

MOUNT KISCO PLANNING BOARD
Agenda
Tuesday, February 14, 2017
Planning Board Work Session 6:30 PM
Meeting 7:30 PM

Work Session:

- a. Discussion of Parking and Change of Use

Minutes:

- b. *January 24, 2017*

Formal Application:

- c. **Win Development – 77-91 S. Moger (Former Eduardo's)**
PB2016-0320, 80.25-1-2
Site Plan
 - *Draft SEQRA Negative Declaration, dated February 14, 2017*
 - *Public Hearing Notice*
 - *Property owners within 300 feet*
 - *Copy of Map*
 - *Affidavit of Mailing*
 - *Affidavit of Posting*
 - *Affidavit of Publication*
 - *Memorandum from New York City DEP, dated January 26, 2017*
 - *New York State DEC Notice of Incomplete Application, dated January 25, 2017*

Special Discussion:

- d. Mavis Discount Tire request for extension of approval, dated January 30, 2017

Correspondence: None

DRAFT

Village/Town of Mount Kisco
Planning Board

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**State Environmental Quality Review
NEGATIVE DECLARATION
Notice of Determination of Non-Significance**

Date: February 14, 2017

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Village of Mount Kisco Planning Board has determined that the proposed action described below will not have a significant environmental impact and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Win Development – 71-91 South Moger Avenue

SEQRA Status: ☐ Type 1

☒ Unlisted

Conditioned Negative Declaration: ☐ Yes

☒ No

Coordinated Review: ☒ Yes

☐ No

Description of Action: The subject property is comprised of ±0.26 acres of land and is located on South Moger Avenue, in proximity to its intersection with Green Street, within the CB-1 Zoning District. The subject property is developed with a 1-story building, which is currently occupied by a restaurant, and paved parking with two (2) curb cuts on South Moger providing a one-way circulation pattern. The application involves the redevelopment of the property, including demolition of the existing building, construction of a new 2-story (±7,432 s.f.) building, elimination of one (1) curb cut on South Moger Avenue, and the construction of a one-way driveway and parking lot layout that would connect to Shopper's Park over Village owned land; parking, lighting and drainage improvements are also proposed on Village property. The proposed use is identified as office on the second floor and office (with a retail component) on the ground floor.

Location: 71 – 91 South Moger Avenue, Mount Kisco, New York

Reasons Supporting This Determination: The Planning Board has compared the proposed action with the Criteria for Determining Significance in 6 NYCRR 617.7 (c). Specifically:

1. While not a complete list, the following materials have been submitted to the Planning Board in support of the subject application and this Negative Declaration of Significance:
 - a) Reference is made to the Conceptual Application, submitted on January 5, 2016.
 - b) Reference is made to the Formal Site Plan Application, Change of Use Application, and Wetland Permit Application, all dated June 7, 2016 and revised January 3, 2017.
 - c) Reference is made to a survey entitled "Topography of Property Tax Lot 2", prepared by Thomas C. Merritts Land Surveyors, P.C., dated (last revised) December 20, 2016.
 - d) Reference is made to the following plans prepared by Insite Engineering and dated (last revised) January 3, 2017:
 - Layout Plan (SP-1)
 - Existing Conditions & Removals Plan and Grading, Drainage & Utilities Plan (SP-2)
 - Erosion & Sediment Control Plan (SP-3)
 - Landscape Plan (LP-1)
 - Details (D-1 and D-2)
 - Lighting Plan (L-1)
 - e) Reference is made to the following architectural floor plans and elevations prepared by Grandberg & Associates:
 - Ground and Second Floor Plans, dated December 3, 2015
 - West, South and East Exterior Elevations (A-201.0), dated July 5, 2016
 - f) Reference is made to the Short Environmental Assessment Form (EAF), dated (last revised) January 3, 2017.
 - g) Reference is made to the applicant's Statement of Use, prepared by Charles Martabano, Esq., dated February 8, 2017.
 - h) Reference is made to memorandums prepared by the Building Inspector (dated January 21, 2016 and June 21, 2016); Village Planner (dated January 20, 2016, June 22, 2016, and January 19, 2017), and Village Engineer (June 22, 2016 and January 18, 2017).

- i) Reference is made to letters submitted to the Planning Board, prepared by Charles Martabano, Esq. and dated January 4, 2016, January 20, 2016, June 7, 2016, and January 2, 2017.
 - j) Reference is made to letters submitted to the Planning Board, prepared by Insite Engineering and dated January 5, 2016, June 7, 2016 and January 3, 2017.
 - k) Reference is made to a wetland delineation report entitled "Wetland Survey," prepared by Paul J. Jaehnig, dated December 10, 2015.
 - l) Reference is made to a "Stormwater Pollution Prevention Plan (SWPPP)", prepared by Insite Engineering, dated January 3, 2017.
 - m) Reference is made to a letter prepared by the New York State Department of Environmental Conservation (NYSDEC), dated August 12, 2016, identifying their jurisdiction and permits required.
 - n) Reference is made to the NYSDEC Notice of Incomplete Application, dated January 25, 2017.
 - o) Reference is made to a letter prepared by the New York City Department of Environmental Protection (NYCDEP), dated July 28, 2016.
 - p) Reference is made to a letter prepared by the Westchester County Planning Board, dated July 18, 2016, which offered no comments or objections.
2. The proposed action will not result in a substantial adverse change in the existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production.
- a) The subject property is currently developed with a 1-story building and asphalt parking lot. Currently, $\pm 96\%$ of the site is developed with an impervious surface (buildings, asphalt parking, etc.). Under the proposed condition, $\pm 88\%$ of the site will contain impervious surfaces (8% net reduction).
 - b) A portion of the subject property is located within the FEMA floodplain. Impervious surfaces will be reduced, drainage systems will be established and/or enhanced, and the applicant will be required to obtain a Floodplain Development Permit from the Building Inspector.
 - c) While the subject property is developed, it contains no formal on-site stormwater practices that mitigate runoff from a water quality or water quantity perspective. The subject property is located within the New York

City East of Hudson Watershed and the adjacent Village parcel, on which related site improvements are proposed, is located within the New York City Department of Environmental Protection (NYCDEP) Designated Main Street Area. As such, the proposed action requires approval from the NYCDEP. In addition, the proposed action will require coverage under the NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-15-002).

