

April 14, 2022

The Planning Board of the Incorporated Village of Westhampton Beach held its regular meeting on April 14, 2022, at 5:00 P.M. in the Municipal Building, 165 Mill Road, Westhampton Beach.

PRESENT: David Reilly, Chairman
Ralph Neubauer
Rocco Logozzo
Michael Schermeyer

Brad Hammond, Building & Zoning Administrator

Ron Hill, Village Engineer
Kyle Collins, Village Planner

Anthony C. Pasca, Esq., Village Attorney

Maeghan Mackie, Board Secretary

TRUSTEE REFERRAL:

216/218 Mill Road Realty Corp., 218 Mill Road (905-8-3-14) Dave's Bun 'N' Burger Applicant requests outdoor dining consisting of three (3) tables, and six (6) chairs.

HOLDOVERS:

1. Marios Nikolaidis, 36 Hazelwood Avenue (905-6-1-11.1) Applicant requests a minor Subdivision review to create a three-lot subdivision on a lot located in the R-4 Zoning district.

Richard T. Hafeli, Esq., appeared on behalf of the application. They have gone to the ZBA and they have received final BOH and he submitted covenants a few weeks ago.

Mr. Pasca said they won't review the covenants without a final decision.

Mr. Reilly asked what they are waiting on?

Mr. Pasca said we held it over to get reacquainted with it and give the neighbors an opportunity to speak and have the plans reviewed to make sure they are okay.

Mr. Neubauer asked if anyone reviewed it?

Mr. Reilly said they do recall screening being a factor.

Mr. Pasca said he thought there was something in their ZBA approval about screening.

Mr. Hafeli said yes, that has to do with the Southerly neighbor and the ZBA discussed it and another Northerly neighbor is seeking trees but that was not part of the ZBA determination. The ZBA required the screening on the South remain and that's part of the covenant I submitted. I know the Southerly neighbor has concerns and the Northerly neighbor, I don't think there's a basis for trees.

Mr. Neubauer asked if they were removed?

Mr. Hafeli said he does not remember.

Mark Coles, 6 Guldi Street and Maryanne Ogiejko 36 Hazelwood Avenue appeared on the application and Mr. Coles said there were trees cut down and he provided those photographs to the Board the last time they appeared. The trees were there and cut down.

Mr. Neubauer said this isn't that long ago they gave this to us.

Mr. Reilly said it was previously raised as well.

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Mr. Coles said we submitted a letter to the PB in 2019 and it has their representations and the pictures show the mature trees and the second picture shows the height of 20' and level with the house and they were removed and the fourth picture shows the clear lot and they were cut down and they extended beyond the volleyball court and we cleaned that up. We would like to see the trees replanted.

Mr. Logozzo asked where these properties on the survey are.

Mr. Coles said the lot line on the top left is where they were.

Mr. Reilly said to the North of what would be Lot 3?

Mr. Coles said yes, they were all adjoining there.

Mr. Reilly asked if they extended from end to end?

Mr. Coles said yes, and someone built a volleyball court and took trees down to do so.

Mr. Neubauer asked if that's his property?

Mr. Coles said no, the beach volleyball court is on the applicants property. It is overgrown at the moment so there is screening, but as soon as they clear the site nothing will remain. What we can't understand is, when you build these houses someone will want a two story house with amenities will want screening and it's a very dense development and it's 81% higher and we used a paper road to gain access and the usual construction is two lots on either side of a paper road 40' wide and now the road is a driveway over the lots and you get three 15,000 square foot lots and the density is 80% higher and there will be a lot of noise. When the trees were cut down you could hear more noise from my property and there will be a lot of noise and I don't know why they would not to put screening in. There will be a lot of traffic and I don't know how people will turn there will be a lot of activity and all we want is screening and I want what was there, and Ms. Ogiejko wants it down to their house and the Rostane's want the screening as well and we think it's reasonable. They were given a variance, and the flags are too small for the Code and they need a variance and we're not against the development and we think this is appropriate mitigation and this is for the good of the neighborhood.

Mr. Neubauer said it's a hard argument to walk away from.

Mr. Hafeli said the volleyball court was constructed by his predecessor. He was using the property and he's complaining about density his lot doesn't meet the Code requirement He has a large house with a pool. We have three lots that meet the Code requirement for 15,000 square feet, and we got the variances which were not for the flag portion of the lot. They were for the poles coming in and subsequent to that there's a provision where you can create a flag lot which is 15' or 10'. We got the variances, and the fact is we obtained the and all of his information went to the ZBA. The southerly neighbor I acknowledge it was to maintain the vegetation and there was never approval with reference to the house on the North. He is showing you things, there was no prohibition about cutting down trees. We're talking about the Southerly property.

Ms. Ogiejko said the sandpit was made by a previous owner, and Mr. Coles did not use it. Mr. Coles covered the sandpit and planted grass and got rid of it because it was unsightly.

Mr. Reilly said I would fully expect that when these are subdivided and built on, someone will want screening and they'll put it up themselves if we don't ask for it. I don't think we can rely on it, and I think it's informative.

Mr. Neubauer said it's not unreasonable to add some screening.

Mr. Reilly said it was something about them getting the flags.

Mr. Pasca said I just looked through the files and there are a few things, the ZBA decision is lapsed by three (3) years, so you have to go back to them. And the way the ZBA decision was written, the ZBA conditioned the variances on "the applicant completing the subdivision review process and insuring the common driveway is such width and design and B) the landscape screening is provided between the common driveway and Southern lot line and they are to be determined by the PB and to allow for sufficient area the common driveway may be on Lots 1, 2 or 3 as the Board deems appropriate and we

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do not have a common driveway plan or landscaping plan that would explain what the applicant is proposing.

