

January 25, 2024

Incorporated Village of Westhampton Beach held its Planning Board meeting on Thursday, January 25, 2024, at 5:00 p.m. in the Municipal Building, located at 165 Mill Road, Westhampton Beach, New York.

PRESENT: David Reilly, Chairman
Ralph Neubauer
Larry Jones
Rocco LogoZZo
Michael Schermeyer

Britton Bistran, Village Planner

Ron Hill, Village Engineer

Brad Hammond, Building & Zoning Administrator

Anthony C. Pasca, Esq., Village Attorney

Maeghan Mackie, Board Secretary

DECISIONS:

1. LANDMARK MILL, LLC (STARBUCKS)- 193 & 195 MILL ROAD SCTM#905-8-2-23&24

Philip Butler, Esq., appeared on behalf of the application. Mr. Reilly stated there was a determination and the reading of the same was waived.

DECISION OF THE PLANNING BOARD
VILLAGE OF WESTHAMPTON BEACH
DATED: January 25, 2024

IN RE:
Landmark Mill, LLC (Starbucks)
193 & 195 Mill Road
Westhampton Beach, New York 11978
Suffolk County Tax Map Numbers 905-8-2-23 & 24

I. The Application for Site Plan Approval

Landmark Mill, LLC, are the owners of real property located at 193 & 195 Mill Road, Westhampton Beach, New York 11978, which are designated on the Suffolk County Tax Map as numbers 905-8-2-23 & 24. LandMark Mill, LLC, (hereinafter, the “applicant”), has submitted an application to the Planning Board of the Village of Westhampton Beach (hereinafter the “Board”), for Site Plan review to construct a one-story 2,345sf retail coffee shop & associated site improvements on two parcels totaling 18,404sf square feet located in the HC Zoning District.

The final version of the site plan for which applicant seeks final plat approval is set forth in the plans prepared by Stonefield Engineering & Design, created 12-1-23 and last revised on 1-12-24, consisting of several sheets labeled as follows:

- “Cover Sheet” (C1),
- “Existing Conditions” (C2),
- “Demolition Plan” (C3),

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- “Site Plan” (C4),
- “Grading Plan” (C5),
- “Stormwater Management Plan” (C6),
- “Utility Plan” (C7),
- “Lighting Plan” (C8),
- “Soil Erosion & Sediment Control Plan” (C9),
- “Landscaping Plan” (C10),
- “Landscaping Details” (C11),
- “Construction Details” (C12)
- “Construction Details” (C13)
- “Construction Details” (C14)
- “Construction Details” (C15)
- “Alta/ NSPS Land Title Survey” (dated 3-2-23)

Additional plans for which applicant seeks approval were prepared by The Dietz Partnership Architects dated 10-31-23, consisting of several sheets labeled as follows:

- “Proposed Starbucks Coffee” rendering
- “Building Concept Floor Plan”
- “Building Concept Exterior Elevations”

These plans shall collectively be referred to herein as the “Proposed Site Plan.”

II. Review by Planning Board and Other Agencies

The application for Site Plan approval was heard by the Planning Board at an initial work session on September 14, 2023. The application was then properly noticed and advertised for a public hearing, which opened on November 9, 2023. The Board thereafter reviewed the application, Site Plan, supporting materials, and multiple revisions to the initial filing. The Village’s engineer and planners also reviewed the application and Site Plan and provided comments thereon throughout the course of the review process.

During the review process, site plan comments and recommendations made by the Village Planner, Village Engineer and Building & Zoning Administrator were integrated into the project scope and final drawings noted herein. The application was originally submitted as a 30 seat coffee shop but in discussions with Suffolk County Department of Health Services Wastewater Management it was reduced to 16 seats to adhere to the density allocated to the site. Members of the public addressed the Board mostly pertaining to items that are outside of jurisdiction such as the impact of a national chain store verses a locally owned business and the lack of a need for another coffee shop use. The only planning

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concern that was raised related to the traffic impact. The applicant submitted a Traffic & Parking Assessment Report initially dated October 13, 2023 and subsequently revised due to planning and engineering comments and issued in its final form on November 3, 2023, which found there would be no significant impact on the traffic operations of the adjacent roadway network. The report was reviewed by the Village's Engineer and accepted by the Board.

The applicant submitted an Environmental Assessment Form Part 1 pursuant to the State Environmental Quality Review Act (SEQRA). The project was classified as a Type II action and therefore required no further review.

