



RESOLUTION
FOR
CONDITIONAL FINAL SUBDIVISION AND CONDITIONAL FINAL
SITE PLAN APPROVALS
FOR A PROJECT KNOWN AS
VILLAGE VIEW 28 LOT CLUSTER SUBDIVISION

Nature of Application

ROBERT SILBER (the "Applicant") has applied to the Village of Warwick Planning Board (the "Board") for approval of a Site Plan and Subdivision for a cluster subdivision known as Village View 28 Lot Cluster Subdivision. The approval seeks approval of the proposed cluster subdivision which would create twenty-eight (28) lots for construction of one single family residence per lot. The project includes construction of a new street and appurtenant storm water drainage facilities and public water and sewer lines. The project preserves open space areas as depicted on the Plans.

This project received prior conditional site plan and subdivision approval from the Planning Board in the year 2008 for a 28-lot conventional subdivision. That approval has been extended numerous times by the Planning Board and remains valid as of the date of this resolution. In addition, this project received, subsequent to the 28-lot approval, approval for a 33-lot cluster subdivision by Decision of the Planning Board on October 12, 2021. That Decision also remains valid at this time. Upon final approval of this 28-lot Cluster Subdivision and the passage of time for appeals thereto, the Applicant will surrender both prior approvals, and upon failing to do so the Board will grant no further extensions of said approvals.

This 28-lot Cluster Subdivision provides a number of benefits above and

beyond the benefits provided by the previously approved "reduced scale alternative" subdivision as well as the previously approved 28-lot conventional subdivision. Notably, the benefits include further reduction in the environmental impacts by, amongst others: (1) further reducing the total land mass dedicated to development and preserving more open spaces; (2) removing developed residential lots and thereby increasing even further the setback distance from the stream which is located on-site; (3) the revised stormwater design is more protective of the environment than that proposed by the 28-lot subdivision; (4) the design and build-out of a new pump station to augment and/or replace the existing Robin Brae pump station to be built by the Applicant; (5) elimination of all wetland disturbance; (6) avoiding development on slopes greater than 25%; (7) a better and more efficient street design which is with this 28-lot subdivision of less area than that of the reduced scale alternative cluster subdivision and with less residential lots than that of the reduced scale alternative cluster plan which will lessen even further the traffic impacts on Locust Street and Woodside Drive; and (8) by developing a lesser number of residences the impact on municipal water and sewer resources will be further lessened.

Property Involved

The property involved in this application is a vacant 20.3-acre tract of land located at the northwest corner of the intersection with Woodside Drive and Locust Street at the Village/Town of Warwick border. The site consists of four different adjoining tax map parcels Section 201, Block 1, Lots 1.1, 1.2, 1.3, and 2. The bulk of the site's road frontage is on Locust Street, roughly 1,100 linear feet from the intersection of Woodside Drive to the Village/Town line. Approximately 300 feet of the site fronts directly on Woodside Drive.

Zoning District

The site lies within the R (Residential) zoning district. The Project complies with the present zoning bulk requirements for the R zoning district (Use

Group b, as modified by the cluster provisions included in Chapter 145-29).

Plans

The Site Plan and Subdivision materials considered consist of the following plans entitled "Village View 28 Lot Cluster Subdivision" prepared by Kirk Rother, P.E., consisting of 16 numbered sheets, dated 2/12/18, and last revised 7-26-22.

The Plans include:

- SHEET # 1 COVER SHEET
- SHEET # 2 SUBDIVISION PLAT
- SHEET # 3 SITE PLAN
- SHEET # 4 SUBDIVISION PLAN
- SHEET # 5 SUBDIVISION PLAN
- SHEET # 6 SUBDIVISION PLAN
- SHEET # 7 TOWN ACCESS ROAD PLAN
- SHEET # 8 ROAD A PROFILE
- SHEET # 9 ROAD A PROFILE
- SHEET # 10 EROSION CONTROL PLAN
- SHEET # 11 EROSION CONTROL PLAN
- SHEET #12 TOWN DETENTION POND DETAILS
- SHEET #13 VILLAGE DETENTION POND DETAILS
- SHEET #14 BIORETENTION AREA DETAILS
- SHEET # 15 EROSION CONTROL DETAILS
- SHEET #16 DETAILS

Also considered by the Board were:

- A Stormwater Pollution Prevention Plan (SWPPP) report prepared by Kirk Rother, P.E. dated March 2018 and last revised August 2018.
- A Traffic Study Report prepared by Creighton Manning LLP dated and last revised June 21, 2019.

Date of Application

The application was filed with the Planning Board on March 29, 2022.

