

DRAFT

**TOWN OF CORTLANDT
PLANNING BOARD
PB 2021-1**

RESOLUTION NO. 19-21

WHEREAS, an application for Planning Board approval of a Site Development Plan pursuant to Chapter 307 (Zoning) of the Town of Cortlandt Code and for a Special Permit as per Local Law 6-2021 for an Active, Adult Residential Community and for a Tree Removal Permit pursuant to Chapter 283 and a Steep Slope Permit pursuant to Chapter 259 of the Town of Cortlandt Code was submitted by NRP Properties, LLC for the property of Terrace Management, Inc. for a 135 unit active adult residential community as shown on a 19-page set of drawings entitled “Overlook Terrace-Site Plan Application Drawings” prepared by Gerhard Schwalbe, P.E. latest revision dated September 22, 2021 and a 13-page set of building Perspectives, Floor Plans and Elevations, prepared by GF 55 Partners, LLP dated September 17, 2021, and

WHEREAS, the subject parcel of approximately 8.7 acres is located at 119 Oregon Road, is zoned CC, Community Commercial and is designated on the Town of Cortlandt Tax Maps as Section 23.11, Block 1, Lot 12, and

WHEREAS, as required by Article 8 of the New York State Environmental Conservation Law for the proposed Unlisted Action the applicant completed and submitted Part 1 of the Full Environmental Assessment Form latest revision dated June 23, 2021, and

WHEREAS, the Town Board is acting as Lead Agency on the proposed project and on a proposed zoning text amendment that will create a Special Permit for “Active Adult Residential Communities” in the CC, Community Commercial zoning district, to be issued by the Planning Board, subject to certain dimensional regulations that permits the above referenced project on the subject property, and

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WHEREAS, the Town Board referred the proposed text amendment, conceptual site plan, renderings and other background material to all interested and involved agencies as required by 6 NYCRR, Part 617.6, and

WHEREAS, the Planning Board reviewed the draft language of the proposed Zoning Text Amendment and issued a memo dated April 7, 2021 to the Town Board with the Board's comments on the proposed Text Amendment, and

WHEREAS, the Town Board held a public hearing on the proposed project and zoning text amendment on July 20, 2021, and

WHEREAS, the Planning Board Public Hearing was held pursuant to Chapter 307 (Zoning) of the Town of Cortlandt Code and pursuant to Chapter 274-a of the New York State Town Law on said application at the Cortlandt Town Hall, 1 Heady Street, Cortlandt Manor, New York on July 6, 2021 adjourned to August 31, 2021 and October 5, 2021, and

WHEREAS, the Public Hearing Notice was published in the "Croton Gazette" and a "Notice of Public Hearing" sign was posted in front of the subject property and the Public Hearing Notice was given by the applicant to adjoining property owners and property owners directly across the street from the subject property, and

WHEREAS, pursuant to Article 8 of the New York State Environmental Conservation Law the Town Board adopted Parts I & II of Full EAF and a Negative Declaration on October 19, 2021 with respect to the proposed project and approving the proposed Zoning Text Amendment permitting an Active Adult Residential Communities in CC, Community Commercial Zone, and

WHEREAS, the applicant is seeking Site Development plan approval from the Planning Board

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to demolish the existing Colonial Terrace Facility and construct an approximately 125,000 sq. ft. 3-story building of 96 one-bedroom and 39-two-bedroom affordable rental units with 146 parking spaces and associated landscaping and site amenities, and

WHEREAS, as required by Chapter 283 (Trees) of the Town of Cortlandt Code the trees on the subject property were inventoried by the Town Consulting Arborist, Bartlett Tree Experts and a report and inventory dated June 4, 2021 was submitted, and

WHEREAS, the project is proposing to remove approximately 290 trees and as per the tree ordinance, based on the area of disturbance of 8.73 acres, approximately 365 trees are required to be planted on the subject site, and

