

RESOLUTION

VILLAGE OF NYACK PLANNING BOARD

Adopted July 10, 2023

**RE: Application of JMER Engineering P.C. for Zeildar Plaza Addition
4 Waldron Avenue**

Resolution of Site Plan Approval

Background

After due discussion and deliberation, on motion by Ms. Knarich, seconded by Mr. Ortiz-Crane and carried, the following site plan resolution was adopted:

1 The Applicant requests site plan approval for the addition of 3,155 sf to the existing, single-story 2,400 sf retail building. The subject property is located on the west side of Waldron Avenue in the CC (Commercial Corridor) zone and contains a small retail building (aka "Zeildar Plaza"). The subject property is 39,982 sf (0.92 acres) and is located 250' from the intersection of Waldron Avenue and Rte. 59. As part of the Project, the Applicant proposes to expand the asphalt parking lot, construct a new sidewalk on the front and side of the renovated building, provide retaining walls at the rear and north side of the subject property and plant a row of evergreen trees (10 Eastern Red Cedar) along the property line with the Nyack Municipal Housing Authority at the top of the hill. The Applicant proposes to provide 30 parking spaces on the site exceeding the required 22 parking spaces. Additional landscaping will screen parking in the front and three new street trees will be added to the Waldron Avenue frontage.

2 The Planning Board determined on March 6, 2023, that the Project was a Type II action based on 6 NYCRR §617.5(c)(9) "construction or expansion of a primary or accessory/appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls." Based on §342 – 3 of the Village Code, as a Type II action, the proposed project is consistent with LWRP policies. *Question # 20 on the revised Short Form EAF was corrected by the Applicant. He noted that the site was a former gas station. The underground oil tank has been removed and proof of remediation has been submitted.*

3 The Planning Board opened a duly noticed public hearing on March 6, 2023, and continued the hearing on May 1, 2023, June 5, 2023, and July 10, 2023, at which time all those wishing to be heard were given the opportunity to be heard.

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4 The Planning Board at its meeting on June 5, 2023, made a favorable recommendation to the ZBA for two area variances for front and side yard setbacks and an area variance for property line setback related to the replacement of a freestanding pylon sign.

6 The Planning Board has carefully examined the Application and the set of drawings including the *site plan, grading and drainage plan, soil erosion control plan, proposed truck turnaround access, landscaping plan and planting details, exterior elevations, proposed exterior elevation of freestanding sign and lighting layout with photometric modeling*. The Planning Board also reviewed the revised plans dated July 6, 2023 (site plan, grading and landscaping plan). grading, The Planning Board received and reviewed the *Applicant's Engineer Narratives dated April 11, 2023, and June 6, 2023, and Applicant's revised Environmental Assessment Form (Part 1) dated April 10, 2023*. The Planning Board has also received comments and recommendations from the Village Planner in *Planning Notes for the May 1, 2023, June 5, 2023, and July 10, 2023 Planning Board Agendas*, from the Village Engineer in a site review dated April 29, 2023. and information provided by the Chief Building Inspector regarding the application which the Board has considered.

7 The Planning Board also received and reviewed GML comments from the *Rockland County Department of Planning* dated March 30, 2023, and June 20, 2023, the *New York State Department of Transportation* dated March 21, 2023, which anticipated no substantial impacts to the State's highway system and the *Town of Clarkstown* which deemed the application to be a matter of local determination. The Planning Board also received a letter from the *Rockland County Department of Health* dated May 22, 2023, granting a three-year approval for Applicant's stormwater design plans and that the plans comply with Article 19 of the Rockland County Sanitary Code (mosquito control).

8 The Applicant appeared before the Architectural Review Board (ARB) on November 16, 2022. The ARB approved the proposed building addition/renovation at this meeting. The ARB reviewed and approved the proposed pylon sign on May 17, 2023.

9 The Planning Board closed the public hearing on July 10, 2023. After closing the public hearing, the Planning Board deliberated in public on the Applicant's request for site plan approval.

Determination

The Planning Board determines that based upon the findings and reasoning set forth below, the Application for site plan approval is granted subject to the conditions set forth below.

I. Findings

The Planning Board finds that the Planning Board has considered the standards set forth in the Village of Nyack Zoning Code ("Zoning Code") §360-5.7 and finds that subject to the conditions set forth below, the proposed site plan is consistent with the site plan design and development principles and standards set forth therein.