SEQRA & Public Hearing

Type of Action:

This matter constitutes a Type I action under the State Environmental Quality Review Act.

Lead Agency:

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 and before 10/21/2004 during the review of the initial 28-Lot subdivision application referred to herein. Lead agency status was re-established on 5/14/2019 and re-affirmed on 7/09/2019 in connection with the reduced scale alternative cluster plan review process. Thereafter, on May 10, 2022 the Planning Board re-affirmed its status as lead agency in connection with this current application.

Declaration of Significance:

In connection with the earlier plan (28-lot subdivision), a positive declaration was issued on 12/01/2004.

In connection with the prior preliminarily approved plan, a combined public hearing on an initial draft environmental impact statement and subdivision was convened on 1/18/2007 and closed on 1/18/2007. Afterwards, the project remained at a standstill until a new plan was proposed for the property and upon that plan a combined public hearing on an initial draft environmental impact statement and subdivision was convened on 9/20/2018 and closed on 10/18/2018.

After the close of that public hearing, and in response to comments received, a new alternative plan was submitted for consideration and a supplemental draft environmental impact statement was prepared on that plan. A combined public hearing on the new plan and supplemental environmental impact statement was convened on December 10, 2019 and closed the same date. Public comments received during that period and thereafter were responded to by the Applicant in a final environmental impact statement document dated July 28, 2020, which was submitted and accepted by the Board on August 11, 2020.

Further Statement:

The SEQRA process included a DEIS and SEIS. The DEIS adopted on July 19, 2018 discussed a 45-lot residential subdivision prepared in accordance with new zoning provisions adopted by the Village for cluster subdivisions. After the close of the public hearing and in response to comments received from the public and the Board, an alternative plan was submitted for consideration. The Board determined that the changes in the new plan warranted study under a SEIS. A SDEIS was prepared and accepted on November 12, 2019 to discuss the new plan, known as the "Reduced Scale Alternative". This SDEIS was subjected to a public hearing which occurred on December 10, 2019 and a public comment period which ended on December 20, 2019. In addition to the examination of the potential impacts of the "Reduced Scale Alternative" plan, the SDEIS included a discussion of the potential impacts from future development of the adjacent land owned by the applicant located in the Town of Warwick through which road access to and from the project was proposed as part of the Reduced Scale Alternative. That road configuration remains unchanged as part of this latest 28-lot cluster plan.

As part of the review for the reduced scale alternative plan, concept subdivision plans were prepared for the land in the Town for the purpose of determining the projected number of lots that could potentially be approved in the Town under then current Town of Warwick Zoning. That zoning remains unchanged at this time. The impacts associated with that potential future development within

the Town, which was determined to be up to 25 additional single-family homes, have also been discussed in the SEIS. Any actual future development of land in the Town of Warwick will be subject to review and approval by the Town of Warwick Planning Board.

As a result of the preparation and review of the SDEIS, the Final Environmental Impact Statement for the DEIS was postponed and a SFEIS was written to address questions from the public comment period of the DEIS and SDEIS. The SFEIS was then adopted on August 11, 2020.

On 9/8/2020, the Planning Board resolved to issue a Statement of Findings in connection with the project. The Statement of Findings was reduced to writing and dated September 8, 2020. Those Findings were duly filed and are incorporated within this resolution.

Upon this application for a 28-lot cluster subdivision, the Planning Board undertook a review of the prior Statement of Findings and compared the identified environmental impacts of the reduced scale alternative cluster plan as compared to this 28-lot cluster plan. Upon such review the Board determined that in all instances the environmental impacts of the 28-lot cluster plan are reduced and less than those of the reduced scale alternative cluster plan. Pursuant to that review the Planning Board adopted an Amended Statement of Environmental Findings by resolution dated June 14, 2022.

Public Hearing

On July 11, 2022 the Planning Board opened a public hearing on the application for this 28-lot cluster subdivision.

Comments from the public included concerns about traffic safety at the intersection of Maple Avenue and Locust Street, the intersection of Woodside Drive and Locust Street, and along Woodside Drive.

A further concern was expressed that the Planning Board had disregarded written comments from a member of the public which was claimed to have been

submitted to the Planning Board during its prior SEQRA review.

As to the claim that the written comment was disregarded, the Board notes that the writing was actually submitted to the Village Board after the public hearing and comment period had closed. Though not received by the Planning Board, the Board now finds that the comments contained therein were substantially the same as other comments which were heard and considered by the Planning Board during its SEQRA review.