WHEREAS, the subject landscape plan shows 122 shade, basin and ornamental trees to be planted and a total of 24 evergreen trees to be planted, and

WHEREAS, based on the calculation that an evergreen tree shall be counted as $\frac{1}{2}$ required tree the applicant will be credited with planting 134 trees therefore there will be a short fall of 251 trees on the site requiring a contribution to the Town's Environmental Fund, and

WHEREAS, the subject drawing shows approximately 1.4 acres of regulated steep slope to be impacted within the proposed Limits of Disturbance (LOD) with areas of slope greater than 30% remaining on the property after the construction of the facility located both along the rear, southern portion of the site for the building and emergency access drive and in the front, northern portion of the site, for the construction of parking areas, water quality basins and walkways, and

WHEREAS, the applicant is proposing an 8 foot to 10 foot retaining wall as well as an area of planted slope and areas of existing vegetation and proposed vegetation to protect the slope in the

rear of the site, and

WHEREAS, the applicant has submitted the required analysis of the impacts to steep slope, as per Section 259-6 of the Steep Slope Law, “Standards for Approval”, and

WHEREAS, the applicant’s traffic engineer, Provident Engineering, completed a traffic study for the subject property dated April 27, 2021, and

WHEREAS, the Town retained HVEA Engineering to review the applicant’s traffic study, and

WHEREAS, the subject site plan as modified with a full movement intersection from the subject site to Eton Downs, with the proposed pedestrian and crosswalk improvements for Oregon Road and with the required contributions to offsite improvements as detailed in the Negative Declaration adopted by the Town Board the applicant’s proposal should not have a significant adverse impact with respect to traffic, and

WHEREAS, Chapter 265-11 of the Town’s Subdivision Regulations provides for land for recreation purposes to be set aside or on lieu thereof payment of a recreation fee at the time of final approval, and

WHEREAS, present and reasonably-anticipated future needs for park and recreational facilities in the Town have been considered and as documented in the Town of Cortlandt Sustainable Comprehensive Master Plan dated March 2016, the Town Board found that there is a need for additional recreation land or money-in-lieu of land, and

WHEREAS, the subject application was referred to all interested and involved agencies including the Town Engineering Division, the Town Code Enforcement Division, the Town Conservation Advisory Council (CAC), the Town’s Architectural Advisory Council, the NYS

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Office of Parks, Recreation and Historic Preservation (OPRHP), the New York State Department of Environmental conservation (NYSDEC), the Westchester County Department of Planning, the Mohegan Fire District, the Westchester County Health Department and the New York State Office of Homes & Community Renewal, and

WHEREAS, the Planning Board completed a site inspection of the subject premises, and

WHEREAS, comments in response to referrals of the subject application were considered by the Planning Board as well as written and verbal comments made in response to the application.

NOW THEREFORE BE IT RESOLVED that the application of NRP Properties, LLC for the property of Terrace Management, Inc. for Site Development Plan pursuant to Chapter 307 (Zoning) of the Town of Cortlandt Code, and for a Special Permit for “Active, Adult Residential Communities” as per Local Law 6 of 2021 and for a Tree Removal Permit pursuant to Chapter 283 and a Steep Slope Permit pursuant to Chapter 259 as shown on a 19-page set of drawings entitled “Overlook Terrace-Site Plan Application Drawings” prepared by Gerhard Schwalbe, P.E. latest revision dated September 22, 2021 and a 13-page set of building Perspectives, Floor Plans and Elevations, prepared by GF 55 Partners, LLP dated September 17, 2021 is **APPROVED** subject to the conditions listed below and that the Chairman of the Planning Board be authorized to endorse approval on said Site Development Plan upon compliance by the applicant with such conditions as listed below, and

FURTHER BE IT RESOLVED that approval of said Site Development Plan shall be valid for a period of twelve (12) months from the date of this Resolution to satisfy all conditions of approval and to obtain the signature of the Planning Board Chairman on the Site Development

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Plan. If there is no substantial change in the condition of the site and/or its environs, Site Development Plan Approval may be extended by the Planning Board for one (1) additional period of one (1) year, **upon timely application by this applicant and a written explanation of the reasons for the delay which require the granting of a time extension,** and

FURTHER BE IT RESOLVED that the approved site plan with the Planning Board Chairman's signature shall be valid for a period of twelve (12) months from the date of signing.