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The Planning Board has reviewed the Applicant's site plan and application. The subject property is located on the west side of Waldron Avenue in the CC (Commercial Corridor) zone. The property is occupied by a 2,400-sf one story retail building with three tenants (Grocery Mart, barbershop and a small restaurant). The subject property is 39,982 sf (0.92 acres) and is located 250' from the intersection of Waldron Avenue and Rte. 59. The Project will not expand the building toward the street instead the expansion will fill in the donut in the existing building. The front façade will be increased by 36" to make the building roof and equipment invisible from street traffic.

There is a Shell Gas Station at the corner of the intersection followed by a McDonalds restaurant and then the subject property. The McDonald's driveway borders the subject property to the north. Applicant notes the easement for access onto the site from the McDonald's driveway (see Note #7 on existing Survey). There is a residence across the street. Adjacent to the south is 8 Waldron Avenue, recently renovated into a single-story building with medical suites. The property now includes an improved parking area adjacent to the subject property's southern property line. The subject property has a wooded hillside at the rear of the property bordered by the Nyack Municipal housing at the top of the hill. The elevation of the hillside rises over 30' to the top of the hill at the rear of the property. Applicant has included a Note on the Plans indicating that the wooded hillside area will maintain the existing vegetation and clear all trash, debris, dead trees, and invasive species. There is no disturbance in the hillside area. The rear yard setback adjacent to the Nyack Municipal property is 111.7.'

The subject property has a 31.9' wide curb cut entering the property from the McDonald's driveway to the north. There is also an existing entrance/exit from Waldron Avenue at the southeast corner of the property. The property has an existing sidewalk along the Waldron frontage which will be improved with ADA access at the existing curb cut. Note #7 on the existing Survey indicates the easement for access through the McDonald's driveway.

The Proposed Project will add new 3,155 sf to the north, east and south sides of the existing 2,400 sf building. Project will also expand the asphalt parking lot, include a sidewalk on the front and side of the new building, provide retaining walls at the rear and north side of the subject property (varying from 1' to maximum of 3.8') and increase the front façade height by 36" to make the building roof and roof equipment invisible from street traffic. The design of the retaining walls has been prepared and sealed by Jonathan Merheb, NYS Licensed PE, JMER Engineering PLLC. (See C 105).

The location of the replacement Pylon Sign is in the same location as the previous sign. The size of the sign has been revised to 57' which is less than the required area of 60 sq. ft., and at a height of 19.11" is less than the maximum allowable height of 25'. The front yard setback of 17.4' is compliant. The side yard of 2' is an existing condition. There are now two footings for the new sign. This will provide additional stability for the sign. This sign is essentially in the same location as the previous sign and will be able to allow for signage for the increase of two new tenants for the center. The request for an area variance is under review by the ZBA for an area variance. The two dumpsters will be enclosed and screened and located behind the building.

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A stormwater management system and drainage improvements including a new catch basin will be installed with nine (9) cultec chambers providing stormwater management infiltration on the site. Applicant's Engineer has provided an erosion control plan (drawing C 104). The existing canopy and concrete pad at the south end of the existing building will be eliminated. The new building is proposed to end at the southern property line of the property. This will face the commercial parking lot for the adjacent property. There will be three ADA accessible parking spaces provided at the front of the stores.

There are 17 existing parking spaces on the property in front of the stores and along Waldron Avenue frontage. There are 22 spaces required for the new expanded building (5,555 sf) and 30 spaces being provided in the expanded parking lot and at the front of the stores.

Revisions

The Applicant has revised his plans in response to comments from the Planning Board and Rockland County Planning. The Designated Street Line is now shown on site plans C 102 and C 104. Two proposed snow storage areas are clearly marked in the landscaped area adjacent to the main entrance to the site. (See drawing C 103.) A total of 4 parking spaces would be impacted. Required parking spots nor proposed landscaping would not be affected during snow storage events.

In response to the Rockland County Planning GML recommendations, the Applicant is now undertaking sustainability improvements for the Project. The Applicant is planning to install solar panels for the existing 1,700 sf portion of the flat roof of the building. This covers approximately 30 percent of the total proposed project for the Grocery Mart. Additionally, the owner will install two EV charging stations in the rear parking spots (See drawing C 102).

