

**VILLAGE OF WOODBURY
PLANNING BOARD MEETING**

OCTOBER 16, 2013

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VILLAGE OF WOODBURY

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**VILLAGE OF WOODBURY
PLANNING BOARD MEETING**

OCTOBER 16, 2013

PRESENT: M. Hunter, Chairperson
R. Anzalone
C. Correia
C. Scibelli
D. Lindsay
S. Turner
R. Golden
J. Kirby

ABSENT: R. Cataggio

There was an attorney/client meeting from 7:35 to 7:40. Chairperson Hunter then opened the meeting with the Pledge of Allegiance and a moment of silence for our Armed Forces and all others in harm's way throughout the world. She then introduced the Planning Board members and Consultants.

MINUTES

R. Anzalone made a motion to accept the minutes from the meeting of October 2, 2013 as submitted. C. Correia seconded the motion. The vote was as follows:

M. Hunter – In Favor
R. Anzalone – In Favor
C. Correia – In Favor
C. Scibelli – In Favor
R. Cataggio – Absent

REGULAR AGENDA

TGIFRIDAY'S/WOODBURY CENTRE - TAX MAP 225-2-1.12

Chairperson Hunter explained that this was to be a review of an ARB submission for proposed exterior renovations to an existing restaurant located within the Woodbury Centre shopping center, and possible setting of a public hearing. The property is located at 5 Centre Drive in Central Valley. She then asked the applicant to introduce himself and give a brief overview of the proposal.

Ricardo Cerbini introduced himself as the agent for TGIF. He explained that TGIF is proposing a total refresh of the exterior of the building as part of a project for New York, New Jersey and Boston. He showed the Board an elevation which depicted the building in a light color. He said there are significant modifications which show the building in a much darker, more earth tone color. Mr. Cerbini said he drove through the shopping center and he feels that what they are proposing will benefit the shopping center and be in character with the existing stores. Some of the changes proposed include repainting of the existing building, exterior cornices, entry door,

TGIFRIDAY'S/WOODBURY CENTRE - TAX MAP 225-2-1.12 (cont.)

storefronts and exterior sconces. Also, the awnings, lighting and entry canopy will be changed. There will be a trellis installed on the south end of the building, and new signage. The signage will only be on the south side and the west side in accordance with the previous Planning Board approval.

Mr. Cerbini then showed the Board samples of the materials they are planning to use. He said he would be happy to answer any questions. At this point Chairperson Hunter asked D. Lindsay for his comments. D. Lindsay said there was some confusion as to the color of the brick on the building. He said one rendering showed the brick as being beige in color and one showed the brick as being red. He suggested that the Board get some clarification on this. D. Lindsay then asked if there were any changes proposed to the interior of the building in connection with this application. Mr. Cerbini said there were not.

With regard to the signage, D. Lindsay asked that the applicant provide a computation of the area of all the signage, both existing and proposed.

There was some question about the lighting. Mr. Cerbini will have answers for the Board for the public hearing. D. Lindsay also said he would consult with R. Golden on whether a 239 referral would be necessary and, if so, he will speak to M. Rubio about this.

Chairperson Hunter then asked S. Turner for his comments. S. Turner said that, with regard to SEQRA, normally a short form EAF is requested. He said the short form is now a longer form and is probably more burdensome than it needs to be for this type of application. He said he would recommend that this is a Type Two action, and a short form would not be needed.

Chairperson Hunter asked R. Golden for his comments. R. Golden followed up on what S. Turner had said and added that on some applications it will be very obvious that it is a Type Two action. However, there may come a time when an application is not so clear. At this point an EAF may help make that determination. In those instances he said S. Turner could indicate in his memo that a short form EAF should be supplied.

Chairperson Hunter then asked the Board members if they had any comments. C. Scibelli and C. Correia had no comments. R. Anzalone asked if there were any landscaping designs for around the building. Mr. Cerbini said he could supply this information. In this regard Chairperson Hunter said that she had visited the site and saw that the area where the trellis is proposed is now landscaped with trees, mulch and plants. She said she wanted to see this remain in this area.

Chairperson Hunter then asked about the window that was being removed on the west side of the building in favor of a mosaic. She asked why this was being done. Mr. Cerbini said he did not have an answer to this question, but would find out for the next meeting.

TGI FRIDAY'S/WOODBURY CENTRE - TAX MAP 225-2-1.12 (cont.)

There was another discussion regarding the exterior light fixtures. Chairperson Hunter said if the light fixtures are going to be changed the Board will need to approve the new fixtures.

Chairperson Hunter then explained to Mr. Cerbini that the ARB form should list all the materials by manufacturer and color number. She said everything needed to be listed so the Building Inspector has them.

After some further discussion C. Correia made a motion to schedule a public hearing for this application on November 6, 2013. R. Anzalone seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- R. Anzalone – In Favor
- C. Correia – In Favor
- C. Scibelli – In Favor
- R. Cataggio – Absent

The applicant indicated that he may have a conflict on this date, and requested that the hearing be set for November 20th. C. Correia then made a motion to rescind his motion for a public hearing on November 6th. R. Anzalone seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- R. Anzalone – In Favor
- C. Correia – In Favor
- C. Scibelli – In Favor
- R. Cataggio – Absent

C. Correia then made a motion to schedule the public hearing for November 20, 2013. R. Anzalone seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- R. Anzalone – In Favor
- C. Correia – In Favor
- C. Scibelli – In Favor
- R. Cataggio – Absent

Chairperson Hunter then made a motion to authorize R. Golden to draft a resolution. C. Correia seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- R. Anzalone – In Favor
- C. Correia – In Favor
- C. Scibelli – In Favor
- R. Cataggio – Absent

JJ WOODBURY, LLC - TAX MAP 225-1-34.1

Chairperson Hunter read the Notice of Public Hearing for site plan and ARB submitted for a proposed mixed use commercial building located at 6 Locey Lane in Central Valley. She then asked the applicant to state his name and give the Board a brief overview of the project.

