

CITY OF RYE

NOTICE

There will be a regular meeting of the City Council of the City of Rye on Wednesday, May 7, 2014, at 7:30 p.m. at the **Square House**. *The meeting will move from the Square House to Council Chambers in City Hall at approximately 8:45 p.m. The Council will adjourn into Executive Session at the end of the meeting to discuss personnel.*

AGENDA

1. Pledge of Allegiance.
2. Roll Call.
3. General Announcements.
4. Draft unapproved informal minutes of the Joint Meeting of the City Council and Board of Education held April 5, 2014 and the minutes of the regular meeting of the City Council held April 23, 2014.
5. Issues Update/Old Business.
6. Continuation of the Public Hearing to change the zoning designation of County-owned property located on Theodore Avenue and North Street to the RA-5 District to provide for the construction of affordable senior housing.
7. Residents may be heard on matters for Council consideration that do not appear on the agenda.
8. Appeal of denial of FOIL request by Liz Button.
9. Miscellaneous communications and reports.
10. New Business.
11. The Council will convene into Executive Session to discuss personnel.
12. Adjournment.

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The next regular meeting of the City Council will be held on Wednesday, May 21, 2014 at 7:30 p.m.

** City Council meetings are available live on Cablevision Channel 75, Verizon Channel 39, and on the City Website, indexed by Agenda item, at www.ryeny.gov under "RyeTV Live".

* Office Hours of the Mayor by appointment by emailing jsack@ryeny.gov or contacting the City Manager's Office at (914) 967-7404.



CITY COUNCIL AGENDA

NO. 4

DEPT.: City Clerk

DATE: May 7, 2014

CONTACT: Dawn Nodarse

AGENDA ITEM Draft unapproved informal minutes of the Joint Meeting of the City Council and Board of Education held April 5, 2014 and the minutes of the regular meeting of the City Council held April 23, 2014, as attached.

FOR THE MEETING OF:

May 7, 2014

RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: That the Council approve the draft minutes.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

BACKGROUND: Approve the minutes of the Joint Meeting of the City Council and Board of Education held April 5, 2014, and the regular meeting of the City Council held April 23, 2014, as attached.

DRAFT UNAPPROVED MINUTES of the
Joint Meeting of the City Council of the City of Rye
and the Rye City School Board held in City Hall on
April 5, 2014 at 9:00 A.M.

PRESENT:

JOSEPH A. SACK Mayor
LAURA BRETT
KIRSTIN BUCCI
TERRENCE McCARTNEY
RICHARD MECCA
RICHARD SLACK
Councilmembers

LAURA SLACK, President
KAREN BELANGER
KATY KEOHANE GLASSBERG
NANCY PASQUALE
CHRIS REPETTO
NICOLE WEBBER
School Board Members

SCOTT PICKUP, City Manager
GABRIELLA O'CONNOR, Assistant Superintendent for Business
BETTY ANN WYKS, Assistant Superintendent for Curriculum

ABSENT: JULIE KILLIAN, Councilmember
EDWARD FOX, Board Member

The meeting convened at 9:00 a.m. Councilman Mecca made a motion, seconded by Councilwoman Brett and unanimously carried, to immediately adjourn into executive session to discuss attorney/client matters. Councilwoman Brett made a motion, seconded by Councilman Mecca and unanimously carried, to adjourn the executive session at 9:55 a.m. The joint meeting convened at 10:00 a.m.

1. Pledge of Allegiance

Mayor Sack called the meeting to order and invited everyone to join in the Pledge of Allegiance.

2. Roll Call

Mayor Sack asked the City Clerk to call the roll; a quorum of both boards was present to conduct business.

3. Progress of 2013 Joint Meeting

Board President Slack said the School Board was grateful to the City for the additional crossing guards and Mayor Sack said there has been a suggestion to have bi-annual meetings of the two boards.

4. State of the City of Rye Report

Mayor Sack said there are many issues that demand the attention of the City but noted several that are currently top priorities:

- Playland – The SPI Plan has been presented to the County Board of Legislators for approval. The City believes that the project should come before the City's Land Use Boards for approval in order to make sure that all issues of concern to Rye residents are vetted and dealt with.
- Police Commissioner Search – The Council must determine if they want a Police Commissioner or a Public Safety Commissioner prior to going forward with the search.
- Labor Contracts – The Police Arbitration Award only covered through 2010. The Council is formulating a bargaining strategy for the current open contracts and hopes to have positive discussions within the next few weeks.
- Affordable Housing – The City wants to make sure the parcel in question is an environmentally safe place for people to live and they also want to consider the points of view of the neighbors. In order to go forward there must be both a zoning change and site plan approval.
- Whitby Castle - A committee made up of members of the Golf Commission, City Council and other interested citizens has been reviewing RFP submissions and is getting closer to making a decision on what will be done with Whitby Castle. In the interim an agreement has been entered into for operation of the snack bar. A new General Manager has been hired.

5. State of the School's Report

Assistant Superintendent for Curriculum Betty Ann Wykes spoke about the strategic priorities the School District is dealing with including:

- Student Achievement – The District is implementing the Common Core (the current fourth grade class will be the first class held to the Common Core standards); implementing curriculum revisions; implementing their approach to secondary remediation intervention; offering 23 different AP exams to students; expanding elective offerings at the high school and middle school; focusing on teacher effectiveness and training; and implementing behavior reinforcement initiatives.
- Fiscal responsibility – The District has implemented programs to track staff attendance; is looking for staffing efficiencies; put forth a budget with a 1.64% increase; is trying to maintain technology initiatives; and, created a Tax Cap Task Force.

- Facility needs - The District is allocating money for building needs; looking to hire additional staff when the construction is completed; and providing for custodial services. The construction project is on track to be completed by the opening of school in September.
- Community Engagement – The District is concerned with student data privacy; and implementing additional technology to improve communication with the community.
- Staffing – Several upcoming retirements have or will be announced.

6. Security Discussion with regard to the Rye City School District

Board President Slack said that the School District has been implementing recommendations suggested by a Security Consultant that was hired last year. Additional security was hired for the high school/middle school and elementary schools and another person will be hired for the high school/middle school after the construction is completed. She said the additional crossing guards hired by the City are making a big difference and reiterated a previous request for an additional police presence to drive by the schools at dismissal time. A request was also made that when a new Police Commissioner is appointed, a meeting should be set up with representatives of the schools.

7. Discussion of Pedestrian Safety initiatives: Safe Routes to School projects

City Manager Pickup provided the boards with two renditions of the high school/middle school property, one showing the current entrance/exits on Milton Road and the second showing a proposed change. He said there are opportunities with the current construction to address issues at the busy intersections near the high school/middle school that could free up some of the traffic congestion. Meetings have been held with representatives of the City, the School Administration and the Traffic and Pedestrian Safety Committee. There is money in the City budget for these improvements and final plans are being worked on so the project could go out to bid and the improvements be completed in time for the opening of school in September.

8. Discussion of Revaluation and the scheduling of a September meeting between the City Council and the Board of Education

Mayor Sack said that the City Council is ready to reconsider the subject of revaluation and presented pros and cons of the issue. A positive is that a revaluation could bring more equality and might reduce tax certs. The negatives are: the cost of a revaluation would be about \$1 million; and it would not generate additional revenue but would just redistribute the revenue with 1/3 of properties decreasing, 1/3 remaining flat, and 1/3 increasing in valuation.

The boards will look at finding a date early in October for a second meeting.

9. Discussion of the Civility Initiative

Kristin Jaust and Shari Belaish, representing The Rye Youth Council, provided an overview of what led up to the creation of the Civility Statement, which has now been endorsed by 68 organizations in the City of Rye. They then explained that the Rye Civility Initiative has been created as the next step in the movement to empower people to live by principles of civility and create a public forum for them. The co-leaders of this initiative are the Rye Youth Council, the Rye YMCA and the Rye Arts Center. The website is www.civilityinitiative.org.

10. Adjournment

There being no further business to discuss Councilman Mecca made a motion, seconded by Councilwoman Brett and unanimously carried, to adjourn the joint meeting and for the City Council to adjourn into executive session to discuss personnel and not return at 10:55 a.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk

DRAFT UNAPPROVED MINUTES of the
Regular Meeting of the City Council of the City of
Rye held in City Hall on April 23, 2014 at 7:30 P.M.