Mr. Hafeli asked what the plan is before them, it shows a common driveway.

Mr. Pasca said it has details, drainage, landscaping and I don't see something equivalent to that to allow this Board to confirm it meets the standards as determined necessary by the ZBA and it's different from what they are raising, and this Board can decide whether this is appropriate or not. At a minimum they have to show a plan that conforms to the ZBA decision and then this Board can review it.

Mr. Logozzo said we need to see the plan.

Mr. Pasca said it's a requirement of the ZBA and I don't know what this Board can approve.

Mr. Reilly said aside from that, when we approved the subdivision behind True Value that required ZBA. As part of our condition of that plan did we impose extensive landscaping?

Mr. Hafeli said yes.

Mr. Pasca said yes, there was a substantial landscape plan and it was on two parts, Oak Street and behind True Value.

Mr. Reilly said if we've done that in the past, its not unreasonable to impose those conditions for this application. Especially because there are only so many subdivisions, so I think we have to be more concerned.

Mr. Logozzo said he would like to see a site plan.

Mr. Reilly asked if they're required to submit one?

Mr. Pasca said a common driveway and landscape plan that relates to the Southerly part; and it can be on any part of Lots 1, 2 or 3 and they may want to meander the driveway and the ZBA did not want to dictate the layout and the landscaping screening provided to the South. Beyond that its your discretion as far as the subdivision conditions go, but that was a condition of the variance. The common driveway details were done on Oneck Lane and they did a common driveway not a road and we had a fully engineered plan up to the driveways. To the extent it's a common driveway it's effectively treated as a road and has to qualify for a fire apparatus road.

Mr. Hafeli said you have to be able to turn the fire truck around at the end of the common driveway and you can use the property driveway.

Mr. Pasca said yes.

Mr. Hafeli said we have done a few on Hazelwood Avenue and Rogers Avenue.

Mr. Pasca said we can keep discussing landscaping and whether you want to impose additional requirements.

Mr. Logozzo said when we get a plan we can analyze it and decide if we need more.

Mr. Reilly said the plan we're going to get will address the Southerly property for the common driveway so we need to give the applicant direction as to what we are looking for.

Mr. Logozzo said to make a decision we need to see a document with something on it.

Mr. Pasca said that's right, the applicant is not offering anything other than the ZBA conditions and the neighbors are seeking more; you have to tell them whether ryou are included to see more screening or not.

Mr. Logozzo said you have the ZBA who made a decision.

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Mr. Pasca said they were only focused on the screening along the Southerly driveway, they said nothing about the North. The northerly lot wasn't before the ZBA but it is part of this Board's jurisdiction.

Mr. Logozzo said I would like to see something.

Mr. Neubauer said I would like to see more screening.

Mr. Logozzo said he'd like to see what you're going to plant and where.

Mr. Hafeli said okay, but this is the first time I'm hearing this from this Board. The stuff on the South I agree and there's been no discussion regarding Northerly screening.

Mr. Reilly said it has been raised.

Mr. Pasca said it's been dormant for two years.

Mr. Neubauer said we'd like to see significant screening and adhere to what the ZBA asked for.

Mr. Hafeli said I have no plans to adhere to the ZBA.

Mr. Pasca said you should poll the Board.

Mr. Schermeyer said we should throw a bone to the neighbors, they are here and throwing up some bushes would help the situation out.

Mr. Jones said I'd like to see Northerly landscaping too.

Mr. Reilly said we want to see screening on the North.

Mr. Logozzo said I want to see the site and what we're doing, not just on the North.

Mr. Pasca said this is not a commercial site plan and that's not required in a subdivision and if there are needs generated that's what is triggered. It was considered a specific need by the ZBA and in the Oak Street / Humphrey Street subdivision there was some partially because of a commercial use abutting a residential use. There was screening on Oak Street which was also considered. You don't ask for a landscape plan for the subdivision, but there is something specific you'd like considered, that's what you can ask.

Mr. Reilly said I think we need to be able to see what's being put in.

Mr. Jones said why do we have business if they aren't sold or owned yet?

Mr. Pasca said you only determine as a mitigation for the effects of the subdivision it's appropriate to require landscape screening.

Mr. Reilly whose responsibility will it be?

Mr. Pasca said it's part of the approval and improvement and they bonded it in the Oak Street subdivision and I don't know what this applicant would do, and either way it's considered an improvement.

Mr. Reilly said to require it now is silly.

Mr. Pasca said they can bond it and don't have to put it up today and they can pass it off on a purchaser, but it's a condition.

Mr. Reilly said the ZBA decision only applies to the Southerly portion, does it apply to Lot 3?

Mr. Pasca said the common driveway ends at the border of Lot 2 and Lot 3; Lot 3 runs to the road.

Mr. Reilly said the ZBA doesn't deal with the Southerly portion of Lot 3 or the Western boundary of the entire property the back of Lot 3. So essentially all of Lot 3 is not addressed by the ZBA and only the

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Southerly portions of Lot 1 and 2 are. We are imposing a condition to the entire perimeter of Lot 3 and the North of Lot 1 and Lot 2, that's what the ZBA does not address.

Mr. Neubauer said they were vague enough the driveway didn't have to be where it is proposed.

Mr. Pasca said the discussion that came up, once you have to put landscaping screening in you have to adjust the driveway and you may not want it to be a straight line, they gave that discretion to this Board, they just wanted to see screening.

