

RESOLUTION APPROVING, WITH CONDITIONS, A SITE PLAN APPLICATION BY LEWIS MASTERS HOLDINGS, LP, FOR PROPERTY LOCATED AT 320 SAW MILL RIVER ROAD (P.O. ELMSFORD)

WHEREAS, on April 15, 2019, the Town Board of the Town of Greenburgh (the “Town Board”) received an application for site plan approval and related applications from Lewis Masters Holdings, LP, (the “Applicant”) for a project consisting of the demolition of an existing approximately 42,000 sq. ft. multiplex cinema and a separate multi-level retail building, and the construction of a new approximately 75,711 sq. ft. ShopRite grocery store with an accessory interior restaurant space, together with approximately 10,765 sq. ft. of attached separate retail space, an approximately 3,000 sq. ft. retail outbuilding towards the front of the lot, and associated site grading, parking, stormwater management facilities, and related amenities; and

WHEREAS, the site is located at 320 Saw Mill River Road, P.O. Elmsford, in the DS Designed Shopping District, is approximately 458,437 sq. ft. (10.52 acres), and is designated on the tax assessment map of the Town of Greenburgh as Parcel ID: 7.120-19-25; and

WHEREAS, the project requires the following local Land-Use Board approvals: site plan (Town Board approval – referral to Planning Board), Planning Board Steep Slope Permit and Shared Parking Reduction, Special Permit (Zoning Board of Appeals - Restaurant), Tree Removal Permit (Town Forestry Officer approval); and

WHEREAS, the Application includes a Full Environmental Assessment Form (the “EAF”) signed by the Applicant’s Representative (Marjorie Zeidner), dated April 11, 2019, together with supplemental information; and

WHEREAS, pursuant to Section 285-53A of the Zoning Ordinance, the Town Board shall be the approving agency where a site plan application, and all amendments to, and modifications thereof, concern property which is five (5) acres or more in area; and

WHEREAS, Section 285-58D(3) of the Zoning Ordinance requires that the Town Board refer the amended site plan application to the Planning Board for a recommendation before a public hearing is held on the application by the Town Board; and

WHEREAS, on October 5, 2019, the Town Board held a duly noticed public site walk, attended by Town Board members, the Applicant, Planning Board members, Town staff, the Town’s traffic consultant for this project, and members of the public; and

WHEREAS, on October 23, 2019, the Town Board adopted Resolution CD-8 – 10/23/19, (1) declaring its intent to act as Lead Agency for the SEQRA review of the Site Plan application and all related actions; and (2) referred the Site Plan application to the Planning Board for review and recommendation; and

WHEREAS, on, November 6, 2019, November 20, 2019, and March 4, 2020, the Applicant appeared before the Planning Board at regularly scheduled work sessions and presented the proposed project; and

WHEREAS, on January 2, 2020 and February 5, 2020, the Planning Board held duly noticed public discussions on the site plan application, and public hearings on the Planning Board steep slope permit application, and heard all persons interested in the subject thereof who appeared at such time and place, concerning the same; and

WHEREAS, on March 4, 2020, the Planning Board, at its regularly scheduled work session, unanimously voted to make a favorable recommendation to the Town Board on the site plan application; and

WHEREAS, on March 11, 2020, the Town Board held a duly noticed public hearing on the site plan application, and heard all persons interested in the subject thereof who appeared at such time and place, concerning the same; and

WHEREAS, on March 11, 2020, the Town Board closed the public hearing as it relates to SEQRA review, and kept the written record open until Friday, March 20, 2020, and adjourned the public hearing related to the site plan application until April 22, 2020; and

WHEREAS, the Town Board conducted a coordinated SEQRA review (Planning Board – Involved Agency, New York State Department of Transportation – Involved Agency, Zoning Board of Appeals – Involved Agency; Westchester County – Interested Agency, New York State Department of Environmental Conservation – Interested Agency) and analysis of the entire record, studying and documenting the potential environmental impacts associated with the proposed action, and on March 25, 2020, in connection with adopted Resolution CD-1 – 03/25/2020, made a Negative Declaration with respect to SEQRA; and

WHEREAS, on April 1, 2020, the Applicant appeared before the Planning Board at a regularly scheduled work session and presented the Shared Parking Reduction aspect of the proposed project; and

WHEREAS, on April 1, 2020, the Planning Board, at its regularly scheduled work session, unanimously granted approval for a shared parking reduction of twenty five (25) spaces, from 544 (required) to 519 (approved); and

WHEREAS, on April 22, 2020, the Town Board continued and then closed the public hearing, which was held online via Zoom-enabled video conference and simulcast on the Town’s Website and Cable Access television channels as it relates to site plan review, and kept the written record open until Wednesday, April 29, 2020; and

WHEREAS, the Town Board carefully reviewed and thoroughly considered the application, the Planning Board recommendation, and all comments of Town professional staff, its traffic consultant for the project, the public, County Planning, New York State Department of Transportation, and the Applicant;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Greenburgh hereby approves, with conditions, the application as depicted in the site plan drawings listed below; and