PRESENT:

JOSEPH A. SACK Mayor
KIRSTIN BUCCI
JULIE KILLIAN
TERRENCE McCARTNEY
RICHARD MECCA
RICHARD SLACK
Councilmembers

ABSENT: LAURA BRETT, Councilmember

The Council convened at 6:45 p.m. Councilman Mecca made a motion, seconded by Councilman McCartney and unanimously carried to immediately adjourn into executive session to discuss personnel matters and litigation. Councilwoman Killian made a motion, seconded by Councilwoman Bucci and unanimously carried, to adjourn the executive session at 7:37 p.m. The regular meeting convened at 7:42 p.m.

1. Pledge of Allegiance

Mayor Sack called the meeting to order and invited the Council to join in the Pledge of Allegiance.

2. Roll Call

Mayor Sack asked the City Clerk to call the roll; a quorum was present to conduct official city business.

3. General Announcements by the Council

Announcements were made regarding various meetings, events or other matters of interest to the community.

4. Approval of the election of the Chiefs of the Rye Fire Department

Councilman Mecca made a motion, seconded by Councilman McCartney and unanimously carried, to approve the election of Peter Cotter as Chief of the Rye Fire Department; Michael Billington as 1st Assistant Chief; and Dick Barber as 2nd Assistant Chief held at the Annual Fire Department Meeting held on April 3rd.

5. Draft unapproved informal minutes of the Joint Meeting of the City Council and Board of Education held April 5, 2014 and the minutes of the regular meeting of the City Council held April 9, 2014

Approval of the informal minutes of the Joint Meeting of the City Council and Board of Education was deferred so the minutes could be forwarded to the Board of Education.

Councilman Mecca made a motion, seconded by Councilman McCartney and unanimously carried, to approve the minutes of the regular meeting of the City Council held on April 9, 2014.

6. Issues Update/Old Business

- 6.1 Authorization for the Mayor to enter into an Employee Separation Agreement including Release and Waiver of Claims with regard to Scott Pickup

Mayor Sack announced that pursuant to an Employee Separation Agreement, Scott Pickup has submitted a letter of resignation of his position as City Manager effective at 11:59 p.m. on April 23, 2014. Pursuant to the Agreement Mr. Pickup will remain in the employ of the City of Rye as an Assistant to the new City Manager until on or about July 10th but no later than July 24th.

Councilman Mecca made a motion seconded by Councilman Slack to adopt the following Resolution:

RESOLVED, that the City Council of the City of Rye hereby authorizes the Mayor to enter into an Employee Separation Agreement including Release and Waiver of Claims with regard to Scott Pickup.

ROLL CALL:

AYES:	Mayor Sack, Councilmembers Bucci, Killian, McCartney, Mecca and Slack
NAYS:	None
ABSENT:	Councilmember Brett

The Resolution was adopted by a 6-0 vote.

- 6.2 Authorization for the Mayor to enter into an Agreement with Frank Culross to serve as City Manager.

Mayor Sack announced that Frank Culross has agreed to come back as City Manager and will assume the role as of midnight tonight.

Councilman McCartney made a motion, seconded by Councilwoman Killian, to adopt the following Resolution:

RESOLVED, that the City Council of the City of Rye hereby authorizes the Mayor to enter into an Agreement with Frank Culross to serve as City Manager of the City of Rye.

ROLL CALL:

AYES: Mayor Sack, Councilmembers Bucci, Killian, McCartney, Mecca and Slack
NAYS: None
ABSENT: Councilmember Brett

The Resolution was adopted by a 6-0 vote.

Lot at corner of Central Avenue and Boston Post Road – Councilman McCartney stated that the consensus of the Council at the last meeting was to replant grass at this location but also to await the recommendations of the Traffic and Pedestrian Safety Committee on how to make that intersection safe once traffic patterns settle when the building is complete at 2 Central Avenue.

6A. Authorization for the City Manager to enter into an exclusive agreement with Lessing's, Inc. for catering services at Whitby Castle at the Rye Golf Club
Roll Call.

Mayor Sack announced that the City has negotiated an exclusive catering services agreement with Lessing's, Inc. to provide catering services at Whitby Castle. The Mayor summarized the conditions of the contract which runs for a ten-year term. The Mayor also spoke about the process of choosing the vendor and thanked all the members of the Golf Commission and RFP Committee for their hard work. Members of the Council, Golf Commission and RFP Committee also spoke about their involvement in the selection process and expressed their approval for the chosen vendor.

Councilwoman Bucci made a motion, seconded by Councilwoman Killian, to adopt the following Resolution:

RESOLVED, that the City Council of the City of Rye hereby authorizes the City Manager or the Mayor to enter into an exclusive agreement with Lessing's, Inc. for catering services at Whitby Castle at Rye Golf Club.

ROLL CALL:

AYES: Mayor Sack, Councilmembers Bucci, Killian, McCartney, Mecca
and Slack
NAYS: None
ABSENT: Councilmember Brett

The Resolution was adopted by a 6-0 vote.

6B. Golf Club Member food minimum requirement

Mayor Sack said that since the \$300 food minimum requirement for members was not built into the Lessing's contract there is no longer a need to have it. Councilman McCartney said that the Golf Commission had unanimously voted to remove the minimum requirement from the budget.

Councilman McCartney made a motion, seconded by Councilwoman Bucci, to adopt the following Resolution:

RESOLVED, that the Rye Golf Club
budget for 2014 is hereby amended to eliminate all
food minimum requirements for all members.

ROLL CALL:

AYES: Mayor Sack, Councilmembers Bucci, Killian, McCartney, Mecca
and Slack
NAYS: None
ABSENT: Councilmember Brett

The Resolution was adopted by a 6-0 vote.

7. Resolution authorizing the City Comptroller to amend the 2013 Budgeted revenues to cover fiscal year-end expenditures
Roll Call.

Deputy Comptroller Joseph Fazzino said that this was a bookkeeping amendment that was suggested by the City's outside auditors.

Councilwoman Killian made a motion, seconded by Councilman Mecca, to adopt the following Resolution:

WHEREAS, the 2013 Annual Budget has been adopted; and

WHEREAS, during the course of the 2013 fiscal year, general fund expenditures exceeded budgeted expenditures by \$751,774; and

WHEREAS, during the course of the 2013 fiscal year, the City has received income that positively affects the 2013 budget. 2013 actual mortgage tax revenues exceeded 2013 budgeted mortgage tax revenues by \$982,921.

NOW, THEREFORE, be it resolved by the City Council of the City of Rye, New York, that 2013 budget be amended as outlined below to accept \$982,921 in additional mortgage revenue to cover various expenditures exceeding budget, as follows:

Increase:

State Aid Mortgage Tax	\$982,921
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Increase:

Contingent Account	\$982,921
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This resolution shall take effect as of 12/31/2013

ROLL CALL:

AYES:	Mayor Sack, Councilmembers Bucci, Killian, McCartney, Mecca and Slack
NAYS:	None
ABSENT:	Councilmember Brett

The Resolution was adopted by a 6-0 vote.

8. Residents may be heard on matters for Council consideration that do not appear on the agenda

Sis D'Angelo, 110 Wappanocca Avenue suggested that the Garden Clubs should be honored for the work they do around Rye. She also suggested that the rock wall under the train trestle should be painted and that something should be done about when Starbucks puts their garbage out on Sundays.

Ted Carroll, 945 Forest Avenue spoke about the resignation of City Manager Pickup and wanted assurance that the City would still have access to him in connection with the fraud investigation.

Joseph Murphy, 75 Franklin Avenue thanked the Council for modifying the Mission Statement of the Rye Senior Advocacy Committee. He noted the resignation of Committee member Kathleen Lonergan and said he will be coming to the Council with a recommendation for a new member.

9. Consideration of proposed revision of the Rules and Regulations of the City of Rye Police Department: Amendment of General Order #113.7, "Domestic Violence"

This Agenda item was deferred.

10. Consideration of proposed revision of the Rules and Regulations of the City of Rye Police Department: Approval of new General Order #113.21, "Guidelines for Recording Custodial Interrogations of Suspects"

This Agenda item was deferred.