Steve Esposito, of Esposito and Associates, introduced himself as the representative for JJ Woodbury. He then introduced Dave Higgins from Lanc & Tully Engineers and Chuck Dietz of Dietz Partnership. Mr. Esposito then explained that this project is in the Industrial Business zone. They are proposing a commercial center, which is permitted in this zone. He then showed the Board and the public the location of the site in relation to Route 17 and Locey Lane. He also explained that the site is bordered on the eastern side by the commuter parking lot that is owned by the DOT and maintained by the County.

Mr. Esposito said they are proposing a 16,000 square foot mixed use building which will contain one fast food restaurant and two conventional restaurants which will total approximately 5800 square feet. The balance of the square footage will be retail. He then explained that they had made some changes to the plans based on input from the Board and its consultants. He then showed the Board the changes that were made to the parking on the southern part of the site to reconfigure the parking. The original plan showed 90 degree parking. This has been changed to angled parking, which allows better use of the aisle width and better control of the access. He explained, for the benefit of the public, that the access to the site will be off Locey Lane. There is also a service drive on the west side of the building which will act as a loading zone, a drive through lane for the fast food restaurant, and a through lane for access to the southern parking area.

Another change that was made was to shift the location of the pickup window and order board for the fast food restaurant to allow for more space for queuing for customers between the order board and the pick-up window.

Mr. Esposito said that they are proposing pervious paving for the main walkway part of the building, and also to delineate the pick-up window paving from the rest of the parking lot. This allows them to stay under the 65% coverage requirement. The coverage now is 64.5%. They will also be providing 107 parking spaces.

Chairperson Hunter noted, for the record, that on September 18th a memo was received from the Orange County Department of Public Works referring this back to the Planning Board for action. The DPW had no problem with the proposal. She also noted that K. O'Donnell had prepared a Negative Declaration for JJ Woodbury that was filed on September 23rd.

JJ WOODBURY, LLC - TAX MAP 225-1-34.1 (cont.)

Chairperson Hunter asked D. Lindsay for his comments. D. Lindsay said he had filed a report that was seven pages in length. He touched on a few of the items in his report. One of the items had to do with the hotel sign for the American Budget Inn, which is across the street. The sign is on this applicant's property. This sign was shown on the plan as being removed.

D. Lindsay said he had made a comment about this previously, saying that if the sign was going to be removed and replaced the applicant would need to go to the Building Inspector. He said the applicant now shows this sign to be included as the last sign on the freestanding pylon sign. He did not think that this was a provision under the code. He added that this sign could not be removed and re-erected in a different location without approval from the ZBA. He then asked the applicant if they have any thoughts concerning the hotel sign. Mr. Esposito said that they are not interested in pursuing any zoning variances. He said they contacted the hotel owner this week and their intention is to put a new sign on their own site. The panel in question will now reference a tenant of their building. D. Lindsay pointed out that there are only seven panels on the pylon sign and the applicant is proposing to have seven tenants.

D. Lindsay also said that he had suggested changing the word "retail" to "tenant" only because the building will not be all retail.

With regard to parking, D. Lindsay said the applicant has modified the parking to maximize the amount of parking they could provide in the space available, and minimizing the amount of relief they are requesting from the Planning Board. He explained that under a certain section of the code the Board is authorized to grant the 17.7% reduction the applicant is seeking. D. Lindsay said he thinks this is the best plan they have reviewed, however, he suggested some directional signage to help the public maneuver around the parking lot. He added that, if the Board does grant the relief from the parking requirements, there are certain restrictions that would be imposed. For example, they could not increase the fast food use because fast food has a higher parking requirement. He said that R. Golden would have to craft some language in the resolution to deal with these restrictions.

D. Lindsay also said that the applicant has settled on seven tenant spaces in the building. However, he said he did not see a problem with the applicant combining two of the spaces and have six tenants. He suggested that the Board make this an option for the applicant rather than having them come back to the Planning Board to accomplish this.

D. Lindsay touched on some other items and mentioned the sewer line easement. He said the applicant did some research and could not come up with a filed map that showed any easements. D. Lindsay recommended that the applicant have plausible evidence to the satisfaction of R. Golden that they are allowed to go onto the property and construct the sewer line. Also, the Village will need an easement for maintenance. This will be a requirement of approval.

JJ WOODBURY, LLC - TAX MAP 225-1-34.1 (cont.)

D. Lindsay noted that the applicant is showing an alternate grading plan which reduces the requirement for a retaining wall. He said it would be better for maintenance and future problems with maintenance to have this grade. He wanted to know what the triggers would be for each of the proposed plans. Mr. Esposito said the only trigger would be negotiating an easement with the private owner. D. Lindsay recommended that the Board make a similar condition as they did with Woodbury Common and the DOT so they can show their preference if they agree with the alternate plan and tell them they can proceed, if possible.

S. Turner then made his comments. He said a lot of time was spent on the circulation and the parking and that this is probably the best plan for the site. However, he was concerned about the increased activity at the rear of the building where there will be three lanes of traffic. He was most concerned about the loading and unloading, as the Board really doesn't know who the tenants are or what their needs will be. He suggested some restrictions on the hours of loading and unloading.

S. Turner was also concerned that Starbucks is proposing to be open 24 hours, which means the signs will be lit. He said the code requires that signs be turned off at midnight. This discussion continued and then D. Lindsay found a section of the code that requires that lights be turned off when the business is not operating. If it is in operation, the lights can be on.

R. Golden then made his comments. He said that a response had been received on the 239 from the Department of Public Works. However, nothing had been received from the Department of Planning. More than thirty days has elapsed. However, if the Department of Planning issues a report late and it is received more than two days before an approval, the Board would have to consider their comments.