The Applicant has provided a landscape plan that addresses the rear of the property and hillside. Plans now show a row of ten evergreen trees (Eastern Red Cedar) along the property line with the Nyack Municipal Authority property at the top of the hill. The Applicant has added a note to the drawing C 106 indicating that the applicant will clear all trash, debris, dead trees, and invasive species from the hillside and maintain the existing vegetation. Applicant's landscape plan now provides a total of three (3) Hornbeam Street Trees (two are American Hornbeam and one is a Japanese Hornbeam) along the Waldron Avenue frontage. These street trees are similar to the trees planted at the new Chase Bank at the corner of Waldron Avenue and Rte.59. The proposed landscape plan also shows fountain grass planted on the south side of the curb cut entrance from Waldron Avenue (See drawing C 106).

The Applicant has now provided a lighting layout and photometric model prepared by RAB Lighting. This plan demonstrates that the intensity of the candle lumens is less than 0.1 at the property lines and averages 0.31 across the site. This is in compliance with §360-4.10 of the Village Code.

Applicant has provided a new drawing *describing Proposed Truck Turnaround/Access Plan* for the site. The waste truck turnaround/access plan was revised to include the turnaround for delivery trucks and show access through the entire site from the curb cut on Waldron

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Avenue. The truck turnaround plan includes fire response equipment which was reviewed by the Village Fire Inspector and Chief Building Inspector. The plan shows the turning maneuverability of the fire and emergency response vehicles within the site and has been determined to meet fire and emergency access requirements (See drawing C 102.1).

The Applicant has provided stormwater plans to the Rockland County Department of Health which has reviewed the plans, found them in compliance with Article 19 of the Rockland County Sanitary Code and approved the plans. Site drainage calculations have been provided to the Village Engineer together with the Soil Erosion Control Plan who will approve the final drainage and erosion control plans. The calculation shows that the nine cultec chambers will provide more volume storage than volume storage required. The calculations show the required storage of volume would be 835.2 CF with 896.4 CF being provided by the designed cultec system. There is no net increase in peak rate of discharge from the site at all design points. The drainage plan will be reviewed and approved by the Village Engineer.

In addition, in response to comments by the Village Engineer, Applicant has revised drawing C 102 to show the opening vehicle doors. The ADA stalls and ramps have been revised on drawing C 102 to coordinate with the opening doors. The loading and delivery trucks will be staged for deliveries at the rear of the building. This is shown on drawing C 102.1 (Truck turnaround plan).

Approved Plans

Except as otherwise provided herein, all work shall be performed in strict compliance with the plans submitted to and approved by the Planning Board as follows:

The Project is described on the following drawings prepared by JMER Engineering P.C. *Site Development Plan – Proposed Zeildar Plaza Addition (65.35-01-03) 4 Waldron Avenue, Nyack New York 10960* dated September 5, 2022, and last revised June 16, 2023, unless otherwise noted and comprise the approved plans entitled:

- C 100 *“Cover Sheet – Zoning Data”*
- C 101 *“Existing Site/Demolition Plan”*
- C 102 *“Proposed Site Plan”* last revised 7/6/23
- C 102.1 *“Proposed Truck Turnaround/Access Plan”*
- C 103 *“Proposed Grading & Drainage Plan”* last revised 6/16/23
- C 104 *“Proposed Site Erosion Control Plan”*
- C 105 *“Proposed Site Details”*
- C 106 *“Proposed Landscaping Plan & Planting Details”* last revised 7/6/23
- A 101 *“Existing Building Plan and Exterior Elevations”*
- A 102 *“Proposed Construction Plan”*
- A 103 *“Proposed Exterior Elevations with Wall Signs”*
- A 104 *“Proposed Exterior Sign Elevation”*

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"Lighting Layout Version A & Photometric Model prepared by RAB dated 3/22/23.

"Survey, Aashir Brothers, Inc. prepared by James Engineering & Land Survey, PLLC dated 4/23/22.