11. Approval of the recommendation by the Traffic and Pedestrian Safety Committee that a Pilot Study be conducted to test the effect of reducing the speed limit to 25 miles per hour on Stuyvesant Avenue

Brian Dempsey, Chair of the Traffic and Pedestrian Safety Committee (the Committee) said that the Committee has received several requests over the years for reductions in speed limit. Since cities are classified differently from towns, the city-wide speed limit cannot be lower than 30 miles per hour. However, certain roads can be designated at 25 miles per hour (mph). A request came before the Committee from a resident of the Stuyvesant Avenue area and they looked at various options, including reducing the speed limit. There are mixed opinions among Committee members about how much effect reducing the speed limit would have. Speed measurements were taken in the summer and off season with 85th percentile speeds in the summer of 31 mph and 34 mph in the off season. The Committee came up with a pilot program to lower the speed limit to 25 mph and do speed measurements at the same locations and the same times of year and compare them. After that phase has been completed sign machines would be installed in each direction that would flash a message that says "slow down" and additional measurements would be taken. There was a discussion among the members of the Council regarding the proposal with several members saying that the speed tests did not seem to indicate that speeding was an issue. Councilwoman Killian, the liaison to the Committee, said she was in favor of the pilot proposal. Suggestions for alternatives to the speed pilot included making Stuyvesant Avenue a one-way street or requiring residents to remove the rocks and curbing from the right-of-ways. Jennifer Neren of 2 Barron Place outlined the concerns she had brought before the Committee; the research she has done in the last year regarding traffic calming solutions; and expressed her support for the pilot program. The Council requested that she submit the data she had collected to the City and to ask her neighbors their opinion about removing the rocks and curbs from the right-of-ways. It was also suggested to Mr. Dempsey that the Committee look at a pilot project to remove the rocks and curbs in the area. The item was put over to the May 21st meeting.

12. Consideration of a request by the Lions Club to hold a community event on the Village Green on Sunday, May 18, 2014 from 10:30 a.m. to at 2:00 p.m.

Councilman Mecca made a motion, seconded by Councilman Slack and unanimously carried, to adopt the following Resolution:

RESOLVED, that the City Council of the City of Rye hereby approves the request of the Lions Club for use of the Village Green on Sunday,

May 18, 2014 from 8:30 a.m. to 2:00 p.m. to hold a community event.

13. Consideration of a request by Jim Amico of Rye Station Garage for the use of City streets for a Car Show Fundraiser on Saturday, May 17, 2014 from 10:00 a.m. to 4:00 p.m.

Councilwoman Killian made a motion, seconded by Councilman Mecca and unanimously carried, to adopt the following Resolution:

RESOLVED, that the City Council of the City of Rye hereby approves the request of Jim Amico for use of a portion of Wappanocca Avenue and a portion of the Highland municipal lot on Saturday, May 17, 2014 (with a rain date of May 18, 2014) from 10:00 a.m. to 4:00 p.m. for a Car Show fundraiser for the Jarrod L. Amico Memorial Scholarship.

14. Consideration of a request by Colin Leslie for the use of City streets for the 8th Annual Colin Leslie Walk for Celiac Disease 2014 on Sunday, September 28, 2014 from 9:00 a.m. to 2:00 p.m.

Councilman Mecca made a motion, seconded by Councilman Slack and unanimously carried, to adopt the following Resolution:

RESOLVED, that the City Council of the City of Rye hereby approves the preferred route request of Colin Leslie for use of City streets on Sunday, September 28, 2014 from 9:00 a.m. to 2:00 p.m. for the 8th Annual Colin Leslie Walk for Celiac Disease.

- 14A. Two appointments to the Sustainability Committee by the Mayor with Council approval

Mayor Sack made a motion, unanimously approved by the Council, to appoint Coleen Margiloff and Elizabeth Mirisola-Desmond to the Sustainability Committee.

15. Miscellaneous Communications and Reports

There was nothing reported under this Agenda item.

16. New Business

There was nothing reported under this Agenda item.

17. Adjournment

There being no further business to discuss Councilman Mecca made a motion, seconded by Councilman McCartney and unanimously carried, to adjourn the meeting at 9:50 p.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk



CITY COUNCIL AGENDA

NO. 5

DEPT.: City Council

DATE: May 7, 2014

CONTACT: Mayor Joseph Sack

AGENDA ITEM: Issues Update/Old Business

FOR THE MEETING OF:

May 7, 2014

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That an update be provided on outstanding issues or Old Business.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND:



CITY COUNCIL AGENDA

NO. 6

DEPT.: Planning

DATE: May 7, 2014

CONTACT: Christian K. Miller, AICP, City Planner

AGENDA ITEM: Continuation of the Public Hearing to change the zoning designation of County-owned property located on Theodore Fremd Avenue and North street to the RA-5 District to provide for the construction of affordable senior housing.

FOR THE MEETING OF:

May 7, 2014

RYE CITY CODE,

CHAPTER 197
SECTION 3

RECOMMENDATION: That the City Council continue the Public Hearing to amend the zoning designation of the County-owned property on Theodore Fremd Avenue.

IMPACT: ☒ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

BACKGROUND:

The petitioner, Lazz Development/Pawling Holdings, seeks an amendment to the City Zoning Map to change the zoning district designation of an approximately 2.0-acre property located on Theodore Fremd Avenue and North Street. The request would change the zoning of the Westchester County-owned property from the B-6, *General Business*, District and the B-1, *Neighborhood Business*, District to the RA-5, *Senior Citizen's Apartment*, District. The petitioner is seeking to construct fifty-four (54) units of age-restricted housing located in two buildings. The proposal would be limited to those over age 55 and consist of 44 one-bedroom units and 10 two-bedroom units. The proposed units would also be affordable and 27 of these units would count towards Rye's contribution to the 750 units of fair and affordable housing Westchester County is obligated to provide as part of a stipulation of settlement with the U.S. Department of Housing and Urban Development (HUD). It is noted that the proposed zoning change is the same district as adopted by the City Council in the mid-1980s to accommodate the nearly 100 units of affordable senior housing at 300 Theall Road. The matter was referred to the City Planning Commission and a recommendation memo was provided to the City Council. Westchester County has provided its advisory comments on the matter.

Christian K. Miller, AICP
City Planner
1051 Boston Post Road
Rye, New York 10580



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CITY OF RYE
Department of Planning

Memorandum

To: Scott Pickup, City Manager

From: Christian K. Miller, AICP, City Planner

cc: Kristen K. Wilson, Esq., Corporation Counsel

Date: March 7, 2014

Subject: **Additional Analysis Related to the Request of Lazz Development/Pawling Holdings to Change the Zoning Designation of County-Owned Property Located on Theodore Fremd Avenue and North Street to the RA-5, *Senior Citizens Apartment*, District to Provide for the Construction of Affordable Senior Housing.**

The Rye City Council as Lead Agency is responsible for the assessment and evaluation of potentially significant adverse impacts pursuant to the requirements of the State Environmental Quality Review (SEQR). During the public hearing there were questions and concerns raised by the public and City Council. To assist the City Council in assessing potential impacts it is recommended that the petitioner provide the following additional information and analysis:

- **Full Environmental Assessment Form.** The petitioner has provided a short Environmental Assessment Form (EAF) with its zoning petition, which is the minimum required by SEQR. Given the nature of the public comment it is recommended that a full EAF be submitted for the Council's review. This will provide a more complete environmental assessment of the proposed zoning change and future senior housing development proposal.
- **Sub-Surface Conditions.** Concerns remain with the status of the sub-surface environmental conditions on the site. It is recommended that the petitioner prepare a Phase II environmental study that includes current testing for potential sub-surface contaminants on the site. Recent clean-up activities in the area and adjacent to the site should also be addressed and their potential impact on the site. The status of the sub-surface environmental conditions is a threshold

Additional Analysis Regarding Theodore Fremd Affordable Housing

March 7, 2014

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question for the City Council as it considers a change in zoning to allow for senior housing on a property that is currently restricted to light-industrial, commercial and other non-residential uses. The City has allowed the redevelopment of properties with prior sub-surface contamination for housing including many former gas station properties. It is anticipated that such redevelopment could be allowed in this case, provided that petitioner gives the Council current and complete information and clearance from the appropriate State and County agencies as to the specific redevelopment proposed by the petitioner.

- **Fiscal Impact Analysis.** Currently, since the County-owned property generates no property tax revenue, but also requires few municipal services. The petitioner should provide a fiscal impact analysis quantifying the anticipated total tax revenue (based on the total rent revenue of the project) and the anticipated municipal service demands. Using the existing senior housing development at 300 Theall Road will provide good comparables for potential service demands. The analysis should also try to quantify anticipated cost/revenue if the site were developed based on the uses permitted by existing zoning.
- **Traffic.** The petitioner should prepare a traffic study quantifying the anticipated trip generation of the full development of the site under the proposed RA-5 District standards and the impact on level of service at area intersections. This analysis should be compared to the anticipated traffic impact associated with development permitted by existing zoning on the property.

Upon receipt of this information the City Council will be in a better position to assess potential impacts and determine the appropriateness of the petitioner's request and whether additional mitigation measures may be necessary.