- d) The project has been designed in compliance with the NYSDEC SPDES General Permit (GP-0-15-002) and the NYCDEP Rules and Regulations.
- e) Stormwater treatment for all newly created impervious areas will be provided via proposed porous asphalt. Further, the applicant is proposing to fund and install a deep sump catch basin along the east side of South Moger Avenue (where presently no formal drainage exists) with a piped discharge to the Branch Brook.
- f) The applicant proposes to install a series of underdrains on the adjacent Village parcel to alleviate the pre-existing and current ponding condition on portions of the lawn area.
- g) The subject property is adjacent to wetlands that are jurisdictional to both the Village of Mount Kisco and the NYSDEC. As work is proposed within the 100-foot regulated area, the applicant will be required to obtain wetland permits from both agencies. The wetland buffer associated with this wetland (known as the Branch Brook) has been disturbed and partially developed over many years. The applicant has developed a mitigation plan consisting of stormwater drainage improvements and native plantings within the wetland buffer that will result in an environmental benefit when compared to the existing condition.
- h) The subject property is served by municipal water and sewer.
- i) When compared to the former restaurant use, the proposed use is anticipated to generate less traffic, demand on parking, water and sewage, solid waste and noise.
- j) The proposed action will eliminate one (1) curb cut on South Moger Avenue, will eliminate a traffic circulation pattern that lends itself to illegal U-turns across South Moger Avenue, and will result in two (2) new on-street metered parking spaces. The proposed action will also result in a new formal pedestrian corridor linking the southern end of South Moger Avenue through the site and to the adjacent Shoppers Park. Due to the fact that the proposed action will result in one (1) less parking space than is required for the proposed use, the applicant is proposing to pay a fee in

lieu of parking as provided under Section 110-28K(3)(d) of the Zoning Code.

- k) The applicant has voluntarily offered to contribute to the replacement of a pedestrian bridge over the Branch Brook (located adjacent to the subject property) in the amount of approximately \$50,000.00. This bridge will restore an important pedestrian connection between Shoppers Park to the west and the Blackeby municipal parking area and Main Street to the east.
- l) There will be no parking, storage, loading, or unloading of vehicles or trucks within any Village right-of-way.
- m) There will be no overnight outside storage of trucks or fleet vehicles.
- n) The applicant has developed a comprehensive set of construction and mitigation plans which will continue to be reviewed and finalized during the site plan review process.
- o) In view of the site's prior use as a gas station and according to the applicant, Win Development engaged Terracon Consultants, Inc. (TCI) to perform a targeted site investigation at the subject property. Field investigations, including five (5) soil borings, were conducted on October 10, 2016. TCI issued its report on November 3, 2016, which is on file with the Planning Board.

According to the applicant, pre-existing underground storage tanks (USTs) and contaminated soils were removed from the site in 1994, although no UST closure documentation was located. On-site testing performed by TCI, including soil borings referenced below, appeared to confirm that no USTs remained on site.

Based on the results of the TCI's field work, soil and groundwater contamination was identified on the subject property, most likely attributed to the historical gasoline service station operations (i.e., historical releases from bulk petroleum USTs and fueling operations including leaks from former pump islands and/or underground piping.) According to the applicant, no evidence of soil or groundwater impacts from off-site sources was identified during the investigation; the highest concentrations of soil and groundwater exceedances were located within the limits of the former fueling pad and include Volatile Organic Compounds (VOC) concentrations in soil and groundwater above NYSDEC numerical criteria.

Based on the *NYSDEC Technical Field Guidance, Spill Reporting and Initial Notification Requirements*, TCI determined that the conditions identified at the site during the investigation "may warrant a spill

notification to the NYSDEC at this time, or during site redevelopment”. TCI’s report further indicates that soil and groundwater VOC impacts appear to be localized to the former fueling pad area in the northwest portion of the site. According to the applicant, Semi Volatile Organic Compounds (SVOC) impacts appear to be limited to the unsaturated soils (above groundwater). Based on TCI’s analysis, it is the applicant’s opinion that identified releases do not pose an immediate risk to human health given its isolation to exposure. Further, according to TCI, the impacted groundwater does not appear to be migrating off-site to the nearby Branch Brook, located approximately 80 feet to the southeast of the site.

Given the shallow depth of contamination identified, it is likely that these soils will be encountered during site redevelopment activities. As such, TCI recommended that a Soil Management Plan (SMP) be developed prior to starting redevelopment activities and, if impacted soil are encountered, they are to be segregated, stockpiled and transported off-site for disposal; samples of the contaminated soil may need to be collected prior to its transportation off-site.

TCI completed a SMP on December 22, 2016, which is on file with the Planning Board. The SMP provides procedures for soil handling, soil segregation, stockpile management and temporary storage of contaminated materials and soil reuse and disposal management, all in accordance with guidelines promulgated by NYSDEC. The SMP also provides contingency measures in the event of a release of oil or hazardous materials to soil or groundwater not previously identified. TCI’s report and the SMP will be further evaluated during the site plan approval process and the applicant will be required to implement the procedures and recommendations set forth in the SMP during construction.

3. The proposed action will not result in the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impact a significant habitat area; result in substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such species; and will not result in other significant adverse impacts to natural resources.
 - a) As stated above, the subject property is developed and consists of 96% impervious cover. The proposed action will result in the removal of ±9 trees and the planting of over 12 native trees and 600 native shrubs/perennials/grasses. According to the NYSDEC, the site does not contain and is not in proximity to any applicable or known state-listed threatened, endangered or special concern animal or plant species.