BE IT FURTHER RESOLVED, that this approval is subject to compliance with all of the following conditions:

1. GENERAL REQUIREMENTS

- 1.1. That all improvements in streets and public places and depicted on such plans, including grading and paving where required, and that street names, traffic signs, street lighting, curbs, gutters, suitable monuments, water mains, storm drains, sanitary facilities, trees and public facilities and places shall be installed in accordance with the latest standards and specifications and procedures in force and acceptable to the appropriate Town Departments at the time of approval and further in accordance with any new standards and specifications in

force at the time work is started and in accordance with the approved plan. To the extent required, any public improvements shall be dedicated to the appropriate municipality and all requirements for such dedication shall be complied with.

2. SPECIAL REQUIREMENTS AND MODIFICATIONS

- 2.1. The site plan approval shall be valid for a period of thirty-six (36) months (May 13, 2023) from the date of such approval (May 13, 2020) unless a longer period of time is granted by the approving agency for cause shown. If there is no substantial change in the condition of the site and/or environs, site plan approval may be extended by the approving agency for cause shown.
- 2.2. The Applicant must adhere to all requirements of the Town Engineer before and/or during construction.
- 2.3. Prior to any land disturbance/tree cutting/construction or any work performed on the site, the Applicant must attend a pre-construction meeting with Town Staff (including the Town Forestry Officer, Building Inspector, Town Engineer and Town Planner) to discuss the conditions set forth in this permit.
- 2.4. The Applicant must obtain all necessary approvals and file same with the Building Department.
- 2.5. The contractor must separate and recycle all construction debris prior to disposal at the appropriate facilities.
- 2.6. The Applicant shall be responsible for the proper removal, disposal, or abandonment, where applicable, of any existing subsurface structures (i.e. oil tanks, fields, etc.), their contents and any remedial measures that may be required. The Applicant must obtain any necessary approvals from the New York State Department of Environmental Conservation (NYSDEC) and/or Westchester County Department of Health, and/or other applicable agencies.
- 2.7. All proposed exterior lighting must be downcast and constructed and/or retrofitted in accordance with Chapter 240 Sign and Illumination Law. The Applicant must install LED and motion activated lighting in connection with all new lighting.
- 2.8. The Applicant must design and install a sidewalk along the frontage of Old Country Road on the site, and extending to the neighboring Westchester Hills Condominium property to the east, connecting to the Condominium's westernmost driveway subject to approval of a Town of Greenburgh Roadway Opening Permit through the Department of Public Works, consistent with the plan entitled "Site Layout Plan," Sheet 2.11, dated 4/12/19, revised 5/12/20, and prepared by Kevin Solli, P.E., NYS Lic. No. 092156-1 and those listed in Section 13 of this approval.
- 2.9. The Applicant must design and install a sidewalk connection from the subject property to the neighboring Town of Greenburgh parkland (Pocantico Park) site, providing enhanced pedestrian access to the Greenburgh Housing Authority residential property to the north and enhanced access to the Park, subject to applicable Town of Greenburgh Building Department, and/or Bureau of Engineering, and/or Department of Public Works approvals, consistent with the plan entitled "Site Layout Plan," Sheet 2.11, dated 4/12/19, revised 5/12/20, and prepared by Kevin Solli, P.E., NYS Lic. No. 092156-1 and those listed in Section 13 of this approval.
- 2.10. The Applicant must design and install a modifications to Old Country Road, including but not limited to mountable curbs (northeast and southeast corner of Old Country Road/Saw Mill River Road), shifting of the lanes and related striping), subject to approval of a Town of Greenburgh Roadway Opening Permit through the Department of Public Works, consistent with the plan entitled "Site Layout Plan," Sheet 2.11, dated 4/12/19, revised 5/12/20, and prepared by Kevin Solli, P.E., NYS Lic. No. 092156-1 and those listed in Section 13 of this approval.
- 2.11. The Applicant must design and install public improvements, including, but not limited to, wayfinding signs and updated bus stop, traffic signal modifications (Saw Mill River Road/site entrance; and Old Country Road/Saw Mill River Road), mountable curbs (northeast and southeast corner of Old Country Road/Saw Mill River Road), within the NYSDOT right-of-way, in coordination with the Westchester County Department of Transportation and NYSDOT, subject to a highway work permit issued by the NYSDOT, consistent with the plan entitled "Site Layout Plan," Sheet 2.11, dated 4/12/19, revised 5/12/20, and prepared

by Kevin Solli, P.E., NYS Lic. No. 092156-1 and those listed in Section 13 of this approval.