Mr. Neubauer said it has to comply with the safety factor.

Mr. Hafeli said it shows the southerly 10' not being used as the access, and it is the middle 10' that would be the access for Lot 2 and Lot 3 and there's 5' on Lot 1 for the drainage; that's the plan that went to the ZBA and was submitted to this Board. There's a 10' easement for Lot 2 and Lot 3 to get to Hazelwood Avenue and the southerly 10' is not being used for access and is being used for screening.

Mr. Pasca said he should come up with a plan for the common driveway and provides the screening. But the Board has nothing to review.

Mr. Logozzo said instead of a site plan, just show a planting plan.

Mr. Pasca said it's a common driveway plan, it's a detail we see that's done by an Engineer and the landscaping should be shown. RH would review it for the drainage, and Mr. Collins would review it for the landscaping and this Board would too.

Mr. Hafeli said the ZBA said nothing about the North side and I am asking you why I have to landscape to Lot 1 when it's been in existence for 60 to 70 years.

Mr. Reilly said okay, that point is well taken.

Mr. Schermeyer said then landscape Lot 2 and Lot 3.

Mr. Reilly said it's the North side of Lot 2 and Lot 3, the South side of Lot 3.

Mr. Hafeli said that Lot 3 goes to the end of the common driveway.

Mr. Reilly said yes, that's true and that's why its not effected by the ZBA. We have to decide and we'd like to see some mitigation efforts, and conditions on Lot 2 and Lot 3. They are new lots that you are creating and I think it is reasonable.

Mr. Neubauer said we're not asking to see 20' bushes.

Mr. Reilly said you can do stockade fence, and green giants.

Mr. Coles said we don't expect 20' trees and they come in at 6' they'll grow and everyone will be happy.

Mr. Hafeli said we're going to put in a plan that will rip out what you have.

Ms. Ogiejko said she doesn't want that; and she kept this instead of nothing and what's there is just over grown and choked out and I have to maintain it because it wasn't taken care of.

Mr. Neubauer said they expect it to be removed.

Mr. Hafeli said that's fine, they wanted it but if they are okay with it being removed. The plan will show what is currently there will be gone.

Ms. Ogiejko said she understands that.

Mr. Coles said show us green giants along the South and North Lot 2 and Lot 3 we will be happy.

Mr. Hafeli asked if you want it Lot 2?

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Mr. Reilly said yes, it will be a condition.

Mr. Hafeli said we will have to remove trees to put in landscaping. I want to make sure that's what you're talking about, if you want landscaping we're going to show what we're planting and there may be existing vegetation.

Mr. Coles said there are a lot of old trees and they will have to clear the lots there will be no screening and there won't be any to remove because they'll be done during development.

Mr. Hafeli said you're asking for Lot 2 and 3 on the North; and Lot 3 on the South, once the common driveway ends there's a width to the Easterly boundary and I wasn't going to put it in and I was landscaping along the common driveway.

Mr. Reilly said on the North and South of Lot 3 and the North of Lot 2 and past the flag; we want to see the screening the entire length of the South. We want to see it for the same reason on the North and it will create a problem for the neighbors and it will be mitigation for the neighbors. In terms of the direction we're giving to Mr. Hafeli he will comply with the ZBA and he will provide a plan with landscaping and we will require landscaping on the South of Lot 3, North of Lot 2 and Lot 3 and not on the North of Lot 1 and it's not creating a new problem and not on the East of Lot 3.

Mr. Hafeli said I understand.

Mr. Hammond said the common driveway, the width has to be 12' based on the fire code.

Mr. Hafeli said that's fine. It has to be 12' to the lot?

Mr. Hammond said yes.

Mr. Hafeli said okay.

Motion was made by Mr. Neubauer to holdover the application of **Marios Nikolaidis, 36 Hazelwood Avenue (905-6-1-11.1)** to May 26, 2022; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

2. 85 & 105 Montauk LLC, 85, 105 Montauk Hwy & 105 Oak St, (905-005-01-012, -053.01 & -052.02). Applicant requests Site Plan review to construct a two-story restaurant building with associated site improvements including improvements on lots to the West & South, consideration of a change of Zoning District for the Southerly lot with demolition of the dwelling and site build-out for parking with buffer, and site improvements on the Westerly lot including curbing, buffer & access reorientation.

Nicholas A. Vero, Architect submitted a request to holdover the application to April 28, 2022.

Motion was made by Mr. Neubauer to holdover the application of **85 & 105 Montauk LLC, 85, 105 Montauk Hwy & 105 Oak St, (905-005-01-012, -053.01 & -052.02).** to April 28, 2022; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

3. Westhampton Inn LLC., 43 Main Street (905-11-1-15) Applicant requests a Site Plan approval to construct a two-story ten-room hotel building with a covered front entry, rear porte-cochere and associated site improvements upon a 0.93 acre parcel located at the South West corner of Main Street and Mitchell Road in the B-1 Zoning District.

Status: **HELDOVER UNTIL April 28, 2022**

ZBA: **NEEDED**

ARB: *Referred to ARB at January 23, 2020 Meeting;
Referred for revisions at March 10, 2022 Meeting;*

SEQRA: *Planning Board Deemed Lead Agent;*

SCDHS: **NEEDED**

SCDPW: *N/A*

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SCPC: *Received SCPC, 2/14/2020 – No objection*

4. Prime Storage, 98 Depot Road (905-002-01-019.10). Applicant requests a site plan review to construct a two-story mini-/self-storage building (10,428 SF) on slab with accessory office as an expansion of an existing storage facility operation. The 3.657-acre property is located on the east side of Depot Road, in the I-1 zoning district.