4. The proposed action will not result in the impairment of the environmental characteristics of a Critical Environmental Area as designated pursuant to 6 NYCRR Part 617.14(g).
 - a) There are no Critical Environmental Areas within the vicinity of the project.
5. The proposed action will not result in a material conflict with the Town's officially approved or adopted plans or goals.
 - a) The proposed use is a principally permitted use within the underlying CB-1 Zoning District.
 - b) No area variances are required from the Zoning Board of Appeals.
 - c) Due to the fact that the proposed action will result in one (1) less parking space than is required for the proposed use, the applicant is proposing to pay a fee in lieu of parking as provided under Section 110-28K(3)(d) of the Zoning Code.
 - d) Improvements proposed on Village property shall require approval by the Village Board of Trustees. All applicable easements and maintenance agreements shall be developed to the satisfaction of the Village Board of Trustee and the Village Attorney.
6. The proposed action will not result in the impairment of the character or quality of important historical, archaeological, architectural, aesthetic resources, or the existing character of the community or neighborhood.
 - a) The proposed action will result in a visual improvement when compared to the existing condition. The application has been referred to and is currently being reviewed by the Architectural Review Board (ARB).
 - b) The applicant has developed a comprehensive lighting and landscaping plan which will continue to be reviewed and finalized during the site plan review process. The applicant must demonstrate and provide adequate lighting both on-site and associated with the proposed off-site driveway and walkway.
7. The proposed action will not result in a major change in the use of either the quantity or type of energy.
8. The proposed action will not create a hazard to human health.
9. The proposed action will not create a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its

capacity to support existing uses.

10. The proposed action will not encourage or attract a large number of people to a place or place for more than a few days, compared to the number of people who would come to such place absent the action.
11. The proposed action will not create a material demand for other actions that would result in one of the above consequences.
12. The proposed action will not result in changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment.
13. When analyzed with two or more related actions, the proposed action will not have a significant impact on the environment and when considered cumulatively, will not meet one or more of the criteria under 6 NYCRR 617.7(c).
14. The Planning Board has considered reasonably related long-term, short-term, direct, indirect and cumulative impacts, including other simultaneous or subsequent actions.

WHEREUPON, this Negative Declaration was declared adopted by the Planning Board of the Village of Mount Kisco as follows:

The motion was moved by: _____

The motion was seconded by: _____

The vote was as follows:

DOUGLAS HERTZ	_____
RALPH VIGLIOTTI	_____
ENRICO MARESCHI	_____
MICHAEL BONFORTE	_____
JOHN BAINLARDI	_____
WILLIAM POLESE	_____
JOHN HOCHSTEIN (ALT.)	_____
FRANK VITERITTI (ALT.)	_____

Douglas Hertz, Chairman

February 14, 2017

This Negative Declaration of Significance shall be filed with:

LEAD AGENCY:

- Village of Mount Kisco Planning Board

INVOLVED AGENCIES:

- Village of Mount Kisco Village Board of Trustees
- Village of Mount Kisco Architectural Review Board
- New York City Department of Environmental Protection (NYCDEP)
- New York State Department of Environmental Conservation (NYSDEC)

INTERESTED AGENCIES:

- Village of Mount Kisco Building Department
- Village of Mount Kisco Conservation Advisory Council
- Westchester County Department of Planning

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PUBLIC NOTICE

Please Take Notice that in accordance with Chapter 107 of the Code of the Village of Mount Kisco Code, a public hearing has been scheduled in connection with a Wetlands Permit Application submitted by the applicant. The subject property is comprised of ± 2.6 acres of land, is located at 77-91 South Moger Avenue (SBL 80.25-1-2) within the Central Business District 1 (CB-1) Zoning District, and formerly contained a restaurant. The applicant, Win Development LLC, is currently proposing to demolish the existing building and redevelop the site and construct a $\pm 7,432$ s.f. (2-story) building, elimination of one (1) curb cut on South Moger Avenue, construction of a one-way driveway and parking lot layout that will connect to Shopper's Park, landscaping, lighting, and other site improvements, some of which is proposed within the Village of Mount Kisco 100-foot regulated wetland buffer area. The Planning Board of the Village of Mount Kisco will hold a public hearing on Tuesday, February 14, 2017 at 7:30 PM, or as soon thereafter as may be heard, in the Frank J. DiMicco, Sr. room located within Village Hall, 104 Main Street, Mount Kisco, New York to receive public comment.

All interested parties are invited to attend and be heard.

By order of:

Chairman Douglas Hertz
Mount Kisco Planning Board

Path Land Holdings, LLC,
c/o Citigroup Property Tax Dep
PO Box 30508
Tampa FL 33630

Village Of Mount Kisco
re: S Moger Av
104 Main St
Mount Kisco NY 10549

55 South Moger LLC,
c/o Larstrand Corporation
500 Park Ave Fl 11
New York NY 10022

18 Britton Lane Corp,
Attn: Peter Levy
PO Box 367
Mount Kisco NY 10549

Tano Trademark Homes Inc

112 Park Ln
W Harrison NY 10604

BDM Properties, LLC,
c/o Elizabeth Marchiano
74 S Moger Ave
Mount Kisco NY 10549

AIRIS, LLC
c/o Mary Swindell
96 S Moger Ave
Mount Kisco NY 10549

Gencon Management Group Inc.

69 S Moger Ave
Mount Kisco NY 10549

27 britton lane LLC

27 Britton Ln
Mount Kisco NY 10549

Village of Mount Kisco
re: Brook - S Moger Av
104 Main St
Mount Kisco NY 10549

J. Smilkstein & Sons, Inc,
c/o Roider Realty LLC
PO Box 703
Mount Kisco NY 10549

BDM Properties, LLC

74 S Moger Ave
Mount Kisco NY 10549

Stewart Heights Corp
Stillman Management, Att: Isabelle
Williams
440 Mamaroneck Av, Ste S512
Harrison NY 10528
Valvano, Joseph,

25 Birch Dr
Mount Kisco NY 10549

Brennan, Jack

Box 3
Katonah NY 10536

Lubic Edward

4 Olympus Dr
Mahopac NY 10541

Buonomo, Mary
c/o Mary Buonomo
1929 Longview St
Yorktown Heights NY 10598

65 South Moger Assoc L P
Attn: Saroken - Proietti
9 Fieldwood Dr
Bedford Hills NY 10507

49 South Moger LLC,
c/o Larstrand Corporation
500 Park Ave Fl 11
New York NY 10022

BDM Properties, LLC

74 S Moger Ave
Mount Kisco NY 10549

Mount Kisco Hebrew Cong

15 Stewart Pl
Mount Kisco NY 10549

B&L Associates LLC

82-92 S Moger Ave
Mount Kisco NY 10549

Brennan, Jack

Box 3
Katonah NY 10536

Village Of Mount Kisco
re: 104 Main St
104 Main St
Mount Kisco NY 10549

Village/Town of Mount Kisco
Planning Board

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MSWORD doc .

