

December 20, 2011

**TUCKAHOE PLANNING BOARD  
TUCKAHOE VILLAGE HALL – 7:30pm**

**Present:**

Chairperson	Ann Marie Ciaramella
Commissioner	Raymond Nerenberg
Commissioner	Melba Caliano
Commissioner	Eric Fang
Commissioner	Antonio Leo
Commissioner	Tim Miller
Commissioner	Clare Gorman

**Also in Attendance:**

Gary Gjertsen	Deputy Village Attorney
Mike Seminara	Code Enforcement Officer
Commissioner	Sandy Reyes-Guerra (ad hoc)

**Commissioner Caliano** acknowledged the sad passing of the former Chairwoman of the Zoning Board, Gloria Rosell. She was devoted to the Village. The Board offered their condolences to her family. Chairwoman Ciaramella called for moment of silence.

**Chairwoman Ciaramella announced the evening's agenda as follows:**

**Item #1** Approval of Minutes Meeting held on November 15, 2011

**Item #2** 65 Main St. Site Plan

**Item #3** 150, 160, 233 Main Street Return

**Item #4** 100 Marbledale Rd. Site Plan

**Item #5** 100 Marbledale Rd. Site Plan

**Item #6** 181 Marbledale Rd. Site Plan

**Item #7** 181 Main St. /20 Marbledale Rd Site Plan

**Item #8** 16 Chestnut Adjourned

**Item #9** Crestwood Station Plaza LLC  
300 Columbus Avenue Adjourned

**Item #1 Approval of Minutes Meeting held on November 15, 2011**

Postponed until next month.

**Item #2** 65 Main St. Site Plan

Mr. Gary Spilatro, representing the applicant, stated that ECDC, which runs a child day care center, plans to rent the third floor and part of the first floor of Village Hall. The day care center provides care for 35 children. The drop off and pick up of the children will be at the rear of the building. Drop off is

between 7:30 am – 8:00 am. Some children will stay for half the day, so many are picked up between 12:00 and 3:00pm. A staff member will be in the rear of the building near the street for assistance and monitoring of the children. The day care center has been operating in Tuckahoe for over 20 years and is currently at the Church of the Assumption. The plans are for an outside play area fenced around three parking spaces. The spaces will be in the rear corner of the lot closest to the street. There will be a painted walkway for the children to follow the path to the back staircase and the play area. The older children ages 2.5 to 5 years will be on the third floor. The younger children will stay on the lower level. There are four staircases of egress for all children. The day care will have 6 parking spaces. Three for the play area and three open. There is an option to rent 12 additional spaces from the Village lots. There will be cars parked against the building where the children must walk to the back staircase. An employee will escort the children from the rear staircase to the back staircase of building. This rear entrance is the primary entrance for the day care center.

Commissioner Fang voiced his concern regarding the placement of the play area and the safety of the young children walking through the parking lot.

Bryan Murphy, representative from ECDC noted that the day care currently has 35 children with the projection of 8 – 10 infants. The enrollment may fluctuate. The Village and Andrus worked out the location of the play area. The applicant will try to relocate the play area next to the building, as safety is the most important issue. All children will be encouraged to enter the building through the rear entrance.

Mayor Steve Ecklund understood the Board's concern regarding the placement of the play area. The play area location was decided together by the Village Board, Police Chief and the DPW. Any future minor change to the play area will be under the Building Inspector's jurisdiction.

Commissioner Caliano noted that the Board would be willing to give a recommendation tonight, but not approval as the placement of the play area was a safety concern. She added that the Village may decide to accept portions of the code to allow this applicant to go forward with this application.

Mr. Gjertsen Deputy Village Attorney noted that the Board should determine site plan approval or disapproval for the plans submitted.

Commissioner Fang noted that the plans do not give the measurement of the curb cut. He also voiced his concern regarding parents walking to the daycare center with strollers. How would the parent go to the rear door with a stroller?

Mr. Spilatro noted that the parents must only use the staircase by the curb cut. They would not use the entrance of the parking lot.

Mr. Seminara stated that the police vehicles need to have immediate access to the exit of the lot in the case of an emergency. The parents need to use the staircase near the curb cut for access to the day care facility. If the handicap space can be moved from the current location, then the play area will be placed near the building.

Mr. Murphy noted that the state code requires 20 minutes of fresh air per day so 8 children would be playing at a time. The 200sq. ft. should be adequate.

Commissioner Fang restated his concern regarding the drop off process. He asked if a child has to arrive in a handicap van, the day care would accommodate their needs.

**Commissioner Caliano motioned to open the public hearing, seconded by Commissioner Leo and unanimously carried by the Board.**

### **No Public Comments**

**Commissioner Nerenberg motioned to close the public hearing, seconded by Commissioner Caliano and unanimously carried by the Board.**

**Commissioner Miller offered the following resolution:** In the matter of the application of Julia Dyckman Andrus Memorial, Inc. Premises: 65 Main Street, Tuckahoe, NY **FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION**

#### **Background and Findings of Fact:**

The Applicant is the lessee of part of the Premises commonly known as 65 Main Street, Tuckahoe, New York and identified on the tax map of the Village of Tuckahoe (the "Village") as Section 33, Block 8 and Lot 11 (the "Premises"). The Premises is currently improved by the Village Hall building, which is a former schoolhouse building.

The Applicant is a non-profit, non-sectarian social service agency providing childcare services to children from the ages of 18 months to 5 years old. The Applicant holds a lease with the Village of Tuckahoe to utilize the Premises as a daycare facility subject to the issuance of the necessary approvals.

The Applicant seeks relief from the Village of Tuckahoe Zoning Code (the "Zoning Code") by means of the issuance of site plan approval to operate its daycare facility in a Business Zoning District.