During the Site Plan review the matter was referred to the Village's Architectural Review Board for a site plan advisory report pursuant to Section 5-14 of the Village Code. The applicant appeared before the Architectural Review Board on December 5, 2023. There was no opposition to the application, and the Architectural Review Board provided a report dated December 7, 2023, which stated the ARB was comfortable with the materials and landscaping of the project.

On December 15, 2023 in accordance with New York State General Municipal Law section 239-F notification was provided to the Suffolk County Commissioner of Public Works and no comments were received in response.

Finally, the Village referred the matter to the Suffolk County Planning Commission, which determined that the matter was one for local determination.

III. Findings and Conclusions

1. As of the Board's January 25, 2024 meeting, the site plan application is complete and contains all of the site plan elements as set forth in the Village Code. The procedures required for site plan review have been fulfilled as applicable to this application. The public hearing is closed.

2. The Planning Board finds that, subject to the conditions set forth in Section IV below, the Proposed Site Plan satisfies the requirements of the Village Code with respect to design, drainage, parking, lighting, landscaping, and other requirements of the Code.

3. The Planning Board approves, subject to the conditions set forth in section IV below, the site plan and improvements as depicted on the Proposed Site Plan, which Proposed Site Plan documents are hereinafter collectively referred to hereafter as the "Approved Plans."

IV. Conditions

1. All improvements shall be made pursuant to the Approved Plans, including all details, specifications, notes, and conditions set forth therein. Except as provided herein, any changes shall be subject to further review and approval by the Board.

2. The dumpster shall be screened from the view of adjacent properties, as depicted on the Approved Plans. Any change in the location of the dumpster shall be subject to further review by the Board as to location and screening.

3. All roof and surface water runoff will be retained and processed on-site by being piped to on-site catch basins, inlets and drywells for subsurface disposal.

4. The installation of all drainage, and grading and surfacing of the parking lot, aisles, driveways, curbs and sidewalks, shall be supervised by the Village Engineer and shall be installed pursuant to the Approved Plans. The Village Engineer shall be authorized to approve changes to the location or sizing of drainage structures if field conditions shall warrant such changes and the changes are approved in advance by the Village Engineer, however the total capacity of the modified system shall equal to or exceed what is shown on the Approved Plans.

5. The landscape buffers and screening around the parcel as well as all of the interior site planting for the property shall be completed and maintained pursuant to the landscaping plan included in the Approved Plans. An underground sprinkler system, or approved alternative, shall be installed to water the improved areas of the site to assure plant viability.

6. All lighting shall be installed pursuant to the lighting plan within the Approved Plans, subject to the final inspection of the Village Engineer and the Planning Board. All installed exterior lighting shall be zero cut off, and all lighting shall be contained on the premises with a maximum lumen level of 0.1 footcandles.

7. Utility service to the building from the street shall be underground, to the extent such underground utilities are available at the front lot line as noted on the Approved Plans.

8. The drainage structures installed as part of the Approved Plans shall be periodically inspected and cleared of debris and sedimentation, if necessary, to ensure that they function as designed. The Village shall be entitled to inspect the drainage structures annually to ensure compliance with this condition. In lieu of an inspection, the owner may provide the Village Building Inspector with a certification by a licensed, professional engineer confirming that the drainage structures have been inspected and are clear and are functioning as designed.

9. The construction and installation of all site improvements, including lighting and landscaping, shall be subject to the periodic inspection and approval of the Building Inspector and Village Engineer to ensure consistency with the Approved Plans and compliance with Chapter 149 of the Village Code.

10. The site shall be kept clean and neat at all times. Any vegetation on the property shall be mowed at least once every two weeks during the growing season, and the entire site shall conform with the New York State Property Maintenance Code.

11. All signage on the property, other than traffic and circulation arrows and signs as may be depicted on the Approved Plans, shall be subject to the requirements and regulations set forth in § 197-30 of the Village Code ("Signs"), any other regulations pertaining to signs.

12. Access, Circulation and Parking: Vehicular access into the site shall be solely from the one way entrance at School Street, vehicular circulation within the site shall be one way only, and vehicular exits from the site shall be from the exit at Mill Road. The sixteen designated off-street parking spaces shall be used as parking for patrons and employees, and the area marked on the Approved Plans.

13. The applicant shall merge the two parcels into one tax lot in order to undertake the improvements herein.

V. Covenants

1. The applicant, at its own expense, shall prepare a "Declaration of Covenants, Restrictions, and Easement" (hereinafter, "Declaration") that affects all of the property subject to this resolution and that sets forth the restrictions in Conditions 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12 and 13 above.