PROPPRINTKEY	OWNERNAME	C/O OR ATTENTION TO	MAIL ADDRESS	PROPCITY
69.80-6-2	Path Land Holdings, LLC,	c/o Citigroup Property Tax Dep	PO Box 30508	Tampa FL 33630
69.80-6-3	27 Britton lane LLC		27 Britton Ln	Mount Kisco NY 10549
69.80-6-4	Buonomo, Mary	c/o Mary Buonomo	1929 Longview St	Yorktown Heights NY 10598
69.80-6-5	Village Of Mount Kisco	re: S Moger Av	104 Main St	Mount Kisco NY 10549
69.81-6-4	Village of Mount Kisco	re: Brook - S Moger Av	104 Main St	Mount Kisco NY 10549
69.81-6-5	65 South Moger Assoc L P	Attn: Saroken - Proietti	9 Fieldwood Dr	Bedford Hills NY 10507
69.81-6-6	55 South Moger LLC,	c/o Larstrand Corporation	500 Park Ave Fl 11	New York NY 10022
69.81-6-7	J. Smilkstein & Sons, Inc,	c/o Roider Realty LLC	PO Box 703	Mount Kisco NY 10549
69.81-6-8	49 South Moger LLC,	c/o Larstrand Corporation	500 Park Ave Fl 11	New York NY 10022
80.24-2-1	18 Britton Lane Corp,	Attn: Peter Levy	PO Box 367	Mount Kisco NY 10549
80.24-3-1	BDM Properties, LLC		74 S Moger Ave	Mount Kisco NY 10549
80.24-3-2	BDM Properties, LLC		74 S Moger Ave	Mount Kisco NY 10549
80.24-3-10	Tano Trademark Homes Inc		112 Park Ln	W Harrison NY 10604
80.24-3-21	Stewart Heights Corp	Stillman Management, Att: Isabelle Williams	440 Mamaroneck Av, Ste S512	Harrison NY 10528
80.24-3-22	Mount Kisco Hebrew Cong		15 Stewart Pl	Mount Kisco NY 10549
80.24-3-23	BDM Properties, LLC,	c/o Elizabeth Marchiano	74 S Moger Ave	Mount Kisco NY 10549
80.24-3-4	Valvano, Joseph,		25 Birch Dr	Mount Kisco NY 10549
80.24-3-6	B&L Associates LLC		82-92 S Moger Ave	Mount Kisco NY 10549
80.24-3-7	AIRIS, LLC	c/o Mary Swindell	96 S Moger Ave	Mount Kisco NY 10549
80.24-3-8	Brennan, Jack		Box 3	Katonah NY 10536
80.24-3-9	Brennan, Jack		Box 3	Katonah NY 10536
80.25-1-1	Gencor Management Group Inc.		69 S Moger Ave	Mount Kisco NY 10549
80.25-1-2	Lubic Edward		4 Olympus Dr	Mahopac NY 10541
80.25-2-1	Village Of Mount Kisco	re: 104 Main St	104 Main St	Mount Kisco NY 10549

Village/Town of Mount Kisco
Planning Board

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AFFIDAVIT OF MAILING

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STATE OF NEW YORK }
PUTNAM } SS.:
COUNTY OF WESTCHESTER }

DAWN MCKENZIE being duly sworn, deposes
INSITE ENGINEERING AS REPRESENTATIVE OF WIN DEVELOPMENT
and says: 3 GARRETT PLACE
CARMEL, NY 10512

I reside at _____

On FEBRUARY 3RD 2017, I served a notice of hearing, a copy of which is
annexed hereto and marked Exhibit A, upon persons whose names are listed in a schedule
of property owners within 300 feet of the subject property identified in this notice. A
copy of this schedule of property owners' names is annexed hereto as Exhibit B. I
deposited a true copy of such notice in a postpaid property addressed wrapper addressed
to the addresses set forth in Exhibit B, in a post office or official depository under the
exclusive care and custody of the United States Post Office, within the County of
PUTNAM.
~~Westchester.~~

Dawn McKenzie

Sworn to before me on this:

6th day of February 2017

Alicia Hansen
Notary Public

Alicia Hansen
Notary Public, State of New York
Reg. # 012H46086470
Qualified In Dutchess County
Commission Expires January 21, 2019

State of New York)
) ss:
County of Westchester)

AFFIDAVIT OF POSTING

Guillermo Gomez, being duly sworn, says that on the 7 day of February 2017, he conspicuously fastened up and posted in seven public places, in the Village/Town of Mount Kisco, County of Westchester, a printed notice of which the annexed is a true copy, to Wit: ---

Municipal Building –
104 Main Street

_____X_____

Public Library
100 Main Street

_____X_____

Fox Center

_____X_____

Justice Court – Green Street
40 Green Street

_____X_____

Mt. Kisco Ambulance Corp
310 Lexington Ave

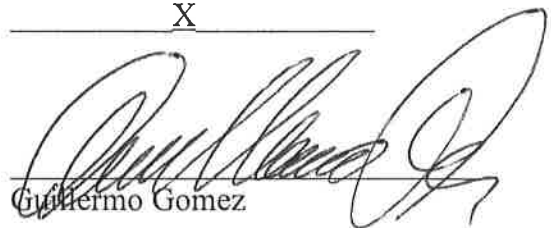
_____X_____

Carpenter Avenue Community House
200 Carpenter Avenue

_____X_____

Leonard Park Multi Purpose Bldg

_____X_____


Guillermo Gomez

Sworn to before me this 7 day of February 2017

Michelle K. Lailer
Notary Public

MICHELLE K. LAILER
NOTARY PUBLIC-STATE OF NEW YORK
No. 01LA6313298
Qualified in Westchester County
My Commission Expires October 20, 2018