Ted Galante, Architect submitted a request to holdover the application.

Motion was made by Mr. Neubauer to holdover the application of **Prime Storage, 98 Depot Road (905-002-01-019.10)**. to April 28, 2022; seconded by Mr. Jones and unanimously carried 5 ayes, 0 nays, 0 absent.

5. 55 Old Riverhead Road LLC, 55 & 59 Old Riverhead Rd (905-004-01-007, -009.02 & -009.03) Applicant requests site plan approval to construct a multifamily development consisting of 16 (sixteen) senior dwelling units in four two-story townhouse buildings with attached garages, pickleball court, and associated site improvements, upon an assemblage of three parcels totaling 122,001 square feet on the west side of Old Riverhead Road in the HD zoning district.

Heather A. Wright, Esq., submitted a request to holdover the application of **55 Old Riverhead Road, LLC., 55 and 59 Old Riverhead Road (905-4-1-7, 9.2 and 9.3)** to May 12, 2022; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

6. Firestar Holdings LLC, 14 Rogers Avenue (905-006-02-017) Applicant requests minor subdivision approval to subdivide a 35,250 square feet lot, improved with a single-family dwelling, into two lots of 18,090 & 17,157 square feet in the R-4 zoning district.

Richard T. Hafeli, Esq., requested to holdover the application.

Motion was made by Mr. Neubauer to holdover the application of **Firestar Holdings, LLC., 14 Rogers Avenue (905-6-2-17)** to May 26, 2022; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

7. WHBH Real Estate LLC, 7 Beach Lane (905-011-03-010) Applicant seeks site plan approval to renovate & construct additions to the three-story hotel/inn (16 units) with associated site improvements, including a swimming pool with patio, pergola & outdoor seating area, upon a one-acre parcel located in the HC zoning district.

James N. Hulme, Esq., submitted a request to holdover the application to April 28, 2022.

Motion was made by Mr. Neubauer to holdover the application of **WHBH Real Estate LLC, 7 Beach Lane (905-011-03-010)** to April 28, 2022; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

8. WHB Development Partners LLC, 107 Old Riverhead Road (905-002-01-019.05) Applicant seeks site plan approval to construct an automotive service station (eight pumps & canopy) with accessory one-story convenience store (4,872 SF) and associated site improvements, upon a 1.6-acre parcel located in the B-3 zoning district.

James N. Hulme, Esq., submitted a request to holdover the application to April 28, 2022.

Motion was made by Mr. Neubauer to holdover the application of **WHB Development Partners LLC, 107 Old Riverhead Road (905-002-01-019.05)** to April 28, 2022; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

9. Hampton Synagogue Parrish House, 13/15 Brook Rd & 161 Sunset Ave (905-012-01-039, -040, & -043.01) Applicant seeks site plan approval to construct a two-story parish house with attached pool cabana & mikveh, swimming pool, basketball court, gazebo, storage shed & associated site improvements for Westhampton Synagogue (demolish existing residential structures) on an assemblage of parcels totaling 39,474 square feet in the HC zoning district.

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Frank Lombardo Architect appeared and said they are very close to obtaining BOH and the flow has been approved, and Mr. Bishop is drafting the covenants and the office of pollution control has comments and we did sample tests for the cesspools being removed and I think we're very close.

Mr. Hammond said we had a demolition permit to take the buildings down, and I issued it if there is objection I can pull it.

There was no objection.

Mr. Lombardo said they could not merge the lots with the buildings still there so they had to demolish them and we had to wait on the Board of Health and we received their approval today.

Motion was made by Mr. Neubauer to holdover the **Hampton Synagogue Parrish House, 13/15 Brook Road & 161 Sunset Avenue (905-12-1-39, 40 and 43.1)** to April 28, 2022; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

10. Country Pointe at WHB, 44 and 60 Depot Road (905-4-1-14.6 and 13.1) Applicant seeks final subdivision approval of 13.06 acres for twenty-two (22) single-family lots with public road and associated site improvements.

Richard Rosenberg, Esq., appeared on behalf of the application. Mr. Reilly stated there was a determination, and the reading was waived.

DECISION OF THE PLANNING BOARD
VILLAGE OF WESTHAMPTON BEACH
DATED: April 14, 2022

IN RE:

Beechwood Westhampton, LLC.
44 Depot Road, Westhampton Beach, New York 11978
60 Depot Road, Westhampton Beach, New York 11978
Suffolk County Tax Map Numbers 905-4-1-14.6 and 905-4-1-13.1

I. The Application for Subdivision Approval

Beechwood Westhampton, LLC. (hereinafter, the "applicant"), is the reputed owner of real property located at 44 Depot Road and 60 Depot Road, Westhampton Beach, New York 11978, which are designated on the Suffolk County Tax Map as parcels numbered 905-4-1-14.6 and 905-4-1-13.1 (collectively, the "subdivision property"). The subdivision property is located in the Village's Residential R-2 Zoning District, has 554.75 feet of frontage on Depot Road and 50.13 feet of frontage on Old Riverhead Road, and totals 13.06 acres.

The applicant has submitted an application to the Planning Board of the Village of Westhampton Beach (hereinafter the "Planning Board" or "Board"), for final subdivision approval to subdivide the subdivision property into twenty-two (22) residential lots and two roads, which would provide access between those lots and Depot Road.

