

**TOWN OF GREENBURGH
PLANNING BOARD MINUTES
TOWN HALL – GREENBURGH – NEW YORK
Wednesday – December 4, 2019**



The Work Session of the Planning Board of the Town of Greenburgh was held on Wednesday, December 4, 2019, in the auditorium of the Greenburgh Town Hall, 177 Hillside Avenue, Greenburgh, New York, and began at 8:00 pm.

1. ROLL CALL & ANNOUNCEMENTS

Present: Chairperson Walter Simon, Mona Fraitag, Michael Golden, Kirit Desai, Thomas Hay, and Johan Snaggs (Alternate – Voting member)

Absent: Hugh Schwartz and Viola Taliaferrow

Staff: Aaron Schmidt, Deputy Commissioner, CD&C
David Fried, Esq., 1st Deputy Town Attorney
Garrett Duquesne, AICP, Commissioner, CD&C
Matthew Britton, Assistant Planner, CD&C

Chairperson Simon introduced Mr. Johan Snaggs as the newly appointed alternate member of the Planning Board, who would be voting in place of Mr. Schwartz, who is not present this evening. Board members welcomed Mr. Snaggs.

Chairperson Simon provided an update on Mr. Schwartz's condition, stating that Mr. Schwartz is recovering well and is in a rehabilitation facility. Chairperson Simon stated that Mr. Schwartz expects to be able to return for the January 15, 2020 meeting.

2. APPROVAL OF MINUTES

Chairperson Simon asked if there were any comments on the draft minutes. He asked that language be added clarifying that he had no issue with the Planning Board's role in reviewing tree removal permit applications not changing in the newly proposed ordinance. He noted that language should be added to include a statement made by Mr. Golden encouraging the Town to set an example by planting more trees. Chairperson Simon asked if there were any further comments to the November 20, 2019 draft minutes. There were none.

On a motion made by Mr. Hay and seconded by Mr. Desai, the Planning Board unanimously voted to approve the minutes of the November 20, 2019 Planning Board work session, as amended.

3. CORRESPONDENCE

a. Case No. PB 15-05 Mercer Avenue (Riotto), (P.O. Hartsdale, N.Y.) – Planning Board Steep Slope Permit – 2nd extension request

Mr. Schmidt reported that he recently received an email from the new property owner requesting a retroactive extension of the Planning Board's steep slope permit approval. He noted that the first extension recently expired, and that the applicant stated he is in the process of acquiring funding to develop the property.

Chairperson Simon asked if there were any comments regarding the requested extension. There were none. On a motion made by Mr. Hay and seconded by Mr. Desai, the Planning Board unanimously voted to grant an extension *nunc pro tunc* to the applicant's steep slope permit, valid through November 5, 2021.

b. **Case No. PB 19-01** Deitch, 6 Mohican Lane (P.O. Irvington, N.Y.) – *Planning Board Steep Slope Permit*

Mr. Schmidt noted that, although the applicants' steep slope permit had been approved with a 36 inch high aluminum fence atop the new retaining wall to be constructed, they had safety concerns with the height of the fence, and would be increasing the height to 54 inches. Mr. Golden asked if an amendment to the permit is required. Mr. Schmidt replied that one is not required, and that an amendment only would be needed if the change affected the approved steep slope disturbance. Mr. Schmidt advised he was notifying the Board and also the applicant's downslope neighbor, as a courtesy.

4. **OLD BUSINESS**

a. **Case No. TB 19-08** Brightview-Metropolis, 289 Dobbs Ferry Road (P.O. White Plains, N. Y.) – *Zoning Text and Zoning Map Amendments (Referral from Town Board)*

A work session to discuss a report of the Planning Board to the Town Board concerning a zoning map and zoning text amendment referral from the Town Board, involving a proposal to create a new floating zone district (Continuum of Care Facility - CCF) to the Town's Zoning Ordinance and Zoning Map. If approved, the petitioner seeks to rezone an approximately 6 acre portion of Parcel ID: 8.10-1-6, 8.141-94-15, 16, 17 & 18 [289 Dobbs Ferry Road], for the purposes of permitting a proposal for a 160-unit independent living, assisted living and/or memory care development to a CCF District.

Chairperson Simon noted that the Planning Board rendered a positive recommendation regarding zoning text and map amendments which would create a floating zone district for Continuum of Care Facilities (CCFs) and that staff prepared corresponding draft reports for the Planning Board, which are the subject of discussion this evening. Mr. Duquesne reminded the Board that the recommendations and reports for the CCF floating zone district have had a Town-wide focus and that a separate recommendation and report for the individual site would be discussed at a later date.

Mr. Golden opined that, from a procedure standpoint, the reports to be discussed this evening should have been discussed at the same time as the recommendation, and that from a formatting perspective, the reports should be combined in the same document as the recommendation. Mr. Duquesne replied that, because the positive recommendation contained several discussion points which required individual Board member consensus, such as the 4,000 linear foot provision and the 200 feet from a State Road provision, he felt that staggering the discussion of the reports seemed to be the most appropriate way to accurately represent the Board's positions. He indicated that Mr. Golden's points make sense and that staff strive to have the recommendation and report documents prepared for discussion by the Planning Board at one meeting.

Planning Board members commended staff on the layout and content of the reports, noting that the narrative differentiates aspects of the initial local law petition with those that the Planning Board recommended to be modified, in a clear and helpful way. Mr. Hay identified a typographical error on page one of the zoning text amendment report.

Mr. Golden advised that he had read an article indicating that seniors are increasingly retrofitting their homes to their needs and not moving into assisted living facilities. Chairperson Simon stated that the proposal has built-in flexibility to react to demographic changes as they occur.

Ms. Fraitag noted that the report identifies future CCF developments as being located in one building, without the prospect for the independent senior housing component to be located in a separate and adjacent building to the assisted living component. Mr. Duquesne stated that this was a function of the zoning text of the local law which defines a CCF as having to be located in a single building. Ms. Fraitag reported that, in her experience, it is not uncommon for a site contain two buildings. Mr.

Duquesne advised that the definition was created in this manner out of consideration for the potential of a CCF to be developed in a One-Family Residence District, and the potential that a multi-building development in such a zoning district could be deemed out of character with the neighborhood. Mr. Golden suggested that the provision could be related to the prospect for one larger building taking up less footprint versus two medium to larger buildings taking up a larger footprint of a site. Chairperson Simon concurred that this was a good discussion point, and asked that staff bring it to the Town Board's attention.

On a motion made by Mr. Golden and seconded by Mr. Hay, the Planning Board unanimously voted to issue its report to the Town Board on the zoning map amendment. On a motion made by Mr. Golden and seconded by Ms. Fraitag, the Planning Board unanimously voted to issue its report to the Town Board on the zoning text amendment.

b. **Case No. TB 19-19** Assisted Living Facility Zoning Text Amendment, *Zoning Text Amendment (Referral from Town Board)*

A work session to review the previously voted upon recommendation of the Planning Board to the Town Board concerning a zoning text amendment referral from the Town Board, involving a proposal to include additional special permit criteria associated with convalescent homes, rest homes, nursing homes or homes for the aged approved, Continuing Care Retirement Communities, and Assisted Living Facilities, in a manner consistent with the Comprehensive Plan.