2. The applicants 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 Planning Board's attorneys.

3. The applicant shall simultaneously 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) in fee of the entirety of the subject property and identifying the names of all parties that must consent to 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 determination, and (b) signed and duly acknowledged consents from all the parties that must so consent.

4. Following approval of the form and substance of the Declaration by the Planning Board and its attorneys, the applicant shall, at its own expense, execute and record the Declaration as a conveyance affecting the property, in the Office of the Suffolk County Clerk and provide the Planning Board with proof of such recording.

5. The filing of proof of recording shall be a condition precedent to the issuance of any Certificate of Occupancy.

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The issuance of a Certificate of Occupancy shall be subject to the approval by the Board of a final “as built” survey containing all of the site plan elements set forth in the Approved Plans, together with any additions set forth in this resolution. In addition, no Certificate of Occupancy may be issued by the Building Inspector until the Building Inspector has certified the completion of all of the improvements and site work as shown on the Approved Plans, as well as the merger of the lots as required herein.

The approval set forth here and shall expire unless a building permit has been issued for the construction within twelve (12) months of the date hereof and construction is completed within eighteen (18) months from the date hereof. The Board shall have the right to extend the time period set forth in this paragraph by a majority vote of the members present at a regular meeting wherein such vote is taken.

Dated: January 25, 2024

Village of Westhampton Beach Planning Board

Motion was made by to adopt the determination of **Landmark Mill, LLC. (Starbucks) 193 & 195 Mill Road (905-8-2-23 & 24)** as written; seconded by Mr. Schermeyer and unanimously carried 5 ayes, 0 nays, 0 absent.

PUBLIC HEARING AGENDA:

SITE PLAN REVIEW:

1. ROGER’S AVENUE ASSOCIATES- ROGER’S AVENUE SCTM#905-3-1-7.1-7.7)
 - o Continued work session on Site Plan application to review file status and closing the public hearing

Bryan Grogan, PW Grosser appeared on behalf of the application, together with Frank A. Isler, Esq. Mr. Isler said there are two matters that they would like to discuss and finalize. The first is the park fee and in March they discussed it and submitted the appraisal and the park fee and that was done by Patricia Parsons and that was \$4.3 million dollars; and since it was over one year old they needed to update the appraisal and Andrew Stype prepared that in August and it had a \$4 million dollar value and it was less and we have offered by letter to this Board to use the \$4.3 million dollar amount and they are agreeable to that and use the park fee based on the \$4.3 million dollar appraisal. The second thing is he wanted to confirm, they were asked to revise the site work bond appraisal for the bond and they have done so and included the amenity center which was not included in the prior report and that’s been submitted to this Board and they are seeking the acceptance of that and the bonding estimate.

Mr. Hill said we are okay with it, we just wanted it on letterhead with an Engineers certification.

Mr. Grogan said he will do that.

Mr. Isler said okay, that’s fine.

Mr. Reilly said the appraisal I appreciate that we are talking about \$4 million versus \$4.3 million.

Mr. Neubauer said he wanted to know the relationship between the tax value. I don’t understand and I appreciate there are experts to render appraisals and if it’s different by appraiser or appraisal there’s no continuity.

Mr. Reilly said the problem is that it is rare that the appraised value and assessed value intersect. It is always moving, and I don’t believe the assessed value is an indicator of the value.

Mr. Neubauer asked about the Village?

Mr. Pasca said the Village uses the Town.

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Mr. Reilly said we have applicants hire an appraiser and that's where we are.

Mr. Pasca said we have used Patricia Parsons several times. The other thing we have in this case is a purchase price and they had a contract related to the number of units and paid the arms length transaction and Ms. Parsons added an increment to it to bring the number current and up.

Mr. Reilly said the appraised value is fluctuating.

Mr. Isler said the Stype appraisal submitted is a well recognized appraiser and he looked at our sale.

Mr. Pasca said there is less than 10% between the two and they are taking the higher number of the two.

Mr. Neubauer said he's questioning the procedure not the applicant. I recognize that this Board has paid attention and Ms. Parsons they have a degree of confidence in her.

Mr. Pasca said we've shown in the past, Avidor on Montauk Highway; they came in with an incredible appraisal it can be picked up on by this Board and myself; and we got our own appraisal and the number was much higher. These two appraisals, and there is a purchase price I think the confidence level of us being as close as possible is there.