- 2.12. The Old Country Road entrance/exit shall be designed (curbing, bollards and signage) to the satisfaction of the Town to allow left-in only vehicular movements and right-out only movements for all vehicular traffic, and is angled in such a way as to reduce the potential for headlight glare to impact adjacent residential neighbors to the south of the site. The Applicant must construct the driveway at this location accordingly and consistent with the plan entitled "Site Layout Plan," Sheet 2.11, dated 4/12/19, revised 5/12/20, and prepared by Kevin Solli, P.E., NYS Lic. No. 092156-1 and those listed in Section 13 of this approval, subject to approval of a Town of Greenburgh Roadway Opening Permit through the Department of Public Works.
- 2.13. With respect to residential homes to the south of the site, the Applicant has offered to and shall plant additional evergreen screening to further reduce potential headlight glare and/or noise, in the rear yards of select properties backing up to/fronting on Old Country Road [300 Saw Mill River Road (Parcel ID: 7.190-60-23); 13 Orchard Lane (Parcel ID: 7.190-60-22); 15 Orchard Lane (Parcel ID 7.190-60-21); 17 Orchard Lane (Parcel ID 7.190-60-20); and 19 Orchard Lane (Parcel ID 7.190-60-20)] if permitted by the respective property owner; and/or plant additional evergreen screening within adjacent Town right-of-way areas of old Country Road, under the coordination and to the satisfaction of the Town Forestry Officer.
- 2.14. With respect to residential homes to the south of the site, the Applicant has offered to and shall repair existing fencing as applicable, to further reduce potential headlight glare and/or noise in the rear yards of select properties backing up to/fronting on Old Country Road [300 Saw Mill River Road (Parcel ID: 7.190-60-23); 13 Orchard Lane (Parcel ID: 7.190-60-22); 15 Orchard Lane (Parcel ID 7.190-60-21); 17 Orchard Lane (Parcel ID 7.190-60-20); and 19 Orchard Lane (Parcel ID 7.190-60-20)] if permitted by the respective property owner, and in coordination with the Commissioner of the Department of Community Development and Conservation.
- 2.15. Truck deliveries to the site and store are restricted to operation between 7:30 a.m. and 8:30 p.m. Monday to Saturday and between 10:00 a.m. and 4:00 p.m. on Sundays. All deliveries to the store and the adjoining approximately 10,765 sq. ft. separate retail space must be made by vehicles using the rear of the building (i.e., no deliveries will be permitted from the parking areas provided in the front of the stores). The Applicant must pay for the cost of additional or updated signage regarding existing prohibitions of thru-traffic for commercial vehicles on Old Country Road, in consultation with the Commissioner of the Department of Public Works.
- 2.16. If deemed appropriate by the Commissioner of the Department of Public Works, the Applicant must install guiderails along the south side of Old Country Road in the Town right-of-way, across from the location of the approved driveway on Old Country Road, west to the intersection of Saw Mill River Road.
- 2.17. Trash compactor hours are restricted to operation between 7:30am – 7:00pm, Monday through Friday, and from 10:00am – 6:00pm on Saturday and Sunday. The Applicant must install noise attenuation barriers on the roof to eliminate any increase over ambient noise levels.
- 2.18. The Applicant shall design and install a monitoring system, in coordination with input from the Town's Department of Public Works and the Town's Police Department, to be monitored after installation by the Town, to track the prevalence of unauthorized trucks bypassing the Site on and along Old Country Road and exiting onto Grasslands Road, as compared to conditions prior to the site's redevelopment, to aid future Town enforcement of illegal truck movements.
- 2.19. For construction purposes, the Applicant must use the existing main Saw Mill River Road driveway, and only that driveway, until it is no longer feasible to exclusively use that driveway to continue the improvements to the site. Old Country Road shall not be made accessible to any construction vehicles until after building demolition activities are complete.

- 2.20. The Applicant must install seventeen handicapped accessible parking spaces at the site, consistent with the plan entitled "Site Layout Plan," Sheet 2.11, dated 4/12/19, revised 5/12/20, and prepared by Kevin Solli, P.E., NYS Lic. No. 092156-1 and those listed in Section 13 of this approval.
- 2.21. The Applicant must incorporate the following sustainable components of the project: bicycle storage racks are proposed in multiple locations throughout the site; implementation of heat island reduction measures which will include, planting of shade trees within paved areas and a white membrane roof to reduce energy consumption; light pollution prevention through the implementation of full cutoff, shielded fixtures; utilization of a daylight harvesting system by integrating dimmable lamps thus reducing energy consumption; in sales areas, provide controls that can reduce the ambient light levels to a midlevel (30% to 70% of the maximum illumination level); utilization of LED's for interior and exterior lighting fixtures. LED technology can provide a 52% more energy efficient operation than fluorescent illumination; Develop and implement an indoor air quality (IAQ) management plan for the construction and preoccupancy phases of the building; utilization of enhanced indoor air quality strategies by mechanically and naturally ventilating spaces through implementation of filtration systems, entryway systems and carbon dioxide monitoring.
- 2.22. A copy of the plans submitted in connection with the Building Permit Application shall also be sent to the Elmsford Fire Department for review.