Chairperson Simon advised that staff prepared a zoning text amendment report for the Town-initiated assisted living local law. Mr. Golden noted that the report accurately describes the Planning Board's position that a floating zone process for assisted living facilities is a better planning and zoning mechanism to regulate these facilities, than the present special permit process; Planning Board members agreed.

On a motion made by Ms. Fraitag and seconded by Mr. Hay, the planning board unanimously voted to issue its report to the Town Board on zoning text amendment.

c. **Case No. TB 19-20** Designed Shopping (DS) District – Fueling Stations – *Zoning Text Amendment (Referral from Town Board)*

A continuation of a work session (November 6, 2019) to discuss a zoning text amendment referral from the Town Board involving a petition submitted by Sam's Club to allow automotive fuel station uses as special permit uses, within the DS – Designed Shopping District. If approved, the petitioner seeks to construct eight (8) pumps containing sixteen (16) fueling positions, a 192 sq. ft. service building, a forty (40) feet by one hundred twenty (120) feet canopy, and three (3) underground storage tanks within the existing parking lot of Sam's Club, located at 333 Saw Mill River Road, P.O. Elmsford. The applicant's site consists of approximately 555,738 sq. ft. (12.758 acres) and is situated on the west side of Saw Mill River Road, at the northwest corner of the intersection of Warehouse Lane and Saw Mill River Road. The property is located in the DS – Designed Shopping District, and is designated on the tax map of the Town of Greenburgh as Parcel ID: 7.180-52-32.

Mr. Jeremiah Candreva, Esq., of Troutman Sanders LLP, representing the applicant, provided an overview of the existing conditions at the site, the proposed zoning text amendment, and the potential future site layout plan. Mr. Candreva stated that the site layout plan has been modified as per discussions with the Town's traffic consultant for the project. He reported that the changes to the layout improve circulation and sight views and relocates the station attendant kiosk out of the designated floodplain, allowing for one additional fuel pump. Mr. Candreva noted that up to two (2) pumps and one (1) underground fuel tank remain in the designated floodplain.

Mr. Candreva stated that, at the Board's suggestion, the applicant contacted Mr. Paul Petretti, P.E. Mr. Candreva advised that Mr. Petretti issued a letter concluding that he did not believe a Floodplain Development Permit was required and, further, that the applicant's proposal would result in no negative impact to the floodplain or to downstream properties. Mr. Candreva stated that the applicant's fueling station would be state of the art, and could serve as a model for other gas stations in the Town.

Mr. Golden asked what the difference is between a "gasoline station" and "automotive fuel station." Mr. Candreva recited the Town Code definition of "gasoline service station," which allows for other automotive items to be sold and permits a small retail component. He stated that the applicant does not propose to have any retail component at its "fuel station." Chairperson Simon inquired about the necessity of creating a new use with related definition, when the current definition of "gasoline service station" allows, but does not require, a retail component. Mr. Candreva stated that the primary purpose is to limit the allowable uses to fuel pumping only, while eliminating the retail component. He noted, that under the current special use permit requirement for gasoline service stations, the Town could condition the issuance of any permit to disallow retail in connection with fueling stations. Chairperson Simon stated that the Town Board may not need to create the applicant's proposed new use, as gasoline service stations are allowed by special permit in the Town Code now, which could be extended to the DS District. Mr. Golden requested that the applicant identify where else in Town its proposal could have an impact. Mr. Candreva replied that he would review this with the Board shortly.

Mr. Candreva provided an overview of the proposed underground fuel tank anchoring system. Mr. Golden asked if such anchoring systems are required. Mr. Dan Gross, Senior Director of Sam's Club's fueling operations, responded that they are not. He noted, however, that for Sam's Clubs, tanks are fully anchored and double-walled as a standard. He further explained that the fuel tanks use geo-tech fabric wrapped around the tanks, which is then backfilled, so as to prevent soil migration over time or in the event of flooding. Ms. Fraitag asked if Sam's Club had experienced any failures with their tanks in the past. Mr. Gross responded that they had not.

Mr. Candreva stated that the proposed tank design was successful in difficult weather conditions, including Superstorm Sandy. He advised that in the event of an emergency, even if there were to be power outages, first responders, fire trucks, police, and residents, whether members of Sam's Club or not, would be able to refuel at these fuel tanks, representing a benefit to the community.

Ms. Fraitag asked if the applicant had considered adding electric vehicle (EV) charging stations on the site. Mr. Gross responded that they had, and added that EV stations, if provided, likely would be situated closer to the main entrance of the store, as these vehicles require a longer period of time to charge, than those that refuel. Mr. Fried asked if the applicant would charge a fee for use of the EV stations. Mr. Gross responded that he was unsure and would provide an answer to this at a future time.

Mr. Candreva reported that the applicant had prepared a traffic study and reviewed it with Mr. John Canning, P.E., of Kimley Horn, the Town's traffic consultant for this project. Mr. Candreva stated that slight modifications had been made in coordination with Mr. Canning, to improve truck circulation through this area of the site. He stated that the applicant has provided information requested by the Board on the locations of nearby, existing gas stations and their distances to the Saw Mill River, including the proposed station. Mr. Candreva identified and reviewed four (4) potential sites that potentially could take advantage of the proposed text amendment should it be approved, including the applicant's site.

Mr. Hay asked what would be contained in the kiosk. Mr. Gross responded that the kiosk would contain room for the gas station associate, as well as a restroom, an electrical system, a security system, and a tank monitoring system. Mr. Hay asked why the one (1) tank identified as being located within the floodplain area, could not be relocated. Mr. Gross responded that the tanks typically are situated fifteen (15) feet below grade and would be in close contact with groundwater regardless. He noted that the fuel dispensers are located on elevated pads. Ms. Fraitag asked if the tank monitoring system would work in the event of a power failure. Mr. Gross replied that monitoring would require power to operate.

Mr. Desai asked what the impact on existing gas stations would be if the applicant built the fuel station, and the economic need for the proposed fuel station. Mr. Gross responded that the fuel station only would be for members of Sam's Club. He stated that Sam's Club's competitors currently provide fueling stations for their customers. He added that Sam's Club has closed stores in the area and a fuel station is vital to the economic success of the store.

Mr. Canning reported that he had reviewed the traffic study and related materials provided by the applicant, and has issued review memoranda which he provided to Board members. He noted that the applicant predicted that many of the customers of the proposed fuel station would be customers already at the store. He stated that during the peak a.m. time period, the number of new trips projected is approximately 30 trips per hour; during the peak p.m. period the number of new trips projected is approximately 102 trips per hour; and, during the peak Saturday period the number of projected new trips is approximately 116 trips per hour. Mr. Canning stated that the project is expected to slightly increase traffic delays, but not significantly. He stated that the applicant has studied numerous intersections, though he previously requested the applicant to increase the projected volume in its studies and to expand the study to include the proposed Shoprite across the street, which it since did.

Mr. Canning noted that the applicant's initial layout plan prevented some gas stalls from having a bypass lane but that the revised plan rectifies this. He advised that truck circulation in the revised plan is acceptable. Mr. Canning stated that Kimley Horn surveyed a Sam's Club in Wallkill NY to compare with the applicant's proposal. He stated that the maximum average queue at peak times was five (5) vehicles per lane. He noted that the proposed gas lanes can hold a queue of three (3) vehicles. Mr. Canning suggested that, when queuing backs up, the applicant consider having an attendant to provide traffic control. He also suggested that the applicant schedule fuel truck deliveries to avoid peak times so as to minimize potential conflicts. Board members agreed.