The Premises is located in a Business Zoning District, which requires, in pertinent part, that daycare facilities be operated pursuant to Special Use Permits issued by the Zoning Board of Appeals. The Applicant has previously obtained their Special Use Permit from the Village of Tuckahoe Zoning Board of Appeals.

Currently, the Demised Premises is approximately 10,000 square feet of space comprised of the entire top level of the Premises known as 65 Main Street, Tuckahoe, New York and approximately 2,000 square feet of space comprised of part of the ground floor of such Premises.

#### **A. The Nature of the Application:**

The Applicant seeks site plan approval from this Planning Board. Pursuant to Section 7-1.1 of the Zoning Code, the Planning Board is vested with the authority to issue site plan approval as set forth in said Zoning Code. "No building permit shall be issued for a structure, no structure or use shall be established and no site shall be changed, other than a one-family or two-family dwelling and its permitted accessory structures and uses, unless it is in conformity with a site plan approved by the Planning Board in accordance with this Section. No Certificate of Occupancy for such structure or use shall be issued until all the requirements of such approval and any conditions attached thereto have been met. The continued validity of any Certificate of Occupancy shall be subject to continued conformance with such approved site plan and conditions. Revisions of approved site plans shall be subject to the same approval procedure." See Tuckahoe Zoning Code, Section 7-1.1. Under the Zoning Code, this Planning Board must apply certain standards to insure that the Applicant meets or exceeds the requirements of the Zoning Code.

#### **1. Safe, Adequate and Convenient Vehicular and Pedestrian Traffic Circulation Both Within and Without the Site:**

The Applicant has submitted a plan that establishes the safe, adequate and convenient vehicular and pedestrian circulation both within and without the site. In particular, the Applicant will be utilizing the rear of the Village Hall building and parking lot area for the pick-up and drop-off of the children who are to be provided services by this daycare facility. The Village has already constructed an ADA-compliant ramp in the rear of the Premises to provide for an easier and safer means of ingress and egress to the Village Hall building. In addition, according to the plan presented by the Applicant, the drop-off of children in the rear of the Village Hall building would include utilization of the existing exterior cement staircase that

exists on the site. Indeed, the Applicant has presented a plan that demonstrates a flow of vehicular and pedestrian traffic circulation to and from the subject site.

The Planning Board acknowledges that the traffic volume to and from the Premises will change with the establishment of the use sought herein, but the anticipated effects of this increased traffic volume will not be significant. Any increases in traffic volume to the area as a result of the proposed use for the Premises will only occur during times when children are either dropped off or picked up from the Premises for daycare services. These time periods will be before morning rush hours and sporadically throughout the late morning and early afternoon.

Because so few children attending the daycare facility will remain on the Premises during peak afternoon traffic hours, the net effects of this slight increase in volume will be insignificant. The Applicant has presented sufficient information to the Planning Board demonstrating that any increase in traffic volume to the area near the Premises will be effectively mitigated. Thus, this Planning Board has determined that the effects on traffic from this proposal will be reasonable in nature.

This Planning Board has reviewed the following factors in connection with the proposed project:

1. The effect of the proposed development on traffic conditions on existing streets;
2. The number, locations, dimensions and construction details of vehicular and pedestrian entrances, exits, drives and walkways;
3. The visibility in both directions at all exit points of the site;
4. The location, arrangement and adequacy of off-street parking lots;
5. The interconnection of parking lots via access drives within and between adjacent lots in an effort to provide maximum efficiency, minimize curb cuts and encourage safe and convenient traffic circulation;
6. The patterns of vehicular and pedestrian circulation both within the boundaries of the development and in relation to the adjoining street and sidewalk system;
7. The location, arrangement and adequacy of facilities for the physically handicapped, such as ramps, depressed curbs and reserved parking areas;
8. The location, arrangement and adequacy of landscaping within and bordering the parking lot;
9. The adequacy of fire lanes and other emergency zones.

Based on the foregoing and this Planning Board's review of the submitted plans, this Planning Board finds that the Applicant has provided for safe, adequate and convenient vehicular and pedestrian traffic circulation both within and without the site.

**2. The Protection of Environmental Quality and the Preservation and Enhancement of Property Values in the Neighboring Area:**

Under the project as proposed, this Planning Board finds that the protection of environmental quality and the preservation and enhancement of property values in the neighboring area will not be negatively affected by the proposed project. Specifically, the Applicant has submitted a proposal whereby it will lease part of the Village Hall building, particularly the top level and part of the first floor. There will be no expansions to the footprint of the Village Hall building nor will there be any increases in height of the building under the project as proposed. The location, height and materials for walls, fences, hedges and plantings will remain unaffected by this project. The fencing applicable to the Village Hall building will not be moved to another location. Moreover, the height of the fencing applicable to the Village Hall building will remain the same and hedges and plantings are not being proposed to the perimeter of the Village Hall premises so as to block the views from neighboring properties.

In addition, all installations and constructions concerning the project will occur within the Village Hall building, thus dust and erosion prevention to the surrounding area will not be a factor in the development of this project.

Natural features on the site shall be preserved in accordance with the plan as submitted by the Applicant. Under the proposed plan, natural features will not be removed from the site, as all construction and installations will occur within the Village Hall building. Thus, no natural features will be removed from the site as a result of the proposed project. Exterior lighting will not be reduced as a result of the proposed project as well. The design and arrangement of buildings, structures and accessory facilities shall remain unchanged as a result of this project, and noise levels will not be appreciably increased.

Furthermore, storm and surface water drainage facilities, so as to properly drain the site, will remain unchanged as a result of this project and additional impervious surfaces will not be added to the site as a result of the proposed project. Landscaping, building siting and building orientation also will remain unchanged as a result of the proposed project.

As mentioned, the exterior of the Village Hall building is not being changed in any manner as a result of the project. Thus, the quality of the building and overall site design will remain unchanged and not affect property values of the adjacent neighborhood. Indeed, the surrounding neighborhood will not be negatively affected as a result of the proposed project.