3. IMPROVEMENT PLAN

- 3.1. All improvements shall conform to the plan entitled, "Cover Sheet," sheet 0.00, dated 4/12/19, revised 5/12/20, and prepared by Kevin Solli, P.E., NYS Lic. No. 092156-1 and those listed in Section 13 of this approval.

4. GRADING PLAN

- 4.1. All grading shall conform to the plan entitled "Grading and Drainage Plan," Sheet 2.21, dated 4/12/19, revised 5/12/20, and prepared by Kevin Solli, P.E., NYS Lic. No. 092156-1, and those listed in Section 13 of this approval.
- 4.2. The soil generated by excavation operations needs to be properly stockpiled in accordance with the Blue Book ("Erosion and Sediment Control Plan for Small Homesite Construction"). Stockpiled soil during construction should be managed in accordance with the Blue Book, based on figures therein that reflects conditions on the site. This should involve silt fencing properly placed completely around the stockpile. As necessary, consideration should be given to an impermeable tarp to cover the stockpile. After grading and backfilling is complete, the Applicant has two (2) days to remove excess soil from the site.

5. DRAINAGE

- 5.1. Drainage facilities shall be in accordance with Town of Greenburgh Department of Public Works directive both for temporary work during construction and for permanent installation. Prior to the commencement of any site work, the Applicant must demonstrate, to the satisfaction of the Town Engineer, that adequate drainage improvements will be made to insure on site accommodation of any increased run-off. The implementation and installation of such improvements shall be subject to the approval of the Town Engineer. All drainage improvements shall conform to the plans listed in Section 13 of this approval, and consistent with the Stormwater Pollution Prevention Plan, dated June 13, 2019, last revised May 1, 2020.
- 5.2. As a small portion of the site is located within the Saw Mill River floodplain, the project requires a Floodplain Development Permit from the Town Engineer, which must precede the issuance of a Building Permit.

6. UTILITIES

- 6.1. All utilities and utility service lines must be shown on the plan. The type and location shall be subject to the approval of the Bureau of Engineering and the Commissioner, Department of Community Development and Conservation. All utility and utility services lines must be installed as shown on the plans listed in Section 13 of this approval.

7. **EASEMENTS**

7.1. All existing and proposed easements must be shown on the plan. Easements for public improvements shall be subject to the approval of the Bureau of Engineering, the Commissioner, Department of Community Development and Conservation, and the Town Attorney.

8. **TREES REMOVAL, TREE PRESERVATION AND LANDSCAPING ON THE SITE**

Trees and other landscaping on the site shall be removed, preserved and planted in conformance with the Tree Ordinance of the Town of Greenburgh and the plan entitled "Landscape Plan," Sheet 2.61, dated 4/12/19, revised 5/12/20, and prepared by Kevin Solli, P.E., NYS Lic. No. 092156-1, the plan entitled "Tree Removal Plan," Sheet 2.62, dated 4/12/19, revised 5/12/20, and prepared by Kevin Solli, P.E., NYS Lic. No. 092156-1 and those listed in Section 13 of this approval. **The application and supporting documentation submitted by the Applicant for the issuance of a Tree Removal Permit meets the requirements of Town Code Chapter 260, subject to the following conditions:**

8.1. **No tree removal activities shall commence until a pre-construction meeting is held with Town staff and a physical tree removal permit is issued by the Town Forestry Officer.**

8.2. The Applicant has clearly identified the trees to be removed on the approved plan. All such trees approved for removal must be tagged with orange ribbon or approved equivalent, and the Town Forestry Officer, or designee, must inspect such trees at the project site prior to the commencement of any site work.

8.3. The Applicant (or successor in interest) must install orange construction fencing along the limits of disturbance/clearing prior to tree removal. The Town Forestry Officer, or designee, will verify installation of the fencing and inspect the trees approved for removal at the Project site prior to the commencement of any site work. The Applicant (or successor in interest) must mark the trees near the limits of disturbance/clearing fencing by demarcating trees to be removed with a painted "X", under supervision of the Town Forestry Officer or designee. Trees to remain and be protected must be flagged with yellow caution tape or approved equivalent. The Town Forestry Officer, or designee, will verify installation of these demarcations prior to commencement of any site work.

8.4. The Applicant (or successor in interest) will establish a tree protection zone (TPZ) around each tree to be preserved within the limits of disturbance and 30-feet beyond the limits of disturbance. This TPZ must be maintained by installation of a **chain link fence or approved equivalent**. The fence must be in place before any site work begins and must remain in place until all site work is complete. The Applicant (or successor) will be allowed to remove all approved trees within the TPZ, under the authority of the Town Forestry Officer, before the fence is installed.

8.5. Where there is to be excavation within a tree's root area but outside the TPZ, the roots must be cleanly cut with a trencher or other device inside the final excavation line. Where there is to be unavoidable excavation within a tree's root area and inside the optimum TPZ, the TPZ will need to be reduced and the roots should be cleanly cut with a trencher or other device inside the final excavation line. Roots to be cut must be under the supervision and inspection by the Town Forestry Officer. The TPZ fence should then be installed outside the root pruning line. Under no circumstances should roots be ripped by an excavator in the course of excavation. No trenching for irrigation or site lighting will be allowed in the TPZ without written approval from the appropriate Town official.