As is reflected in the Findings Statement and the now adopted Amended Findings Statement, the Board has determined that:

The Planning Board and the Village discussed several alternatives to address the safety of the road, including traffic calming devices on Locust Street. As part of the public safety improvements for this project the applicant previously agreed to and has continued that agreement to provide a single electronic speed radar sign on the eastbound lane of Locust Street at a location approved by the Village. The sign is designed to increase driver awareness with real time monitoring of speed along Locust Street. In addition, the applicant previously agreed to and has continued the agreement to stripe the centerline and edge of the travel lane from the Town/Village border to the intersection of Locust Street and Woodside Drive. The proposed electronic speed radar sign and striping plan have been incorporated onto the plans for the current project.

The Planning Board finds that the following mitigation is necessary for this project:

1. The Planning Board finds that the Traffic Study has been prepared in accordance with the standards of the profession and sufficiently demonstrated the adequacy of the individual streets to serve the needs of the subdivision.
2. The incorporation of the striping and the electronic speed monitoring sign is a required element of the current site plan and is considered mitigation of the potentially unsafe conditions that exist in the area and are a required part of this subdivision plan. The plans also incorporate stop signs as traffic control devices for traffic exiting the new

subdivision onto local roadways.

3. The traffic study assumed a total buildout of 25 lots in the Town and is included in this analysis. No further examination of traffic impacts is necessary with the condition that lots in the Town parcel not exceed 25 residential units.

4. The current Project Plan is even more protective of environmental impacts related to Traffic than the previously approved reduced alternative cluster subdivision because fewer homes will be constructed and therefore a lesser amount of traffic will be generated by the Project and no other mitigation is required for potential impacts related to Flora and Fauna.

These mitigation measures remain a part of the 28-lot cluster subdivision conditions.

GML 239 Referral

This application has been referred to the Orange County Planning Department (OCPD) for review and report. The Planning Department, in a letter dated June 29, 2018 reported that the intended land use had the potential to cause inter-municipal and countywide impacts. Therefore, the binding comments should be addressed and may not be acted contrary upon except by a majority plus one vote of the members of the Board or by disapproving the action. In the review of the project the Board has considered the binding comments each of which have been addressed within the project. There is only one binding comment which deals with affordable housing. The Village Code with respect to affordable housing is not applicable to the zoning district in which this project is located and therefore has not been incorporated in this project.

Findings

Site Plan Findings:

Conditional Final Site Plan approval is hereby granted subject to the conditions herein after set forth. No certificate of occupancy shall be issued for the Site Plan until all conditions and requirements of this approval have been duly installed and

all property interests granted to or dedicated to the Village have been made and accepted.

Cluster Subdivision Findings:

Pursuant to Village Code Section 145-29.8, The Planning Board finds that at least one of the following elements are present, as determined through review of an Existing Resources Map and Site Analysis Plan as described herein, justifying conservation of natural, cultural or historic resources, scenic features, or preservation of neighborhood character.

1. Slopes: slopes of fifteen percent (15%) or greater on twenty-five percent (25%) or more of the property.
2. Water resources: wetlands, aquifer and aquifer recharge areas, municipal water supply watershed areas, flood-prone areas as shown on Federal Emergency Management Agency maps, or New York State Protected Streams.
3. Agricultural lands: lands within 2,000 feet of a New York State certified Agricultural District.
4. Scenic Viewsheds and Special Features: sites bordering designated State, County, Village or Village Scenic Roads, or other special features identified in the Village Comprehensive Plan.

Resolution of Approval

NOW, THEREFORE, BE IT RESOLVED that in the application of Robert Silber, pursuant to Village of Warwick Code §120-6 and NYS Village Law §7- 728, that:

The Planning Board finds that the subject application for conditional final subdivision entitled "Village View 28 lot Cluster Subdivision" prepared by Kirk Rother, P.E., and consisting of 16 numbered sheets, dated 2/12/18, and last

revised 7-26-22 complies with all prerequisites for the grant of conditional final subdivision approval pursuant to Village of Warwick Code §120-6 and NYS Village Law §7- 728 and having now followed public hearings and review in accordance with the Village Code and NYS Village Law, hereby grants **CONDITIONAL FINAL APPROVAL OF A SUBDIVISION PLAT and SITE PLAN**, and the Chairperson (or his designee) is authorized to sign the plans upon satisfaction of those applicable conditions below noted upon his/her receipt of letter(s) from the Village Engineer, Village Attorney, and Planning Board Attorney, as the case may be, confirming the Applicant's satisfaction of the applicable conditions as set forth below.