R. Golden also said that the Board would need to be specific in the resolution as to what uses are being approved, as the code states that they cannot have a commercial center unless there are two uses. He added that language would need to be crafted that these uses will continue, or they will need to go to the Building Inspector for a change of use. If the Building Inspector is uncertain, they will need to return to the Planning Board so the calculation for parking and other items can be reviewed so that whatever two uses they propose will still comply with the parking regulations and other conditions in the resolution. The easement issues that were discussed will also be in the resolution.

At this point Chairperson Hunter opened the floor for public comments and questions. Charles Bazydlo, counsel for an entity called Millwood Place LLC who are the developers and owners of the Hampton Inn in Woodbury Centre, appeared on his clients' behalf. He cited a comment letter which he had submitted to the Chairperson, with copies for the Board. He then

JJ WOODBURY, LLC - TAX MAP 225-1-34.1 (cont.)

wanted to go over some of the comments in this letter. He also noted that he submitted an additional comment letter back in August when the Board was initially considering this application. He said that many of the comments in that letter are still valid. One of the items in the letter dealt with the DOT's planned improvements. He felt this application was intimately tied to what the DOT may do in this area. He cited the relocation of the commuter parking lot to the rear of Locey Lane, and the potential taking and granting of property by the DOT which affects this property. He was concerned that if these plans go through this lot may not be in conformance with the Village code, particularly the impervious coverage. Mr. Bazydlo felt that this plan should be sent to the DOT regional office for a very specific review in order to get their comments prior to any action being taken by the Planning Board.

Mr. Bazydlo noted that the Board had decided that a traffic study was not needed for this application. He cited a comment in the Negative Declaration which says that this project is a minor traffic generator. He disagreed. He said that there would be backups at this intersection due to the relocation of the commuter parking lot, the shopping center on the other side of Route 17/32 and the added restaurant/retail use of this project. He said that, rather than being a matter of signal timing, this is something that should be specifically looked at by DOT and reviewed by DOT in very specific terms. He added that there may be a need for a traffic study at this intersection.

With regard to water and sewer, Mr. Bazydlo said that he did not know if the municipal water service that was being proposed had a firm approval from the Village of Harriman, or if the sewer had an approval from whoever was going to provide sewer service. Also, any water main and sewer main extensions would require approval from the New York State DEC. He did not see any reference to the DEC being included as an interested agency in the SEQRA review of this project.

Mr. Bazydlo cited a comment letter from his clients' engineers that was attached to his comment letter. He said there are two major issues that the Board should be aware of. The first had to do with the sub-surface storm water retention area. He said his engineers told him that there is no indication of soil testing having been performed to show that this system will meet the DEC design. He felt that the applicant should explore this further prior to an approval by this Board.

The second item was the proposed retaining wall, which Mr. Bazydlo said is located right on the property line where the commuter parking lot is now. He said the Village code does not allow this wall to be right on the property line. It has to be set back at least the height of the wall. He felt this was an issue for the ZBA to review. Because of these and other issues in his letter, he asked that the Board consider keeping the public hearing open.

JJ WOODBURY, LLC - TAX MAP 225-1-34.1 (cont.)

At this point Chairperson Hunter asked for any further questions or comments from the public. There were none. Because of the request to keep the public hearing open, she asked for opinions from the consultants regarding the request for DOT and DEC reviews. D. Lindsay said that with regard to the water main, if it was a supply issue the DEC would be involved. If it is a water main or service line, the Health Department would be involved. He said it is a typical requirement in any action the Board takes that all necessary approvals are obtained. He added that many times the Board has conditional approvals that require will-serve letters prior to the issuance of a building permit, or before the signing of the plans. He noted that there was an earlier discussion regarding easements for the sanitary sewer. The sanitary sewer extension will have to be approved by the appropriate issuing agent as well. He asked if the applicant had any comments. Mr. Esposito said that in his transmission letter with this submission he gave the Board the date that negotiations were completed with the Village of Harriman for the water supply. The only condition is that they need site plan approval from the Planning Board. He said the Village also made it clear, as part of the negotiations, that this is only a service connection. A service connection is not a municipal extension. Municipal extensions for potable water systems are regulated by the Health Department. Water supplies are regulated by the DEC. He said this particular improvement does not fall under that category. It is similar to a service to a house. It is a single service to a commercial use. Also, the sewer is a single service extension. It is not an extension of a municipal system, and doesn't require DEC approval.

Chairperson Hunter asked R. Golden if the Board had to base their approval on what was being proposed as future improvements by the DOT. R. Golden said that this application is before the Board in the present, and there is nothing definite with respect to the DOT plans. He said this had been discussed earlier in the process when the applicant had addressed the potential land swap. The Board agreed at that time that this application should be addressed and reviewed under current conditions.

With regard to the need for a traffic study, Chairperson Hunter noted that the Board had just spent two years on a traffic study that was done for Larkin Drive and Route 32 all the way to Route 32 and Smith Clove Road, with emphasis on the 8 traffic lights that are in front of Woodbury Common to Larkin Drive. S. Turner noted that the traffic study was based on the traffic that is on the road that is being generated by the larger users in the area, including traffic from Harriman Common and Woodbury Centre. He said that this project is a very small portion of the additional traffic, so the Board was advised that an additional traffic study was not needed. He added that the traffic signals at all intersections are supposed to be monitored on an ongoing basis as part of conditions of other approvals.

Chairperson Hunter asked D. Lindsay about the location of the retaining wall. D. Lindsay said the retaining wall is near the property line, but it is a very low wall of three or four feet in height.

JJ WOODBURY, LLC - TAX MAP 225-1-34.1 (cont.)

He said that the criteria of half the wall height may apply, as it looks like the wall is further away than one and a half feet from the property line. He said that the wall is either complying or can be made to comply.