**Conclusions of Law:**

Based on the submissions and testimony before the Planning Board, the Applicant has adequately satisfied the standards for the granting of site plan approval that are enumerated in Section 7-1.5 of the Zoning Code.

**SEQRA:**

Based on the foregoing, this Planning Board finds and determines that:

- 1) The action taken herein is an Unlisted Action subject to the requirements of SEQRA;
- 2) This Planning Board is in possession of all information reasonably necessary to make the determination as to the environmental significance of the application for the proposed site plan approval; and
- 3) The action taken herein shall not have any significant impacts upon the environment and it is hereby declared that a Negative Declaration be adopted with respect to this action.

**Conclusion:**

Based on the foregoing, it is resolved that the site plan approval referenced herein be and is hereby granted to the Applicant in accordance with this decision. The Applicant and/or interested third parties are notified of their respective rights to appeal this decision or any part thereof in accordance with the New York Civil Practice Law and Rules.

**Commissioner Nerenberg seconded the motion.**

**Discussion:** Commissioner Fang noted that he commends the efforts of the Village Board under the leadership of Mayor Ecklund to bring a tenant to Village Hall. The Board understands the time constraint with the lease agreement, however, this Board did have concerns with the planning of the play area and drop off procedure and handicap accessibility.

Commissioner Calian noted that she would like to see the play area beside the building once the replacement of the handicap parking spot is achieved.

Mayor Ecklund noted that he is aggressively working on that.

Commissioner Fang stated that he understands and appreciates the efforts but would like to add a condition upon approval that this application must return to the Planning Board with the solution of an acceptable drop off and acceptable play area.

Gary Gjertsen added that this Planning Board may approve the site plan as submitted tonight. If there is a minor change to the plans, it would be under Mr. Williams's jurisdiction. If the change is determined to be major, the application will return to the Planning Board.

Commissioner Fang noted that he has trouble abdicating the decision. He added the following **condition: Whatever the plan is for the location of the play area, the applicant must return to this Board rather than give the decision to the Building Inspector. Any change to the site plan, the applicant must return to the Planning Board.**

**Commissioner Caliano seconded the motion to accept the site plan with the condition that the applicant returns to the Planning Board with any changes to the approved site plan.**

**Motion with condition was carried with a vote of 7 – 0.**

**Item #3 150, 160, 233 Main Street Return**

Mr. Null, attorney representing the applicant, noted that the applicant is seeking site plan approval as the Board adopted SEQR approval back in August 31, 2011. He commented on a letter received from Mr. Sweeney, an attorney representing an unidentified group of clients. He noted that some of the facts in the letter were incorrect. In 2007 the plans were approved which allowed residential use of first floor for

146, 150, 160 and 233. The building 146 is not part of this application. Building 150 has commercial on the first floor and the residential entrance is on Midland Ave.- the key difference is that there is residential on the 2<sup>nd</sup> and 3<sup>rd</sup> floors. The building 160 is all residential.

**Commissioner Leo offered the following motion: In the matter of the application of Midora Corp./Glenmark Partners, LLC, premises; 150, 160 Main Street and 233 Midland Ave, Tuckahoe NY --- FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION**

**Background and Findings of Fact:**

The Applicant is the record owner of the Premises commonly known as 150 and 160 Main Street and 233 Midland Avenue, Tuckahoe, New York and identified on the tax map of the Village of Tuckahoe (the "Village") as Section 29, Block 4 and Lots 1, 3-8, 13, 17, 33, 36, 39 and 40 and Section 29, Block 9 and Lots 1 and 25 (the "Premises"). The Premises is located in a Business/Residential Zoning District and consists of approximately 2.26 acres of land.

**A. The Current Nature of the Application:**

The Premises consists of several tax lots on which buildings and/or parking facilities are proposed to be constructed and utilized for a mixed commercial and residential use. On 233 Midland Avenue, the building designated as Building 1 as set forth in the Applicant's Environmental Assessment Form dated June 2011, would be a three-story building containing approximately 24 dwelling units, having an address of 233 Midland Avenue. Pedestrian access would be from Midland Avenue with vehicular access from Midland Place. Further, residents parking their cars in the parking structure would have direct access from the parking structure into 233 Midland Avenue. On 160 Main Street, the building designated as Building 2 in the Applicant's Environmental Assessment Form dated June 2011, would be a four-story building containing approximately 63 dwelling units, having an address of 160 Main Street. Pedestrian and vehicular access would be from Midland Place, with parking provided in a 204-space parking structure integrated into the rear of Building 2 and the base of Building 1. The parking structure would include three levels of above-ground parking and one level of below-ground parking. This parking would be shared by residents of 233 Midland Avenue ("Building 1"). On 150 Main Street, the building designated as Building 3 in the Applicant's Environmental Assessment Form dated June 2011, would be a three-story building containing approximately 34 dwelling units and approximately 3,500 square feet of commercial space in the ground floor fronting on Main Street. Off-street parking would be provided in an at-grade parking area (approximately 18 spaces) and below the building (approximately 38 spaces) and would be accessed off Midland Place. The Applicant seeks amended site plan approval for this project from the Tuckahoe Planning Board.