Specific Conditions

1. The *Statement of Findings* and the *Amended Statement of Findings* are hereby incorporated into and made a part of this approval and any conditions specifically called for therein are hereby made conditions of this approval.
2. *Dedications*: *Prior to the signing of the final subdivision plans*, the Applicant is to prepare and submit for acceptance all applicable offers of dedication, deeds of conveyance for same, and appropriate title insurance policies (together with requisite attendant documents and recording fees for recording) for all streets and utilities proposed to be owned by the Village of Warwick in a form and amount satisfactory to the attorneys and engineer for the Village Board and Planning Board. Specifically the offers of dedication shall include the following:
 - a) 50-ft wide general municipal purposes easement over Street "A";
 - b) continuation of rights to service and maintain the water and sewer mains crossing the Project Site by way of a blanket easement;
 - c) easement to the Village for repairing and maintaining the storm-water infrastructure; and
 - d) Irrevocable Offer of Dedication and Deed for the 50 foot area

encompassed by Street "A" for purpose of a future village street;

Where in the case of the easements, the Village will have the right to conduct necessary maintenance in the event the HOA to be formed by the Applicant fails to do so and the Village will have the right to back charge such fees to the HOA or have the authority to bill the responsible party and the respective lot owners within the subdivision, and if unpaid, to collect reimbursement by real property tax levy upon such property owners.

3. Security: Upon final subdivision and site plan approval, the issuance of building permits for any structure to be built within the Project Site shall be conditioned upon the Applicant first posting with the Village Clerk performance or surety bonds, maintenance bonds, cash or certificates 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 completion of all public improvements, and private improvements to be owned by the HOA and necessary to the general public health, safety, or welfare, and particular to the health, safety, or welfare of occupants including storm water facilities and landscaping shown on the plans (or otherwise required by this approval). 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. The bond or other security shall recite that all improvements secured thereby shall be completed within one year of the date of issuance thereof and shall be self-renewing thereafter. 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, and/or letter of credit, shall result in the forfeiture of the approval demonstrated by this resolution and thereafter no further building permits nor any further certificates of occupancy shall be issued until all improvements are completed to the satisfaction of the Village Engineer, or such security, bond, and/or letter of credit is replaced to the satisfaction of the Village

Attorney and Village Board.

4. Upon final subdivision and site plan approval, no partial or temporary Certificates of Occupancy/Use shall be issued for any structure within the Project unless all of the un-built public and private improvements are constructed to completion or performance bonds satisfactory in form and amount to the Village Board and Village Engineer have been deposited with the Village.
5. Homeowners' Association. Upon final subdivision and site plan approval, prior to the issuance of the first certificate of occupancy for a residential unit within the project, open space land and common facilities shall be held in common ownership by a homeowners' association, the members of which are to be all of the 28 lots created by the subdivision and subject to all of the provisions for homeowners' associations set forth in New York State regulations. In addition, the following regulations/conditions shall be met:
 - a) The applicant shall provide the Village with a description of the organization of the proposed association, including its by-laws, and all documents governing ownership, maintenance, and use restrictions for common facilities.
 - b) The proposed association shall be established by the owner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before the sale of any dwelling units in the development.
 - c) Membership in the association shall be mandatory for each property owner within the subdivision and successive owners in title with voting rights of one vote per lot or unit, and the subdivider's control, therefore, passing to the individual lot/unit owners on sale of the majority of the lots or units.

- d) The association shall be responsible for liability insurance, local taxes and maintenance of open space land, recreational facilities and other commonly held facilities.
- e) The by-laws shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent in his or her dues. Such dues shall be paid with the accrued interest before the lien may be lifted.
- f) Written notice of any proposed transfer of common facilities by the association or the assumption of maintenance for common facilities must be given to all members of the association and to the Village no less than thirty (30) days prior to such event.
- g) The association shall have adequate resources to administer, maintain, and operate such common facilities and land within the subdivision designated as open space.
- h) The By-laws of the HOA shall provide that it will be responsible for the common areas and shall include the obligations upon the HOA to maintain, repair, and replace all storm water facilities, retaining walls, water and sewer utilities, streets, sidewalks, structures, utilities, drainage basins, retention ponds, landscaping, buffered vegetation plants, and other such appurtenances on HOA property and upon failure to do so shall provide access and egress to the Village for such purposes and the right of the Village to back charge such fees to the HOA or have the authority to bill the responsible party and the respective lot owners within the subdivision, and if unpaid, to collect reimbursement by real property tax levy upon such property owners respective lots.
- i) Except for one building permit for a residential unit, Attorney