(Approved Plans)

NOW, THEREFORE, BE IT RESOLVED that the Site Plan application submitted by Salah Foda, AIA, JMER Engineering P.C. to request site plan approval for the addition of 3,155 sf to the existing, single-story 2,400 sf retail building at 4 Waldron Avenue in the Commercial Corridor zone ("CC"), additional parking and other site improvements including expanding the asphalt parking lot, constructing new sidewalk on the front and side of the renovated building, retaining walls at the rear and north side of the subject property, landscaping improvements, rooftop solar panels and EV charging stations as reflected on the approved plans listed above is hereby granted, subject to the following conditions:

1. The Applicant shall obtain any required state, county and local permits and approvals prior to the issuance of a building permit.
2. Approval of this site plan is subject to the Applicant obtaining the required ZBA approval for the area variances to allow the construction of the addition to the existing, single-story retail building and the replacement of a pylon freestanding sign in the same general location as previous sign.
3. Prior to the issuance of a building permit, the Applicant shall submit a soil and erosion control plan to the Chief Building Inspector/SMO (Stormwater Management Officer) per New York State Guidelines for Urban Erosion and Sediment Control for his approval with review and recommendation by the Village Engineer.
4. Prior to the issuance of a building permit, a *Stormwater Management Agreement* for the stormwater management facilities related to the addition of 3,155 sf to the existing retail building at 4 Waldron Avenue, in a form satisfactory to the Village Engineer and Village Attorney, shall be fully executed and submitted to the Chief Building Inspector/SMO with proof that the Agreement has been recorded in the Rockland County Clerk's Office.
5. If the Applicant, during the course of construction, encounters such conditions as flood areas, underground water, soft or silty areas, improper drainage, insufficient sized piping or any other unusual circumstances or conditions that were not foreseen in the original planning, he shall report such conditions immediately to the Village

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Engineer. The developer may submit, if he so desires, his recommendations as to the special treatment to be given to alternate solutions to secure adequate, permanent, and satisfactory construction. The Village Engineer, without unnecessary delay, shall investigate the condition or conditions, and shall either approve the Applicant's recommendations to correct the conditions, order a modification thereof, or issue her own specifications for the correction of the conditions.

6 As described in the approved *Proposed Landscaping Plan & Planting Details* (drawing C 106) last revised July 6, 2023, and prepared by JMER Engineering PC, all landscaping shall be installed in a healthy and vigorous state and shall be inspected at the beginning and end of the growing season within the two years of installation. Individual species that do not survive beyond the first year and second year shall be replaced at the beginning of the next growing season at the owner's expense. Landscaping shall be maintained for the life of the facility.

7 The Applicant submitted a Mosquito Suppression Plan to Rockland County DOH which reviewed the plans and provided a letter to the Applicant dated May 22, 2023, indicating that the plans were in compliance with Article 19 of the Rockland County Sanitary Code (mosquito control) and granted a three-year approval for the design plans.

NOW BE IT FURTHER RESOLVED that the recommendations of the Rockland County Planning Department set forth in the General Municipal Law Review letters dated March 30, 2023, and June 20, 2023, have been accepted. The Application and set of plans were sent for GML review on March 3, 2023, to Town of Clarkstown, Rockland County Department of Planning, Rockland County Department of Health, NYS DOT, NYS Thruway Authority and Long Path. Comments were received from Rockland County Planning dated March 30, 2023, and June 20, 2023, and from the Town of Clarkstown dated June 22, 2023, indicating that the proposed action was a matter of local determination with no adverse impacts, the NYS DOT dated March 21, 2023, indicating it anticipated no substantial impacts to the State's highway system. The Planning Board has reviewed the Applicant's revised set of plans dated September 5, 2022, and last revised July 6, 2023, and determined that the application and revised plans have satisfied the items specified in the Rockland County Planning Department GML letters dated March 30, 2023, and June 20, 2023.

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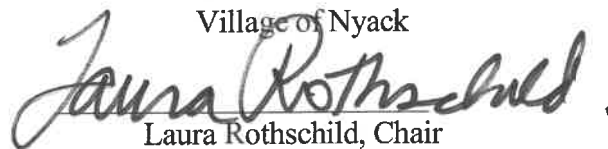
VOTE:

Ayes: Rothschild, Knarich, Ortiz-Crane, and Hart
Nays: None

Date: July 10, 2023

PLANNING BOARD

Village of Nyack


Laura Rothschild, Chair