The final version of the subdivision for which applicant seeks final plat approval is set forth in the following plans prepared by Hayduk Engineering, LLC:

- (1) Final Subdivision Plat for Country Pointe at Westhampton Beach, consisting of one sheet numbered FP-1.0, dated October 25, 2021 and last revised on 3/22/22 (individually referred to hereafter as the "Subdivision Map");

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- (2) Roadway Grading and Drainage Plan for Country Pointe at Westhampton Beach, consisting of three sheets numbered RDG-1.0, -2.0, and -3.0, all dated October 25, 2021 and last revised on 4/5/22 (collectively referred to hereafter as the “Road and Drainage Plan”);
- (3) Details for Country Pointe at Westhampton Beach, consisting of two sheets numbered C-1.0 and C-1.1, dated October 25, 2021 and last revised on 4/5/22 (individually referred to hereafter as the “Details”);
- (4) Emergency Access at Old Riverhead Road (CR 31) Details for Country Pointe at Westhampton Beach, consisting of one sheet numbered EA-1.0, dated October 25, 2021 and last revised on 4/5/22 (individually referred to hereafter as the “Emergency Access Plan”);
and
- (5) Survey Monuments for Country Pointe at Westhampton Beach, consisting of one sheet numbered Mon-1.0, dated October 25, 2021 and last revised on 4/5/22 (individually referred to hereafter as the “Monument Plan”); and
- (6) Erosion and Sedimentation Control Plan for Country Pointe at Westhampton Beach, consisting of two sheets numbered ESC-1.0 and ESC-2.0, dated October 25, 2021 and last revised on 4/5/22 (individually referred to hereafter as the “Erosion Control Plan”).

The Subdivision Map, Road and Drainage Plans, Details, Monument Plan, and Erosion Control Plan shall be referred to collectively hereafter as the Final Subdivision Plans.

II. Review by Planning Board and Other Agencies

The subdivision application has been processed as a major subdivision. Prior to the filing of the application for final plat approval, the application underwent

- environmental review under the State Environmental Quality Review Act (SEQRA), resulting in a “negative declaration” of environmental significance,
- the referral process to the Suffolk County Planning Commission, resulting in a “local determination” letter from the Commission, and
- full review a preliminary plat, including a public hearing thereon, resulting in a resolution adopted on October 14, 2021, conditionally approving the preliminary plat in a written determination also dated October 14, 2021.

The application for final subdivision approval was filed on properly noticed and advertised for a public hearing, which opened on December 9, 2021. The applicant paid the required final application fee, as well as an initial deposit of \$11,500 (\$500 x 23 lots) paid toward the engineering review fee pursuant to 150-18 and A-200-1(A)(3)(a)(2)(d).

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The Board thereafter reviewed the application, subdivision, supporting materials, and map revisions, and the Village's engineer and planner also reviewed the application and subdivision and provided comments thereon.

The applicant submitted a SWPPP plan prepared by Hayduk Engineering, LLC, which Plan has been approved by the Village.

The applicant also submitted the Subdivision Map to the Suffolk County Department of Health Services, which approved the map on April 8, 2022.

III. Park Fee and Bond Review

The application has been reviewed for compliance with the recreation area requirements of § 150-11 of the Village Code. An applicant is required to set aside a recreation reserve area equivalent to 2,178 square feet per dwelling unit (here, 47,916 square feet for the twenty-two proposed dwelling units). The Board may waive the actual set aside of a reserve area if it determines that a reserve area cannot be properly allocated on any such plan and is impractical. In such cases, the applicants are required to pay a recreation area or park fee to the Village according to the formula set forth in § 150-11.B, which is based on the appraised value of the parcel.

During the preliminary plat review process, the Board reviewed the initial question and determined that a recreational reserve area cannot be properly allocated within the proposed subdivision and is impractical, but the Board found that the actual amount of the park fee was to be determined during final plat review.

The Board gave the applicant an opportunity to submit a proposed appraisal. Applicant submitted an appraisal prepared by Patricia Parsons, dated November 16, 2021. Ms. Parsons employed a methodology for valuing the property as subdividable, vacant land. Her methodology projected the value of the 22 subdivision lots, took into account the costs of subdivision and the time to sell the subdivided lots, and determined the value of the residential property as of November 16, 2021, to be \$6,400,000, or \$11.25 per square foot.

This methodology has been previously approved by the Board as a proper manner to determine the land value. The Board therefore accepts the applicant's proposed appraisal by Ms. Parsons and declines to seek an alternative appraisal by an appraiser retained by the Village.

With respect to the subdivision improvements, the applicant has indicated that it wishes to offer the two proposed subdivision roads for dedication to the Village. Accordingly, the applicant's Road and Drainage Plans depict proposed roads that would meet Village road specifications. Drafts of the proposed plans were reviewed by the Village's engineer and referred to the Village's Superintendent of Public Works, who provided comment thereon. Said comments were incorporated into the final Road and Drainage Plans.

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The applicant has requested that the required subdivision improvements – including site work, drainage, road installation, lighting and utilities, plantings, etc. – be bonded for completion after the filing of a subdivision map, pursuant to §§150-13 – 150-15 of the Village Code. The applicants submitted a proposed Performance Bond Estimate, which was reviewed by the Village Engineer, who initially requested a modification thereto. Thereafter, the applicants submitted a final Performance Bond Estimate dated February 3, 2022, prepared by Stephen Hayduk, PE, which incorporated the changes requested by the Village Engineer.

IV. Findings and Conclusions

A. As of the Board's April 14, 2022 meeting, the final major subdivision application is deemed complete, subject to the conditions and remaining steps to be completed as set forth herein. The Final Subdivision Plans contain all of the subdivision elements set forth in the Village Code, except as noted in the required changes below. The procedures required for final subdivision review have been fulfilled as applicable to this application, subject to the requirements below that can be completed as conditions to any approval. The public hearing is hereby closed.