8.6. Work outside the TPZ should be conducted so as to avoid damage to the trees by either construction vehicles, or excavation, or grading. No concrete trucks or other equipment should be washed out where the contaminated water will run onto tree root systems inside or outside the TPZ. No fuels, lubricants, coolants, hydraulic fluids, etc. must be discharged on any part of the site.

8.7. Landscaping shall be installed in conformance with the plan entitled, "Landscape Plan," Sheet 2.61, dated 4/12/19, revised 5/12/20, and prepared by Kevin Solli, P.E., NYS Lic. No. 092156-1, and those listed in Section 13 of this approval. Exact planting locations shall be coordinated with the Town Forestry Officer. The species selection, size and quantity of trees to be planted have been reviewed by the Town Forestry

Officer, and have been determined to be in compliance with the requirements of Chapter 260, and, further, have been determined to be the optimal size for achieving successful establishment.

- 8.8. All trees and shrubs and other plant material shall be typical of their species and variety; have normal growth habits; well-developed branches, be densely foliated, vigorous root systems and be free from defects and injuries. Quality of planting material, spread of roots, and size of root balls shall be in accordance with ANSI Z-60 (or most recent version) 'American Standard for Nursery Stock' as published by the American Nursery and Landscape Association, Inc.
- 8.9. All plant identification tags shall remain attached to plant material until an inspection is conducted by the Town Forestry Officer. **All plant material shall be planted on the day of delivery. In the event this is not possible, the Town Forestry Officer shall be notified immediately, and the contractor shall protect all stock not planted. No plant material shall remain unplanted for longer than a three-day period after delivery. Any trees, shrubs or grasses not planted within this period will be rejected.**
- 8.10. All trees and shrubs shall be installed as per the details provided on the plan entitled, "Landscape Plan," Sheet 2.61, dated 4/12/19, revised 5/12/20, and prepared by Kevin Solli, P.E., NYS Lic. No. 092156-1, and those listed in Section 13 of this approval.
- 8.11. No trees or shrubs shall be pruned at the time of planting unless deemed appropriate by the Town Forestry Officer.
- 8.12. All tree stakes must be removed within twelve (12) months of installation.
- 8.13. All plant material shall be properly watered during the first year of establishment, at a minimum.
- 8.14. Any trees or shrubs damaged during the course of work must be replaced by the Applicant, upon written directive from the Town Forestry Officer.
- 8.15. Landscaping carried out after removal of the TPZ fencing must avoid damage to tree roots from planting holes, equipment traffic, re-grading or other activities. The Applicant (or successor) shall install a water bag or similar device to water newly planted trees, which must be maintained for the first year of establishment, at a minimum. All water bags must be removed for the winter season.
- 8.16. The Planning Board may require that the Applicant (or successor in interest) furnish the Town with a performance bond, cash escrow, or irrevocable letter of credit from an approved financial institution or surety, as approved by the Town Attorney, in an amount sufficient to cover 90% of the protection, planting and restoration work to be completed in accordance with the approved plans. The remaining 10% of the cost of the protection, planting and restoration work shall be in cash and deposited by the Applicant in a special tree preservation escrow account maintained by the Town. The total amount of the bond and cash deposit shall reflect all protection, replanting and restoration costs. An estimate of the total cost of such work shall be submitted to the Town Forestry Officer prior to posting of the bond. Upon completion of all protection, replanting and restoration work to the satisfaction of the Town Forestry Officer, the performance bond shall be canceled and replaced with a maintenance bond to be approved by the Town Attorney and to run for a term of three (3) full growing seasons. The growing season for Westchester County is March through October. The 10% cash in escrow shall remain on deposit with the Town until the maintenance bond is canceled. If new trees or shrubs planted as part of the restoration work do not survive three (3) full growing seasons, they shall be replaced in-kind, and the term of the maintenance bond shall be extended to run for a term of three (3) full growing seasons from the time any necessary replanting has taken place, to the satisfaction of the Town Forestry Officer.
- 8.17. No final certificate of occupancy shall be issued by the Building Inspector until the Commissioner, Department of Community Development and Conservation, has ensured that all landscaping on the site corresponds with the plan entitled, "Landscape Plan," Sheet 2.61, dated 4/12/19, revised 5/12/20, and prepared by Kevin Solli, P.E., NYS Lic. No. 092156-1, and those listed in Section 13 of this approval. If

planting is to occur between October 31 and April 1, the permit holder may obtain a temporary certificate of occupancy, and all planting and restoration work must be completed to the satisfaction of the Commissioner, Department of Community Development and Conservation on or before the first day of the following May. Should the permit holder fail to complete the restoration work on or before May 1 next following the execution of the agreement, the Commissioner, Department of Community Development and Conservation shall have the right to declare the performance bond in default and apply the escrow cash deposit and the proceeds of the bond to restore the land.