Nick Everett, Chairman
Martha Monserrate, Vice Chair
Laura Brett
Barbara Cummings
Hugh Greechan
Peter Olsen
Alfred Vitiello



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1051 Boston Post Road
Rye, New York 10580
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CITY OF RYE Planning Commission

Memorandum

To: Rye City Council

From: Rye City Planning Commission
Christian K. Miller, City Planner

cc: Scott Pickup, City Manager
Kristen K. Wilson, Esq., Corporation Counsel

Date: February 5, 2014

Subject: **Recommendation to the Rye City Council Regarding the Petition of Lazz Development/Pawling Holdings to Change the Zoning Designation of County-Owned Property Located on Theodore Fremd Avenue and North Street to the RA-5, *Senior Citizens Apartment*, District to Provide for the Construction of Affordable Senior Housing.**

As requested, this memorandum provides the Planning Commission's recommendation to the Rye City Council regarding the petition of Lazz Development/Pawling Holdings to change the zoning designation of Westchester County-owned property located on Theodore Fremd Avenue and North Street to the RA-5, *Senior Citizens Apartment*, District to provide for the construction of affordable senior housing. This memorandum was prepared by the City Planner and reviewed and unanimously approved by the Planning Commission at its February 4, 2014 meeting.

Background

On or about December 10, 2013, the City Council received a petition from Lazz Development/Pawling Holdings to change the zoning of a property located at 150 North Street. The approximately 2.080-acre property has frontage on North Street, but is commonly referred to by its accessible frontage on Theodore Fremd Avenue rather than its legal address of 150 North Street. The request would change the zoning of the Westchester County-owned property from the B-6, *General Business*, District and the B-1, *Neighborhood Business*, District to the RA-5, *Senior Citizen's Apartment*, District (see Exhibit 1).

City Council Recommendation Regarding Theodore Fremd Affordable Housing

February 5, 2014

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The existing zoning districts applicable to the property do not permit multi-family housing. The proposed zoning change to the RA-5 District would permit (and limit) future construction on the property to affordable senior housing. The petitioner has represented that if the zoning change is granted, he would seek subsequent approvals from the Rye City Planning Commission to construct approximately fifty-four (54) units of affordable age-restricted housing located in two buildings. The proposal would be limited to those over age 55 and consist of approximately 44 one-bedroom units and 10 two-bedroom units.

The proposed RA-5 District for the property is the same district adopted by the City Council in the mid-1980s to accommodate the nearly 100 units of affordable senior housing on an approximately 2-acre site at 300 Theall Road, also known as Rye Manor. The proposed units would be affordable and a minimum of 27 of the units would count towards the 750 units of fair and affordable housing that Westchester County is obligated to provide within 31 eligible municipalities as part of a stipulation of settlement with the U.S. Department of Housing and Urban Development (HUD). Rye has been identified in the housing settlement as one of the 31 eligible Westchester County communities.

The subject property has long been considered for affordable housing by the City of Rye. In the early 1990s a local not-for-profit in partnership with the City of Rye sought to change the zoning of the property to construct 12 two-family units (i.e. 24 total units). That proposal and the required zoning change were never advanced due to the identification of sub-surface contamination on the property in 1993. Since that time the property has been subject to an environmental clean-up, but the City continued to periodically advocate for its use as an affordable housing site (see Exhibit 2).

Unlike the affordable housing proposal twenty years ago the City of Rye is not a partner in the construction, property ownership or administration of the affordable housing units. Westchester County is the property owner and the petitioner is the County's preferred developer for the property. The City of Rye's role is typical of any other land use application, which is to review and consider the land use policy implications of the request.

Westchester County's interest is to advance its obligation under the housing settlement. The property in Rye is unique because there are few (if any) undeveloped County-owned properties within one of the 31 eligible housing settlement communities. It's also unique because the City has a 20-year history of advocating for the development of affordable housing. Rye's historic advocacy for affordable housing does not constitute a commitment or obligation to approve the petitioner's request, but is relevant in terms of the planning context and the City's affordable housing policy.

The petitioner's interest is to develop affordable housing. The petitioner has constructed a number of affordable housing communities in the Sound Shore area,

City Council Recommendation Regarding Theodore Fremd Affordable Housing

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including 27 units in two separate projects on Cottage Street in Rye. Both of those projects required the City's Council's legislative authority to either amend the City Zoning Code or de-map an unused road right-of-way. In an August 9, 2013 letter the Petitioner received authorization from Westchester County "to seek all necessary approvals from the City of Rye..." (see Exhibit 3). This letter was provided to the City and forwarded to the City Council on August 16, 2013. This letter was expected based on a meeting City Council members and staff attended at Westchester County in June 2013. A summary of that meeting was provided to the City Council (see Exhibit 4).

The City's interest is to potentially advance identified affordable housing needs in the area consistent with its land use planning and other policies. The County has only a limited allocation of housing that it can designate as age-restricted towards the 750-unit obligation under the settlement. If that age-restricted allocation is lost to another community, there will continue to be pressure to develop the County-owned property in Rye for affordable housing without the age restriction. Age-restricted housing eliminates the potential for the generation of school-age children and the potential for a land use outcome in which potential municipal and school district service costs from the proposed development exceed anticipated property tax revenue.

Zoning Petition Review Process

Any change to the City Zoning Code or Map is a discretionary action of the City Council. As is typical in most communities, legislative actions involving land use matters are referred to the City Planning Commission for its review and comment. The specific action under consideration is a local law to amend the City Zoning Map to change the zoning district designation of the subject property to the RA-5 District. The minimum legal requirements to implement the local law are as follows:

1. *Local Law and Petition Referral.* The draft local law and petition must be referred to the Westchester County Planning Board pursuant to Section 239-m of the GML and Section 451 of the Westchester County Administrative Code. This information was forwarded to the County on December 24, 2013. The City Council cannot take an action on the petition until it receives a response from the County or until 30 calendar days has passed from the date of such referral. That response was provided on January 30, 2014 (see Exhibit 5).
2. *Public Hearing.* As with any law change a public hearing is required and notification of such hearing must be published in the City's official newspaper. Unlike New York State Town or Village Law, Section 83 of the General City Law does not require any additional notification (e.g. signage on the property, mailing of hearing notice, etc.) to property owners affected by or within the vicinity of the proposed zoning change.

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3. *SEQR.* Before making a decision on the local law, the City Council must comply with the requirements of State Environmental Quality Review (SEQR) and conduct an environmental assessment of the proposed action. The City Council has already taken the first step in this process by declaring at its December 18, 2013 meeting its intent to be Lead Agency for the environmental review. On December 24, 2013, staff circulated the Council's intent to be Lead Agency to other involved agencies. There has been no objection to the City Council being Lead Agency within the minimum required 30-day objection period. The City Council is therefore the Lead Agency at this time. As Lead Agency, the City Council must review the environmental assessment form (EAF) submitted by the applicant and conduct its own assessment of potentially adverse environmental impacts. If the Council finds that the proposed action does not have any significant adverse environmental impacts and issues a "Negative Declaration" a decision on the local law can be made. If the Council finds that there are potentially significant adverse impacts associated with the proposed action a "Positive Declaration" must be issued requiring a more involved environmental review. This review involves a number of procedural requirements and typically takes at least a year to complete.
4. *Decision.* After conducting and closing the public hearing and completing the SEQR process the City Council can make a decision. A simple majority vote is required for the adoption of the local law. A super majority vote of the Council (i.e. a minimum of three-fourths of the members) is required if twenty percent or more of property owners subject to the zoning change or within 100 feet therefrom submit a written protest to the request. Based on a preliminary review it appears that a written objection by just three property owners within 100 feet of the site would trigger a super majority vote (or 6 of the 7 City Council members) to approve the zoning request.

Westchester County HUD Settlement and Its Implications for Rye

In 2009 Westchester County entered into an agreement with the U.S. Department of Housing and Urban Development (HUD) to settle a lawsuit. The civil lawsuit was initiated by the Anti-Discrimination Center of Metro New York, Inc. The lawsuit alleged that the County failed to affirmatively further fair housing (AFFH) in its administration of federal funds including the Community Development Block Grant (CDBG) program and other federal programs. Specially, the lawsuit alleged that the County did not conduct a meaningful Analysis of Impediments (AI) to fair housing choice and did not take appropriate actions to overcome the effects of any impediments identified through that analysis. The County's failure to comply with that obligation as a recipient of federal funds was alleged to be a violation of the False Claims Act.

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There are many requirements of the stipulation of settlement. One requirement is that the County fund 750 affordable housing units within five years within eligible U.S Census Tracts of 31 municipalities in Westchester County. Eligible census tracts were identified as those having low percentages of minority populations. To date, the County has funded the construction of 27 affordable housing units in the City of Rye that count towards the 750-unit requirement. The City is not bound by the terms of the Settlement and is not required to approve any fair and affordable housing units, but has advanced affordable housing proposals when they were consistent with the land use, planning and housing objectives of the City.

