 p.m. on weekends. There shall be no construction on Sundays.
12. No partial or temporary Certificates of Occupancy/Use shall be issued for any structure within the project unless all of the public and private improvements located within the overall plan have been constructed to completion.
13. The second floor of the proposed structure shall be used for restaurant related office and storage space only and specifically not used for the service or preparation of food or drink.
14. The issuance of a certificate of occupancy for the restaurant structure to be built within the project area is conditioned upon the applicant installing all site plan improvements inclusive of the privacy fencing and landscaping as provided for on the site plan.
15. Prior to and as a condition of the issuance of a certificate of occupancy for the restaurant facility, the applicant shall first post with the Village Clerk a

maintenance bond or surety, cash or certificate of deposit, or an irrevocable letter of credit in an amount to be recommended by the Village Engineer and fixed by the Village Board in order to secure maintenance of the site plan landscaping improvements. Such bond or security agreement shall be satisfactory to the Village Board, Village Attorney and the Village Engineer as to form, sufficiency, manner of execution and surety. All such bonds, sureties, letters of credit issued in furtherance of this condition shall provide for at least 45 days prior notice to the Village of Warwick clerk of any due premiums, invoices, or other payment due thereon. A failure to maintain such bond, surety, letter of credit, shall result in the forfeiture of the approval demonstrated by this resolution and thereupon no certificates of occupancy shall be effective until the maintenance bond is re-established to the satisfaction of the Village Engineer, or such security, bond, letter of credit is replaced to the satisfaction of the Village Attorney and Village Board.

16. The premises shall at all times be operated, used and managed in compliance with the General Notes that appear on the site plan
17. The certificate of occupancy to be issued upon completion of the improvements shall be specifically conditioned upon and subject to the provisions of General Note No. 13, 13.1, and 13.2 as same appear on the site plan. In furtherance thereof, in the event that the noise levels generated by the restaurant cannot be attenuated to satisfy the applicable Village of Warwick law(s), the use of the porch area as an area for the service and/or consumption of food and/or drink shall cease to be a permitted use thereof and the certificate of occupancy shall be suspended until such use is discontinued, or the appropriate mitigation measures discussed above are installed and the Applicant demonstrates the porch area is in compliance.

In Favor 4 against 0 Abstain 0 Absent 0

Dated: February 15, 2018



GEORGE AULEN, CHAIRMAN
VILLAGE OF WARWICK PLANNING BOARD

NOTE: The owner of the premises which is subject to this approval, their successors, heirs, and assigns, are hereby advised to apprise themselves of the provisions of Village Code Section 145-98 which provides for the expiration of approved site plans. The provisions of Section 145-98 provide in part that:

A. Every Site Plan approval shall expire if the work authorized has not commenced within twelve (12) months from the date of its approval, subject to any extension or has not been completed within twenty-four (24) months from the date of Site Plan approval unless the applicant has requested and been granted a phased construction schedule.

B. If construction has not been commenced within one (1) year from the approval of the Site Plan or phased construction schedule has not been completed, the holder of the approval may apply to the Planning Board for an extension not to exceed one (1) additional year and such application for extension must be filed prior to the end of the one-year period. Upon the payment of one-half (1/2) of the application fees required for the original Site Plan approval and any professional review fees incurred, the Planning Board may, in its discretion and for due cause, extend the approval for a period not to exceed one (1) additional year from the date of its expiration.

C. Failure to receive an extension or complete work within the time prescribed, if any specified in the approval, shall require that a new Site Plan approval application be filed, and a new approval issued before any work may commence or continue.

STATE OF NEW YORK)
) ss:
COUNTY OF ORANGE)

I, MAUREEN EVANS, Secretary of the Planning Board of the Village of Warwick, do hereby certify that the foregoing is a true and exact copy of a Resolution adopted by the Planning Board at a meeting of said Board held on February 15, 2018.



MAUREEN EVANS, SECRETARY
VILLAGE OF WARWICK PLANNING BOARD

I, RAINA ABRAMSON, Clerk of the Village of Warwick, does hereby certify that the foregoing Resolution was filed in the Office of the Village Clerk on 2/16/18.



RAINA ABRAMSON, Village Clerk