General acceptance of the Homeowner's Association and/or any condominium association offering plan shall be obtained prior to the issuance of any further building permit for any residential unit in the development which will be bound by the HOA. All submissions and responses, including but not limited to articles of incorporation and by-laws for such Homeowners or condominium association shall be supplied to the Planning Board and Village Attorney for their respective review and approval prior to acceptance of any offering plan by the Attorney General. The submissions shall include the right granted to the Village to maintain, repair, replace, and operate storm water facilities, retaining walls, water and sewer utilities, streets, sidewalks, structures, utilities, drainage basins, retention ponds, landscaping, buffered vegetation plants, and other such appurtenances located within easement areas in the event that the developer, homeowners' association, or owners fail to do so. And further providing that should the Village incur the expense of such repairs, maintenance, or replacement, it shall have the authority to back charge such fees to the HOA or have the authority to bill the responsible party and the respective lot owners within the subdivision, and if unpaid, to collect reimbursement by real property tax levy upon such lots as are owned by the property owners.

6. Maintenance. Unless otherwise agreed to by the Village Board, the cost and responsibility of maintaining common open space and facilities shall be borne by the homeowners' association, conservation organization, private owner, or, in the case of open space and facilities which have been dedicated and deeded to the Village, the municipality.
7. Field Changes: Upon final subdivision and site plan approval, all field changes must be reviewed and approved by the Village Engineer and be reflected on a plan approved by the Village Engineer prior to the issuance of

any certificate of occupancy for an impacted structure.

8. As Built Plans: Upon final subdivision and site plan approval, "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.
9. Construction hours: Upon final subdivision and site plan approval, construction hours at the Project Site shall be limited to the hours of 7:00 a.m. to 7:00 p.m. on weekdays and 8:00 a.m. to 7:00 p.m. on Saturdays. There shall be no construction on Sundays.
10. Agency Approvals: Prior to the signing of the final subdivision and site plans, the applicant is to provide proof of receipt of all outside agency approvals required for the Subdivision and Site Plan including:
 - a) Sanitary sewer extension system approval (NYSDEC)
 - b) Orange County Health Department approval for extension of the water main.
 - c) Realty Subdivision Approval by the Orange County Health Department.
11. Parkland Fees: The Planning Board has found that public parks cannot be suitably located within the Subdivision project area, and therefore pursuant to Village Code Section 145-94 the Applicant shall pay to the Village, as may be required by the Village Board prior to issuance of the first certificate of occupancy (or as otherwise may be agreed upon by the Village Board) the fees in lieu of park land as established by the Village of Warwick.

12. Stormwater: Prior to issuance of the first building permit, the Applicant shall prepare, execute and deliver to the Village a stormwater facilities management agreement in form and substance satisfactory to the Village Attorney and Planning Board Attorney providing for the continued maintenance and repair of the stormwater management facilities serving the Project.
13. Developer's Agreement: The Applicant shall comply with the terms of a certain Developers Agreement dated 9/15/2021 made with the Village of Warwick.

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 Building Department.
2. This approval is further conditioned upon the Applicant paying or depositing into escrow (prior to signing of the plans) all applicable review, inspection, recreation, 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 precedent to plan execution as stated in this approval have been fulfilled and/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.

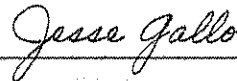
6. The owner of the premises which is subject to this approval, their successors, heirs, and assigns, are hereby advised to apprise themselves of the provisions of Village Code Section 145-94.B(4) which sets forth the procedure for "Field Changes" with respect to approved Site Plans. Any Building Permit issued based upon this Site Plan Approval shall be subject to the owners continued compliance with the Field Change provisions of the Village Code and in the event of failure to so comply the Building Permit is subject to suspension or cancellation at the discretion of the Building Inspector.
7. The Approval of this Site Plan shall lapse in the event that construction is not commenced within one (1) year of the date of the Resolution of the Planning Board authorizing approval. Construction shall continue to completion with a period of one (1) year after commencement of construction. The date of commencement shall be determined by the date of the Building Permit issued in connection with the construction authorized by the this resolution.

And it is FURTHER RESOLVED that the Planning Board Chairman or his or her duly authorized designee is hereby authorized to sign the subdivision and site plans upon his receipt of letters from the Village Engineer, Village Attorney, and Planning Board Attorney confirming the applicant's satisfaction of all conditions precedent to this Resolution as set forth above.

ROLL CALL VOTE:

Member	In Favor	Against	Absent	Abstain
Gallo	X			
Olsen	X			
Boland	X			
Barber	X			
Brown	X			

Dated: August 9, 2022



Jesse Gallo, Chairman
Village of Warwick Planning Board

Village Zoning Ordinance Section 145-98.A provides that: "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."

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 August 9 2022.



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 August 15, 2022



RAINA ABRAMSON, Clerk
VILLAGE OF WARWICK