**B. Relief From the Zoning Ordinance:**

To achieve their developmental goals for the project, the Applicant sought a Special Use Permit from the Village of Tuckahoe Zoning Board of Appeals (the "Zoning Board") allowing them to utilize the Premises for residential uses in the Business/Residential Zoning District. In addition, the Applicant sought relief from the Village Zoning Ordinance with respect to the following issues: (i) number of stories; (ii) floor area ratio ("FAR"); and (iii) building height. The scope of the relief requested through the area variances was as follows:

	<u>Required</u>	<u>Proposed</u>
<b>Floor Area Ratio:</b>		
160/233 Midland Avenue	1.2	1.48
<b>Height (in feet):</b>		
160 Main Street	42'	43'9"
<b>Number of Stories:</b>		
160 Main Street	3	4
<b>Parking</b> (total residential and commercial)		
150 Main Street	129	53
160 Main Street	126	204

After conducting public hearings and extensively weighing the proposed benefits against the burdens of granting the above relief, the Zoning Board arrived at the well-reasoned determination that the relief requested by the Applicant would have no detrimental effects on the surrounding community. Additionally, the relief requested was found to be consistent with the pattern of uses and development in this area. Thus, by a March 12, 2008 resolution, the Zoning Board granted the relief requested by the Applicant with respect to the Special Use Permit sought as well as the area variances.

### **C. Planning Board Review:**

An amended application was filed with the Planning Board by the Applicant's representatives, William S. Null, Esq. of Cuddy and Feder, LLP and by AKRF Environmental and Planning Consultants ("AKRF"), for approval of an amended site plan for the Premises. The Applicant's architect, Norman Cox, also appeared at Planning Board meetings to discuss the nature and scope of the project. The Planning Board met on several dates and convened at several public meetings as reflected in the minutes to consider and hear an application for an amended site plan review.

William S. Null, Esq. and AKRF, among other parties, represented and spoke on behalf of the Applicant at the meetings and public hearings. The project's environmental effects, benefits to the Applicant, potential burdens on the community and nature and scope of the project, among other issues, were extensively discussed and deliberated before the Planning Board and the interested public. At a regular meeting of the Planning Board, the Planning Board declared itself the lead agency under the State Environmental Quality Review Act ("SEQRA") for the review of the project as it concerns the amended site plan review.

In connection with its application for an amended site plan review, the Applicant offered supporting documentation to the Planning Board, including but not limited to the project's amended site plan, surveys, drawings, materials, renderings, elevations, sketches, studies and environmental assessment forms with supplements as required by the Planning Board and its planning consultant, BFJ Planning. The project's design, physical dimensions, layout and uses were extensively discussed before the Planning Board and through written submissions submitted to the Planning Board.

The following issues were identified or extensively deliberated before the Planning Board: (i) impacts on schools and the generation of school-aged children from the project; (ii) existing conditions affecting the project such as land use, neighborhood and community character, public policy, community facilities and emergency services; (iii) traffic conditions; (iv) parking accommodations and considerations; (v) pedestrian conditions; (vi) environmental site assessments, including analysis of hazardous materials, flooding, storm water mitigation, underground storage tanks and existing and proposed topography and sewerage; (vii) building height, scale and aesthetic impact; (viii) ingress and egress to the Premises; (ix) potential nuisances; (x) the project's compatibility with the Village's Comprehensive Plan; (xi) solid waste generated, if any, and other issues relevant to the planning process. On August 31, 2011, the Planning Board issued a Negative Declaration under SEQRA.

To grant site plan approval for the project, the Planning Board was required to consider all of the purposes and goals set forth in the Zoning Code. In doing so, the Planning Board reserved the authority to impose conditions on the project to insure full compliance with the letter and spirit of the Zoning Code. See Zoning Code Section 7-1.4. The Planning Board strictly adhered to this level of review. Among other factors, and as set forth in the Zoning Code, the Planning Board considered the following standards in weighing the grant of amended site plan approval.

#### **1. Safe, Adequate and Convenient Vehicular and Pedestrian Traffic Circulation Both Within and Without the Site:**

In connection with the amended site plan approval process, AKRF submitted and discussed the findings of a traffic impact study performed for the project. The traffic impact study analyzed and discussed the following non-exclusive list of issues as they relate to the project: (i) existing site conditions at or near the Premises; (ii) signalized and unsignalized intersection capacity analysis with supporting methodology; (iii) existing traffic conditions in and around the Premises; and (iv) projections and supporting analysis concerning future traffic volume in the area with or without the proposed development. AKRF's traffic impact study contemplates the project's effects on both vehicular and pedestrian traffic patterns. Both AKRF and William S. Null, Esq. appeared before the Planning Board at several meetings discussing the relative burdens and benefits associated with the project in this respect. Mr. Null discussed, among other issues, the requirements, design and potential impact of the proposed parking for the project. The adequacy and proposed improvements to the existing sidewalks near the Premises in connection with the project were also extensively discussed.

Additional traffic considerations and alternatives were discussed by Mr. Null before the Planning Board. All feasible traffic alternatives for the project were analyzed and discussed in the traffic impact studies submitted to the Planning Board. Both the design and proposed impacts of the project's traffic and parking plan support that the site will contribute to safe, adequate and convenient vehicular and pedestrian circulation. The traffic impact study is included in the Applicant's Environmental Assessment Form dated June 2011 as Addendum B.

**2. The Protection of Environmental Quality and the Preservation and Enhancement of Property Values in the Neighboring Area:**

The Applicant's representatives extensively discussed the project's minimal environmental impacts and proposed enhancements to the surrounding community. In particular, the project will utilize high-quality materials, an aesthetically pleasing green roof, geothermal systems, buried utility lines and parking lots with full capacity for the parking on the Premises. These factors, among others, adequately support the project as being a neighborhood enhancement with a minimal profile of environmental effects for a project of its nature and scope.

Additionally, the project features technological and aesthetic considerations consistent with the Village's Comprehensive Plan and environmental goals for developing real property. The Planning Board received and considered an Environmental Assessment Form ("EAF") submitted by the Applicant addressing all potential environmental effects from the project.

The project is a significant, yet minimally imposing neighborhood enhancement. There is no evidence or data before the Planning Board suggesting that the project will adversely affect environmental quality or property values in the area.