8.18. All trees and shrubs, installed by the Applicant or its successor in interest as part of the approved landscape plan, shall be maintained in good condition and be replaced as necessary. Any newly installed landscaping which fails to survive shall be replaced by the permit holder at no expense to the Town. Said replacement shall be within 15 days following written demand for such replacement from the Town Forestry Officer, or within an extended period of time as may be specified.

8.19. Any requests to modify the approved Landscape Plan must be reviewed by the Commissioner of the Department of Community Development and Conservation, or designee, for approval. Upon approval of the proposed changes, the Applicant will submit revised plan(s) highlighting approved changes in bold and include a signature and date box for Secretary to the Planning Board on the cover sheet.

9. BLASTING AND CHIPPING OF ROCK

9.1. If the Applicant (or successor in interest) intends to remove rock by means other than blasting, a High Resolution Seismic Refraction Survey must be performed. A geotechnical engineer shall interpret the results of the survey and will determine whether or not all of the rock can be removed by means other than blasting. The geotechnical engineer will submit a report on the site to the Building Department. If the report reveals that all of the rock cannot be removed by means other than blasting, and then no removal of overburden shall take place with the exception of tree stumps, top soil or materials rendered inconsequential by the blaster. If the report reveals that all of the rock can be safely hammered/chipped, a temporary, solid barrier no less than 8'-0" high must be installed for the duration of the chipping activities, to the satisfaction of the Building Inspector.

9.2. The Applicant (or successor in interest) shall install seismic graphs, set in histogram mode, on the property, outside the area of rock removal, that are to be monitored once an hour by a geotechnical engineer to ensure that vibrations from the site do not cause damage to adjacent structures of the property. The number of seismic graphs shall be determined by the geotechnical engineer and agreed to by the Town Building Inspector, or his designee. The geotechnical engineer must submit a daily report of the seismic graph readings to the Town Building Inspector. The report shall use the USBM Vibration limit curve developed from RI8507 (Appendix B). Should a seismic reading exceed the Town of Greenburgh limitations, the work must cease immediately, and written notification must be provided to the Town Building Inspector.

9.3. The Applicant (or successor in interest) shall be limited to the hours of 8:30 AM to 3:00 PM, Monday through Friday, for all rock blasting and rock chipping. Rock blasting and rock chipping is prohibited on Saturdays, Sundays and all legal holidays.

9.4. The Applicant (or successor in interest) shall conduct a preblast survey of the site, where one inch equals 30 feet in scale, showing all structures within a five-hundred-foot radius of the proposed blast site, together with a description of each structure within such radius. Any property owner subject to a preblast property description shall be furnished a copy of the description of the property upon request. The Building Inspector may, in her/his sole discretion, require that the preblast survey be accompanied with a videotape showing each building and structure and any particular features as s/he may direct.

9.5. Prior to chipping and blasting activities, the Applicant must pay for the costs of an independent heating/cooling technician to inspect the heat radiant flooring system of each applicable residential property (Parcel IDs 7.190-60-17 thru 23) opposite and adjacent to the subject site's frontage with Old Country Road. Reports shall be generated as a result of such inspection and shall be promptly furnished to the homeowner, and Town of Greenburgh Building Inspector.

- 9.6. Prior to any rock chipping/hammering activities, appropriate dust control measures must be installed to the satisfaction of the Town Building Inspector.
- 9.7. The maximum allowable concussion or air blast resulting from blast operations shall not exceed 130 decibels peak, measured at a flat frequency response (PMS two decibels) over the range of at least six to 200 hertz.
- 9.8. The maximum decibel level for rock chipping/hammering activities must not exceed 110 db(A), as measured from any property line.
- 9.9. Areas of the project where a 15 foot or greater cut of rock is expected, line drilling must take place on the parallel along the property line. Three rows of holes, staggered and spaced one foot apart shall be employed.
- 9.10. In accordance with the Town of Greenburgh Blasting Ordinance, matting shall be used for each and every blast. Mats shall be of good quality and positioned on the area to be detonated with at least a 25% overlap of each other. Matting shall extend past all end holes by a minimum of four feet.
- 9.11. A minimum of six seismographs must be used for each and every blast. All seismographs must be within the required date of calibration. Placement shall be as follows: One at the closest structure at The Greenburgh Housing Authority, one at Sam's Club, two at the closest structures at Westchester Hills and two at the closest homes along Old Country Road.
- 9.12. Before any permit is issued pursuant to this chapter, the Applicant shall submit proof of insurance by supplying a certificate of insurance, issued by an insurance company authorized to do business in the State of New York, stating that the Applicant has insurance coverage in effect for workers' compensation, liability and property damage occurring onsite or to nearby properties, and a specific endorsement stating that coverage includes liability arising from handling or using explosive materials and conducting blasting activity. Insurance coverage shall be not less than \$3,000,000 for general liability, including bodily injury to any one person and, subject to the same limit for each person, not less than \$10,000,000 for any occurrence, plus insurance for property damage occurring onsite or to nearby properties of not less than \$2,000,000. The insurance certificate shall name the Town and any of its Agents, Designees and/or Representatives as an additional insured. In addition, the certificate shall contain a statement that the policy or policies covering the insured will not be canceled, terminated or modified by the insurance company unless 30 calendar days' notice is given to the Town and such change or modification is mutually agreed to.
- 9.13. The Town of Greenburgh's Building Inspector shall add to the permit any conditions deemed necessary to ensure public safety and well being.
- 9.14. Any blasting and/or chipping on the site shall be in conformance with the Town's Ordinance.