Mr. Canning stated that the applicant proposes reducing the number of off-street parking spaces down to 443, from a previous total of over 500. He stated that the number of parking spaces proposed satisfies the projected peak demand of 400 cars, though he noted that some of these parking spaces are located to the side or rear of the building and may need to be utilized during times of extremely high traffic, such as around holidays. Mr. Canning noted that some of these periphery spaces were occupied by tractor-trailers and play equipment. He has suggested that such items be removed prior to anticipated high peak traffic times.

Mr. Desai asked how traffic delays would worsen. Mr. Canning replied that there would be an approximately 4.5 second increase in delay, from 42.2 seconds to 46.7 seconds, at the exit from the site out to Saw Mill River Road, which is not significant in terms of impact. Mr. Golden asked if the proposed reduction in off-street parking spaces meets Town Code requirements. Mr. Schmidt replied it would not, and the applicant would be seeking a variance through the Zoning Board of Appeals. Mr. Duquesne posited that a shared parking reduction through the Planning Board could alternatively be sought. Chairperson Simon noted the applicant had considered modifications based on feedback from the Board, Town staff, and the Town's consultant.

Chairperson Simon stated that he was still curious as to the need for a new use to be provided within the Town Code for the applicant to achieve its desired project. He stated that the applicant should prepare a response as to why it cannot operate under the current definition of a gasoline service station and what the impact on existing gasoline stations in the DS District its proposal would have.

Chairperson Simon stated that this project would next be discussed as part of a public discussion to be held during the January 2, 2020 Planning Board meeting.

d. **Case No. PB 19-23** Prevlukaj & Rose Subdivision, 6 Farm Way Drive & 25 Winding Road Farm (P.O. Ardsley, N.Y.) – Preliminary Subdivision

A continuation of a work session (November 20, 2019) to discuss a preliminary subdivision application involving a proposal to reconfigure two existing, adjacent and developed lots. The applicants propose to transfer a 0.2629 acre (11,450 sq. ft.) portion of tax lots 8.440-309-32 and 8.430-308-3.7 (25 Winding Road Farm) to tax lot 8.430-308-3.4 (6 Farm Way Drive). Tax lots 8.440-309-32 & 8.430-308-3.7 (25 Winding Road Farm) currently consist of approximately 74,077 sq. ft. and are proposed to consist of one tax lot, totaling 62,627 sq. ft. (1.4377 acres). Tax lot 8.430-308-3.4 (6 Farm Way Drive) currently consists of approximately 40,003 sq. ft. and is proposed to consist of 51,453 sq. ft. (1.1812 acres). There is no physical development proposed as part of this application. Each of the two properties are fully developed with single-family residences and related amenities. Currently, tax lot 8.430-308-3.4 (6 Farm Way Drive) does not meet impervious surface coverage requirements of the R-40 One-Family Residence District, which permits a maximum coverage of 21.75%. This proposal would bring this lot into full compliance with the Town's zoning regulations. The tax lots at 25 Winding Road Farm are situated on the south side of Winding Road Farm, at the intersection of Winding Farm Road and Winding Road, are located in the R-40 One-Family Residence District, and are designated on the tax map of the Town of Greenburgh as Parcel ID: 8.440-309-32 and 8.430-308-3.7. The property at 6 Farm Way Drive is situated on the east side of Farm Way Drive, approximately 630 ft. from the intersection of Winding Road South and Farm Way Drive, is located in the R-40 One-Family Residence District, and is designated on the tax map of the Town of Greenburgh as Parcel ID: 8.430-308-3.4.

Mr. Emilio Escaladas, P.E., R.A., of Escaladas and Associates, representing the applicant, provided an overview of the applicant's proposal. Mr. Escaladas, at the request of the Planning Board, provided an overlay of the Building Department approved plan in contrast to what was built. He explained that the project took approximately four (4) years to complete and that, during the construction period, development of the site was modified in the field due to a number of factors.

Chairperson Simon noted that construction can change in the field, and advised that any plan changes should be reviewed with the Building Department prior to being carried out on a project site. He stated that there are nine (9) areas of overbuild, totaling over 2,400 sq. ft. of impervious surface above that which is permitted. He concluded that, at this point, the applicant had three options: 1) request that the Planning Board advance the proposal to a public hearing; 2) put the proposal on hold and seek a variance through the Zoning Board of Appeals; or 3) remove excess impervious surfaces so as to become compliant with the zoning ordinance.

Mr. Escaladas asked, if there had been no violations by the applicant, could the land to be purchased be annexed without the need for a subdivision. Mr. Fried responded that a re-subdivision would be required in that instance as well. Mr. Escaladas stated that he took the blame for the large amount of impervious coverage, noting that he should have been more attentive to the changes in the field. Mr. Golden disagreed, stating that the owner and contractors bear some blame as well for not taking into account the square footage of the changes. Mr. Golden asked if the impervious area added around the pool was for safety purposes or for convenience. Mr. Escaladas replied that it was for convenience.

Mr. Golden advised that if the proposal had just been the acquisition of the land, without the violations present, he still would not look favorably at this request. Mr. Snaggs asked if such a subdivision proposal would be something generally accepted. Chairperson Simon replied that the Planning Board, through the Town Code, requires that lots be created in a uniform manner. He stated that, if each of the lots were vacant lots, he would be less likely to consider an approval. Because both lots already are developed and the land to be purchased is both unusable and proposed to be placed in a conservation easement zone, he would be supportive. He added that the violation present on the property makes the decision to approve much less clear. Mr. Escaladas asked if the only issue of the Board was the irregularity of the proposed lot shape, noting that this was stated at the previous work session held on this matter. Mr. Hay clarified that the opinion was his, and not that of the entire Board.

Chairperson Simon advised that he did not favor the proposal as currently submitted. He asked the Board to provide their opinion on the proposed plan, as submitted. Mr. Desai suggested that the applicant consider what Chairperson Simon stated about the options they have, and that he could not favor the proposal as submitted as well. Mr. Golden stated that none of the extra work could have been done without the knowledge of the owner and the contractor, and that he could not favor the proposal as submitted. Mr. Hay stated that the overage seemed excessive, and that he could not favor the proposal as submitted. Ms. Freitag stated that the overages did not appear to be a mistake, but rather deliberate alterations, and that she could not favor the proposal. Mr. Snaggs suggested that the applicant seek a variance or remove the excess surfaces.

Chairperson Simon asked the applicant how it wished to proceed, noting that the process, if advancing to a public hearing, is an opportunity for additional input to contribute to the Planning Board's process and subsequent decision. Mr. Escaladas stated that he would discuss with his client and advise staff at a later date.