At this point Chairperson Hunter asked the Board members if the public hearing should be kept open. All Board members agreed that this would not be advantageous so C. Scibelli made a motion to close the public hearing. C. Correia seconded the motion. The vote was as follows:

M. Hunter – In Favor
R. Anzalone – In Favor
C. Correia – In Favor
C. Scibelli – In Favor
R. Cataggio – Absent

At this point Chuck Dietz gave his presentation of the materials and colors that are being proposed for the building. He showed the Board a color rendering, as well as physical samples of the stone, dryvit, awnings and window materials.

After some further discussion, Chairperson Hunter made a motion, based on the plans that were presented, the comments of the engineers, and the responses of the applicant that the Board make a finding that they can grant a 17.7 percent reduction in the parking requirement for this particular application. C. Correia seconded the motion. The vote was as follows:

M. Hunter – In Favor
R. Anzalone – In Favor
C. Correia – In Favor
C. Scibelli – In Favor
R. Cataggio – Absent

There was some discussion regarding S. Turner's suggestion that loading and unloading times be restricted in the rear of the building. After this discussion, the Board members were in agreement that no such restrictions should be placed on the deliveries.

At this point R. Anzalone made a motion to authorize the attorney to prepare a draft resolution of approval for this application. C. Scibelli seconded the motion. The vote was as follows:

M. Hunter – In Favor
R. Anzalone – In Favor
C. Correia – In Favor
C. Scibelli – In Favor
R. Cataggio – Absent

AT & T NEW CINGULAR/MAHER LANE - TAX MAP 225-1-10.421

Chairperson Hunter explained that the next item on the agenda would be AT & T New Cingular/Maher Lane to discuss requested revision to previously approved Resolution for Amended Site Plan and Special Permit for replacement of 2 panel antennas on existing monopole, related equipment shelter and various equipment modifications within an existing fenced compound. Property is located at 101 Maher Lane. She then asked the applicant to give the Board a brief statement.

The applicant said, " My name is John Furst I'm an attorney at Cuddy & Feder, I represent the applicant New Cingular Wireless better known as AT & T. We were here back in September. At your September 4th meeting we were granted conditional approval to upgrade our existing facility at Maher Lane. The proposal basically consists of replacing two existing antennas and actually removing three existing antennas so that's actually going to be two less antennas at the site. It's all part of AT & T's LTE or 4G upgrade that they're doing in Orange and Sullivan Counties. At that time we objected to some of the conditions and, specifically, we had objected to your wireless consultant's requirement that the fastest wind speed be 75 miles per hour. According to the New York State Building Code they only require a 70 mile per hour fastest wind speed. We submitted a structural analysis that passed at 70 miles per hour. Subsequent to that condition of approval our engineer, Chad Schwartz, had followed up with the Department of State, with a New York State licensed engineer from the Division of Codes. Their job is basically to interpret the New York State Building Code. He agreed with our position that the 70 mile per hour wind requirement was the standard in New York State. We submitted those correspondence, we submitted relevant copies of the New York State Building Code to support our position. We also provided a letter from another New York State licensed PE who also confirmed that if we are forced to make this 75 mile per hour wind requirement which, again, is not supported by the code, that there be substantial modifications at a cost so great that it would actually just require a tower swap-out. Essentially we would have to replace the tower to meet the 75 mile per hour requirement. So our feeling is, based upon this new information, we hope the Board would remove this requirement because, in essence, if it's not removed you are essentially forcing us to replace a tower when it meets the New York State Building Code based upon our proposed loading. So, again, we ask that you guys remove this requirement and our engineer is here if you have any questions."

Chairperson Hunter then asked J. Kirby or R. Golden which one would like to speak. J. Kirby spoke and said, "I would like to bring to the Board's attention that when this application was first submitted nearly a year ago, they submitted a structural analysis dated 2012 that indicated that the structure needed to be reinforced, the foundation needed to be reinforced, they even had drawings in their application package showing this reinforcing. When this issue came up about the wind speed and related concerns, they submitted a revised structural analysis report and said everything is fine. Everything is fine. But they never read the fine print in that report which

AT & T NEW CINGULAR/MAHER LANE - TAX MAP 225-1-10.421 (cont.)

said that that was based on the assumption that the reinforcing that was in the previous report had already been installed. This is not the case. It has not been installed. And now they are objecting to what they have already brought before you saying it was their initiative to present modifications to the structure and now they're trying to say that they don't really need them. And not only were they willing to do the modifications a year ago, now they are complaining that they have to replace the entire structure because it's too expensive. I find this a little, uh, I don't know. I find it a little odd. I'll just put it that way rather than trying to find a better word for it. Regarding the Department of State, I received a copy of the correspondence as did you. And Mr. Schwartz asked a very specific question and the engineer that works for the State gave him a very specific response. However, the question did not really include several of the important facts. Number one he asked about a design of the tower. Well, this is not a design. The tower was designed back in 1998 based on the building code that was in effect at that time. It was approved by the Town of Woodbury and is now an existing structure that is different from, possibly, from a new structure. He did not make that known to the engineer from the State. He also phrased the question in terms of the other standards that have some applicability here, but he tried to take the, I'll call it, the long way around and asked the State engineer if you had to go around the long way – and I've always said just go the direct route, stick with the original design which conformed to the code at that point in time – and if you had stayed with that criteria it would still be in conformance with the code. And there wouldn't be this conflict. The applicant has tried to rephrase this into discrediting the position that I have taken personally and that my company has taken. We had numerous discussions about it amongst the staff that works in this business. It's not like nobody at Tectonic Engineering knows about wind loads on structures. Believe me, we deal with it all the time. I subsequently spoke to the Engineer at the State and I advised him of some of these things. He understood my position and frankly I came away from that with an understanding that he's basically in agreement with what we're saying. He gave us some specific references to sections of the code that were applicable and I have forwarded them on to you. It is our responsibility, the company responsibility to act on your behalf. We review the documents that are submitted. We formulate our opinion and we make recommendations. We have no stake in the outcome here. The applicant does. We're simply offering our best advice to the Board and you may take action based on that however you feel is best."