**3. Building Quality and Overall Site Design That Enhances and Protects the Character and Property Values of the Neighborhood:**

The project has been designed such that it incorporates and blends into the surrounding neighborhood and environment rather than casting an imposing presence on adjacent lots. The project's design and materials are consistent with the neighborhood and community aesthetic, which consists of different Zoning Districts in close proximity utilizing business, residential and mixed-use buildings. The project's buildings will employ architectural and design considerations that are consistent with other nearby mixed-use Zoning Districts and recent development.

The project will utilize the natural terrain and slope of the Premises to offset the bulk and size of the proposed building and parking facilities. The buildings on the Premises will have a lower elevation relative to adjacent roadways and will be adequately set back to minimize the project's impact on the neighborhood and its scale. The Applicant will ensure that the project will generate no net increase in run-off and will avoid any appreciable environmental effects on the Premises or neighboring lots. Thus, the project will cast no net adverse effects on the physical environmental conditions while utilizing and incorporating the natural terrain and vegetation on the Premises.

The project will contribute improved architectural, aesthetic, environmental, economic and quality of life impacts on the surrounding neighborhood and community. This development is consistent with existing mixed-use developments in the Village.

**4. The Previous Site Plan Approval:**

On November 10, 2008, this Planning Board granted conditional site plan approval so that the Premises may be developed with the then-proposed project (which included 146 Main Street). By resolution dated October 20, 2009, the aforesaid conditional site plan approval was extended for a two-year period from October 20, 2009 to October 19, 2011 (which includes 146 Main Street). The Applicant then requested an additional one-year extension be granted to the conditional site plan approval dated November 10, 2008, that originally granted conditional site plan approval to the Applicant. On October 18, 2011, the Applicant was granted a one-year extension of its conditional site plan approval, including 146 Main Street. However, this Application for amended site plan approval does not include 146 Main Street.

**D. Conclusions of Law:**

Based on the weight of the submissions and testimony before the Planning Board, the Applicant has adequately satisfied the standards for granting amended site plan approval, which are enumerated in Section 7-1.5 of the Zoning Code. The project's site plan is designed such that it fully accommodates and minimizes the effects of any increases in vehicular and/or pedestrian traffic to the site. Both the studies conducted and the testimony before the Planning Board adequately support that the project's amended site plan, as proposed herein, will meet and/or exceed the Zoning Code's requirements for vehicular and pedestrian traffic safety.

Additionally, the evidence submitted to the Planning Board fully supports that the project will maintain and/or enhance environmental quality in the neighborhood. As proposed, the project's site plan will foster significant aesthetic, economic and community enhancements among other positive effects. These proposed effects are consistent with the Zoning Code's site plan regulations and the goals set forth in the Village's Comprehensive Plan. As such, the grant of amended site plan approval for the project is justified both in fact and in law.

**E. Conditions:**

The Planning Board's grant of amended site plan approval for the project is subject to the conditions set forth on Schedule A attached hereto and made a part hereof and incorporated by reference herein. The Planning Board finds that the conditions set forth on Schedule A are reasonable conditions imposed on the Applicant in an effort to make the project more harmonious with the Village's laws and ordinances in addition to further reducing any perceived negative environmental impacts from the project. The conditions set forth on Schedule A are applicable to and binding on the project.



#### **F. Conclusion:**

Based on the foregoing, it is resolved that amended site plan approval be and is hereby granted to the Applicant for the Premises (not including 146 Main Street) in accordance with this Findings of Fact, Conclusions of Law and Decision and subject to the conditions set forth on Schedule A attached hereto and made a part hereof and incorporated by reference herein. The Applicant and/or interested third parties are notified of their respective rights to appeal this decision or any part thereof in accordance with the New York Civil Practice Law and Rules.

#### **SCHEDULE "A"**

#### **CONDITONS TO A CERTAIN AMENDED SITE PLAN APPROVAL FOR THE PREMISES 150 MAIN STREET, 160 MAIN STREET, AND 233 MIDLAND AVENUE, TUCKAHOE, NEW YORK CONCERNING THE APPLICATION OF MIDORA CORP./GLENMARK PARTNERS, LLC**

The Planning Board's grant of amended site plan approval for the Project is subject to the conditions set forth below, which are incorporated by reference in the Findings of Fact, Conclusions of Law and Decision of the Planning Board. The Planning Board finds that the conditions set forth herein are reasonable conditions imposed on the Applicant in an effort to make the project more harmonious with the Village's laws and ordinances, in addition to further reducing any perceived negative environmental effects from the Project. The following conditions are applicable to and binding on the Project:

1. During all phases of construction of the Project, the Applicant shall provide and/or maintain access to the surrounding public sidewalks for the benefit of passersby and pedestrian traffic;

2. Any material deviation(s) by the Applicant from the application as presented and submitted to the Planning Board, the site plan, other plans, drawings and/or renderings, and/or this approval with conditions shall be deemed a violation of this amended site plan approval, subjecting the same to such remedies as the Village deems appropriate. Any material deviation shall require the further approval of the Planning Board;

3. All of the requirements and recommendations set forth in the letters and/or memoranda from EEA, Inc. to the Planning Board with respect to any environmental or remediation, hazardous materials, solid and/or hazardous waste and/or remaining due diligence required on the above-referenced real property shall be incorporated by reference into this amended site plan approval with conditions, and the Applicant shall adhere to the same as conditions of approval;

4. During all phases of construction and upon completion, the Applicant shall undertake all measures to ensure that "no net increase" in storm water runoff will be generated by the Project, storm water quality treatment and erosion control measures are undertaken in conformity with the findings and recommendations submitted by AKRF during the amended site plan review process and the Westchester County Planning Board recommendations for the Project;

5. The Project shall consist of no more than 121 residential units, of which one unit shall be a superintendent's unit and 3,500 square feet of commercial space as presented by the Applicant. The residential component of the Project shall be limited to 62 one-bedroom units, 56 two-bedroom units and 3 two-bedroom duplex units for a total of 121 residential units. The Project shall have no three-bedroom units;