5. **NEW BUSINESS**

a. **Case No. PB 19-10** Youth Mission of Life Church, 375 Dobbs Ferry Road (P.O. White Plains, N.Y.) – Amended Site Plan, Planning Board Steep Slope Permit & Wetland/Watercourse Permit

A work session to discuss an amended site plan, Planning Board steep slope permit and wetland/watercourse permit application for a proposal to construct an approximately 5,000 sq. ft. rubber-surfaced basketball court, together with permeable pavers surrounding the court, an approximately 150 linear foot, 4-foot high stone retaining wall, and related improvements. The applicant proposes approximately 3,310 sq. ft. of disturbance to 15-25% slopes (STEEP SLOPES), 800 sq. ft. of disturbance to 25-35% slopes (VERY STEEP SLOPES), and 4,000 sq. ft. of disturbance to 35%+ slopes (EXCESSIVELY STEEP SLOPES). The project requires approximately 230 cubic yards of excavation. The applicant proposes approximately 2,800 sq. ft. of wetland/watercourse buffer disturbance within the 65,850 sq. ft. of watercourse and adjacent buffer area on the subject property. The applicant proposes the removal of twelve (12) regulated trees from the subject property, and has prepared a landscaping plan which calls for the planting of: four (4) Serviceberry trees, twenty-eight (28) Winterberry shrubs, sixteen (16) Cinnamon ferns, fourteen (14) Christmas ferns, and twenty (20) Wood ferns, as replacement, between the area of the proposed work and the on-site watercourse areas. The property consists of approximately 173,804 sq. ft. (3.99 acres) and is situated on the southerly side of Dobbs Ferry Road (NYS Route 100B), approximately 250 feet east of the intersection of Dobbs Ferry Road and West Hartsdale Avenue. The property is situated in the R-20 One-Family Residence District, and is designated on the tax map of the Town of Greenburgh as Parcel ID: 8.141-94-20.

Mr. Emilio Escaladas, P.E., R.A., of Escaladas and Associates, representing the applicant, provided an overview of the proposal. He advised that the proposed basketball court would be similar to the court at Old Tarrytown Road Park. Mr. Escaladas stated that the court would be porous to allow

drainage, the pavers surrounding the court would be permeable, and that the drainage system to capture and handle runoff has been designed to exceed Town Code requirements. He noted that the court would have two sources of light, both facing downwards, for evening play. Mr. Escaladas explained that the plan calls for the removal of twelve (12) regulated trees, but that extensive landscaping has been proposed. He noted that he had met with the Conservation Advisory Council and, at its request, additional landscaping has been added to the project plans. Mr. Escaladas stated that there are no residential neighbors close to the subject property.

Ms. Fraitag asked if the existing gate access to the site would be controlled, in order to prevent unsupervised use of the proposed basketball court. Mr. Escaladas confirmed that it was controlled. Chairperson Simon inquired about the distance between the basketball hoops and the proposed retaining wall. Mr. Escaladas replied that fencing is proposed around the entire court, and that there would be five (5) feet between each of the hoops and the surrounding fence. Mr. Fried suggested the applicant look into high school and college regulations regarding basketball courts, for safety purposes. Mr. Desai asked how much disturbance is proposed to the wetland/watercourse buffer area. Mr. Schmidt replied that a majority of the buffer related disturbance involves grading activities outside of the proposed court area, and the buffer would be enhanced as a result of the project through the installation of extensive landscaping.

Chairperson Simon stated that the Planning Board would conduct a public hearing on this project, at its January 2, 2020 meeting.

- b. **Case No. TB 19-21/PB 19-19** Columbia Wegman Hartsdale Assisted Living, 202 West Hartsdale Avenue, (P.O. Hartsdale, N.Y.) – Site Plan (Town Board approval), Special Permit (Town Board approval), Planning Board Steep Slope Permit, and Tree Removal Permit (Town Forestry Officer approval)

A work session to discuss a site plan (Town Board approval – referral to Planning Board), Town Board special permit (Assisted Living Facility – Town Board approval – referral to Planning Board), and Planning Board Steep Slope permit application involving the proposed demolition of the Maple Wood Swim Club and the redevelopment of the site into a 115 unit, 137 bed assisted living facility, consisting of approximately 106,000 sq. ft., with 71 off-street parking spaces, and related improvements. The applicant submitted an alternate driveway circulation layout that: 1) maintains the primary access; 2) maintains the secondary emergency only access; 3) provides a parking area in the front of the building towards West Hartsdale Avenue; and 4) provides 3/4 circulation around the building. The project involves approximately 44,392 sq. ft. of disturbance to 15-25% slopes (STEEP SLOPES), 19,225 sq. ft. of disturbance to 25-35% slopes (VERY STEEP SLOPES), and 48,177 sq. ft. of disturbance to 35%+ slopes (EXCESSIVELY STEEP SLOPES). The applicant proposes the removal of 351 regulated trees from the property, requiring a tree removal permit from the Town Forestry Officer. The applicant has prepared a landscaping plan which calls for the planting of 146 new trees, as replacement. The property consists of approximately 386,377.20 sq. ft. (8.87 acres) and is situated on the south side of West Hartsdale Avenue, at the intersection of Maplewood Road. The property is located in the R-20 One-Family Residence District and is designated on the tax map of the Town of Greenburgh as Parcel ID: 8.200-150-7.

Chairperson Simon reviewed the format for discussion of the project, noting that the applicant would present the project and that members should ask questions for clarification only. He advised that a publicly noticed site visit, followed by another work session, followed by a public discussion, would ensue.

Mr. Steven Wrabel, Esq., of McCullough, Goldberger, & Staudt, LLP, representing the applicant, provided an overview of the site and the proposal for an assisted living facility. Mr. Greg Elmore, partner, of E2k Consulting, LLC, provided an overview of other Columbia Pacific Senior Living and

Wegman properties. Mr. Elmore provided photographs depicting what other properties developed by the applicant look like, and stated the proposed project would look very similar. He advised that the proposed facility would consist of a maximum of three (3) stories, with the building separated into different sections, not all of which will be three (3) stories. Mr. Elmore showed a similar site situated within a residential area and pointed out the wooded buffer around the property. He stated that the proposed facility would have a low impact on Town emergency services due to having a 24 hour nurse call system and trained staff which would assist residents and determine if an EMS response is needed. Mr. Elmore noted that there would not be a nurse on-site 24/7, though the facility is a "lift" facility. Mr. Elmore stated that there would be a maximum of 26-28 employees at the facility at any one time, with a total of 50 plus full-time and part-time employees. He further said the applicant is committed to being a long-term neighbor serving seniors in the Town, and that its re-use of a developed site would provide financial gains for the Town.

Mr. Michael Finan, P.E., of Langan Engineering, provided an overview of existing conditions and a brief history of the development of the proposed site plan. Mr. Finan stated that the applicant scaled back the original design due to comments from Town staff and neighboring residents. He showed the Board an overview of the proposed plan, along with an alternate site layout plan. Mr. Finan stated that the submitted site plan provides for an emergency vehicle access with grass pavers across the back of the facility, and that the alternate plan eliminates this continuous path, while keeping a grass paved emergency entrance. He added that the alternate plan would reduce total on-site disturbance and pull disturbances further away from adjacent residential properties. He stated that the project plans provide for a full stormwater management system, including a bio-retention system which ties into a dry detention basin.

Ms. Fraitag noted that at a prior meeting neighbors stated that there currently are stormwater runoff issues on the site, and asked if the applicant had followed up on those comments. Mr. Finan replied that the current site runoff is uncontrolled, flowing from west to east, and that the applicant's proposal would fully control stormwater runoff, as required under the Town Code.

Mr. Desai asked if there was a nearby bus stop. Mr. Finan replied that there is a formal bus stop at the intersection with Ridge Road, as well as an informal bus stop at Maplewood Road. Mr. Desai asked how facility staff would get to and from the site, to available public transit. Mr. Pete Russillo, Senior Associate and Senior Project Manager, with Maser Consulting, P.A., stated that a traffic study had been prepared and submitted. He stated that the applicant is prepared to provide shuttle service to Central Park Avenue and the train station for staff and residents. Mr. Russillo noted that the existing bus stop at Ridge Road is served by buses traveling in both directions.