At this point, R. Golden said, "I think if the Board has any questions either with Jeff or the applicant's engineers now would be the time to ask them. The one question that I have, because I don't quite understand it, is that if the pole was built in 1998 and was built at a rated speed because it was required – it was built to the 75 mile an hour requirement – I don't know how magically, not magically I shouldn't use that. I don't know how now it can, it only needs to be 70 miles an hour when all you've done since that time is add more and more equipment.

AT & T NEW CINGULAR/MAHER LANE - TAX MAP 225-1-10.421 (cont.)

"And you don't have a structural report that I've seen that indicates that it would be safe at the 70 without any of the reinforcing."

Chairperson Hunter then asked the AT & T representative to speak. Chad Schwartz introduced himself and said, "this tower as with many other towers are designed to have some surplus capacity. We typically as an industry practice do not design a tower on day one to be at its maximum capacity. There are several ways that this is done. One way is by including additional antennas that were not in the original condition on the first build of the tower. Another way is to put it at a higher wind speed with the intention of using a lower wind speed in the future. It's a very common practice and there's many towers you'll find this on. But that does not increase the code standard for the tower in subsequent analyses." R. Golden asked, "does the structural report actually say that this pole, which was originally built for 75 miles per hour, now without reinforcing and all the original equipment which wasn't done at the time, is still safe without an reinforcing?" Mr. Schwartz replied, "we're actually not the engineers. The tower owner has employed the engineer who did the structural analysis. But it is my understanding that that engineer will provide a passing structural analysis at 70 miles an hour without the reinforcements which were not installed". R. Golden asked if this analysis was submitted to date. He said, "I'm not aware of it, but if it is we ought to be told about it. Mr. Furst replied, " I believe the July 25th structural analysis." Chairperson Hunter said, " there is a July 25th structural analysis that was submitted I believe in the August 21st report, letter from Cuddy and Feder." Mr. Furst said, "that's right and the letter was, the report at the meeting subsequent I submitted another report dated July 25, 2013 because there was a mistake where they had some of the language regarding modifications from 2012. So that sentence was removed and I think that was submitted at the actual meeting. I don't know if it was at the September 4th meeting or quite possibly it could have been the last meeting in August. So there is a report that was submitted that says that it will pass as is without any modifications at 70 miles per hour. It's dated July 25, 2013 but it might be confused with another report that there was a typo in." R. Golden asked, "the typo was including the prior language?" Mr. Furst replied, "yes the language accidentally carried over without modifications." R. Golden said, " I don't recall. I'm not saying it doesn't say this but on what basis do they say that now it can be done without the reinforcing other than looking at different provisions of the code and not dealing with the safety of the structure?" Mr. Furst replied, "because of the loading. Because of the loading considered on July 25, 2013. In that report where originally back last year AT & T and other carriers were going to put more equipment on the tower. When they realized it wasn't going to pass they scaled it down as much as possible in order to have a passing structural. But when they revised that report with the scaled down loading the sentence regarding the modifications was inadvertently left on that last report. That's my understanding and I can confirm that." Chairperson Hunter said, " so the original report is dated January 31, 2003 that was in the original submission and then we have a revised one that's dated July 25th. Those are the only two I have." Mr. Furst replied, " but there's two reports dated July 25, 2013. The first one that was submitted or that was circulated

AT & T NEW CINGULAR/MAHER LANE - TAX MAP 225-1-10.421 (cont.)

mentions modifications are required for the tower. That was inadvertently left on from the original analysis that was done when all the carriers were proposing more equipment. When we scaled down the equipment and did the analysis on July 25, 2013 it passes without the need for any modifications but that one sentence was inadvertently left on there. So then I subsequent to that submitted the correct version of the July 25, 2013 analysis with that sentence removed and no modifications are needed". Chairperson Hunter said, "I only have one July 25th I don't know where the second one is or which one is the revised one. Jeff, did you have two reports from July 25th, two different versions?" J. Kirby said, "I do not have two reports. I may not even have either one of them with me tonight. Just an oversight in packing my bag this morning. I would have expected that if they issued a revised report that has a different date you would put a new date on it so there's no confusion. But I think that the applicant should submit what they consider to be the correct report and we'll take a look at it. In regard to Mr. Schwartz' comment about the original design, I don't believe that in 1998 there was any anticipation that the State of New York was going to issue a building code that essentially says it's alright to reduce the wind load on a tower but not on any other type of structure in the State. I think they were, I don't have a legislator at hand to describe what process they went through to come up with this. But in 1998 the law of the State was 75 miles an hour. It was not designed for the higher wind speed in anticipation of you can use a lower wind speed in the future. But when you read the code at face value, which is what the applicant is banking on, it refers to the TIA document as the minimum requirement. That's not necessarily the only requirement." Chairperson Hunter asked R. Golden if the Board would need to consider the information from both consultants. R. Golden replied, "I think at this point in time, looking through my files it's hard for me to tell. I have the July 25, 2013 that looks like it was accompanied by Jeff's letter in August so I believe that's the one that he's talking about. But it does cause great confusion that they're both done on the same day. Unless they were done on different days, but the date doesn't reflect that." Mr. Furst said, "it's the same information again, it was just the inadvertent typo. So the analysis was done on July 25th 2013 but subsequent to that analysis it was corrected because of that typo and I found the letter where I submitted it to the Board on August 20th." R. Golden said, "I have that letter so that is in the file someplace. But, also this revised report did not indicate it's a revised report and, in fact, it's above the seal of the PE, there's a signature and handwritten date of July 25, 2013 which does not mean that, to me, that this engineer of record is indicating that anything after that date is approved by him. You have a sealed document on a certain date and what you're saying that somebody, he or somebody, removed a portion of this because there was a typo. But there's no indication that was done by the engineer. The only thing I see is a seal with a handwritten date of July 25, 2013 that coincides with the typed date of the report of July 25, 2013. To me that's odd if an engineer is going to modify a prior drawing and not indicate a date that the modification was done and, therefore, authorizing and approving that modifications were made and we'll hear from Dennis as to whether or not that's typical or standard." D. Lindsay said it was not typical. Mr. Furst said, "well, again maybe because of