A second significant requirement of the settlement is that the County is responsible for promoting and advancing a model affordable housing ordinance in each of the 31 eligible municipalities. The model ordinance, which was approved by the Monitor in October 2010, includes provisions to promote affordable housing including inclusionary zoning requirements, recommendations to increase multi-family housing zoning and other provisions. Westchester County is aggressively promoting the model ordinance, but no community is required to adopt it. In fact, most communities have not adopted it in full and many communities (including Rye) continue to review the model ordinance for its appropriateness given the existing land use planning and legal context.

A final significant requirement of the settlement relevant to Rye is that the City cannot receive CDBG and other federal funds administered by the County unless it advances fair and affordable housing. The City currently receives no such funding and therefore has no obligation.

The County and the monitor retained by HUD to oversee the implementation of the settlement have identified the County-owned property at 150 North Street as an opportunity to provide additional affordable housing in Rye. There have been conversations with the County and the City over the years both before and after the Settlement to discuss the potential for affordable housing at this location, but there has been no commitment by either party as to a specific development program. It has always been understood that any final action would require City Council approval because the property is not currently zoned for multi-family use.

In March 2013, Rye along with the other the 31 eligible communities identified in the Settlement were surprised to receive a "report card" directly from the Federal Monitor. Westchester County was not aware that report cards were being sent to communities, none of which are not party to the Settlement. The report card included an assessment of each community's existing zoning code.

In many, if not all, cases the report cards were critical of the lack of multi-family zoning in each community and repeatedly stated that more land use changes would be needed to accommodate affordable housing needs. The need was not for the implementation of the 750 units under the Stipulation, but rather the need identified in the 2005 Affordable

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Housing Allocation Plan prepared by the Westchester County Housing Opportunities Commission. This allocation plan was not adopted by the Westchester County Board of Legislators and is considered an advisory document. That document recommends the need for over 10,000 affordable housing units in Westchester County, which is significantly higher than the 750 units under the stipulation.

In the case of Rye the unadopted report allocates 167 affordable housing units in the City. The monitor's report card uses that number as the basis for his analysis of affordable housing deficiency. He notes that of the 167 units the City has already provided 27 under the Settlement leaving 140 affordable units of "required" allocation for the City. Accommodating this number of units in the City, particularly under the preferred 90/10 inclusionary development scenario recommended by the monitor will require very aggressive land use changes by the City Council.

As the City Council considers the petitioner's request it should be mindful of these non-binding affordable housing allocations. Development of additional affordable housing at this location could significantly advance the City's contribution to meeting affordable housing needs both under the settlement and the advisory housing allocation plan. At this time Westchester County has stated that a minimum of 27 of the proposed affordable housing units at the petitioner's site could be "counted" towards the housing settlement. Providing affordable housing units may help address some of the criticism of the City's land use and affordable housing policies.

Planning Analysis

The City Planning Commission supports the zoning petition and finds that the proposed use is consistent with the City's historic and future planning policies and housing objectives. In reaching this finding the Planning Commission considered the full development potential of the property under existing, planned and proposed zoning, the precedent established by the application of the RA-5 District and the compatibility of the requested change with surrounding land uses.

The petitioner has proposed a specific use and site plan for the property. As with all zone changes, however, the proper planning analysis requires an assessment not of the petitioner's specific proposal, but rather of the full development potential of the site after the zoning request is granted. Plans can and likely will change.

The petitioner's site plan accompanying his request proposes two four-story buildings, where the lowest story is unenclosed parking. The plan submitted shows approximately 75,600 square feet of total development, 90 parking spaces for an estimated 54 units and compliant with all other bulk and dimensional restrictions of the RA-5 District. This plan represents about 83% of the maximum development potential permitted under the proposed zoning. The proposed FAR of 1.0 is slightly higher than the 0.75 FAR permitted in the B-6 District located on the rear portion of the site and the 0.50 FAR

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permitted in the B-1 District located on the front of the site. The RA-5 District allows four stories within a maximum building height of 40 feet. The B-6 District allows just two stories, but the same building height of 40 feet. The B-1 District limits maximum building height to 2½ stories and 35 feet. The front yard setback for the proposed RA-5 District is 25 feet, which is greater than the 10-foot requirement for the B-1 and B-6 District. Side yard setback dimensions are also greater for the RA-5 District than the existing districts applicable to the site and the rear yard requirement is generally the same.

The RA-5 District is limited to just one use, which reads as follows:

Apartments for Senior Citizens and Handicapped. A detached residence for three or more families or housekeeping units or a group of buildings housing three or more families on one lot, undertaken by private nonprofit sponsors with public financial assistance, subject to the requirements of § 197-7.

In the event the conditions were to change after the zoning were established for the property the future use would continue to be limited to senior multi-family housing including an element of “public financial assistance” (i.e. affordable housing). On the other hand, the existing B-6 District allows a boarder range of uses including automotive uses, storage establishments, public transportation and utilities, service/contractor businesses, bus storage and repair, kennels and veterinary hospitals and limited manufacturing. The B-1 District allows offices, retail and personal service businesses, garages, apartments over stores, lodging houses, service/contractor businesses and social clubs and lodges.

The City Development Plan (1986) does not cite a specific written recommendation for the property or area, but generally encourages creating additional affordable housing opportunities in the City (see Plan, Chapter 1, *Residential Development*). The future land use plan designates this area for office (see Plan, p. 8-9). Since that time only the property at 350 Theodore Fremd Avenue has been developed as an office building under the B-1 District designation. Since the early 1990s the plan for the subject property has been for the development of the site for affordable housing. The Planning Commission believes that office as recommended in the Development Plan is not an economically viable use as evidenced by the long-standing high vacancy rate of office in the City and County and that a change in use is required. In the last few years the City has seen the conversion of a large office building to medical office and a request to amend the B-4 Office Building District to allow a hotel at 120 Old Post Road.

Residential at this location would be more compatible with the residential properties located opposite the site on Theodore Fremd Avenue than many of the uses permitted under the existing B-6 and B-1 District. The site is in close proximity to other non-residential uses including gas stations, a contractor's yard for a landscape business, the ConEdison property and the Metro-North Railroad and Interstate 95. The Commission

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notes other multi-family communities (both affordable and market-rate) and other residential neighborhoods located adjacent to transportation corridors that bisect the City.

The use of an existing zoning district classification in the City also is in keeping with the City's land use planning objectives. The RA-5 District specifically provides for the affordable housing needs for seniors. Expanding that district to other appropriate locations in the City is considered a desirable planning objective.

SEQRA Considerations

The Planning Commission has reviewed the environmental assessment form submitted with the zoning petition. As Lead Agency the City Council should consider the following potential impacts and mitigation measures associated with the project prior to making a determination of environmental significance.

- *Sub-surface Conditions.* As the City Council considers the petitioner's request it is recommended that it secure written confirmation from Westchester County Health Department regarding the status of the sub-surface contamination on the site and the status of the environmental clean-up. The Planning Commission understands based on the petitioner's representations that the County Health Department will require that future development at the site require elevating the first habitable story above grade. The Health Department should conduct a review of the proposed plan including all proposed surface and sub-surface improvements such as utilities, stormwater drainage measures and sewer connections.
- *Sanitary Sewer Service.* There is an existing sanitary sewer line that extends from Nursery Lane under I-95 and MNR tracks through the site to an existing connection in Theodore Fremd Avenue. The existing line is compromised and is difficult to service and maintain due to the high volume, high speed vehicular and rail traffic on a major regional transportation corridor. The City does not want to continue to maintain this existing sewer line through the site and accommodate the additional sewage flow from the petitioner's development. The Commission recommends that the existing public sewer line be abandoned and that the future development on the property be required to provide a new sewer connection from Nursery Lane to an existing sewer connection in North Street. This project has been identified in the City's Capital Improvement Program (CIP) for some time at a preliminary project cost of \$150,000. This is a substantial off-site improvement and may challenge the fiscal feasibility of the project depending on the availability of funding to the petitioner. The sewer modification and extension may also require securing easements from Nursery Lane property owners and Westchester County approval of the sewer design.