Chairperson Simon asked if sidewalk construction is included within the proposal. Mr. Finan responded that the plan proposes a sidewalk across the frontage of the property.

Mr. Wrabel stated that the alternate plan is a conceptual plan only at this point, but if the Board members had no objections to this layout, the applicant could more fully develop this design into a full set of drawings. Ms. Fraitag asked if the alternate plan would result in a reduction in the total number of trees to be removed. Mr. Wrabel stated that it would, though the exact number is yet to be determined. Mr. Golden informed the applicant of a comment letter recently received from a neighboring resident. Chairperson Simon requested that, at the next work session, the applicant provide a response to the comments in the letter, and provide a rendering depicting the viewshed from the lower elevation neighboring properties.

Mr. Hay stated that the applicant should be prepared to further discuss proposed tree removals, visual impacts, stormwater management, and traffic concerns at the next session. Chairperson Simon requested that the traffic study encompass the Hartsdale Four Corners revitalization project. Mr.

Russillo replied that the study prepared included data and information from Secor Road down to Central Park Avenue. Ms. Fraitag requested that the traffic study include the Woodlands Middle and High School, as there are concerns over potential conflicts with school buses.

Mr. Golden expressed concern for the long-term viability of assisted living facilities. Mr. Desai asked for the total number of beds to be provided in the proposed facility. Mr. Fried asked if when describing beds the applicant had considered couples occupying rooms in their plans. Mr. Desai questioned if the facility could be set at a lower elevation, so as to not be so much higher than the neighboring residential properties to the south. He also questioned if flipping the layout of the parking and retaining walls to the opposite sides of the building was feasible. Mr. Desai asked if there was an affordability component to the proposed facility. Mr. Snaggs asked the applicant to provide an assessment of the impact on emergency vehicles of not providing full circular access around the proposed facility. Mr. Duquesne stated that one area variance is required in connection with the current submitted plan, and requested the applicant to provide a plan that is zoning compliant, for comparative purposes.

Chairperson Simon stated that a publicly noticed site visit should take place in early January 2020. Mr. Schmidt indicated that Saturday, January 4, 2020 and Saturday, January 11, 2020 at 10:00 am are potential options, which would allow the Board to next discuss this matter at its January 15, 2020 work session. Mr. Wrabel stated that January 11, 2020 tentatively would work for the project team, though he would confirm following further discussion. Chairperson Simon suggested the applicant stake out the property before the site visit, so the general outline of the proposed building was identifiable during the visit.

Chairperson Simon stated that if the site visit were to take place on January 4, 2020 or January 11, 2020, this matter could be placed on the January 15, 2020 Planning Board meeting agenda, however, if the site visit is unable to take place during either of those dates, the Planning Board would not hold its next work session on this matter until sometime following the visit.

6. ESTABLISH DATE FOR NEXT MEETING

The next regularly scheduled meeting of the Greenburgh Planning Board will be held on Thursday, January 2, 2020, and will begin at 8:00 pm in the Greenburgh Town Hall Auditorium.

7. ADJOURNMENT

The December 4, 2019 work session of the Town of Greenburgh Planning Board was adjourned at 11:15 pm.

Respectfully submitted,



Aaron Schmidt
Deputy Commissioner,
Department of Community Development and Conservation

285-64B. Report of the Planning Board. In making its report on any proposed amendment, the Planning Board shall make inquiry and determination concerning the items specified below:

The proposed zoning text amendment complements a new proposed zoning district called the Continuum of Care Facility (CCF) District, which would function as a floating zone in the Town of Greenburgh. The only use permitted in this district would be a Continuum of Care Facility or CCF, which is defined as a residential facility that provides a combination of the features and amenities of Assisted Living Facilities and Independent Living Facilities, and provides residential units for each of those levels of care within a single building. The process for establishing a CCF on a site in the Town requires an applicant to petition the Town Board for approval to rezone an existing site to a CCF District. If approved, the CCF District would replace the prior underlying Zoning District at that site. This report focuses on the proposed local law of a CCF District in unincorporated Greenburgh and its applicability on a non-site specific basis.

(1) Concerning the proposed amendments to or change in the text of this chapter.

(a) Whether such change is consistent with the aims and principles embodied in the chapter as to the particular districts concerned;

The CCF legislation, and related floating zone is proposed in a manner that does not restrict the use to a particular pre-existing zoning district. The area considered for future CCFs in the Town should be evaluated on a Town-wide basis, as the siting criteria is not zoning district-based, but instead, based on special siting criteria. The process for establishing a CCF on a site in the Town initially requires a petition to the Town Board for approval to rezone an existing site to a CCF District. If approved, the CCF District would replace the prior underlying Zoning District at the proposed location.

As the use has Town-wide potential, assessing consistency with the existing districts of the Zoning Ordinance is not applicable. However, a review of the local law text identifies that careful consideration has been given to lot and bulk considerations, in a manner that is applicable in *each* zoning district of the Town. The CCF text contains criteria and a process for review, consistent with the current processes applicable to all zoning districts of the Town of Greenburgh. Criteria such as lot size, beds per acre, building setbacks, maximum height, parking area setbacks, floor area ratio, building coverage, impervious coverage, loading berth, and off-street parking requirements for CCFs are provided in a similar manner as established presently for assisted living facilities. The addition of a separation distance into the text is a factor/criterion that is not incorporated presently into the assisted living facility regulations, however, one that has been deemed to exhibit major consistency with the Comprehensive Plan (community character/oversaturation concerns, Page 10-18).

The applicant has identified that some of the criteria established in connection with the CCF local law provide for greater flexibility than that previously established for assisted living facilities, such as beds per acre and height allowances, due to the fact that CCFs generally are larger in scale when compared to assisted living facilities, which are only single-use buildings. The applicant further has identified that the floating zone aspect of the proposed local law, as opposed to a special permit process, affords reviewing boards far greater discretion in use on a particular site, evaluating a CCF use that contains more beds per acre, as an example, than a typical assisted living facility.

From a process perspective, all CCF proposals would be reviewed in connection with the SEQRA process, in a manner similar to other land use proposals in zoning districts in the Town. Additionally, the requirement for subsequent site plan approval ensures that all of the site plan criteria identified in Section 285-54 (Standards) of the Zoning Ordinance will be reviewed by an approving board for a CCF use, in a manner consistent with land use proposals in other zoning districts in the Town.

(b) Which areas, land uses, buildings and establishments in the Town will be directly affected by such changes and in what way they will be affected;

The proposed zoning amendment would provide the potential for CCF proposals in the Town of Greenburgh. As previously noted, this potential is not confined to a predetermined list of existing zoning districts of the Town, and would have town-wide applicability limited by certain siting criteria.

The local law which contains the zoning text for the CCF District provides criteria and restrictions regarding the future placement of this use in the Town. Proximity to a State or County road; distance between existing, approved and potential CCFs and similar existing or approved senior housing uses; and site size are the most applicable factors. In addition, participation/input from involved and interested agencies such as the Town Board, Planning Board, Westchester County Planning Board/Planning Department, New York Department of Transportation, the public, adjacent municipalities, etc., factor into the review of a proposal.