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the inadvertent typo." R. Golden replied, "It's a pretty significant inadvertent typo. We're not talking about a misspelling or anything." Mr. Furst said, "it's just a matter of having it re-dated". R. Golden said, "to me that carries some significance. I'm not saying that it's going to change your position or your engineer's position with respect to the conclusion. But what we have now is a document that is sealed, signed over the seal, handwritten by what appears to be the same person because it looks like the same thickness of the pen that was used for the signature that says 7/25/13. There's no indication that anything was done after that date but you're saying that it was revised after that date without any engineer notation that it was revised after that." Mr. Furst said, "that's right and that's what I was explaining". R. Golden said, "to me that's odd. I've never seen it before. I think what should happen, quite frankly, since Jeff has indicated that he has not reviewed this revised one, I think what should be done at this point in time since this is obviously an important health and safety issue with respect to the wind speed is that a report be issued that is subsequent to the date of the July 25th that indicated that you need reinforcement, and an engineer to sign and seal something that says – it could be this identical one but it's going to be after this that the engineer is actually authorizing this one. It's impossible to tell that this one came after the first one because it's dated and sealed and signed the same date. So I think that needs to be submitted. I think Jeff can go ahead and start reviewing this assuming that it's going to be identical other than the date of the seal. And I think then, Jeff can issue a memo to the Board summarizing his analysis including his conversation with Department of State and what he believes. And then the Board has to look at both of those and make a determination as to whether they want to rely upon, assuming right now it really might not be the case, that Jeff changes his opinion. But if he does not change his opinion or he otherwise refines his opinion the Board should consider that opinion and the opinion of the others and then make their determination as to whether they want to rely upon their own consultant or rely upon the experts of the applicant. I'm, sorry, I think that's what needs to be done. I don't think that the Board can rely upon a dated structural analysis report with conclusions that really are based upon statements that post-dated the sealing and dating of this document." Mr. Furst said, "that's fine. If I could just get a copy any comments and correspondence from the Department of State from the person Jeff reached out to that would be much appreciated." R. Golden replied, "and is it true that the only thing you have from the Department of State is just the e-mail? You have no written...?" Mr. Furst said, "yeah, whatever I have I presented to the Board in the letter." R. Golden said, "similar to what we do with other consultant reports, this Board can certainly authorize that when Jeff comes up with his written analysis based upon this information and the information from the Department of State, I suggest he put it in a written report and send it to the applicant at the same time that he copies the Board and submits it to the Board. But I want to make sure that it's alright with you to do that but I believe that's the appropriate way to handle this." Chairperson Hunter asked the Board members if they were in agreement with Jeff's correspondence from the New York State Department and his report getting copied to the applicant. The Board members agreed that this would be fine. Chairperson Hunter then said, "John, you'll give us a revised report from your

AT & T NEW CINGULAR/MAHER LANE - TAX MAP 225-1-10.421 (cont.)

engineer?" Mr. Furst said, "and re-date it, yes." Chairperson Hunter said he should direct it to J. Kirby. Mr. Furst said, "it's going to be the same information it's just going to be re-dated. So I think I submitted the original report back on August 20th, so I don't know if you need the copy it's just going to be redated". D. Lindsay said it should go to the Building Department. Mr. Furst thanked the Board for their time.

WOODBURY JUNCTION/WP3 LLC - TAX MAP 225-1-3.1 & 3.2 (aka 25-1-3.22 et al)

Chairperson Hunter read the Notice of Public Hearing for an amended subdivision and site plan for proposed modifications to sewer lines for property located off Dunderberg Road in Central Valley. She then asked the applicant for a brief overview of their request.

Travis Ewald of KC Engineering appeared on behalf of the applicant. He introduced Jason Pitingaro, also of KC Engineering, and Mr. Brodsky, the owner of Woodbury Junction. Mr. Ewald explained that they are proposing to eliminate a previously approved sewer pump station, which is located near the project's entrance on Nininger Road. They will then convey the sewer via gravity piping up to pond 6 and through a proposed easement behind a residential lot and through Julien Court where it will be installed along the County right-of-way on Nininger Road into the existing gravity sewer system. This will require some modifications to their Road B. Mr. Ewald said they believe this will be a significant benefit to the municipality as it will reduce any maintenance costs that would have been related to the pump station, and will significantly reduce the operation costs of the sewer system. He added that he believes they have sufficient provisions in place to allow for the successful installation and operation of this system.

At this point Mr. Brodsky addressed the Board and explained that he has promised to give all the residents on Julien Court a sewer lateral in case their septic systems fail in the future. He said he understands that he does not have the right to grant them access to these connections. For that they will need to make an application with the Village Board.

Mr. Brodsky went on to explain the improvements he would be making to Julien Court. He was particularly concerned about a drain pipe that is in front of the Costa's driveway. He said the existing pipe is undersized and clogged. He would like to replace this pipe because he said that in the winter there is water that comes from an intermittent stream and ices up on the road at night. He wants to put in a larger pipe and pipe this intermittent stream properly to prevent this from happening. He is also proposing to cut back some trees that hang over the road.

WOODBURY JUNCTION/WP3 LLC - TAX MAP 225-1-3.1 & 3.2 (aka 25-1-3.22 et al) cont.