B. **Park Fee:** Pursuant to § 150-11 of the Village Code, the Board finds as follows:

1. A recreational reserve area cannot be properly allocated on any such plan and is impractical, and therefore “the applicant shall be required to pay a recreation area or park fee to the Village equal in amount to the fair market value at the time of the application procedure of the land area shown on the plan that would otherwise be required for a reserved site.”

2. The park fee shall be based on the creation of twenty-two new residential lots created by the Final Subdivision Plans, at the statutory formula of the appraised value of land (per square foot) times 2,178 square feet of reserved area for each of the twenty-two new lots created on the plan ($22 \times 2,178 = 47,916$ sf total).

3. The Board finds that the Parsons appraisal provides a credible estimation of fair market value of the residential land area, in the amount of \$6,400,000 for the full 13.06 acres, or \$11.25 per square foot.

4. The total park fee is hereby established to be \$539,055, which park fee shall be payable and actually paid prior to the signing of the final subdivision plat.

C. **Performance Bond:** The Board approves the amount as set forth in the Performance Bond Estimate dated February 2, 2022, prepared by Stephen Hayduk, PE, i.e., in the total amount of \$1,190,000. Said bond shall be of a duration of two years. The procedures for the filing of said bond with the Village shall be governed by the conditions set forth below.

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D. **Engineering Review Fee:** Based on the approved Performance Bond Estimate, and pursuant to the formula set forth in A-200-1(A)(3)(a)(2)(d) (5% of the estimate), the Board sets the total engineering review fee at \$59,500.

E. The Planning Board hereby conditionally approves the Final Subdivision Plans (Subdivision Map, Road and Drainage Plans, Details, Monument Plan, and Erosion Control Plan), subject to the conditions set forth in section V as follows:

V. CONDITIONS

1. **Fees:** To the extent it has not done so, applicant shall pay all applicable and outstanding fees required by the Village Code and this resolution, including: any unpaid application and review fees, the \$539,055 park fee, and the \$48,000 unpaid portion of the engineering review fee (\$59,500 fee - \$11,500 previously paid).

2. **Suffolk County Department of Health Services Approval:** Applicant shall obtain approval from the Suffolk County Department of Health Services for the final plats presented to the Planning Board Chairman for signature, and those final plats shall reflect such approval.

3. **Map Amendments:** To the extent it has not already been so amended, the aforesaid final plat shall be amended (i) to comply with all applicable mapping requirements set forth in Chapter 150 of the Village Code, including the specific mapping requirements of Section 150-41 of the Village Code, (ii) to add the notation required by condition numbered 16 below, and (iii) to include the following statement:

"The streets as they appear on this plat are hereby irrevocably offered for dedication to the Village of Westhampton Beach. Until such time as the Village of Westhampton Beach has accepted the dedication of such streets by formal resolution of the Board of Trustees, the streets shall remain private and the Village of Westhampton Beach shall not in any way be responsible for their maintenance.

Owner"

4. **Subdivision Improvements:** Applicant shall be required to complete the installation and construction of all required improvements depicted on the Subdivision Map, Road and Drainage Plans, Details, and Monument Plan. The improvements shall be completed in accordance with the Erosion Control Plan and any approved SWPPP, and shall be coordinated with the Village Building Inspector and Village Engineer to ensure that they are able to inspect the improvements at the proper stages of installation. All required improvements shall be completed prior to the discharge of Applicant's obligations hereunder and shall be bonded in accordance with the provisions below for the filing of a performance bond.

5. **Performance Bond:** The applicant shall be required to file a performance bond to ensure the construction of all of the residential subdivision improvements required under the Final Subdivision Plans, as set forth in the Performance Bond Estimate dated February 3, 2022. The bond shall be prepared

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in a form suitable to the Village Attorney and the acceptance of the performance bond and security shall be subject to a resolution of the Board of Trustees approving the performance bond and security. The signing of the final plat shall not occur until the delivery of the bond together with any security to the Village of Westhampton Beach. The bond shall remain in force until (i) a resolution of completion of the required improvements has been issued by the Planning Board, upon certification by the Village Building Inspector and Village Engineer that the required improvements have been completed to the proscribed specifications, (ii) the applicant has filed a maintenance bond as hereafter required, (iii) the applicant has tendered the deed of dedication as hereafter required, and (iv) the Trustees have approved the release of the performance bond.

6. **Maintenance Bond:** The final release of the performance bond shall be subject to the applicant providing the Village with a maintenance bond in accordance with section 150-16 of the Village Code, the amount of which shall be equal to one third (33.33%) of the Performance Bond Estimate, unless the Planning Board shall have approved a lesser amount by resolution. The form of said maintenance bond is subject to the approval of the Village Attorneys and acceptance by the Village Board of Trustees. The maintenance bond shall remain in effect for a period of one year after the release of the performance bond.

7. **Deed of dedication:** The applicant shall submit an executed deed and associated transfer forms, in form approved by the Village Board of Trustees and Village Attorneys, from the owner of the road and right of way areas proposed for dedication to the Village of Westhampton Beach, and shall provide proof to the Planning Board that said deed was submitted to the Village Board of Trustees and approved as to form only. The actual acceptance of the dedication by the Village Board of Trustees is not a condition of the signing of the final plat.