6. All hazardous materials and commitments shall be strictly observed as they are outlined in the August 18, 2008 letter from Bill Null, Esq./Phillip Raffiani to Ann Marie Ciarabella, the Planning Board Chairperson, before a Certificate of Occupancy may be granted for any of the buildings on the Premises;

7. The Applicant, at a cost of approximately \$3,000.00, shall fund certain signal light timing improvements at the intersection of Columbus Avenue and Main Street as identified by AKRF in its Environmental Assessment Form and as requested by BFJ Planning and agreed to by the Applicant;

8. The Applicant, at its cost and expense, shall restripe the pedestrian crossing of Midland Place and Main Street and install signage for eastbound traffic on Main Street that reads, "Do Not Block the Box" or equivalent language as approved by the Westchester County Department of Transportation and/or the Village of Tuckahoe;

9. No non-municipal heavy equipment and/or trucks and/or commercial vehicles shall be stored on the site. No overnight storage of heavy equipment or vehicles shall be stored at the site unless being used on a continuing basis on site during construction or pre-construction;

10. That the building which currently is situated on site shall be subject to the existing state and local code requirements;

11. To the extent required by the New York State Building and Fire Codes, the Applicant shall relocate all overhead utilities existing at the site and on Midland Avenue as initially determined by the Village Building Inspector;

12. All work within the Village of Tuckahoe's right-of-way will be in accordance with the specifications determined by the Village Building Inspector;

13. The Applicant shall promptly submit design details for the underground sand filter to the Village's consulting engineer for review and approval;

14. The Applicant shall comply with all conditions and directives set forth in the September 18, 2011 memorandum from Jim Pinto, the Village's consulting engineer to Janine McColgan at AKRF Engineering, P.C.;

15. The conditions contained herein and the improvements associated therewith must be substantially completed and/or installed prior to the issuance of any Certificate of Occupancy, temporary or permanent, for the Project;

16. The Applicant, at its cost and expense shall facilitate and construct certain improvements to the Main Street Park (the "Park Improvements"): (a) such improvements as generally set forth in a certain letter to Ann Marie Ciaramella, the Planning Board Chairperson, dated October 18, 2011, from Glen Vetromile, the Applicant's representative and partially shown on drawing LA-101 submitted with the Applicant's site plan approval application; and (b) the following additional improvements as shown on the attached drawing dated 06/14/2004 titled Main St. Park Renovation. The Applicant shall not be responsible for more than \$150,000 of such Park Improvements and if the improvements cost the Applicant less than \$150,000 the Applicant will pay to the Village the difference at the time of issuance of the final Certificate of Occupancy for the Project. The Village Board of Trustees shall approve all the Park Improvements prior to their installation and may suggest modifications, clarifications or changes to the Park Improvements by notifying Applicant of such details in writing with a copy to the Planning Board no later than five (5) months after the first permit is issued for the construction of the Project at 150 Main Street, 160 Main Street and/or 233 Midland Avenue (the "Notification Deadline"). Notwithstanding the foregoing, any changes suggested to be made to the October 2011 Park Improvements shall not substantially alter the overall appearance of the improvements along Main Street including the new fencing and entrance plantings designed to enhance the Main Street Park entrance as seen from the intersection of Main Street and Midland Place. Moreover if the Village Board of Trustees does not notify Applicant (or the owner of the Premises known as 150 Main Street, 160 Main Street and/or 233 Midland Avenue) prior to the Notification Deadline, then the Applicant, at its cost and expense, shall proceed to complete the Park Improvements in a first-class workmanlike manner as described in the October 18, 2011 letter and shown on the 06/14/2004 drawing;

17. The Applicant shall, at its cost and expense, comply with all directives and conditions set forth in the memoranda of Dolph Rotfeld Engineering, P.C. dated June 21, 2011 and July 14, 2011;

18. The Applicant shall, at its cost and expense, install lampposts with buried cables along the Main Street corridor adjacent to the project premises to substantially match the existing lampposts already existing with respect to the prior project completed by Mirado Properties on Main Street; and

19. Each of the conditions contained herein shall be satisfied at the Applicant's sole cost and expense.

### **Commissioner Nerenberg seconded the motion.**

**Discussion:** Commissioner Fang noted that there were two letters mention in the approval, which he would like to see. One letter dated Oct. 18, affects the applicant and the letter dated June 14, 2004 he did not read. He needs to see the letters before voting on this approval.

Mr. Null stated that the letter dated June 14, 2004 was regarding the proposed improvements to the park across from the site. The point of the letter was to list 7 items the applicant would like to improve at the park. If the Mayor would take the leadership role with the plans of the park, the applicant would write a check of \$150,000 for the improvements that the Village approves. The Village must decide within 5 months of the building permit being issued, as the Village would be the governing body. If this does not

happen before the 5 months, the applicant will make the improvements. If there is money left over from the \$150,000, the balance will be given to the Village.

Commissioner Caliano voiced her concern regarding the term 'generally set forth' in the letter submitted Oct. 18.

Mr. Null agreed to delete 'generally' and keep the words 'set forth.'

**Upon roll call, motioned was carried with a vote of 6 – 1 with Commissioner Caliano voting 'No'.**

The following is the reasons for Commissioner Caliano's decision:

Commissioner Caliano noted that she voted 'No' for the approval of the negative declaration pursuant to SEQR on Aug. 31, 2011. She stands on her reasons cited on August 31:

Thank you for listening, my colleagues. Tonight we consider site plan approval of this project. As before, I find that I must vote to deny site plan approval. I opposed the issuance of a Negative Declaration, based on several grounds relating to the State Environmental Quality Review Act (SEQR), which I believed then as I believe now has not been complied with. My reasons were set forth on the record. (See PB minutes dated August 21, 2011.) In addition, in response to a letter, dated December 20, 2011 from MTS regarding WOH seeking additional time to obtain FOIL requests will not hamper the ultimate determination of the Planning Board and I believe it should be acknowledged and time extended. Further, the applicant has not lodged any viable reason how they would be harmed if FOIL requests were allowed to run its course.