It is highly likely that any new CCF would consist of a proposal to construct a new building for such use on available land area in the Town, as opposed to retrofitting an existing building for a CCF use. As for the geographic locations that a CCF could be sited in the Town, the Planning Board report for the CCF Zoning Map proposal submitted by an applicant identifies the differences of the siting criteria of the initial petition and those recommended by the Planning Board. These are primarily with respect to the proximity to a state/county road, and with respect to the

applicability of a 4,000 foot linear distance separation requirement. The Planning Board recommendation to remove the requirement associated with a numeric distance from a state/county road and replacing it with a standard demonstrating potential safe emergency access would allow for the possibility for a greater number of sites, however, the comprehensive evaluation process for reviewing a CCF would ensure proper placement of a new CCF use, if approved. The 4,000 foot linear distance separation requirement severely restricts the potential for new CCF uses in the One-Family Residence Districts (which comprise approximately 75% of the land area in the Town). Mapping prepared by Town staff highlight the limiting potential of the 4,000 linear foot restriction. The Planning Board recommendation to not apply the 4,000 linear foot separation requirement to lands only in commercial/office/mixed-use districts would allow for the potential for a greater number of potential sites, however, the comprehensive evaluation process for reviewing a CCF would ensure proper placement of a new CCF use, if approved.

The 6-acre minimum lot size provision further limits applicability of the CCF use in the Town. As stated above, the Planning Board recommendation to permit lower lot size flexibility under specifically defined conditions, would allow for the potential for a greater number of potential sites, however, the comprehensive evaluation process for reviewing a CCF would ensure proper placement of a new CCF use, if approved. The Planning Board recommends certain restrictions against the combining of under-sized lots, which would further limit the applicability of the use in the Town.

(c) The indirect implications of such change in its effect on other regulations; and

Indirect implications are anticipated on other regulations, based on the proposed amendments. The benefits of the discretion afforded with the floating zone district concept, are recommended by the Planning Board to be incorporated, by zoning text amendment, into the regulation process of assisted living facilities. The Planning Board has recommended (TB 19-19 ALF Text Amendment Recommendation, November 7, 2019) that the Town Board modify the existing approval process for Assisted Living Facilities as Special Permit uses in the One-Family Residence Districts, in favor of a new floating zoning district for these uses. Similarly, the Planning Board has recommended that the Town Board incorporate five of the six recommended CCF local law provisions contained within the Planning Board's TB 19-08 recommendation (excluding the six acre flexibility provision as it is not applicable to Assisted Living Facilities) into the Assisted Living Facility amendments.

(d) Whether such proposed amendments are consistent with the aims of the official planning policies of the Town of Greenburgh.

As this report focuses on the CCF local law on a Town-wide basis, the Comprehensive Plan (“the Plan”) is the most applicable document for assessing the proposed amendment upon the development of the Town. The Planning Board report for the CCF Zoning Map proposal identifies several areas of consistency with the Plan, and specifically the following: POLICY 10.2.1.4, “Explore a special permit approval process to allow for independent senior housing, when proposed in connection with Assisted Living Facilities, or on lots similar to those that are eligible for Assisted Living Facilities;” and POLICY 10.1.1.5 states, “Amend Section 285-10 of the Zoning Ordinance to include a minimum separation distance requirement associated with Assisted Living Facilities.”

The Planning Board recommended two additional criteria for the local law text that exhibit further consistency with the Plan and planning policies of the Town. The Board recommended codifying that an applicant must explicitly specify in its application the emergency protocol, such as lift policies, presence of a 24/7 LPN – RN, etc., it proposes to use, including references to access to emergency vehicles.

With respect to affordable housing, the Planning Board identified that incorporating affordability into a CCF development is a positive aspect of this potential use, however, due to the complexity of deriving a one-size-fits-all formula for affordability associated with these uses, a specific set-aside percentage requirement does not appear to be practical. As such, the Planning Board recommended that the local law incorporate language that potential applicants provide affordability provisions, if any, associated with their specific proposals for a CCF. The local law should specify the importance of affordability and suggest that preference will be given to facilities that incorporate affordability into their programs. The Planning Board also discussed recommending that there be a clear and definite need for affordable/reduced rate senior housing units, however due to the complexity of deriving a one-size fits all formula, the Planning Board encouraged the Town Board to retain a professional consultant to appropriately advise on this matter. The Planning Board’s recommendation in this respect is fully consistent with the Plan’s OBJECTIVE 10.2.2, which states, “Continue to facilitate the creation of affordable housing units in existing and future residential zoning districts.”

285-64B. Report of the Planning Board. In making its report on any proposed amendment, the Planning Board shall make inquiry and determination concerning the items specified below:

The proposed zoning amendment would create a new zoning district called the Continuum of Care Facility (CCF) District, which would function as a floating zone in the Town of Greenburgh. The only use permitted in this district would be a Continuum of Care Facility or CCF, which is defined as a residential facility that provides a combination of the features and amenities of Assisted Living Facilities and Independent Living Facilities, and provides residential units for each of those levels of care within a single building. The process for establishing a CCF on a site in the Town requires an applicant to petition the Town Board for approval to rezone an existing site to a CCF District. If approved, the CCF District would replace the prior underlying Zoning District at that site. This report focuses on the potential creation of a CCF District in unincorporated Greenburgh and its applicability on a non-site specific basis. A separate report of the Planning Board will focus on the potential for a CCF at 289 Dobbs Ferry Road, P.O. White Plains (Metropolis Country Club), which is the subject of a related petition by the CCF petitioner.

(1) Concerning a proposed amendment involving a change in the Zoning Map.

(a) Whether the uses permitted by the proposed change would be appropriate in the area concerned;

To evaluate the appropriateness of the CCF use in applicable areas of the Town, several factors were considered:

- The zoning petition submitted by the applicant, and related application submittals
- The functionality of a Floating Zone
- The Planning Board recommendations that are specific to siting criteria
- The Comprehensive Plan
- Input from professional staff
- Prior knowledge regarding the impact of similar uses in the Town
- Mapping associated with the uses
- Evaluations of existing zoning districts in the Town

The CCF legislation, and related floating zone is proposed in a manner that would not restrict the use to a particular pre-existing zoning district. As an example, Assisted Living Facilities are not presently enabled by a floating zone district process and are permitted only by special permit in the One-Family Residence Districts. The area concerned for future CCFs in the Town should be considered on a Town-wide basis, as the siting criteria is not zoning district-based, but instead, based on specific siting criteria.

The local law which contains the zoning text for the CCF District has criteria and restrictions regarding the future placement of this use in the Town. Proximity to a State or County road; distance between existing, approved and potential CCFs and similar existing or approved senior housing uses; and site size are the most applicable factors. In addition, the function of a floating zone and the process for its use on a particular site in the Town, which includes a public hearing component involving neighbors potentially impacted by a proposal, also is applicable.

Proximity to a state or county road

With respect to proximity to a state or county road, the Planning Board recommends criteria that is markedly different than that proposed as part of the applicant's initial petition. The applicant's petition contained a provision that a CCF use must be located within 200 ft. of a State or County road, other than Parkways and Interstate Highways. This provision was modelled after similar language that presently exists with respect to Assisted Living Facility provisions associated with the special permit process for these uses in the One-Family Residence Districts.