Village/Town of Mount Kisco
Planning Board

FEB 07 2017

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Village/Town of Mount Kisco
Planning Board

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AFFIDAVIT OF PUBLICATION FROM

State of New York
County of Westchester, ss.:

_____ being duly sworn says that he/she is the principal clerk of **THE JOURNAL NEWS**, a newspaper published in the County of Westchester and the State of New York, and the notice of which the annexed is a printed copy, was published in the newspaper area(s) on the date (s) below:

Zone:
Westchester

Run Dates:
01/31/17

Signature

Sworn to before me, this 31st day of January 2017

Notary Signature

Vilma Avelar
Notary Public State of New York
NO. 01AV6318411
Qualified in Westchester County
Commission Expires January 26, 2019

Legend:

WESTCHESTER:

Amawalk, Ardsley, Ardsley on Hudson, Armonk, Baldwin Place, Bedford, Bedford Hills, Brewster, Briarcliff Manor, Bronxville, Buchanan, Carmel, Chappaqua, Cold Spring, Crompond, Cross River, Croton Falls, Croton on Hudson, Dobbs Ferry, Eastchester, Elmsford, Garrison, Goldens Bridge, Granite Springs, Greenburg, Harrison, Hartsdale, Hastings, Hastings on Hudson, Hawthorne, Irvington, Jefferson Valley, Katonah, Lake Peekskill, Larchmont, Lincolnville, Mahopac, Mahopac Falls, Mamaroneck, Millwood, Mohegan Lake, Montrose, Mount Kisco, Mount Vernon, New Rochelle, North Salem, Ossining, Patterson, Peekskill, Pelham, Pleasantville, Port Chester, Pound Ridge, Purchase, Purdys, Putnam Valley, Rye, Scarsdale, Shenorock, Shrub Oak, Somers, South Salem, Tarrytown, Thomwood, Tuckahoe, Valhalla, Verplanck, Waccabuc, White Plains, Yorktown Heights, Yonkers

ROCKLAND:

Blauvelt, Congers, Gamerville, Haverstraw, Hillburn, Monsey, Nanuet, New City, Nyack, Orangeburg, Palisades, Pearl River, Piermont, Pomona, Sloatsburg, Sparkill, Spring Valley, Stony Point, Suffern, Tellman, Tappan, Thille, Tomkins Cove, Valley Cottage, West Haverstraw, West Nyack

Ad Number: 0001892561

PUBLIC NOTICE

Please Take Notice that in accordance with Chapter 107 of the Code of the Village of Mount Kisco Code, a public hearing has been scheduled in connection with a Wetlands Permit Application submitted by the applicant. The subject property is comprised of \pm .26 acres of land, is located at 77-91 South Moger Avenue (SBL 80.25-1-2) within the Central Business District 1 (CB-1) Zoning District, and formerly contained a restaurant. The applicant, Win Development LLC, is currently proposing to demolish the existing building and redevelop the site and construct a \pm 7,432 s.f. (2-story) building, elimination of one (1) curb cut on South Moger Avenue, construction of a one-way driveway and parking lot layout that will connect to Shopper's Park, landscaping, lighting, and other site improvements, some of which is proposed within the Village of Mount Kisco 100-foot regulated wetland buffer area. The Planning Board of the Village of Mount Kisco will hold a public hearing on Tuesday, February 14, 2017 at 7:30 PM, or as soon thereafter as may be heard, in the Frank J. DiMicco, Sr. room located within Village Hall, 104 Main Street, Mount Kisco, New York to receive public comment.

All interested parties are invited to attend and be heard.

By order of:
Chairman Douglas Hertz
Mount Kisco Planning Board 1892561



Village/Town of Mount Kisco
Planning Board

JAN 27 2017

January 26, 2017

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Mr. Jeffrey Contelmo, P.E.
Principal Engineer
Insite Engineering, Surveying & Landscape Architecture, P.C.
3 Garrett Place
Carmel, NY 10512

Vincent Sapienza P.E.
Acting Commissioner

Paul V. Rush, P.E.
Deputy Commissioner
Bureau of Water Supply
prush@dep.nyc.gov

465 Columbus Avenue
Valhalla, New York 10595

T: (845) 340-7800
F: (845) 334-7175

Re: Win Development
77-91 South Moger Avenue
(T) Mount Kisco, (C) Westchester
New Croton Reservoir Basin
DEP Log #2016-CNC-0389-SP.1

Dear Mr. Contelmo:

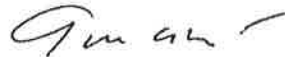
The New York City Environmental Protection (DEP) has received your January 4, 2017 letter with enclosures concerning the above-referenced application for approval of a Stormwater Pollution Prevention Plan (SWPPP). Upon review of the submitted documentation and the associated drawings, DEP has determined that the application is *incomplete*. The following information is required before review of the application may commence:

1. For completeness, a Draft Environmental Impact Statement or Determination of Non-significance by the Lead Agency under the State Environmental Quality Review Act (SEQR) must be provided.
2. A New York State Department of Environmental Conservation General Permit for Stormwater Discharges Notice of Intent (NOI) is required as the proposed land disturbance for the project is greater than 5,000 square feet and is located in the East of Hudson Watershed (EOH). Please provide a draft of the NOI to be filed.
3. The boundaries of any 100-year flood plains must be noted on the plans; if no such flood plains are located within the plan area, you must so note.
4. Please provide a detailed construction sequence to include all work items and all necessary erosion and sedimentation practices to be implemented for this project. Consider providing this information in a checklist format.

The review of your application will not commence until DEP receives the requested information and determines that the application is complete. DEP will notify you within 10 days of its receipt of the requested information as to the completeness of your application. Please be advised that failure to submit information to DEP or to follow the DEP procedures is sufficient grounds to deny approval, pursuant to Section §18-23(b)(3).

If you have any questions, please do not hesitate to contact me at (914) 773-4411.