It is still my position that this development project is not an 'amendment' to the originally approved project several years back, but is actually a new project that requires completely new and total review by the various other boards that are responsible for development projects. Needless to say, that includes the Zoning Board, which has seen nothing of this new project. I cannot give site plan approval to a project that I believe differs so significantly from its previous incarnation that I consider it to be a new project that must go before the Zoning Board before it comes to this Board. I once again reference and incorporate the same reasons set forth in my August 31, 2011 vote.

None of this comports with the village Zoning Code or Master Plan. The village neighborhood and or character still remain at risk.

We now know that the potential buyers/developers behind the Crestwood Plaza project wants 49 units. The unfortunately bad precedent set by this Board's vote on August 31, 2011, has seen to that requested expansion. That applicant's presentation has generated comments about 'lack of infrastructure' as a consideration for denying the request to expand to 49 units. Why deny that project and not this Main Street expansion? Do we not want to be consistent in our application of our village codes and regulations to the entire area of our village?

Why is the Planning Board's concern for the expansion of the Crestwood project different than its concern for the expanded units of this new Main Street project? It is a Planning Board's role and obligation to consider its' village Zoning Code and it's Master Plan guidelines, to think of the future, to avoid the cut and paste approach shown for planning, and to plan for the entire village as a cohesive entity.

I will vote in opposition to grant site plan approval. Thank you.

Mr. Raffiani and Mr. Null wished all Happy Holidays and Happy New Year.

#### **Item #4 100 Marbledale Road**

Fleetwood Collision – Auto repair facility

Site Plan

Mr. Leonard Brandes architect for the applicants noted that this was two projects at the same address. A sub-division to create a storage building and Fleetwood Collision Repair shop to move from 125 Marbledale Rd. to 100 Marbledale Rd.

Mr. Brandes noted that regarding the building for Fleetwood, the existing building would be expanded in the rear. The parking area on the side of the building will be for customers to drop off their vehicles.

There will be an additional 7 parking spaces including a handicap spot in the rear of the property for employees. The loading dock and platform will be removed and the façade will be updated. Fleetwood will replace the windows; add an extension in the rear for a new spray booth. The existing bay will be removed. The entrance will be updated and the steps on the left side in the front will be turned to the side. Small plantings, evergreens in rear and shrubs in the front. The interior space will stay the same and the offices will stay in the current location. He submitted colors of the façade.

Chairwoman Ciaramella asked that the applicant present the subdivision application.

**Item #5 100 Marbledale Road**

Elide Building subdivision for new warehouse

Site Plan

Mr. Brandes stated that for the sub-division, Mr. Seminara plans to use the storage facility for storing large trucks and equipment, which will be located 50 ft. setback, which the applicant was granted a variance. There will be two 14 ft. x 14 ft. doors on the storage building. There will be a small bathroom, and a loft of 875 ft. to store additional materials. The building will be concrete blocks with stucco finish. The building will be beige with dark banding on top and bottom and a brown roof. There will be additional plantings planted on the property line.

**Chairwoman Ciaramella motioned to accept the sub-division for Elide Building Corp. 100 Marbledale Rd. Section 67, Block 3, and Lot 10. For a two-story building of 40ft. x 60ft. for a storage garage and parking. Every representation of the applicant made its application and presentation will be a condition of the approval board. Any deviation from the representation made shall be cause for the revocation of said approval.**

**Condition: The applicant will pay a 10% recreation fee required by the Village Code paid within 30 days to the town assessor. The Board adopts a negative declaration pursuant to SEQR.**

**Commissioner Nerenberg seconded the motion.**

**Discussion:** Mr. Brandes stated that the applicant submitted an Environmental Review.

Commissioner Miller asked if the application was an easement or right of way.

Mr. Brandes noted that it is a separation of the buildings maintained by an easement.

**Motion was carried with a vote of 7 – 0.**

**Chairwoman Ciaramella motioned to approve the site plan for Fleet Collision Corp. 100 Marbledale Rd. Section 67, Block 3, and Lot 10. The site plan approval for a motor vehicle/auto repair shop. The required special use permit was granted by the Zoning Board of Appeals. Every representation of the applicant made its application and presentation will be a condition of the approval board. Any deviation from the representation made shall be cause for the revocation of said approval.**

**Condition: Applicant shall park no damaged cars or cars to be repaired on the street.**

**Commissioner Leo seconded the motion and was carried with a vote of 7 – 0.**

**Item #6 181 Marbledale Road**

**Site Plan**

Jack Hughes, attorney representing the applicant Rocco Cacciola, stated that the Environmental Review report was submitted and it was founded that there were no issues with the property. He indicated that the public hearing was closed.

Chairwoman Ciaramella read a letter submitted by Sheila Clark regarding the proper testing procedures. (See attached ) She asked if this test was done correctly and how many tests would an applicant have to complete?

Mr. Fish, Village Consultant, stated that a memo he received noted that the received soil sample report was prepared by a reputable firm located in Brookfield CT. A consultant at Mr. Fish's firm reviewed the report, contacted the firm and discussed the findings. The lab analysis found no evidence of contamination and his colleague was satisfied that the study was done correctly. The test borings were spread out enough on the site.

Mr. Fish added that the Mayor could possibly hire an independent consultant to review all of Marbledale Rd., but this study would cost a significant amount of money. Mr. Fish added that the county did not have any concerns regarding the report on hazardous materials. They did question the impervious surface in the back and the water usage. This site is a non-sensitive receptor.

Commissioner Gorman asked why only some borings were sent out to be further tested. Mr. Rocco stated that the person tested the site with a meter. If the soil did not cause the meter to have concern, that section was not sent out to be tested further. There was no sign that the soil was hazardous. Mr. Fish added that this procedure was typical.