If there is no substantial change in the condition of the site and/or its environs, Site Development Plan Approval may be extended by the Planning Board for one (1) additional period of one (1) **year,** upon timely application by this applicant and a written explanation of the reasons for the delay which require the granting of a time extension.

CONDITIONS AND MODIFICATIONS:

- 1. Add the current signature block to the cover page of the drawing set and (a) Obtain the required signature from the Director of Technical Services, the Director of Environmental Services and the Planning Board Chairperson on the subject drawing(s) and (b) following the receipt of the required signatures submit four copies of said drawing set to the Planning Office (c) following all of the signatures e-mail a .pdf scan of the drawing set to the Planning office (d) submit an as-built survey in AutoCAD file in digital format at the completion of the project.**
- 2. Obtain the signature of the Receiver of Taxes on an appropriate form indicating that taxes on the subject property have been paid.**
- 3. Posting of a combined soil erosion security and maintenance security pursuant to Section**

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307-73.1 of the Town Code in the amount of \$15,000. Said security to be in effect for a period of not less than two years from the date thereof. Prior to the release of the signed Site Development Plan by the Planning Division said security shall be submitted to and approved by the Town Department of Law which will then be forwarded to the Town Clerk and a copy to the Planning Division. Any security or performance collateral required to be posted shall be in accordance with Chapter 237 of the Town Code and as per Town Board Resolution 190-04.

4. The applicant is advised that the conditions of this approval must be satisfied and the site plan drawing signed by the Planning Board Chairman and any required permits obtained prior to beginning any related work on the subject property.

5. Prior to the Chairperson signing the site plan the applicant shall submit all approvals from agencies having jurisdiction (Westchester County Department of Health) for water and sanitary approvals. All easements for public utilities shall be shown on the improvement drawings with metes and bounds provided. All easements shall be filed with the Westchester County Clerk's Office – Division of Land Records prior to the release of any building permit.

6. Prior to the Chairperson signing the site plan all comments from the July 2021 memos prepared by the Director of the Department of Technical Services and Deputy Director, Planning shall be addressed.

7. Prior to the submittal of water and sanitary sewer improvement drawings being forwarded to the Westchester County Department of Health, plans shall be revised to the satisfaction of the Director(s) of the Department of Technical and Environmental Services. An inflow and

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infiltration plan shall be prepared and submitted at a ratio of 1:1 since the proposed development is 100% affordable.

8. All off-site traffic improvements as shown on the subject site plan and detailed in the negative declaration shall be completed prior to the issuance of a Certificate of Occupancy. The \$60,000 financial contribution required by the Town Board to be used for the design of a scope of work or for the actual preferred improvements at the intersection of Oregon Road/Eton Downs/Heady Street and Pumphouse Road as detailed in the Negative Declaration shall be paid prior to the Chairperson signing the subject site plan.

9. Prior to the release of any certificate of occupancy, all off-site improvements associated with the partial removal of Donnelly Place including enhancements to the memorial located in the landscaped island to the north of the subject parcel shall be made to the satisfaction of the Director of the Department of Technical Services and Town's Historic Resources Advisory Council (HRAC). To the satisfaction of Town Legal and the Town Assessor, the memorial shall be placed on either a tax lot or within an easement agreed to by the Town of Cortlandt and filed with the Westchester County Clerk's Office, Division of Land Records.

10. Payment to the Town an inspection fee in the amount of 5% of the construction costs based on an itemized breakdown of all site work submitted by the applicant and approved by the Director of Technical Services for all labor and materials construction work activities shown on the site plan.