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- *Drainage/Wetland Impacts.* On its site inspection of the property, the Planning Commission noted a drainage pipe that extends from Theodore Fremd Avenue and discharges stormwater runoff from this roadway onto the site. It appears that this runoff has created what may be considered a wetland under the City's Wetlands and Watercourses Law¹. The proposed development appears that it will result in the wetland loss of a relatively low-functioning wetland and require a drainage plan to replace the stormwater quantity and quality functions of this on-site wetland. If the area is considered a wetland a wetland permit from the Planning Commission will be required as part of a future site plan review process.
- *Municipal Services.* The existing property is County-owned and therefore generates no property tax revenue. The proposed zoning change to allow senior development will generate tax revenue based on the income approach (as opposed to the value of construction approach used for single-family residences). The income approach would be based on the total value of the below market rents after project completion. Since the project is age-restricted there will be no school-age children costs. There would be City expenditures for some municipal services including for sanitation, emergency medical, police, fire and recreation services.
- *Community Character and Aesthetics.* The proposed RA-5 District with a floor area ratio (FAR) of 1.0 would result in development at a greater intensity than the existing B-6 (FAR 0.75) District and B-1 (FAR 0.5) District currently on the property. Existing zoning permits buildings at or close to the same overall 40-foot building height as the proposed RA-5 District. Existing zoning is limited to commercial/general business, which is consistent with existing commercial and transportation uses abutting the site, but potentially inconsistent with the single-family residential character across the street. Overall, the bulk and scale of development under the proposed RA-5 District would likely be greater than development under existing zoning for the site, but not necessarily inconsistent with the character of the surrounding area. Reducing the scale of the building is complicated by the restriction that there can be no units located on the ground level due to the sub-surface contamination on the site. The lowest floor will be used for parking, which counts as a story under the City's Zoning Code but not towards the maximum permitted floor area since the parking is not enclosed.
- *Traffic.* The proposed RA-5 District would generate additional traffic associated with a future senior housing project. The relatively low anticipated trip generation would not adversely impact the relatively high intersection levels of service (LOS). The ITE Trip Generation Manual (ninth edition) provides trip generation

¹ Question 13 of the petitioner's EAF indicates that there are no wetlands on the property. This petitioner should provide additional information supporting this conclusion.

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rates for two different types of senior housing units. The following was calculated by Brian Dempsey (Traffic and Pedestrian Safety Chair and NYS licensed traffic engineer) assuming a 60-unit senior housing development:

Senior Adult Housing Detached: Land Use 251

- Peak AM Hour of Adjacent Street: ranges from 5 in and 8 out to 14 in and 26 out
- Peak PM Hour of Adjacent Street: ranges from 10 in and 6 out to 19 in and 12 out
- Peak AM Hour of Generator: ranges from 7 in and 10 out to 15 in and 20 out
- Peak PM Hour of Generator: ranges from 11 in and 9 out to 31 in and 24 out
- Saturday Peak Hour of Generator: 7 in and 7 out (limited studies)

Senior Adult Housing Attached: Land Use 252

- Peak AM Hour of Adjacent Street: ranges from 4 in and 8 out to 4 in and 8 out
- Peak PM Hour of Adjacent Street: ranges from 8 in and 7 out to 9 in and 7 out
- Peak AM Hour of Generator: ranges from 11 in and 12 out to 11 in and 13 out
- Peak PM Hour of Generator: ranges from 10 in and 9 out to 12 in and 9 out
- Saturday Peak Hour of Generator: 11 in and 8 out (limited studies)

A recent traffic study conducted in connection with the sustainable Playland proposal shows that the Theodore Fremd Avenue/North Street intersection operates at the highest levels of service (i.e. "A" or "B"). This level of service is maintained in a 2016 future "build" scenario in the event the sustainable Playland project moves forward. It is also noted that the property is located along an existing bus route, which could potentially reduce trip generation. Given the relatively low trip generation rates associated with senior housing and existing intersection level of service adverse traffic impacts are not anticipated with the proposed change to the RA-5 District.

- *Reduction in Impacts.* As with any project potential impacts can be reduced or minimized by either the implementation of mitigation measures or the reduction in project scope. In considering impacts, the City Council should be mindful of the fact that the proposed RA-5 District requires that future development be affordable senior housing so project and off-site improvement costs and density are a significant consideration to make such projects economically viable, particularly given the incomes proposed to be served. The RA-5 District provides for a reasonable future development intensity that can create the opportunity to advance the City's affordable housing objectives.

City of Rye, New York



Zoning Districts - Theodore Fremd Area



At a regular meeting of the City Council held March 30, 2005, Councilwoman Larr made a motion, seconded by Mayor Otis and Councilman Chu, to adopt the following resolution:

WHEREAS, The Rye Commission on Human Rights commissioned a survey in 2003 to ascertain existing and projected affordable housing needs for residents and those who serve the community; and

WHEREAS, the survey was conducted during the summer of 2004 and the results presented to the Council at it's regular meeting held March 9, 2005; and

WHEREAS, the Chairman of the Rye Commission on Human Rights made a request to the Council that it take action on several specific recommendations; now, therefore, be it

RESOLVED, that the Council strongly and unequivocally restates its interest in using the Theodore Fremd and North Street site, currently owned by the County, but in a state of contamination, to create 24 affordable housing units; and be it further

RESOLVED, that the Council urges the County to develop a complete and quick remediation plan for the Theodore Fremd and North Street site, and be it further

RESOLVED, that the City Manager urge the State Department of Environmental Conservation (DEC) to move meaningfully and expediently to develop a plan to decontaminate the Theodore Fremd and North Street site, and be it further

RESOLVED, that the Planning Commission specifically address the need for affordable housing among City employees, volunteer fire fighters and public and private school employees, as made clear from the response to the survey.

ROLL CALL:

AYES: Mayor Otis, Councilmen Chu, Cypher, Fahey, Larr and Seitz

NAYS: None

ABSENT: Councilman Hennes

STATE OF NEW YORK)

COUNTY OF WESTCHESTER)

CITY OF RYE)

THIS IS TO CERTIFY that I have compared the foregoing resolution with the original thereof, duly passed and adopted at a regular meeting of the Council of the City of Rye held on the 30th of March, 2005 by the affirmative vote of at least a majority of all members of said Council then in office, present and voting thereon, the vote upon passage thereof having been taken by recording the ayes and nays and duly entered in the minutes of said meeting of said Council and on file in this office, and **I DO HEREBY CERTIFY** said resolution to be a correct transcript thereof and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the official seal of the City of Rye this 16th day of January 2016.

SEAL

Dawn F. Nodarse
DAWN F. NODARSE
CITY CLERK



Robert P. Astorino
County Executive

August 9, 2013

Mr. Louis Larizza
211 South Ridge Street
Rye Brook, New York 10573

**Subject: Proposed Theodore Fremd Senior Housing Development
 150 North Street, Rye New York**

Dear Mr. Larizza:

Please allow this correspondence to serve as formal authorization from the County of Westchester (the "County") for you to seek all necessary approvals from the City of Rye, New York (the "City") for the development of approximately twenty-five (25) to fifty (50) affordable affirmatively furthering fair housing units (the "AFFH Units") on the County-owned property located at 150 North Street in Rye, New York (the "Proposed Development").

At this time, it is anticipated that the AFFH Units will be available for seniors earning at or below 50% and 60% of the Westchester County Area Median Income for fifty (50) years. These AFFH Units are expected to further the County's efforts to create new fair and affordable housing units under the 2009 lawsuit titled *United States of America ex rel. Anti-Discrimination Center of Metro New York, Inc. v. Westchester County, New York*.

Please note, that upon receipt of all approvals from the City, the Development and any related County funding shall be subject to all necessary County approvals, including but not limited to, approvals from the County Board of Legislators, and from the County's Board of Acquisition and Contract. Further be advised that the County makes no commitment for funding at this time, and all costs incurred in connection with the Proposed Development and any required local approvals shall be your sole responsibility, whether or not said approvals are ultimately granted by the City, whether or not the County grants or denies any necessary or related approvals, or if the County, in its sole discretion, determines not to proceed with or fund the Proposed Development. This letter shall not bind the County in any respect.

Please also be aware that, although formal plans have not yet been reviewed by the County that the Proposed Development must be consistent with Westchester County affordable housing policies and guiding principles:



- It will be compliant with the Westchester County Consolidated Plan submitted to HUD for the Westchester Urban County Consortium, of which the City of Rye is a member.
- It will be consistent with and reinforce *Westchester 2025 – Policies to Guide County Planning*, the County Planning Board’s adopted long-range land use and development policies, by contributing to the development of “a range of housing types” affordable to all income levels and by channeling development to centers where infrastructure can support growth and where public transportation can be provided.
- As noted above, it will consistent with the housing settlement reached in the case of *United States of America ex rel. Anti-Discrimination Center of Metro New York, Inc. v. Westchester County, New York* and will contribute toward the County’s requirement to ensure the development of seven hundred fifty (750) new affordable affirmatively furthering fair housing units in communities that meet certain demographic criteria.