Mr. Hughes noted that 5 soil samples were sent out for further screening. The site was screened with the detector. As for the disturbing of the land, this is not a concern. Most of the development is the building up of the structure, not down. There will be very limited disturbance of the land to install pilings.

Commissioner Caliano asked about the recycling of the water. Mr. Abillama noted that the car wash will recycle the water using 3 tanks under the driveway. All the water used for washing the cars will go into the tanks to use again.

Chairwoman Ciaramella noted that the Village should have the applicant confirm the recycled water and provide proof that it will not go into the sewer system. The plans should conform to the county requirements.

Commissioner Leo asked about the volume of water the tanks could hold. Mr. Abillama stated that the retention tanks are built based on a 50-year storm.

Chairwoman Ciaramella asked why the applicant needs 55 parking spaces. Mr. Hughes noted that it is a repair business, which is very busy. There are 25 customers per day. These spaces will be used to store cars that need to be repaired and those that have been repaired. This will relieve the congestion on Marbledale Rd.

Commissioner Reyes-Guerra voiced her concern regarding the ADA access and the type of green roof. Mr. Fish added that the plans show 3 spaces in front of the convenience store with one of the spaces used for handicap. He suggested the 3 spaces be reduced to 2 spaces for ample room for any handicap persons. In addition, it will give ample room for the other vehicles to maneuver.

Mr. Hughes agreed.

Commissioner Gorman noted that there were no borings tested in the driveway area as it is paved. This spot will be disturbed to install the water retention tanks.

Mr. Abillama noted that the driveway slopes down, therefore, there will be very little disturbance as the tanks will be placed and the driveway will be filled in.

Commissioner Gorman again voiced her concern that the driveway will be disturbed to put the tanks in. That soil should be tested.

Mr. Abillama stated that the driveway is rock and marble. It slopes down, and the cisterns will be placed and and fill will surround the cisterns making the driveway flat.

Commissioner Caliano asked about the radius of each boring.

Mr. Hughes noted that the company that tested the soil is a reputable company that conducted the test correctly. The result of the tests was that there was no evidence of contamination. The borings were spread out evenly. The applicant hired a reputable company and these are the results.

Mr. Fish noted that the EEA determined that the spacing of the borings was done professionally. A second test conducted by the Village would take two months and cost \$5000. He suggested that the applicant bring in the representative from the testing company to discuss the procedure and findings of the test.

Mr. Gjertsen added that it has been close to the 60-day limit. The next Planning Board meeting must be held within the 60 days limit.

Chairwoman Ciaramella offered a special meeting maybe Jan. 5, 2012.

Commissioner Gorman stated that the public could send letters to the Board regarding this application.

#### **Item #7 181 Main St./20 Marbledale Rd                      Site Plan**

Mr. Leonard Brandes, architect for the applicant, explained that this building has been vacant for the past two years. It is currently a factory with offices on the second floor. The applicant plans to keep the building 'as is' and relocate their business, as they outgrew their facility in Mamaroneck. The small factory takes products, such as baby formula Similac, and refines the powder. It is a very quiet and clean process. Trucks will deliver approximately twice a week. The product comes in drums or bags, which are then put on stages in a clean room. The product is sifted through the stage to be refined. There is an exhaust system with HEPA filters. The only access to the factory would be by the trucks backing up to the loading dock from Marbledale Rd. There will be two – two yard containers for trash. This procedure does not produce a lot of trash. Storage Deluxe is in the front of the building and the Mobile Station is across the street. The interior of the facility is all open, and the applicant plans to partition sections off. There will be no changes to the second floor.

Mr. Grotto, applicant, noted that the layout of the building is perfect for this operation. The screening machines separate and refine the powder. The screens have approximately 500 holes per inch. There is no assembly and no manufacturing of any kind. The facility sometimes fine tunes the machines to make sure they run correctly. This facility will be a distributor for the company. There is very little noise and the facility sits behind the storage building on Marbledale Rd. There are no residents nearby. There will be eight employees with eight parking spots in the rear. Plans are to occupy immediately. The only change would be to the exterior entry door. There are no plans to change the loading dock. Hours of

operation are from 7:00am to 5:00pm. On occasion, the facility may stay open late due to customer needs. The noise that the screening machines make will not travel beyond the building walls. The separated walls should eliminate the echoing and noise from the machines. He claimed he has never received a complaint about the noise in the 20 years in Mamaroneck, where residential buildings were 12 ft. away.

**Chairwoman Ciaramella opened the public hearing.**

**Public Comments**

Commissioner Reyes-Guerra questioned if the trucks would have enough space backing into the loading dock with many DPW trucks parked near the mouth of the driveway.

Mr. Grotto stated that he spoke with members of the DPW and was told that there would be cooperation as they were happy to have this facility being used again.

Mr. Fish noted that he would check to see if an EAF would have to be filed, as this facility is close to Eastchester. If this were a Type II, the applicant would not have to submit an EAF. In addition, this application may have to be referred to the county.

Mr. Brandes noted that this is a re-use of an existing building and would be exempt from SEQR. This is a Type II action.

Mike Seminara stated that this application must be referred to the county and the Special Use Permit must be granted by the Zoning Board prior to getting Site Plan approval from the Planning Board.

Commissioner Fang asked the applicant to bring the equipment specifications to the next meeting.

**Item #8 16 Chestnut**

**Adjourned**

**Item #9 Crestwood Station Plaza LLC  
300 Columbus Avenue**

**Adjourned**

**Chairwoman Ciaramella stated that the public hearing would remain open.  
She wished everyone a Merry Christmas and Happy Kwanza and Happy Hanukah.  
Happy New Year.**

There being no further comments from the public or business before the Board, upon motion duly made, seconded and unanimously carried, the meeting was adjourned at 11:00pm.