10. INSPECTION FEE

- 10.1. The Applicant will be required to provide a construction cost estimate to the Town of Greenburgh for all public improvements for the project (which includes stormwater control, sewer and water connections). When the estimate is approved, the Applicant will be required to provide a three (3) percent inspection fee to the Town, in addition to required bonds.

11. PERFORMANCE BOND, CASH BOND OR LETTER OF CREDIT

- 11.1. The performance, letters of credit, and/or cash bonds shall be posted in the form and in the amounts determined by the Bureau of Engineering and Town Attorney. Conditions are to be met within three (3) years of site plan approval unless the Planning Board grants any extension of this time limit. If all conditions are not completed within the time limit, (or within an extension, if granted) no further building permit or Certificate of Occupancy will be issued until the improvements are completed and dedicated.

12. RESERVATION OF RIGHTS

12.1. The Town of Greenburgh reserves the right to withhold the issuance of any building permit or Certification of Occupancy upon failure of the Applicant to comply with any requirements of this decision. Any violation of § 285-62 is subject to the same penalties as set forth in § 285-47 of the Town Code.

13. AMENDED SITE PLAN IMPROVEMENT DRAWINGS

- A) a. Entitled: General Site Notes and Legends
b. Dated: 04/12/19
c. Last Revised: 05/12/20
d. Date Stamped Received: 05/12/20
e. Prepared by: Kevin Solli, P.E., NYS Lic. No. 092156-1
f. Sheet Number: 0.00
- B) a. Entitled: Notes, Legends & Abbreviations
b. Dated: 04/12/19
c. Last Revised: 05/12/20
d. Date Stamped Received: 05/12/20
e. Prepared by: Kevin Solli, P.E., NYS Lic. No. 092156-1
f. Page number: 0.10
- C) a. Entitled: Boundary and Topographic Survey
b. Dated: 04/12/19
c. Last Revised: 05/12/20
d. Date Stamped Received: 05/12/20
e. Prepared by: Kevin Solli, P.E., NYS Lic. No. 092156-1
f. Page number: 1 of 1
- D) a. Entitled: Steep Slope Analysis Plan
b. Dated: 04/12/19
c. Last Revised: 05/12/20
d. Date Stamped Received: 05/12/20
e. Prepared by: Kevin Solli, P.E., NYS Lic. No. 092156-1
f. Page number: 1.40
- E) a. Entitled: Site Layout Plan
b. Dated: 04/12/19
c. Last Revised: 05/12/20
d. Date Stamped Received: 05/12/20
e. Prepared by: Kevin Solli, P.E., NYS Lic. No. 092156-1
f. Page number: 2.11
- F) a. Entitled: Grading and Drainage Plan
b. Dated: 04/12/19
c. Last Revised: 05/12/20
d. Date Stamped Received: 05/12/20
e. Prepared by: Kevin Solli, P.E., NYS Lic. No. 092156-1
f. Page number: 2.21
- G) a. Entitled: Soil Erosion and Sediment Control Plan: Phase I-a
b. Dated: 04/12/19
c. Last Revised: 05/12/20

- d. Date Stamped Received: 05/12/20
e. Prepared by: Kevin Solli, P.E., NYS Lic. No. 092156-1
f. Page number: 2.31
- H) a. Entitled: Soil Erosion and Sediment Control Plan: Phase I-b
b. Dated: 04/12/19
c. Last Revised: 05/12/20
d. Date Stamped Received: 05/12/20
e. Prepared by: Kevin Solli, P.E., NYS Lic. No. 092156-1
f. Page number: 2.32
- I) a. Entitled: Soil Erosion and Sediment Control Plan: Phase II-a
b. Dated: 04/12/19
c. Last Revised: 05/12/20
d. Date Stamped Received: 05/12/20
e. Prepared by: Kevin Solli, P.E., NYS Lic. No. 092156-1
f. Page number: 2.33
- J) a. Entitled: Soil Erosion and Sediment Control Plan: Phase II-b
b. Dated: 04/12/19
c. Last Revised: 05/12/20
d. Date Stamped Received: 05/12/20
e. Prepared by: Kevin Solli, P.E., NYS Lic. No. 092156-1
f. Page number: 2.34
- K) a. Entitled: Soil Erosion and Sediment Control Plan: Phase III-a
b. Dated: 04/12/19
c. Last Revised: 05/12/20
d. Date Stamped Received: 05/12/20
e. Prepared by: Kevin Solli, P.E., NYS Lic. No. 092156-1
f. Page number: 2.35
- L) a. Entitled: Soil Erosion and Sediment Control Plan: Phase III-b
b. Dated: 04/12/19
c. Last Revised: 05/12/20
d. Date Stamped Received: 05/12/20
e. Prepared by: Kevin Solli, P.E., NYS Lic. No. 092156-1
f. Page number: 2.36
- M) a. Entitled: Soil Erosion and Sediment Control Notes & Details
b. Dated: 04/12/19
c. Last Revised: 05/12/20
d. Date Stamped Received: 05/12/20
e. Prepared by: Kevin Solli, P.E., NYS Lic. No. 092156-1
f. Page number: 2.41
- N) a. Entitled: Utility Plan
b. Dated: 04/12/19
c. Last Revised: 05/12/20