The Planning Board, in reviewing whether CCFs potentially are appropriate in relation to proximity to State and County roads, sought out and received input from the Police Chief and Police staff, which highlighted that numerous non-State and non-County roads in the Town provide safe and accessible access to sites from an EMS and emergency perspective. The Planning Board recommends replacing the 200 ft. state/county road proximity requirement with a standard that CCFs must have reasonable access for emergency vehicles, as the process for petitioning for the enactment of a CCF District on a particular site in the Town includes a referral to several agencies (Police, Fire, DPW, Engineering) that would evaluate the appropriateness of a site with respect to emergency access, pedestrian safety, site distance, etc.

The benefit of having a provision that potentially enables additional CCF locations beyond those that front on a State or County road or are within 200 feet of such roadways is that there likely are other roadways within the Town with safe and accessible emergency access and that have good overall transportation access.

4,000 linear ft. separation

With respect to a requirement that CCFs be sited in a manner that places them at least 4,000 linear feet from a similar use, such as another CCF or an assisted living facility, the Planning Board supports such a restriction, however, the Board recommended an additional provision when considering the appropriateness of the area concerned. The initial petition submitted by the applicant correctly identified consistency with the Comprehensive Plan (community character/oversaturation concerns, Page 10-18) when proposing a 4,000 linear feet separation distance requirement. The Planning Board recommended that this provision is best applicable in the One-Family Residence Districts, but is not applicable in commercial/office/mixed-use districts. In terms of community character and appropriateness of the use in different areas of the Town, the Planning Board concludes that two or more CCF or similar uses clustered in the One-Family Districts would have the potential for significant negative community character issues, whereas, a CCF or similar use in a non-residential zoning district within 4,000 linear feet of another use may very well be appropriate from a neighborhood character perspective.

- (b) Whether adequate public school facilities and other public facilities, utilities and services, including roads, exist or can be reasonably expected to be created or serve the needs of any additional dwellings or other uses likely to be constructed as a result of such change;

The immediate result of the proposed map amendment would be the processing of a site plan application for a 160-bed CCF proposal at the Metropolis Country Club. The CCF petitioner represents Brightview Senior Living and Metropolis and has identified that the petition would enable the applicant's desired goal of constructing a CCF in this location.

Town-wide, the addition of CCFs, as a new use in the Town of Greenburgh, would require no additional resources from the respective school district. A building with a combination of independent senior living and assisted living uses has little to no potential for school aged children, as the residents of such a facility require services and receive accommodations that are not appropriate for families.

With regard to adequate utilities and services, either existing or needed, an evaluation would be carried out on a site-by-site basis when a CCF facility is proposed. Utilities such as water service, sanitary sewer service, stormwater infrastructure, natural gas, and electricity, while available to many portions of the Town of Greenburgh, would be evaluated for each new proposal. In instances where direct service or infrastructure is unavailable or does not exist, a respective applicant would be required to propose adequate service or infrastructure in

connection with any proposal. Such proposals, considering utility infrastructure and services, would be reviewed as part of the SEQRA process for any zoning map petition for a CCF, as well as the subsequent and related site plan process. As an example, the approval and construction of an Assisted Living Facility at 715 Dobbs Ferry Road included a requirement that the applicant construct new underground sanitary sewer lines to the site where such lines did not pre-exist prior to that proposal. Another example includes an Assisted Living Facility proposal at 448 Underhill Road, where the applicant evaluated and proposed to mitigate water service deficiencies at that site by looping the nearby water infrastructure piping.

Similarly as with utility infrastructure, with regard to adequate roads, an evaluation would be carried out on a site-by-site basis. If a petition for a CCF is received for a particular site, the applicant would be required to identify whether the roadway that the site has frontage on, and the nearby roadway network, is adequate for the needs of the CCF use. Applicable aspects of the roadway network that would be reviewed would be sidewalks and pedestrian connectivity, site distance at driveways, proximity to public transportation including bus stops, etc. Proposals associated with roadways would be reviewed in connection with the SEQRA process for any zoning map petition for a CCF, as well as the subsequent and related site plan process. As an example, the approval and construction of an Assisted Living Facility at 581 Old White Plains Road, included the upgrade of portions of Old White Plains Road, Rt. 119, and Benedict Avenue with new sidewalks by the applicant, to address a pre-existing inadequate network.

With respect to medical emergencies, the Town of Greenburgh is responsible for providing advanced lifesaving services (ALS), basic lifesaving services (BLS), and transporting patients to local area hospitals through its Police Department - Emergency Medical Services (EMS) Unit. Fire protection in unincorporated Greenburgh is independently provided through three combination (career and volunteer) fire districts and under contract for seven volunteer fire protection districts, which are operated by village fire departments. These Fire Districts provide BLS services in addition to the transport, ALS and BLS services provided by the Town of Greenburgh Police Department paramedic/EMT unit. An applicant with interest in constructing a 160-unit CCF Facility in the Town estimates a potential for 3-4 EMS calls per week or approximately 182 calls annually. Each individual proposal for a CCF would be referred to the Town of Greenburgh Police Chief and to the respective Fire District for comment, regarding adequacy of services. The Planning Board has recommended codifying that an applicant must explicitly specify in its application the emergency protocol, such as lift policies, presence of a 24/7 LPN – RN, etc., it proposes to use, including references to access to emergency vehicles. Such provisions would allow the Town and its

professional staff and emergency responders be able to best evaluate the proposal from an EMS perspective.

(c) Whether the proposed change is in accord with any existing or proposed plans in the vicinity; and

As noted below in Section B(2)(d) of this report, the proposed Zoning Map amendment is consistent with the Town of Greenburgh's Comprehensive Plan, which contains policies to advance the potential for a wider variety of housing for seniors. As this report focuses on the potential for CCFs on a Town-wide basis, existing or proposed plans in the vicinity constitutes a review of plans with Town-wide applicability. The Town's Zoning Map, Zoning Ordinance, and Comprehensive Plan are the most applicable documents in this context. The proposal for a new CCF Floating Zone District in the Town, in itself, would not change the existing Zoning Districts in the Town and would only be applicable if the Town Board received a petition for a CCF Zoning District, and after involvement from involved and interested agencies such as the Planning Board, Westchester County Planning Board/Planning Department, New York Department of Transportation, the public, adjacent municipalities, etc., approved a CCF use on a site.

From a planning perspective, another applicable concept for assessing the appropriateness for CCFs in the Town is understanding the local and regional needs for the proposed use. The petitioner submitted to, and discussed with, the Planning Board a report entitled, "Westchester County, NY - Senior Housing Outlook," dated September 18, 2019, which highlighted several important demographic and housing analyses. On a county, state, and national scale, the statistics show an increase in the population of persons over 75 years in age. In New York State over the next 20 years, there is projected to be an increase in persons over 75 years old, with a low supply of senior housing, particularly in Westchester, indicating a County-wide need for this type of housing. Regionally, the applicant represented that the New York market for senior housing is behind other major metropolitan areas. The applicant identified that there are a total of 5 CCF and 12 assisted living facilities in Westchester County, with an average lot size of 6.4 acres and 137 units. The report further identifies that Westchester County has 8.2% 75+ aged population, with 3.9% of housing conducive to this age demographic.

(d) The effect of the proposed amendment upon the development of the Town as envisioned by the official planning policies of the Town of Greenburgh.