Sincerely,



Andreea A. Oncioiu
Associate Project Manager II
Regulatory & Engineering Programs

c: (V) Mount Kisco Planning Board - planning@mountkisco.org
Anthony Oliveri, P.E., Dolph Rotfeld Engineering PC - anthony@drepc.com
Armand DeAngelis, NYS DEC - armand.deangelis@dec.ny.gov

New York State Department of Environmental Conservation
Notice of Incomplete Application - This is NOT a Permit

Application ID: 3-5556-00080/00001

Batch Number: 799678

Facility: WIN DEVELOPMENT
77 - 91 S MOGER AVE
MOUNT KISCO, NY 10549

Applicant: WIN-DEVELOPMENT, LLC
2165 LOUISA DR
BELLEAIR BEACH, FL 33786

Owner ID: 1762667

Village/Town of Mount Kisco
Planning Board
JAN 30 2017
RECEIVED

Permit(s) Applied for: 1 - Article 24 Freshwater Wetlands

Project Location: in MOUNT KISCO in WESTCHESTER COUNTY

Your application for Permit is incomplete. The following items are required:

DEC staff have completed their review and no additional information is required at this time. However the application can not be considered complete until the DEC receives a Negative Declaration or a copy of a Draft Environmental Impact Statement accepted for review by the lead agency. The Village of Mount Kisco Planning Board was deemed Lead Agency in August.

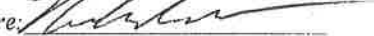
- Please provide a copy of the Village's Negative Declaration for a complete application.

Once that is recieved the application will be deemed complete and the minimum 15-day public comment period will begin.

cc: Scott W. Blakely, Insite Engineering
Village of Mount Kisco Planning Board
Joshua Fisher, NYSDEC Bureau of Habitat

*Please submit requested information by _____
No further action can be taken until all of these materials are received.*

Contact Person:
REBECCA S CRIST
NYSDEC
21 S Putt Corners Rd
New Paltz, NY 12561

Signature: 

Date: January 25, 2017

Telephone Number: (845) 256-3014

ALBERT J. PIRRO, JR.
ATTORNEY AT LAW
ONE NORTH LEXINGTON AVENUE
WHITE PLAINS, NEW YORK 10601
914-287-6444 • FAX 914-287-6443
ajp@pirrogroup.com • www.pirrolaw.com

Village/Town of Mount Kisco
Planning Board
FEB 01 2017
RECEIVED

January 30, 2017

Chairman Joseph Cosentino and Members of the Planning Board
Village/Town of Mount Kisco
104 Main Street
Mount Kisco, New York 10549

Re: Extension of February 9, 2016 Amended Site Plan,
Special Use Permit, and Steep Slope Permit Approvals
Mavis Discount Tire, 182 and 190 North Bedford Road, Mount Kisco, NY

Dear Honorable Chairman Cosentino and Members of the Planning Board:

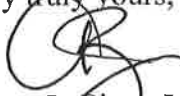
Please be advised that the undersigned represents Mavis Discount Tire in connection with the previously approved amended site plan approval, special use permit approval and steep slopes permit.

In view of the fact that the aforementioned approvals were issued on February 9, 2016, and due to certain unavoidable delays, we would respectfully request that the aforementioned permits and approvals be extended for an additional year on the same terms and conditions set forth in the February 9, 2016 Resolution (copy enclosed).

The Board should be aware that although it has taken considerable amount of time, we have finally reached a settlement with the Village regarding the pending court proceeding.

Thank you for your attention to this matter.

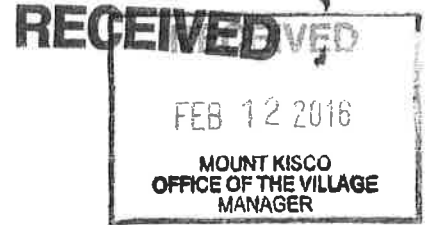
Very truly yours,


Albert J. Pirro, Jr.

AJP:dat

cc: David Sorbaro
Charity Dillon
Michael Manes

FEB 01 2017



**PLANNING BOARD RESOLUTION
VILLAGE OF MOUNT KISCO**

**AMENDED SITE PLAN APPROVAL
SPECIAL USE PERMIT APPROVAL
STEEP SLOPES PERMIT**

**MAVIS DISCOUNT TIRE
182 AND 190 NORTH BEDFORD ROAD**

**Section 69.66, Block 3, Lots 22 & 23
Application No: PB2015-0305**

February 9, 2016

WHEREAS, the subject property currently consists of two (2) tax parcels totaling approximately 0.94 acres of land, located on North Bedford Road and within the Limited Commercial (CL) Zoning District ("the subject property"); and

WHEREAS, the subject property is owned by AAK Realty, LLC and is identified on the Village/Town tax rolls as Section 69.66, Block 3, Lots 22 and 23; and

WHEREAS, the subject property is currently developed with a 3-story building with access onto North Bedford Road via a single curb cut and a parking lot that accommodates 23 vehicles; and

WHEREAS, a trailer is located on the north side of the existing building, is used for the storage of scrap tires, and is picked-up and replaced approximately twice per week; and

WHEREAS, the existing building, which includes six (6) service bays, is occupied by Mavis Discount Tire ("the applicant") and is considered an automotive repair shop; and

WHEREAS, automotive repair shop is a Special Permit Use within the underlying CL Zoning District and is subject to Article V, Supplementary Regulations, of the Zoning Code; and

WHEREAS, the existing use predates the Village's requirement for a Special Use Permit and, therefore, a Special Use Permit was never granted for the existing automotive repair shop; and

WHEREAS, the site plan of record for the subject property only incorporates Tax Lot 22; Tax Lot 23, which contains a portion of the access driveway and parking, does not appear on the site plan or record; and

WHEREAS, the applicant is proposing interior and exterior building improvements and exterior site-related improvements and has made application to the Planning Board for Amended Site Plan Approval, Special Use Permit Approval and a Steep Slopes Permit ("the proposed action"); and

WHEREAS, more specifically, the proposed action includes, but is not necessarily limited to:

- Incorporation of the existing lot configuration and existing as-built conditions on the site plan; and
- Modifications to the layout of the interior space relating to the show room, waiting area, service desk, bathrooms, and staff and storage areas; and
- Modifications to the exterior building façade and building signage and treatments; and
- Modifications to the parking layout and configuration resulting in a net increase of two (2) parking spaces (23 exterior spaces existing/25 exterior spaces proposed); and
- Incorporation of a handicap accessible parking spaces and associated aisle; and
- Incorporation of a handicap accessible ramp to provide access from the parking area into the building; and
- Construction of a dumpster enclosure; and
- Construction of a concrete retaining wall and pervious trailer pad located on the north side of the building; the purpose of the wall is to allow the storage trailer to be pushed back into the slope so that the trailer is flush with the front of the building; and
- A net reduction in impervious cover from 26,292 s.f. to 25,765 s.f. total; and
- Restriping of all parking spaces; and
- Landscaping along the northerly property line and along the existing planter island along North Bedford Road; and
- Replacement of all exterior light poles and light fixtures; and
- Merger of the two (2) existing tax parcels; and

WHEREAS, the subject property contains steep slopes, as defined under Section 110-59 of the Zoning Code; and

WHEREAS, the proposed action will result in ± 100 s.f. of land disturbance on 15% - 25% slopes and ± 600 s.f. of land disturbance on slopes in excess of 25%; and

WHEREAS, the applicant has applied for a Steep Slopes Permit in accordance with Section 110-33.1A.2 of the Zoning Code; and

WHEREAS, the subject property is located within the New York City East of Hudson Watershed and within the New York City Department of Environmental Protection (NYCDEP) Designated Main Street Area and is subject to the NYCDEP's Rules and Regulations; and

WHEREAS, reference is made to a letter prepared by the NYCDEP, dated December 31, 2015, which states that no approvals or permits are required from the NYCDEP; and

WHEREAS, reference is made to memorandums issued by the Assistant Building Inspector dated November 18, 2015; the Village Engineer dated November 19, 2015; and the Village Planner dated October 7, 2015 and November 18, 2015; and

WHEREAS, reference is made to an existing condition survey, prepared by The Munson Company, dated (last revised) July 13, 2015; and

WHEREAS, reference is made to the following architectural floor plans and elevations prepared by DCAK-MSA Architecture and Engineering, dated (last revised) November 4, 2015:

- Proposed & Existing Floor Plans (Sheet A-101)
- Exterior Elevations (Sheet A-200)

WHEREAS, the application was referred to the Westchester County Planning Board (Notification Only Referral) in accordance with Section 239-m of the General Municipal Law; and

WHEREAS, the proposed action is an Unlisted Action, pursuant to the New York State Environmental Quality Review Act (SEQRA), 6 NYCRR Part 617 and a coordinated review was not conducted; and

WHEREAS, the applicant has submitted the Short Environmental Assessment Form (EAF), dated September 9, 2015; and

WHEREAS, a duly noticed public hearing was opened and closed on January 26, 2016, at which time all interested parties were afforded an opportunity to be heard; and

WHEREAS, to the extent applicable, the Planning Board has determined that the proposed action is in conformance with the requirements outlined under Section 110-30G, "Gasoline Stations, Commercial Garages and Motor Vehicle Repair Shop," Section 110-33.1A, "Steep Slopes," Section 110-45, "Site Plan Approval," and Section 110-46, "Special Permits," of the Zoning Code.

NOW THEREFORE BE IT RESOLVED THAT, the Planning Board has compared the proposed action with the Criteria for Determining Significance in 6 NYCRR 617.7 (c) and determined that the proposed action will not have a significant adverse impact on the environment; and

BE IT FURTHER RESOLVED THAT, the Planning Board has considered all reasonably related long-term, short-term, direct, indirect and cumulative environmental effects associated with the proposed action including other simultaneous or subsequent actions; and

BE IT FURTHER RESOLVED THAT, the Planning Board hereby issues the attached Negative Declaration of Significance; and

BE IT FURTHER RESOLVED THAT, the Planning Board of the Village of Mount Kisco hereby grants Amended Site Plan Approval, a Special Use Permit and a Steep Slopes Permit and approves the following plans (hereafter referred to as "the approved plans"), subject to the below conditions:

The following plans, prepared by DCAK-MSA Architecture and Engineering:

- Title Sheet (TS-1), dated (last revised) January 4, 2016
- Existing Survey (C-100), dated (last revised) September 21, 2015
- Slopes Analysis (C-101), dated (last revised) September 21, 2015
- Proposed Site Plan & Notes (C-102), dated (last revised) January 4, 2016
- Site Details (C-500), dated January 4, 2016
- Site Lighting Details (C-501), dated (last revised) January 4, 2016
- Proposed Site Lighting Plan (LS-1)

BE IT FURTHER RESOLVED THAT, unless extended by the Planning Board, construction shall commence within six (6) months of the date of this Resolution and be completed within one (1) year of commencement of construction.

Conditions to be Satisfied Prior to the Signing of the Approved Plans:

1. It is the applicant's responsibility to identify and secure any and all necessary permits/approvals from outside agencies having jurisdiction over the proposed action. Copies of outside agency permits/approvals shall be submitted to the Planning Board and the Building Department. In the event that such permit(s) require modification to the plans approved herein, a determination shall be made by the Building Inspector and Village Engineer as to whether the modification(s) is substantive and should be returned to the Planning Board for review. The following outside agency permits/approvals have been identified by the applicant:
 - ARB Approval for Building and Signage Improvements