8. **Vehicular Access:** The residential lots on the Subdivision Map (Lots 1 through 22) shall take ordinary vehicular access solely through the cul-de-sacs depicted on the map as Happy Lane and Margareta Court, which shall provide ingress and egress to and from Depot Road. The residential lots shall not take ordinary vehicular access to and from Old Riverhead Road, but the following provisions for Emergency Vehicular Access, Construction Access, and Pedestrian Access, shall be exceptions to the limitation on access to and from Old Riverhead Road:

- a. **Emergency Vehicular Access:** The area between the terminus of Happy Lane and Old Riverhead Road (CR31) shall remain available in perpetuity to provide emergency vehicular access to the subdivision lots from Old Riverhead Road.
- b. **Construction Access:** During the initial construction phase of the subdivision improvements and the residences on the lots, and prior to the acceptance of dedication of the subdivision roads by the Village, the developers shall be entitled to utilize the area between the terminus

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of Happy Lane and Old Riverhead Road (CR31) to provide construction vehicle access to the subdivision roads and lots from Old Riverhead Road. Such construction access shall be the preferred access for construction vehicles, which shall avoid utilization of Depot Road to the maximum extent practicable. Such construction access shall be carefully regulated and kept closed to ordinary traffic, so as to ensure that ordinary vehicular access is not inadvertently directed or permitted to utilize this area for access to and from Old Riverhead Road. Upon acceptance of the dedication of the subdivision roads by the Village, any right of construction access hereunder shall automatically terminate, and all access by construction vehicles for individual lots shall be required to utilize the ordinary vehicular access route through Depot Road.

- c. **Pedestrian Access:** The sidewalk area between the terminus of Happy Lane and Old Riverhead Road (CR31) shall remain available in perpetuity to provide pedestrian, bicycle, and non-motorized personal vehicular access to the subdivision lots from Old Riverhead Road.

9. **Stormwater Management:** All stormwater runoff resulting from the development and improvement of any of the subdivision lots shall be retained on the individual lots by adequate drainage structures so that such runoff will not flow off the individual lots.

10. **Utilities:** All future local electric power, telephone, cable television and/or internet lines for the subject subdivision and any of its lots shall be placed underground, whether on any of the lots or within any right of way. The initial installation of utilities within the subdivision rights of way shall be coordinated with the utility companies (including SCWA, National Grid, PSEG, Altice and/or Verizon) to ensure that such installation is completed prior to completion of the final paving of the subdivision roads and prior to acceptance of the roads for dedication by the Village. Any subsequent installation of utilities within the rights of way after acceptance of the dedication by the Village shall be prohibited unless a permit has been received from the Superintendent of Public Works under Chapter 146 of the Code of the Village of Westhampton Beach.

11. **Driveways:** All driveways within the residential lots of the subdivision shall be of sufficient width to support emergency vehicle access, shall maintain a minimum overhead clearance, or “tree free canopy,” of 14 feet, and shall be made of a material that would support emergency vehicles.

12. **Building Permits and Certificates of Occupancy:** No building permit or certificate of occupancy may be issued for construction of any residences or accessory structures on the residential lots (Lots 1 through 22) prior to completion of the required subdivision improvements, except as follows:

- a. A building permit may issue for construction of a residence or accessory structure on any individual lot if the construction access at the terminus of Happy Lane cul-de-sac has been

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opened and improved in a manner that is sufficient to support construction vehicles, in the discretion of the Building Inspector, and if the contractor has complied with the Erosion Control Plan and SWPPP, as applicable.

- b. With respect to the first eighteen (out of twenty-two) residences completed on the individual lots, a certificate of occupancy may be issued provided that, in addition to the foregoing, the drainage, utilities, signage and street lighting have been completed between said lot(s) and Depot Road, and the base asphalt layer has been installed on the portions of all roads providing access between said lot(s) and Depot Road and said portions have been certified by the Building Inspector and/or Village Engineer as safe for ordinary vehicular traffic, emergency vehicles, and construction vehicles.
- c. With respect to the final four (out of twenty-two) residences completed on individual lots, a certificate of occupancy may only be issued upon completion of all subdivision improvements, including but not limited to all street lighting, final asphalt layer, signage, and landscaping not previously installed, as well as the sidewalk, gate, signage and other improvements required in the area between the terminus of the Happy Lane cul-de-sac and Old Riverhead Road.
- d. Notwithstanding the foregoing, Lot 9, which does not take access off of the subdivision roads, shall be eligible for a building permit and certificate of occupancy without regard to the status of the subdivision road improvements.

13. **Rights of Way:** The roads and right of way areas depicted on the Subdivision Map as two cul-de-sacs labeled Happy Lane and Margareta Court, including the area between the terminus of the Happy Lane cul-de-sac and Old Riverhead Road (CR31), shall be deemed to be irrevocably offered for dedication to the Village of Westhampton Beach. Until such time as the dedication has been accepted by formal resolution of the Village Board of Trustees, the roads and right of way areas shall remain privately owned, and the owners of each of the subdivision lots (numbered 1 through 22) shall be deemed to possess a right of way and easements over such roads for all lawful purposes consistent with this approval and the conditions herein. During such time that the rights of way and roads remain in private ownership, prior to acceptance of the dedication thereof by the Village, no entry gates, pillars, fencing or other encroachments, other than the drainage structures, signs, crash gate, etc., depicted on the Final Subdivision Plans, and any underground utilities installed by the utility companies, may be erected within the rights of way, without prior approval by the Planning Board of a modification to the Road and Drainage Plans and Details.