As this report focuses on the potential for CCFs on a Town-wide basis, the Comprehensive Plan ("the Plan") is the most applicable document for assessing the proposed amendment upon the development of the Town. From a general housing perspective, the Plan advocates for consideration of the spectrum of housing needs, including "all income levels, ages, lifestyles and physical capabilities." The Plan advocates for broadening the concept of aging in place to be expanded so that place can be a variety of residential options in the Town. With respect to CCFs, two policies in the Plan are highly applicable. POLICY 10.2.1.4 of the Plan states, "Explore a special permit approval process to allow for independent senior housing, when proposed in connection with Assisted Living Facilities, or on lots similar to those that are eligible for Assisted Living Facilities." POLICY 10.1.1.5 states, "Amend Section 285-10 of the Zoning Ordinance to include a minimum separation distance requirement associated with Assisted Living Facilities."

While the CCF use is proposed as a Zoning Map amendment establishing a floating zone, as opposed to the special permit recommendation, in policy 10.2.1.4. of the Plan, the potential impact upon development in the Town is consistent. The Planning Board, after reviewing the planning function and applicability of a floating zone, with input from Planning staff, the Planning Board attorney, an independent land-use planning consultant working on behalf of the Town, and the applicant, have determined that the floating zone provides greater and more appropriate discretion in evaluating a CCF use for siting in the Town. The inclusion of the 4,000 ft. linear separation requirement is a forceful contributor to maintaining consistency with Goal 10.1 of the Plan, which involves protecting and enhancing the character of one-family neighborhoods.

B. Report of the Planning Board. In making its report on any proposed amendment, the Planning Board shall make inquiry and determination concerning the items specified below:

The proposed zoning text amendment pertains to the manner in which senior housing facilities such as Assisted Living Facilities (ALF), nursing homes, and Continuing Care Retirement Communities (CCRC) are regulated in the Town. Presently, these facilities require special permits, which are allowed in the One-Family Residence Districts of the Town of Greenburgh. The Zoning Ordinance contains individual specific criteria for these uses. The proposed zoning text amendment, initiated by Town staff on behalf of the Town Board, would introduce a new, and additional, criterion that would require a minimum 4,000 linear foot distance separation from existing or approved facilities and newly proposed facilities.

(1) Concerning the proposed amendments to or change in the text of this chapter.

(a) Whether such change is consistent with the aims and principles embodied in the chapter as to the particular districts concerned;

The proposed legislation would amend the special permit use criteria for Assisted Living and other senior housing uses specified in the One-Family Residence Districts to introduce a new, and additional, criterion that would require a minimum 4,000 linear foot distance separation from existing or approved facilities and newly proposed facilities. The One-Family Residence Districts do not include a statement of intent or purpose, therefore, the most applicable aims and principles for this district are embodied in the Comprehensive Plan of the Town [addressed further in section (d) of this report] and in Section 285-2 Purpose, of the Zoning Ordinance. Section 285-2E., “the maximum protection of residential areas from the intrusion of incompatible land uses.” ALFs and other senior housing uses specified in the One-Family Residence Districts are presently deemed permitted uses by special permit and, as such, are not deemed incompatible land uses provided the special permit criteria are met.

The inclusion of an additional criterion related to a minimum 4,000 ft. linear separation is consistent with a purpose of protecting residential areas from incompatible uses. POLICY 10.1.1.5 of the Comprehensive Plan states, “Amend Section 285-10 of the Zoning Ordinance to include a minimum separation distance requirement associated with Assisted Living Facilities.” The rationale for this policy is related to a concern that having two or more of these facilities within close proximity would likely have a negative impact on community character, or render the uses incompatible with residential areas.

The Planning Board recognizes the benefit of the 4,000 linear foot separation provision of the referred local law from a land-use and zoning perspective when considering the One-Family Residence Districts. However, in its recommendation to the Town Board, the Planning Board proposed modifying the existing approval process for Assisted Living Facilities as Special Permit uses in the One-Family Residence Districts, in favor of a new floating zoning district for these uses.

The floating zone, as recommended by the Planning Board, would not restrict the ALF and other senior housing uses to the One-Family Residence Districts, but would provide Town-wide applicability for these uses, with similar siting criteria as recommended and rationalized in connection with the Planning Board's review, recommendations and reports for the Continuum of Care Facility (CCF) legislation and referral (see TB 19-08 CCF Recommendations and Reports). As noted in the CCF reports, the floating zone process includes broad input from involved and interested agencies such as the Town Board, Planning Board, Westchester County Planning Board/Planning Department, New York Department of Transportation, the public, adjacent municipalities, etc., factoring into the review of a proposal. From a process perspective, the Planning Board supports the greater flexibility and discretion regarding whether a use is viable on a particular site, when compared to the discretion of the same uses when permitted by special permit.

(b) Which areas, land uses, buildings and establishments in the Town will be directly affected by such changes and in what way they will be affected;

The proposed zoning text amendment, as recommended by the Planning Board, would provide the potential for ALF and other senior housing use proposals in the Town of Greenburgh. As previously identified, this potential is not confined to a predetermined list of existing zoning districts of the Town, and would have town-wide applicability limited by certain siting criteria.

The proposed zoning text amendment, as recommended by the Planning Board provides for criteria and restrictions regarding the future placement of this use in the Town. Reasonable access for emergency vehicles; distance between existing, approved, and potential facilities; and site size are the most applicable factors. In addition, participation/input from involved and interested agencies such as the Town Board, Planning Board, Westchester County Planning Board/Planning Department, the New York State Department of Transportation, the public, adjacent municipalities, etc., factor into the review of a proposal.

It is highly likely that any new ALF or comparable use would consist of a proposal to construct a new building for such use on available land area in the Town, as opposed to retrofitting an existing building for an ALF or comparable use. The

Planning Board recommendation to remove the requirement associated with a numeric distance from a state/county road and replacing it with a standard demonstrating potential safe emergency access would allow for the possibility for a greater number of locations, however, the comprehensive evaluation process for reviewing a ALF or comparable use would ensure proper placement of a new ALF or comparable use, if approved. The 4,000 foot linear distance separation requirement lowers the potential for new ALF or comparable uses in the One-Family Residence Districts (which comprise approximately 75% of the land area in the Town). Mapping prepared by Town staff highlights the limiting potential of the 4,000 linear foot restriction. The Planning Board recommendation to not apply the 4,000 linear foot separation requirement to lands only in commercial/office/mixed-use districts would allow for the potential for a greater number of potential sites, however, the comprehensive evaluation process for reviewing an ALF or comparable use would ensure proper placement of a new CCF use, if approved.

(c) The indirect implications of such change in its effect on other regulations; and

The indirect implications of the proposed local law, and the recommended modifications of the Planning Board, are seen in totality, when considering the proposed CCF legislation. As the goals and objectives are similarly consistent among both proposals, the Planning Board stresses the importance of having consistent local laws for each of these uses.

(d) Whether such proposed amendments are consistent with the aims of the official planning policies of the Town of Greenburgh.

POLICY 10.1.1.5 states, "Amend Section 285-10 of the Zoning Ordinance to include a minimum separation distance requirement associated with Assisted Living Facilities." The proposed local law is fully consistent with this policy. The Planning Board's recommendation to have the ALF and comparable uses local law modified to be consistent in form and approach to the CCF local law, does not represent inconsistency with the Comprehensive Plan. On the contrary, by creating a floating zone, as opposed to a special permit process, greater discretion is afforded to the Town Board and involved and interested agencies of the Town, ensuring a better process to ensure that a particular site is consistent with the Comprehensive Plan.