We are available to discuss any questions you may have regarding this authorization and look forward to reviewing your proposal.

Sincerely,



Kevin J. Plunkett
Deputy County Executive

cc: Mary Mahon, Esq., Special Assistant to the County Executive
Robert F. Meehan, Esq., County Attorney
Edward Buroughs, AICP, Commissioner of Planning

Christian K. Miller, AICP
City Planner
1051 Boston Post Road
Rye, New York 10580



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CITY OF RYE
Department of Planning

CONFIDENTIAL – Memorandum

To: Scott Pickup, City Manager

From: Christian K. Miller, AICP, City Planner

cc: Kristen K. Wilson, Esq., Corporation Counsel

Date: June 14, 2013

Subject: **Summary of Meeting with Westchester County to discuss the Potential Development of Affordable Housing at County-owned Property located on Theodore Fremd Avenue near the Intersection of North Street.**

As requested, this memorandum provides a summary of our meeting today with Westchester County officials regarding the potential development of affordable housing at the approximately 2.07-acre County-owned property located on Theodore Fremd Avenue near the intersection of North Street. The meeting was requested by Westchester County and was held at the County Executive's Office. For approximately 20 years the City has advocated for the development of affordable housing at this location and has periodically had meetings with the County to discuss development possibilities.

Today's meeting was attended by the Mayor, Laura Brett, you and I as representatives from the City. From the County were representatives from the County Executive's office (Kevin Plunkett and Mary Mahon), Planning Department (Commissioner Ed Burroughs and Norma Drummond) and a representative from the County Attorneys office. Also in attendance was Lou Larriza who may be the County's preferred developer for the potential development of the site.

Summary

- *Sub-surface Environmental Conditions.* NYSDEC continues to monitor the site for the status of the environmental contaminants on the site. The last test was conducted in 2011 showed elevated levels from previous tests, but that additional tests are at the discretion of NYSDEC. The City requested that additional tests

Summary of Meeting with Westchester County

June 14, 2013

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be conducted and that it preferred that the site be clean before development occurs. Ms. Drummond stated that the County Health Department is not concerned with potential future housing development on the property provided that there is no enclosed habitable space below grade or on the first floor. The City was advised that there is currently no on-going remediation on the property.

- *Development and Land Use Review Process.* The County stated that it would select a preferred developer for the development of housing on the property. The County stated that the City would not need to be in the chain of title for the property and would not need to select a developer or eligible not-for-profit to develop the property. The City would act as it does for all land use applications, including former affordable housing applications on Cottage Street, by requiring approvals from all relevant City land use boards. As with the applications on Cottage Street, the City noted that the property is not currently zoned for the proposed development and that changes in the zoning code or variances would be required. The County understands that the City has local land use authority.
- *Development Scenario.* Mr. Larriza discussed his development concept for the site. He stated that he is seeking 48 units of senior (i.e. age 55 and over) housing on the property. The number of units is dictated by the desire to use tax credit financing for the property, which limits household income to 50% and 60% of Area Median Income (AMI). He stated that the unit mix would be one- and two-bedroom units. The project would total approximately 50,000 square feet within two 4- or 5-story buildings on the rear half of the 2.07-acre property. Parking would be located at grade level under the building to comply with the Health Department requirement that there be no habitable space below grade or on the first floor.

The County stated that County infrastructure bond money would also be used to assist with the project funding. The County confirmed that the proposed senior tax credit units would count towards the 750-unit obligation under the Housing Settlement. The County stated that only 187 out of the 750 units can be senior and that Rye would be using the last of that limited allocation.

- *Next Steps.* The County will complete its process to select a preferred developer and the City can expect an application for affordable housing development potentially in the fall. At that point, or sooner if it desires, the City will need to undertake a zoning analysis and determine what, if any, land use modifications it would like to implement to accommodate affordable development on this or potentially other properties in the City.

Robert P. Astorino
County Executive

County Planning Board

January 30, 2014

Christian K. Miller, City Planner
Rye City Planning Department
1051 Boston Post Road
Rye, NY 10580

**Subject: Referral File No. RYC 14 - 001 – The Courtyard at Theodore Fremd
Zoning Map Amendment and Site Plan
Lead Agency**

Dear Mr. Miller:

The Westchester County Planning Board has received a notice of intent to serve as Lead Agency pursuant to the NYS Environmental Quality Review Act (SEQR), as well as a one-sheet preliminary site plan (dated December 9, 2013) and related materials for the above referenced application. The applicants are petitioning the City to rezone a 2.08-acre site, currently owned by Westchester County with frontage on Theodore Fremd Avenue (County Road 54) and North Street (County Road 73), from B-6 General Business and B-1 Neighborhood Business to RA-5 Senior Citizens Apartment District. The zone change would permit the development of up to 58 units of housing on the site. If successfully rezoned, the applicant intends to apply for a site plan approval to construct a 54-unit apartment building with 95 parking spaces. All of the proposed units would be age-restricted to seniors over the age of 55 and would be affordable affirmatively furthering fair housing (AFFH) units. The unit mix would consist of 44 one-bedroom units and 10 two-bedroom units.


We have no objection to the Rye City Council assuming Lead Agency status for this review. Since this proposal involves the disposition of County-owned land as well as potential funding administered by Westchester County, we recommend that the County Board of Legislators be included as an Involved Agency with respect to SEQR.

Because we have not received full site plans, we will reserve full comment on this matter under the provisions of Section 239 L, M and N of the General Municipal Law and Section 277.61 of the County Administrative Code for a later date. At this time we offer the following preliminary comment:

Fair and affordable housing – development of affordable AFFH units. We support the concept of this proposal as it will add to the supply of affordable AFFH units in Westchester County. We look forward to working with both the City and the applicant as this application moves forward. We recommend that the applicant consider adding an apartment within the proposed building for a building superintendant, which is typical for a development of this size.

Thank you for calling this matter to our attention.

Respectfully,
WESTCHESTER COUNTY PLANNING BOARD

For:
By: 
Edward Burroughs, AICP
Commissioner

EEB/LH

622 STILES AVENUE MAMARONECK, NEW YORK 10543 TEL 914-698-8207 FAX 914-698-8208
chnarch@yahoo.com

Clark Neuringer Architect

CONNECTICUT
DELAWARE
FLORIDA
MARYLAND
NEW YORK

December 10, 2013

The Honorable Mayor Douglas French
Members of the City Council
Rye City Hall
1051 Boston Post Road
Rye, New York 10580

Re: Proposed Zoning Amendment;
The Courtyard at Theodore Fremd

Dear Mayor French and Members of the City Council,

On behalf of our client, Lazz Development / Pawling Holdings, we are pleased to submit this request for an amendment to the Zoning Code of the City of Rye with respect to a proposed fifty four (54) unit rental development located at the corner of Theodore Fremd Avenue and North Street, adjacent to the existing Con Edison operations and equipment facility. The proposed development will advance a long-term planning objective of the City to provide affordable housing on this Westchester County-owned property. The proposed development would consist of 44 one-bedroom units and 10 two-bedroom units all of which will be restricted to those over age 55.

The approximately 2.1-acre property is currently within both the B-6 General Business District and B-1 Neighborhood Business District. Our proposal is to re-zone the entire property to the RA-5 Senior Citizen's Apartment District, which is the same district adopted by the City Council in the 1980s to provide for the construction of the approximately 100 units of senior affordable housing at 300 Theall Road. Current uses permitted within the B-6 District are limited to light manufacturing; garages, parking lots, and filling stations; small boat facilities; and kennels and veterinary hospitals. The portion of the property located in the B-1 District allows for business, professional office, retail, single-family dwellings and two-family residences.

The Honorable Douglas French
Page 2
December 10, 2013

Multi-family is not currently permitted in either district. We respectfully request that the City Council amend the Zoning Map to change the zoning district classification of this property to the RA-5 Senior Citizens Apartment District.

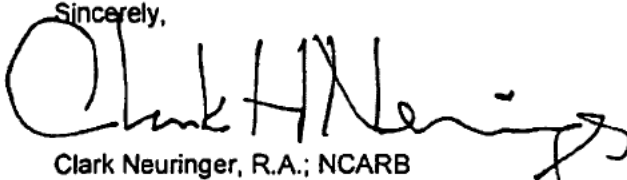
Our proposed senior citizen residential development meets or exceeds the requirements of the RA-5 District and would be a beneficial addition to the City in general and to the particular neighborhood. Our proposal represents a lower intensity of use of the property compared to what could be developed under the current limited zoning. Even under the RA-5 District requirements, our proposed residential development has several distinct positive attributes as follows:

- Area of the lot is more than double the size of minimum required.
- Total amount of buildable floor area proposed to be constructed is 17% less than permitted.
- Total amount of parking proposed is almost seven times more than minimum required.
- Total amount of open space proposed is more than double amount required.