14. **Title Certification:** The applicant shall submit to the Planning Board (a) a title certification by a title company licensed to do business in the State of New York identifying the owner(s)

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in fee of the entirety of the subject subdivision, identifying all easements, covenants, and other title interests, matters, and conditions that benefit, encumber, or in any manner affect any portion of the subject subdivision, demonstrating that the entirety of the subject subdivision is free of all liens and encumbrances other than mortgages, and identifying the names of all parties that must consent to the filing of the subject subdivision and the execution and recording in the Suffolk County Clerk's Office of a declaration of covenants and restrictions setting forth the conditions required by this conditional final plat approval, and (b) signed and duly acknowledged consents from all the parties that must so consent.

15. **Covenants and Restrictions:** The applicant, at its own expense, shall prepare a "Declaration of Covenants and Restrictions" (hereinafter, "Declaration") that affects all subdivision lands, and that sets forth the restrictions in Conditions "4" and "8" through "13" above, inclusive of all subparagraphs thereof. The applicant shall submit the Declaration to the Planning Board for review and approval of the form and substance of the Declaration by the Planning Board and the Village Attorneys. Following approval of the form and substance of the Declaration by the Planning Board and Village Attorneys, the applicant shall, at its own expense, execute and record the Declaration as a conveyance affecting the subdivision lands, in the Office of the Suffolk County Clerk and provide the Planning Board with proof of such recording.

16. The final plat shall be revised to include a notation that a "Declaration of Covenants and Restrictions," which affects the subject subdivision, has been recorded in the Office of the Suffolk County Clerk.

VI. Signature and filing of Final Plat; Expiration

The Planning Board Chairman shall not sign the final plat until the above conditions "1" through "3," "5" through "7," and "14" through "16" are complied with to the satisfaction of the Planning Board, the Planning Board's engineer, and the Planning Board's attorneys.

Following its signature by the Planning Board Chairman, the final plat of the subdivision shall be filed with the Office of the Suffolk County Clerk and the Offices of the Village of Westhampton Beach and Westhampton Beach Building Department.

Pursuant to Section 7-728(7)(c) of the N.Y. Village Law, this conditional approval shall expire within one hundred eighty days after this unless all requirements stated in this resolution have been certified as completed. The Planning Board may extend for periods of ninety days each the time in which the final plat must be submitted for signature if, in the Planning Board's opinion, such extension is warranted by the particular circumstances.

Pursuant to § 150-40 of the Village Code, the conditional approval shall expire 90 days after the date of the Board's resolution authorizing the Chairman to sign the final plat unless, within such time, the final plat shall have been filed in the Office of the Suffolk County Clerk and Village Building

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Department, unless the applicant requests, prior to such expiration date, an extension of the expiration date, and such request is granted.

Also, pursuant to Section 7-728(11) of the N.Y. Village Law, the final approval of the aforesaid subdivision plat shall expire unless the owner(s) of the subdivision property shall file the approved final plat in the Office of the Suffolk County Clerk within 62 days of the date the plat is signed by the Planning Board Chairman, as set forth herein.

If any condition or conditions of this approval resolution is/are not met, or is/are not met within the prescribed time period, all approvals and authorizations granted hereby shall be void and of no effect.

Dated: April 14 2022

Village of Westhampton Beach Planning Board

Motion was made by Mr. Neubauer to adopt the determination of **Country Pointe at WHB, 44 and 60 Depot Road (905-4-1-13.1 and 14.6)** as written; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

11. PGJG Holding Corp, 214 & 238 Montauk Highway (905-006-02-031 & -032.01) Applicant seeks modification of site plan to convert a portion of site parking and access way for a seasonal dining area (100 relocatable seats) with façade changes to install accordion doors & associated site improvements for the existing standard restaurant “Baby Moon,” upon property totaling 44,650 square feet in the B-2 zoning district.

Michael Sudano, Architect submitted a request to holdover the application.

Motion was made by Mr. Neubauer to holdover the application of **PGJG Holding, Corp., 214 and 238 Montauk Highway (905-6-2-31 and 32.1)** to April 28, 2022; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

Motion was made by to holdover the application of **PGJG Holding Corp, 214 & 238 Montauk Highway (905-006-02-031 & -032.01)** to April 28, 2022; seconded by and unanimously carried 5 ayes, 0 nays, 0 absent.

12. WH Equity Group LLC, 12, 22 & 80 Montauk Highway & 11 Old Riverhead Road (905-004-01-022.01, -023, -026.03 & -030.01) Applicant seeks site plan approval to construct a multi-family residential development consisting of forty-eight (48) dwelling units, distributed amongst seventeen (17) buildings, with a community building, swimming pool, on-site sanitary treatment plant and associated site improvements upon an 8-acre assemblage of parcels in the HD & B-2 zoning districts.

Status: **HELDOVER UNTIL April 28, 2022**

ARB: *Needed*

BOT: *Needed*

ZBA: *N/A*

SEQRA: *Needed*

SCDHS: *Needed*

SCDPW: *Needed*

SCPC: *Needed*

SWPPP: *Needed*

13. George Vickers, 25 & 27 Hazelwood Ave (905-004-02-020 & -019) Applicant seeks lot line modification between adjoining parcels that total 26,897 SF (Existing: 19,773 SF & 7,124 SF) resulting in one lot of 13,304 SF and one lot of 13,593 SF.

Status: **HELDOVER UNTIL May 26, 2022**

April 14, 2022

ARB: *Needed*
BOT: *Needed*
ZBA: *N/A*

SEQRA: *Needed*
SCDHS: *Needed*

SCDPW: *Needed*
SCPC: *Local Determination Received*

Motion was made by Mr. Neubauer to adjourn the meeting at 5:55 p.m.; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.