Mr. Neubauer agreed.

Mr. Hill said the bond number with the intersection work; can you put a separate number in for that it's not well detailed in the plan, I want to make sure it gets done.

Mr. Grogan believes in the drainage improvements.

Mr. Hill said it doesn't have the level of detail the inside stuff has.

Mr. Grogan said he'll check on the bond and make sure it's included; he'll break it out separately.

Mr. Reilly said if there are any other questions, or comments where do we stand procedurally.

Mr. Pasca said we're working on the decision. I think we have to wait for all the paperwork to close the public hearing. If we have the determination for February 8 we will close the hearing and adopt the determination at the same meeting.

FILL APPLICATION REVIEW:

1. IRA MITZNER 127 JESSUP LANE SCTM#905-10-5-42

Mr. Hammond and Mr. Hill said they went to the site and they have comments that are being sent to the applicant they suggest it be held over to February 8, 2024.

Motion was made by Mr. Reilly to holdover the application of **IRA MITZNER 127 JESSUP LANE SCTM#905-10-5-42** to February 8, 2024; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

WORK SESSION AGENDA:

1. THE GABLES OF WESTHAMPTON, LTD (FORMERLY WH EQUITY GROUP, LLC) 12,22,80 MONTAUK HWY & OLD RIVERHEAD ROAD
 - o Continued work session on Site Plan application to review file status

Bryan Grogan, PW Grosser appeared on behalf of the application, together with James N. Hulme, Esq. Mr. Hulme said since they last appeared they received comments and provided a new phasing plan and bond estimate and its all complete and we're getting feedback and we're

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wondering if it's better to deal with it here or meet with the Professionals offline. I don't have a sense with how far apart we are.

Mr. Reilly asked him to summarize it.

Mr. Hulme said they asked for an updated phasing plan; they want to tie the park fee payments and CO's to characteristic of the phasing plan.

Mr. Reilly said do we have to discuss those details?

Mr. Neubauer said is there a Phase I and a Phase IA, are there three or four park payments?

Mr. Hulme said there are four; the first one is before the beginning then at 1A and then 1A at the conclusion. There is a Phase IA, 1B, and a 2, and 3.

Mr. Reilly said four payments tied to the phasing and those aspects; those technical aspects will be sorted out with the Professionals.

Mr. Hulme said yes; and the park fee will be paid in its entirety.

Mr. Neubauer if the CO's will be issued on the completion of each phase?

Mr. Hammond said yes.

Mr. Pasca said yes, at the end of each phase everything has to be safe and the residents have to be protected from construction so we have a comfort level to issue the CO's in the completed phase only and they'll be protected and that's been our group focus to have clarity to enable everyone's comfort.

Mr. Hulme said the construction entrance for 1A is in 1A and when that's complete it moves further down Old Riverhead Road to the final entry way furthest from the residences.

Mr. Reilly said it's West to East construction?

Mr. Grogan said yes; and Depot Road will not be a construction entrance.

Mr. Hill said there is a current entrance by Depot Road and Montauk Highway, correct?

Mr. Grogan said yes; that will be removed when 1A is done.

Mr. Hill said I don't think that driveway was on the SWPPP.

Mr. Grogan said we're revising it, it was not on there we had been showing Depot Road as the other construction entrance and we were told two weeks ago we can't have that and it's being moved. Once we get the phasing plan cleaned up I'll revise it.

Mr. Hill said Phase 1A doesn't match the WWM approval.

Mr. Grogan said yes, that's from the Depot Road change; we'll move two so we can build out West to East.

Mr. Hill said it makes more sense to do it West to East.

Mr. Grogan said we can amend that.

Mr. Hill asked if the WWM plan is being amended?

Mr. Grogan said yes, I can I just want to make sure the Phasing Plan is all worked out.

Mr. Hill said I will not be around after tomorrow.

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Mr. Pasca said you can sit around and we can work it out downstairs before he leaves, it will not take more than five minutes.

Mr. Reilly said so pending the technical issues, can we close it for a determination.

Mr. Pasca said yes, if they return the documents to us we can.

2. BEAVER LAKE DEVELOPMENT, CORP., 36 Sunset Avenue
Initial Work Session on Site Plan application to construct a new office / retail building.