Mr. Brodsky also said that in doing the gravity sewer they will also be improving their own roadway by eliminating a large dip that existed in the road. They also will be giving the Village an easier access point off Julien Court.

Mr. Brodsky also said that the original subdivision was surrounded by open space. He said there is a ten foot area that will require an easement. He will be applying to the Town Board for a 10 x 20 foot sewer easement.

At this point Chairperson Hunter asked D. Lindsay for his comments. D. Lindsay said that in general concept he agreed with the idea of eliminating the pump station in favor of a gravity system. He was, however, concerned that the proper controls and protections be employed during construction. He was particularly concerned about the area that would require 25' of fill. He said this needed to be handled properly.

D. Lindsay also said he needed complete plans in connection with the modifications proposed for the roadway. He said it was a fine design, but full plans would be needed.

D. Lindsay's last point had to do with the easements. He said that, as discussed at the last meeting, all easements should be in hand prior to the plan being signed and any further construction on the sewer easement or any other work in that area. This includes easements from private property owners as well as easements for the properties owned by Mr. Brodsky.

S. Turner had no comments at this time. R. Golden began a discussion regarding the easements referred to by D. Lindsay. He said that at this time has not received any easements or owner authorizations at all. He also cited the ten foot area that is owned by the Town, which will also need an authorization for work to be done. R. Golden said that the Planning Board has never before approved a resolution without the owner authorizations being in place.

R. Golden said that, with respect to Julien Court, it is unclear from a reading of deeds exactly who owns Julien Court. He said the applicant's attorney has assured him that the title company is willing to insure that Julien Court is owned by some "manifestation" of the Cornell family. However, he was not sure exactly what that meant. He will be sending the title report to R. Golden to review. R. Golden said there is still work to be done on the owner authorization issue. He did, however, draft a resolution. He said he did the best he could with the information he had.

Mr. Brodsky said that Julien Court is in the name of Harriet Cornell. He said he would get a copy of the title report to R. Golden as soon as possible.

WOODBURY JUNCTION/WP3 LLC - TAX MAP 225-1-3.1 & 3.2 (aka 25-1-3.22 et al) cont.

Mr. Brodsky asked R. Golden what sort of authorization he would require from the County for the work in the roadway. He asked if it could be in the form of a road permit. R. Golden said he was not concerned about whether it was an easement or a road permit as long as he had some written authorization from the County that they could lay the line along the County Road.

Mr. Brodsky asked if the authorization could be in the form of a simple letter. R. Golden said that it would need to be specific enough so that he could feel comfortable enough to advise the Board that the County actually authorizes what they are planning to do in the their roadway.

Jason Pitingaro said that they have an approval from the County, dated October 7th, to complete the installation in the portion of Nininger Road. He said he would provide a copy for the Board. R. Golden told him to submit it to the Building Department.

At this point Chairperson Hunter asked for questions and comments from the public. Lynn and Tom Costa, residents of Julien Court, asked how the sewer line would be inspected to make sure that it is, indeed, a solid sewer line. They also wanted to know who would be responsible if there was a problem with the sewer line. D. Lindsay explained that the developer would install the sewer lines, but they would be inspected by the Village of Woodbury Sewer Department. He also said there are a number of different tests that are done to sewer lines to make sure they have been installed adequately. There is a period where the sewer line is owned by the developer and there is either a performance guarantee or a maintenance guarantee. Eventually ownership would pass to the municipality, which would be responsible from that point on. This would require an action before the Village Board of Trustees for acceptance of the sewer line. Mrs. Costa asked how long this usually takes. D. Lindsay said it would depend on the developers progress, and the Board of Trustees.

There was then a discussion regarding the sewer laterals. D. Lindsay explained that Mr. Brodsky will most likely not be installing a lateral, but a T-Y connection to the sewer in the street. This will either be capped in the street or brought to the property line. The location will be marked so it can be found in the future. Mr. Brodsky agreed that this is what will be done, and told Mr. and Mrs. Costa that they will be able to tell him what they think the best location for this connection is on their property. He will do the same for all the residents of Julien Court. He added that it will probably take three days to run the sewer line up Julien Court. D. Lindsay noted that the cost of the lateral will be borne by the homeowner.

WOODBURY JUNCTION/WP3 LLC - TAX MAP 225-1-3.1 & 3.2 (aka 25-1-3.22 et al) cont.

Chairperson Hunter asked for further questions or comments from the public. There were none, so R. Anzalone made a motion to close the public hearing. C. Correia seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- R. Anzalone – In Favor
- C. Correia – In Favor
- C. Scibelli – In Favor
- R. Cataggio – Absent

There was some discussion about whether or not the Chairperson should read the resolution of approval. C. Scibelli asked if the Board could just act on the resolution. R. Golden cautioned the Board that acting on the resolution without having the owner authorizations in place could set a precedent. He said this Board, in the past, has not approved resolutions without having the authorization of every property owner that the project traverses or affects. D. Lindsay added that in the past the Board has not even heard applications until they had authorization from the owners. After all this discussion, C. Scibelli said he was still ready to move forward with the resolution.

At this point Chairperson Hunter began her review of the resolution starting with a reading of the Specific Conditions. After the review C. Scibelli made a motion to approve the resolution with the changes and additions that were made this evening. R. Anzalone seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- R. Anzalone – In Favor
- C. Correia – In Favor
- C. Scibelli – In Favor
- R. Cataggio – Absent

GREENS OF WOODBURY II - TAX MAP 218-2-60 et al

Chairperson Hunter explained that this was to be a review of an application submitted for a previously approved 16 lot subdivision located off Smith Clove Road in Central Valley.