2. The site plan and lighting plan shall be revised to clarify compliance with Section 110-32C.3.e of the Zoning Code, which involves the location and height of the light pole foundation; appropriate construction details shall be provided.
3. The color of the proposed light pole and light fixture shall be identified as being black; the appropriate construction details shall be revised accordingly.
4. The site plan shall be revised to identify the height of the proposed American Boxwood hedge; these shrubs shall be specified as being between 30 - 36 inches in height. This hedge row shall be shifted (slightly) in a westerly direction, so that the hedge row is located between the curb line and the tree line thus providing some snow storage space, to the satisfaction of the Village Planner.
5. All planting beds shall be specified to be mulched with woodchips, minimum 2-inches in depth and dyed brown or black.
6. The dumpster enclosure detail shall be revised to include protective bollards within the interior of the enclosure to protect the enclosure walls; this detail shall be revised to the satisfaction of the Village Engineer.
7. The applicant shall satisfactorily address any outstanding written comments provided by the Building Inspector, Village Attorney, Village Engineer, and/or Village Planner.
8. In accordance with Section 110-33.1A.2.e of the Zoning Code, the applicant shall supply a security in the amount equal to the total cost of construction associated with the retaining wall and work conducted within steep slopes, as estimated by the applicant's design professional and approved by the Village Engineer; the form of the security shall be to the satisfaction of the Village Attorney.
9. All applicable application fees and fees associated with professional legal, engineering and planning consultation shall be paid for by the applicant.
10. The approved plans shall be revised to conform to the above conditions and to the satisfaction of Village staff. The applicant shall submit four (4) original copies of the approved site plans, signed and sealed by the design professional, for final review by Village staff and for signature by Village staff and the Planning Board Chairman. All plans shall have a common revision date.

Conditions to be Satisfied Prior to the Issuance of a Building Permit:

11. The applicant shall satisfy the above conditions and the approved plans shall be signed by Village staff and the Planning Board Chairman.

Conditions to be Satisfied Prior to Commencement of Any Work:

12. The owner/applicant shall submit a schedule for all earthwork and land disturbance to the Village Engineer for approval. The owner/applicant shall notify the Village Engineer and Building Inspector at least 72 hours in advance of any site disturbance.
13. Before commencement of any land disturbance, placing construction equipment on-site or actual construction, the subject property must be staked out by a NYS licensed land surveyor.
14. A pre-construction meeting shall be conducted with the applicant, contractor, Building Inspector and Village Engineer.

Conditions to be Satisfied During Construction:

15. All construction activities shall be performed during the times permitted under the Village Code. The Village Engineer and Village Planner shall have the right to inspect the property during construction, the cost of which shall be paid for by the applicant.
16. In the event that land disturbance exceeds 5,000 s.f., the applicant shall obtain coverage under the New York State Department of Environmental Conservation (NYSDEC) SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-15-002).

Conditions to be Satisfied Prior to the Issuance of a Final Certificate of Occupancy:

17. A Backflow preventer device(s) shall be installed to the satisfaction of the Village Engineer and Building Inspector, as required.
18. Tax Parcels 22 and 23 shall be merged; written confirmation shall be provided by the Village Assessor.
19. There shall be no Final Certificate of Occupancy issued until there is full compliance with the plans approved herein and all conditions of this Resolution.
20. Prior to the issuance of a Final Certificate of Occupancy, an as-built survey, signed and sealed by a NYS Licensed Land Surveyor and demonstrating compliance with the approved plans shall be submitted. This survey shall be prepared to the satisfaction of the Village Engineer.
21. Prior to the issuance of a Final Certificate of Occupancy, all required landscaping installations shall be completed and inspected by the Village Planner; any plant substitutions shall be approved by the Village Planner prior to being installed.

22. A final site inspection shall be completed by the Building Inspector, Village Engineer and Village Planner.
23. All applicable application fees and fees associated with professional legal, engineering and planning consultation shall be paid for by the applicant.

Special Use Permit Conditions:

24. The Planning Board is to retain original jurisdiction.
25. The subject property and uses contained thereon are subject to the supplemental use regulations outlined under Section 110-30G of the Zoning Code.
26. The applicant shall make all commercially reasonable efforts to ensure that the storage trailer, which is replaced twice weekly, be neutral in color (white or beige).
27. The applicant shall make all commercially reasonable efforts to ensure that the storage trailer not extend beyond the front façade of the building.
28. All repairs and service conducted on the subject property shall be performed within a totally enclosed building.
29. Backing up of delivery vehicles from or onto North Bedford Road shall be prohibited.
30. All loading, unloading and deliveries shall occur solely within the site. No loading, unloading or transfer operations shall be permitted on any public street.
31. All interior and exterior lighting on the subject property shall be turned off by 10 p.m., with the exception of exterior security lighting which luminance levels shall be reduced by 30% during non-operating hours.
32. All refuse storage and pick-up shall comply with the Code of the Village/Town of Mount Kisco.
33. All signage, including within windows, shall be fully compliant with Chapter 89 of the Village Code. No signs, lights or other materials or devices, except as approved and detailed on the approved plans, shall be permitted to be supported, hung, flown, or otherwise attached to site buildings, structures or the site grounds.
34. Landscaping shall be maintained for the life of the facility and in accordance with the approved landscaping plan. The applicant shall be responsible for any re-grading, replanting, or irrigation necessary to ensure that the landscaping is installed and maintained in accordance with the approved plan. In the event that landscaping is not maintained to the satisfaction of the Village Engineer and/or Building Inspector, the

Village Engineer and/or Building Inspector shall notify the applicant in writing of the violation.

35. Site lighting shall be consistent with the approved lighting plan. If site lighting is not consistent with the approved lighting plan, the Village Engineer and/or Building Inspector shall notify the applicant in writing of the violation.
36. Failure to comply with any of the aforesaid conditions shall constitute a violation of site plan and special use permit approval and shall subject the applicant to prosecution, penalties and/or permit revocations pursuant to applicable law. Deviation from any such approvals may render this Site Plan, Special Use Permit and Steep Slopes Permit, or certificates of occupancy issued in conjunction therewith, null and void.

ADOPTION OF RESOLUTION


WHEREUPON, the Resolution herein was declared adopted by the Planning Board of the Village of Mount Kisco as follows:

The motion was moved by: Mr. Bainlardi

The motion was seconded by: Mr. Mareschi

The vote was as follows:

JOSEPH COSENTINO	—	aye
ANTHONY STURNIOLO	—	aye
RALPH VIGLIOTTI	—	aye
DOUGLAS HERTZ	—	aye
ENRICO MARESCHI	—	aye
MICHAEL BONFORTE	—	absent
JOHN BAINLARDI	—	aye


Joseph Cosentino

February 9, 2016