As a result, the requested amendment would allow a residential development that would act as a transition between existing residential uses to the south and commercial uses otherwise surrounding the property. The design of our proposed site development results in a separation between the closest existing neighborhood residential building and one of our apartment buildings of a distance in excess of approximately 250 feet. As such, there would be no adverse impact on any of the existing residential areas to the south of the site. Compared to other uses that would be permitted on the site, we believe the proposed residential community would be a more attractive and beneficial use to the neighborhood.

We look forward to further reviews and discussions with you regarding the requested zoning amendment.

Sincerely,

A handwritten signature in black ink, appearing to read "Clark Neuringer". The signature is fluid and cursive, with a large initial "C" and a long, sweeping underline.

Clark Neuringer, R.A.; NCARB

Cc: Louis Larizza, Lazz Development // Pawling Holdings

DRAFT

Formatted: Left: 72 pt, Right: 72 pt

LOCAL LAW
CITY OF RYE NO. ____ -2014

A Local Law to Amend the “Zoning Map of the City for Rye, New York” to Change the Zoning Designation of a Property Known on the City of Rye Tax Map as Section 146.10, Block 1, Lot 66 from B-6, *General Business*, District and B-1, *Neighborhood Business*, District to RA-5, *Senior Citizens Apartment*, District.

Be it enacted by the City Council of the City of Rye as follows:

Section 1. **The Zoning Map of the City of Rye, New York is hereby amended to change the zoning district designation of a property known on the City of Rye Tax Map as Section 146.10, Block 1, Lot 66 from B-6, *General Business*, District and B-1, *Neighborhood Business*, District to RA-5, *Senior Citizens Apartment*, District.**

Section 2. **Severability**

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law that can be given effect without such invalid part or parts.

Section 3. **Effective Date**

This Local Law shall take effect immediately upon its adoption and filing with the Secretary of State.

617.20
Appendix B
Short Environmental Assessment Form

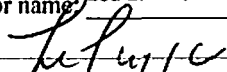
Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information							
City of Rye Affordable Senior Housing							
Name of Action or Project: The Courtyard at Theodore Fremd							
Project Location (describe, and attach a location map): Theodore Fremd Avenue and North Street, Rye, NY							
Brief Description of Proposed Action: 1. Construct 54 units of senior affordable housing units with parking areas for 95 cars on 2.08 acres in the City of Rye, NY. 2. Approval of a City of Rye zoning text amendment to permit certain residential types in the B6 (Business) zone.							
Name of Applicant or Sponsor: Pawling Holdings, LLC		Telephone: E-Mail:					
Address: 211 South Ridge Street, Suite 3R							
City/PO: Rye Brook		State: NY	Zip Code: 10573				
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">NO</td> <td style="text-align: center;">YES</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	NO	YES	<input checked="" type="checkbox"/>	<input type="checkbox"/>
NO	YES						
<input checked="" type="checkbox"/>	<input type="checkbox"/>						
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: City of Rye Planning Commission, City of Rye Council, the Home Fund, HIF, AHC agencies, County of Westchester DPW			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">NO</td> <td style="text-align: center;">YES</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </table>	NO	YES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
NO	YES						
<input type="checkbox"/>	<input checked="" type="checkbox"/>						
3.a. Total acreage of the site of the proposed action?		2.08 acres					
b. Total acreage to be physically disturbed?		2.08 acres					
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		2.08 acres					
4. Check all land uses that occur on, adjoining and near the proposed action. <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): Railroad, Interstate Highway 95 <input type="checkbox"/> Parkland							

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	N/A <input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
b. Are public transportation service(s) available at or near the site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
b. Is the proposed action located in an archeological sensitive area?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input checked="" type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
16. Is the project site located in the 100 year flood plain?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____ Existing Culvert beneath Metro North Rail Lines	<input type="checkbox"/> NO <input checked="" type="checkbox"/> YES		

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ Three subsurface detention vaults to be constructed beneath the parking areas. Size is generally 1000 square feet per system. The purpose is to limit flows to current levels.	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ NYS DEC database has no record of remediation 1978 to present.	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <u>Lou Larizza</u> Date: <u>11/6/2013</u> Signature: <u></u>		

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing: a. public / private water supplies?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. public / private wastewater treatment utilities?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

2. The project will increase the intensity of use since the development of 54 apartments for seniors will occur on vacant land. Mitigation is proposed by providing sufficient stormwater controls to prevent flooding, and water quality treatment to reduce impacts to water courses. Traffic mitigation is considered to be mitigated by limiting occupancy to an over-55 years age group. Excess on-site parking is provided to eliminate off-street parking impacts. The site is on the County Bus route which affords opportunity to mitigate traffic. New local street sidewalks to be constructed will also help to mitigate traffic. The proposed landscaping, consisting of landscaped buffers, new trees, shrubs and decorative fencing throughout, will mitigate visual impacts. An erosion control plan in conformance with the NYS Stormwater Design Manual will be used to offset temporary impacts of erosion.

7a. Water supply: The water demand for the project of 54 units with average of a two-person occupancy is about 10,800 gallons per day. United Water Westchester provides 7.6 million gallons per day and the increase is nominal due to this project and should not impact the facilities. Mitigation of water use is provided in limiting the occupancy to an over-55 age group.

7b. Wastewater Treatment: The project is in the County's Blind Brook Sewer District and sewage flow will be treated at the Blind Brook Treatment Plant which has a capacity of 5 mgd and is currently operating at 3.3 mgd. City-owned sewers at the site are adequately sized to handle the increased flow from this project. Therefore, given the reduced water use and in turn sewage generation, the project should not adversely impact these facilities.

Long term impacts are the same as short term impacts described above.

Cumulative impacts of the development are limited due to the lack of other new projects of this type in the area.

<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
<div> <div>Name of Lead Agency</div> <div>Date</div> </div>	
<div> <div>Print or Type Name of Responsible Officer in Lead Agency</div> <div>Title of Responsible Officer</div> </div>	
<div> <div>Signature of Responsible Officer in Lead Agency</div> <div>Signature of Preparer (if different from Responsible Officer)</div> </div>	

PRINT



CITY COUNCIL AGENDA

NO. 8

DEPT.: City Manager

DATE: May 7, 2014

CONTACT: Frank J. Culross, City Manager

AGENDA ITEM: Appeal of denial of FOIL request by Liz Button.

FOR THE MEETING OF:

May 7, 2014

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That the Council make a decision on the FOIL appeal.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

BACKGROUND: The requestor submitted a FOIL request seeking "Any and all documents related to work performance reviews for Scott Pickup in his position as City Manager starting in 2010." The requestor was informed by the FOIL Records Access Officer that "One document exists that is responsive to your request but it is exempt under POL §87(2)(b)." The requestor is appealing this decision.

See attached documentation.

Work Order Form

Tracking Number: 7279421547

Date Time Received: 4/17/2014 3:47PM Created By: Liz Button (Citizen)

First Name: Liz Last Name: Button Business Name:

Email: liz@hometwn.com

Daytime Phone: (914) 653-1000

Fax:

Address: 200 William Street

City: Port Chester

State: NY Zip: 10573

Country:

Work Order Form

Street:

Unit:

City: Rye

State: NY

Zip: 10580

Comments:

Is this a request for commercial purposes?

No

Describe records being sought - One request per submission.

Any and all documents related to work performance reviews for Scott Pickup in his position as City Manager starting in 2010.

Please indicate your preference:

Electronic Copies

Please note, if more than two hours are spent in preparing records, the requestor will be charged for the additional time at the hourly rate of the lowest paid employee who has the skill level required to accomplish the task. You will be informed of any charges exceeding \$10.00. Any charges due must be paid within five (5) business days of the City notifying you. If you fail to pay fees from prior FOILs, any future FOIL requests will not be processed until all outstanding fees are paid. By submitting this request, I agree to pay costs related to this FOIL request up to \$10 without further notification.

-----Note to Citizen: One document exists that is responsive to your request but it is exempt under POL §87(2)(b). If you

Tracking Number: 7279421547

Date Time Received: 4/17/2014 3:47PM Created By: Liz Button (Citizen)

Work Order Form

wish to appeal this denial you may do so by directing your appeal to the City Council by way of the City Clerk.

-----Internal Note: This FOIL is complete.