Richard T. Hafeli, Esq., appeared on behalf of the application. He said this has been before this Board a few times over the years and he wants to resolve one issue. In 1966 and 1967 this received a subdivision approval from this Board and site plan approval and the owner Bob Bossung refused to go forward because an easement was required and we are not going to agree to an easement to the parking lot and you can't impose that on us and the proposal does not change the status of the area.

Mr. Neubauer asked for cross access?

Mr. Hafeli said you're not getting anything.

Mr. Reilly said you know this Board's feelings the last time we looked at it and I won't get bogged down with the legalities and it's the general feeling of this Board to connect commercial properties where feasible where we would have a strong desire for cross access.

Mr. Hafeli said I am saying under the Law you can't require it and we do not want to give the access for the Village to use our property to and from Sunset Avenue.

Mr. Reilly said what you submitted was a partial development of this property.

Mr. Hafeli said we're only proposing to develop one portion of it and we have placed the location of the building where a subdivision could be completed and that would be a lot.

Mr. Reilly said okay.

Mr. Pasca asked if there is an argument or Memo of Law submitted?

Mr. Hafeli said no, but I will submit it to you and your firm was part of it and it was in the Village of Quogue.

Mr. Pasca said I will look at it, it was a residential case. And I will report back my opinion and the Board can make a decision and if you don't agree with this Board you have your remedy.

Ms. Bistran asked if you are adverse to a one way access from Glovers?

Mr. Hafeli we are adverse to any access from Sunset Avenue to Glovers and we don't want to assume any responsibility.

Mr. Reilly asked the basis of not wishing to accommodate it?

Mr. Hafeli said we don't want to assume the parking provided for Village parking; we want it to be our own parking. The access will be the same and people will park there. We will not assume the responsibility.

Mr. Pasca asked the difference between one access on to a Village road versus two; in theory the public could park there from Sunset Avenue, right?

Mr. Hafeli said there is only one access point. But we're not allowing the parking lot in the rear to travel to Sunset Avenue.

Mr. Reilly said it's parking, right you don't want to use it as a cut through.

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Mr. Hafeli if the Village wants it they can buy it.

Mr. Reilly said until we have time to look at the case law and hear from our Attorney and then proceed from there.

Mr. Hafeli asked if we will let him know when its back on?

Mr. Pasca said yes, we will let you know and coordinate it.

Mr. Hammond said there are other issues with the plan, but I assumed this was the case and we wanted to get it on for discussion.

MINUTES:

Motion was made by Mr. Reilly to adopt the minutes of the **JANUARY 11, 2024** meeting as written; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

HOLDOVERS (last Board review):

1. 85 & 105 MONTAUK LLC- 85 &105 MONTAUK HWY SCTM#905-5-1-12, 53.1 &52.2(pending response 1/21/2024)
2. PRIME STORAGE- 98 DEPOT ROAD SCTM#905-2-1-19.1(pending response 1/21/2024)
3. FIRST DUNES DEVELOPMENT 496 LLC- 496 DUNE ROAD SCTM#905-16-1-19 (4/13/2023)
4. ROBERT SCHOENTHAL- 22 BAYFIELD LANE SCTM#905-10-6-2
5. WESTHAMPTON INN, LLC, 43 MAIN STREET SCTM#905-11-1-15 (6/8/2023) (pending response 1/21/2024)
6. RICHARD OLIVO-72 SOUTH ROAD SCTM#905-8-1-27 (6/22/2023)
7. WESTHAMPTON PROPERTY MANAGEMENT LLC-141 MONTAUK HWY SCTM#905-5-2-6.1 (7/13/2023)
8. SUNSET WEST LLC, 87 SUNSET AVENUE SCTM#905-12-1-49.1(9/28/2023)
9. 55-59 OLD RIVERHEAD ROAD LLC-55&59 OLD RIVERHEAD ROAD SCTM#905-4-1-7, 9.2, 9.3(10/12/2023)
10. 161 MONTAUK HIGHWAY LLC, 161 Montauk Highway SCTM#905-5-2-12.1(10/12/2023)
11. BEACHWOOD WESTHAMPTON, LLC WESTERN TERMINUS OF HAPPY LANE SCTM#905-4- 1-14.29 (1/9/2024)

FUTURE MEETINGS:

1. **THURSDAY, FEBRUARY 8, 2024**
2. **THURSDAY, MARCH 14, 2024**

Motion was made by Mr. Neubauer to adjourn the meeting at **5:33 p.m.**; seconded by Mr. Schermeyer and unanimously carried 5 ayes, 0 nays, 0 absent.