- d. Date Stamped Received: 05/12/20
e. Prepared by: Kevin Solli, P.E., NYS Lic. No. 092156-1
f. Page number: 2.51
- O) a. Entitled: Water Main Profile
b. Dated: 04/12/19
c. Last Revised: 05/12/20
d. Date Stamped Received: 05/12/20
e. Prepared by: Kevin Solli, P.E., NYS Lic. No. 092156-1
f. Page number: 2.52
- P) a. Entitled: Landscape Plan
b. Dated: 04/12/19
c. Last Revised: 05/12/20
d. Date Stamped Received: 05/12/20
e. Prepared by: Kevin Solli, P.E., NYS Lic. No. 092156-1
f. Page number: 2.61
- Q) a. Entitled: Tree Removal Plan
b. Dated: 04/12/19
c. Last Revised: 05/12/20
d. Date Stamped Received: 05/12/20
e. Prepared by: Kevin Solli, P.E., NYS Lic. No. 092156-1
f. Page number: 2.62
- R) a. Entitled: Lighting Plan
b. Dated: 04/12/19
c. Last Revised: 05/12/20
d. Date Stamped Received: 05/12/20
e. Prepared by: Kevin Solli, P.E., NYS Lic. No. 092156-1
f. Page number: 2.71
- S) a. Entitled: Lighting Details
b. Dated: 04/12/19
c. Last Revised: 05/12/20
d. Date Stamped Received: 05/12/20
e. Prepared by: Kevin Solli, P.E., NYS Lic. No. 092156-1
f. Page number: 2.72
- T) a. Entitled: Details
b. Dated: 04/12/19
c. Last Revised: 05/12/20
d. Date Stamped Received: 05/12/20
e. Prepared by: Kevin Solli, P.E., NYS Lic. No. 092156-1
f. Page number: 3.01
- U) a. Entitled: Details
b. Dated: 04/12/19
c. Last Revised: 05/12/20
d. Date Stamped Received: 05/12/20

- e. Prepared by: Kevin Solli, P.E., NYS Lic. No. 092156-1
f. Page number: 3.02
- V) a. Entitled: Details
b. Dated: 04/12/19
c. Last Revised: 05/12/20
d. Date Stamped Received: 05/12/20
e. Prepared by: Kevin Solli, P.E., NYS Lic. No. 092156-1
f. Page number: 3.03
- W) a. Entitled: Details
b. Dated: 04/12/19
c. Last Revised: 05/12/20
d. Date Stamped Received: 05/12/20
e. Prepared by: Kevin Solli, P.E., NYS Lic. No. 092156-1
f. Page number: 3.04
- X) a. Entitled: Proposed First Floor Plan
b. Dated: 03/18/19
c. Last Revised: -
d. Date Stamped Received: 04/15/19
e. Prepared by: Rand K. Rosenbaum, R.A., NYS Lic. No. 19013
f. Page number: A-1
- Y) a. Entitled: Proposed Elevations Plan
b. Dated: 03/18/19
c. Last Revised: -
d. Date Stamped Received: 04/15/19
e. Prepared by: Rand K. Rosenbaum, R.A., NYS Lic. No. 19013
f. Page number: A-2
- Z) a. Entitled: Proposed Roof Plan
b. Dated: 03/18/19
c. Last Revised: -
d. Date Stamped Received: 04/15/19
e. Prepared by: Rand K. Rosenbaum, R.A., NYS Lic. No. 19013
f. Page number: A-3
- A1) a. Entitled: 3,000 SF Pad Building
b. Dated: 03/18/19
c. Last Revised: -
d. Date Stamped Received: 04/15/19
e. Prepared by: Rand K. Rosenbaum, R.A., NYS Lic. No. 19013
f. Page number: SD-2

- A2) a. Entitled: Taco Bell
b. Dated: 03/18/19
c. Last Revised: -
d. Date Stamped Received: 04/15/19
e. Prepared by: Rand K. Rosenbaum, R.A., NYS Lic. No. 19013
f. Page number: SD-2