Steve Reineke appeared as counsel for the applicant and explained that the reason they are here is because they would like to get this project started. He said there are two steps in doing that. The first is tree clearing. He said they had to postpone the tree clearing once already and

GREENS OF WOODBURY II - TAX MAP 218-2-60 et al (cont.)

they are scheduled to come on Friday to start clearing the trees, if the Board approves. If not they will have to wait another month. Also, they want to get started on the road permit. Mr. Reineke said that they were asking the Board to modify the resolution to say that certain things can be done prior to building permits for the individual dwellings, rather than building permits in general. He went on to say that the subdivision fees have been paid and the escrow inspection check has either been delivered or is ready to be delivered.

There was some confusion on the part of the consultants as to why the applicant was appearing before the Planning Board. D. Lindsay said he thought they were here because the conditions of the final approval were not satisfied within the time frame that was provided in the resolution. He said it was his understanding that the approval has lapsed. There is no opportunity for the Board to extend final approval, as they could under current law, because of the law that was in place at the time. This means the applicant would need to submit another application. They could, however, submit the same plan. The Board would then have to go through the SEQRA process, and hold a public hearing. Also GML 239 will have to be completed. D. Lindsay added that he did not review a map that was complete. If he had he would have given a letter to the Chairperson, who would then sign the map. Mr. Reineke said the map was signed on February 25, 2008 and filed on April 2, 2008. D. Lindsay said he was not aware of this. R. Golden said he did not know how the map could be filed when there are still so many conditions outstanding

At this point Chairperson Hunter explained that she met with G. Thomasberger and Mr. Corts on October 4th during which G. Thomasberger compiled a list of items that had to be completed. At that time he said that a map had been filed. She said she thought that G. Thomasberger had conveyed this to the consultants. R. Golden said that he had spoken to G. Thomasberger and at that point there was no indication that the map was filed. He said, again, he did not know how the map could be filed when there were conditions that had not been complied with. He cited Condition 7 which said the Town would need to accept the open space and the drainage. The Town did not accept either of these. The condition states that in that case the applicant would need to return to the Planning Board with alternate ways of dealing with the open space and the drainage. Mr. Reineke confirmed that the Town had not accepted these areas. He said a permit has been retained by an HOA. He added that they understand that this needs to come back to the Planning Board when it's finalized in terms of what it will handle. He said that basically this is to cover the drainage costs and the open area. R. Golden noted that the Planning Board would have to approve this. As part of the resolution they need to return to the Planning Board for them to alter the plan if the Town does not accept these areas. Again, R. Golden did not know how a map could be filed when that condition has not been complied with. The discussion continued. Finally, D. Lindsay asked why the applicant was before the Planning Board if there is a filed map. Chairperson Hunter explained that there was language

GREENS OF WOODBURY II - TAX MAP 218-2-60 et al (cont.)

in the resolution which states "no building permit can be issued for the subdivision until either the Town Board accepts the open space and drainage lots or the Planning Board has approved alternates". She said she believed the language should be changed to read, "building permits for single family homes". She added that G. Thomasberger has interpreted "building permits" to mean building permits for the road as well. R. Golden noted that there are drainage areas to be dealt with. He said the Board would want the drainage areas to be finalized and working before other work is done on the project or any homes are built. Mr. Reineke said there was no intention not to do the drainage improvements as part of the initial site work. However, the wording in the resolution says you can't get a permit until this has been resolved.

The discussion continued. With regard to the HOA, R. Golden said that if the Board was confident that the HOA could handle the drainage and open areas they could approve this. However, nothing has been accomplished yet. The applicant has merely expressed their intent to have an HOA handle this. The Board has not made a decision yet, consistent with condition number 7, that this is a workable solution.

The discussion continued, with Chairperson Hunter reviewing the memo from G. Thomasberger. After some further discussion she explained that the applicant's reason for appearing before the Board was to change the language in condition number 7 to read, "no building permit will be issued for model or models for new single family dwellings". This will allow the roadwork to proceed.

After some more discussion, R. Golden explained that this is an application for an amended subdivision. The applicant would need to submit an application for this. It requires a public hearing on the amendment, and a referral to the County under GML 239. He said the Board would need to go through this process as they would with any other amended subdivision.

The discussion continued for quite some time. The Board seemed to be ready to schedule a public hearing, and authorize the preparation of a resolution. R. Golden pointed out that the language that was to be changed in Condition number 7 appears in several other places throughout the resolution. He suggested that the applicant's submission should contain all of the changes they are requesting to the language in the resolution. D. Lindsay pointed out that GML 239 would take 30 days. R. Golden noted that the prior 239 came back with a comment that this Board did not incorporate into the plan, therefore, it required a majority plus one vote. The same may need to happen again. He added that the Board would need an EAF so they can complete SEQRA before approving this amendment. He said the Board could reaffirm its prior SEQRA, so it would not be a lengthy process. Also, a Negative Declaration was issued on May 4, 2005, which the Board could reaffirm. He also reminded the Board that they would not have jurisdiction to act on this at the next meeting unless the County has submitted a report.

GREENS OF WOODBURY II - TAX MAP 216-2-60 et al (cont.)

The discussion carried on again, after which C. Correia made a motion to schedule a public hearing for November 6, 2013 and authorize the preparation of a resolution of approval.

C. Scibelli seconded the motion. The vote was as follows:

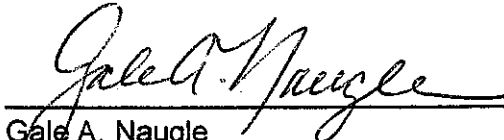
M. Hunter – In Favor
R. Anzalone – In Favor
C. Correia – In Favor
C. Scibelli – In Favor
R. Cataggio – Absent

There was no further business for the Board to conduct, so Chairperson Hunter made a motion to adjourn the meeting. R. Anzalone seconded the motion. The vote was as follows:

M. Hunter – In Favor
R. Anzalone – In Favor
C. Correia – In Favor
C. Scibelli – In Favor
R. Cataggio – Absent

The meeting adjourned at 11:37 p.m.

Respectfully submitted,



Gale A. Naugle
Planning Board Secretary