11. Prior to the Chairperson signing the site plan a revised reforestation plan shall be submitted to the Town's Conservation Advisory Council for review. In the event required

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planting cannot be achieved onsite, contribution to the Town's environmental / tree fund in the amount of \$150 per tree shall be made. The amount contributed shall not be less than \$37,650 and adjusted based on the final number of trees proposed for removal.

12. Prior to the Chairperson signing the site plan drawing submit to the Town's Historic Resources Advisory Council (HRAC) for review and comment a narrative/plan/rendering of a "history wall" recognizing the history of Colonial Terrace that will be installed within a common area of the proposed building.

13. As required by the Town Board Resolution 264-21 the payment of a \$405,000 recreation fee is required prior to the Chairperson signing the subject site plan.

14. Add the analysis as required by Chapter 259-6 (Standards for Approval" of the Steep Slope Ordinance to the first page of the Improvement Drawing set.

15. Prior to the Chairperson signing the site plan drawing, a security or bond equal to 2 times the cost of all plantings and soil amendments shall be provided pursuant to Section Chapter 179-7.A of the Town Code. The security or bond shall be kept in place for a period of 24 months from the date of issuance of a certificate of occupancy.

a. Provide a watering plan for the proposed landscaping and submit a monitoring protocol with goals and deadlines for planting. Reports shall be submitted by a licensed landscape architect, arborist or individual deemed acceptable by the Director of the Department of Technical Services every six (6) months through the 2-year monitoring period.

b. Applicant is advised that the maintenance security will include the performance

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bond for landscaping required pursuant to Town Code Chapters 283-2 and 283-11.

16. Prior to the Chairperson signing the site plan submit a Final Storm Water Pollution Prevention Plan designed in compliance with Chapter 262 of the Town of Cortlandt Town Code and the NYSDEC Storm Water Design Manual for approval by the Director of the Department of Technical Services.

- **Post Construction controls for water quality and quantity shall be provided.**
- **Submit draft maintenance agreements and easements in accordance with Chapter 262-9 of the Town of Cortlandt Town Code.**
- **Coverage under the current NYSDEC SPDES General Permit for Construction Activities shall be obtained.**

17. Prior to the issuance of any certificate of occupancy, the property owner shall finalize all required stormwater management facilities maintenance agreement and easements in accordance with Chapter 262-9 of the Town of Cortlandt Town Code.

- **All stormwater management best practices shall be inspected and certified by the design professional of record. Maintenance activities shall be performed prior to inspection and each practice shall be fully functional prior to the release of a certificate of occupancy. The design professional of record shall certify and provide computations that all practices as installed meet or exceed the design capacity as provided in the SWPPP.**
- **Maintenance agreements and easements shall be filed with the Westchester**

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County Clerk – Division of Land Records and run concurrently with the deed.

18. The Applicant is advised that no fill shall be imported to the site without prior authorization by the Town. All imported fill must be tested in accordance with Town's Soil Policy and meet the NYSDEC's requirements for unrestricted use. Any material that has received a beneficial use determination from NYSDEC proposed to be imported to the site shall also be tested and certified by the engineer of record that material is clean and is suitable for its intended use.

19. An as-built survey prepared by NYS Licensed Professional Land Surveyor shall be submitted prior to the release of any maintenance securities and certificate of occupancy. All utilities, site features, easements, etc..., shall be captured and shown.

20. Prior to the Chairperson signing the Improvement Drawings the applicant shall receive and respond to comments, if any, from the Architectural Advisory Council on the proposed building renderings, elevations and floor plans prepared by GF 55 Partners, LLP.

21. The 135 units shall meet the Westchester County definition of affordability and the applicant shall provide required documentation on the affordability to the satisfaction of the Town Legal Department.

TO BE CONSIDERED FOR ADOPTION: NOVEMBER 3, 2021