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## CITY OF RYE Planning Commission

### Resolution

No. 01-2017

Application Name: **120 Old Post Road**  
Approval Type: Final Site Plan  
Application Number: SP# 363  
Project Description: Removal of the existing structure and construction of a multi-family residential development consisting of 122 age-restricted units in five buildings and sub-surface garage.  
Street Address: 120 Old Post Road  
Tax Map Designation: Sheet: 146.13 Block: 1 Lot(s): 7  
Approval Date: January 10, 2017  
Expiration Date: March 1, 2019 (i.e. Two (2) years from filing with Rye City Clerk)

WHEREAS, on July 11, 2016, Old Post Road Associates, LLC (hereinafter “Applicant”) submitted an application for Final Site Plan Approval for a property located at 120 Old Post Road; and

WHEREAS, the drawings submitted in connection with the application are generally entitled, *120 Old Post Road Site Plan Application Site Development Plan Drawings*, prepared by Divney Tung & Schwalbe and Tecton Architects, originally dated July 11, 2016 and having the following drawing numbers, drawing titles and revision dates:

<b>Drawing Number:</b>	<b>Drawing Title:</b>	<b>Revision Date:</b>
SP-1.0	<i>Site Layout Plan</i>	1/3/17
SP-1.1	<i>Vehicular Circulation</i>	11/7/16

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SP-2.0	<i>Site Grading &amp; Utility Plan</i>	1/3/17
SP-2.1	<i>Site Grading &amp; Utility Plan</i>	1/3/17
SP-3.0	<i>Conceptual Landscape Plan</i>	1/3/17
SP-4.1	<i>Site Details</i>	11/7/16
SP-4.2	<i>Site Details</i>	11/7/16
SP-5.0	<i>Tree Removal and Preservation Plan</i>	1/3/17
SP-6.1	<i>Erosion Control Phasing Plan</i>	1/3/17
SP-6.2	<i>Erosion and Sediment Control Details</i>	11/7/16
A1.01	<i>Parking, Courtyard, and Roof Levels</i>	11/4/16
A1.02	<i>FAR Summary</i>	7/8/16
A5.01	<i>Building 5 Exterior Elevations</i>	7/8/16
A5.02	<i>Building 1 &amp; 4 Exterior Elevations</i>	7/8/16
A5.03	<i>Building 2 &amp; 3 Exterior Elevations</i>	7/8/16
A5.04	<i>Building 2 &amp; 3 North Elevations</i>	7/8/16
A5.05	<i>Building Site Sections</i>	7/8/16
A5.06	<i>Rendered Site Section A-A</i>	11/4/16
A5.07	<i>Rendered Site Section B-B</i>	11/4/16
A6.01	<i>Illustrative Site Plan</i>	10/14/16
A6.02	<i>Front Setback Analysis</i>	10/14/16
A6.03	<i>Side Setback Analysis</i>	10/14/16
A6.04	<i>Level Analysis</i>	10/14/16
A7.01	<i>View from Old Post Road</i>	8/29/16
A7.02	<i>View from Courtyard</i>	8/29/16
A8.01	<i>Ambulance Access Site Diagram</i>	8/29/16
A8.02	<i>Ambulance Access Parking Garage Diagram</i>	10/14/16
A8.03	<i>Trash Usage and Disposal Diagram</i>	10/14/16
A9.01	<i>Exterior Lighting Diagram and Calculations</i>	8/29/16
A9.02	<i>Exterior Lighting Cut Sheets</i>	8/29/16
A10.01	<i>Construction Phasing Plan 1</i>	10/14/16
A10.02	<i>Construction Phasing Plan 2</i>	10/14/16
A10.03	<i>Construction Phasing Plan 3</i>	10/14/16
A10.04	<i>Construction Phasing Plan 4</i>	10/14/16
	<i>*Boundary and Topographic Survey</i>	2/10/16

*\*Boundary and Topographic Survey prepared by The Munson Company, LLC*

WHEREAS, the application involves the removal of an existing office building and the construction of 122 units of age-restricted multi-family housing; and

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WHEREAS, the property is known on the Rye City Tax Map as Sheet 146.13, Block 1, Lot(s) 7, and is located in an RA-6, Active Senior Residence, District, a "C" City of Rye Parking District and appears to not be located in a Federally designated Flood Insurance Rate Zone; and

WHEREAS, on December 2, 2015, the Rye City Council adopted a negative declaration and approved a zoning petition filed by the Applicant to amend local law Chapter 197, "Zoning", of the Rye City Code by amending Section §197-2, "Districts, A: Residence Districts" to change the zoning designation of the subject property at 120 Old Post Road from the B-4, Office Building, District to a New RA-6, Active Senior Residence, District for the purpose of constructing 122 age-restricted multi-family units; and

WHEREAS, the subject final site plan application submitted to the Planning Commission is substantially consistent with plans and information submitted to the City Council in connection with the approved zoning petition; and

WHEREAS, the subject application complies with the requirements of the RA-6 District; and

WHEREAS, the Applicant submitted a Full Environmental Assessment Form dated July, 11, 2016; and

WHEREAS, on September 1, 2016, pursuant to Section 617.6(b)(3) of the State Environmental Quality Review Act (SEQRA), the Planning Commission circulated to involved and interested agencies its notice of intent to be Lead Agency for the environmental review of the proposed action and circulated the application materials to the Westchester County Planning Board pursuant to Section 277.71 of the Westchester County Administrative Code Section 239-m of General Municipal Law; and

WHEREAS, no agency objected to the Planning Commission assuming Lead Agency status; and

WHEREAS, the Westchester County Planning Board submitted a September 30, 2016 letter to the Planning Commission which, in summary, noted the following:

- 1) A recommendation to include affordable housing units in the proposed development;
- 2) A comment that the application must be referred to Westchester County Department of Public Works for any road work and comments on specific traffic improvements considered as part of the application identified in a November 15, 2016 report prepared by the City's traffic consultant, Maser Consulting, P.A.;
- 3) A recommendation that inflow/infiltration measures be implemented to offset increases in sewage flows associated with the proposed development;

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- 4) Support for the proposed stormwater management measures shown on the applicant's site plan;
- 5) A recommendation that the building include areas for recycling and composting; and
- 6) A recommendation that the building use green technology and provide bicycle parking; and

WHEREAS, in response to the comments of the Westchester County Planning Board, the Planning Commission notes the following:

- 1) As part of the 2015 rezoning process, the Westchester County Planning Board provided similar comments to the City Council in its consideration of the RA-6 District petition to include a requirement that 10% of the units be affordable. The Planning Commission is considering the final site plan application consistent with the standards and requirements adopted by the legislative body, which did not include a provision for affordable housing in this district. The City Council noted that the project area includes two affordable housing communities including 100 units of senior affordable housing on Theall Road (RA-5 District) and the City Council's recent approval of a zoning district change (RA-5) to allow 40 units of senior affordable housing on a two-acre property near the intersection of Theodore Fremd Avenue and North Street.
- 2) The project will be required to show approval from Westchester County Department of Public Works prior to the issuance of a building permit. The Planning Commission (as did the City Council in its review of the zoning petition) considered multiple potential traffic improvements, but none were deemed required since the proposed development generates less peak hour traffic than the full occupancy of the existing office building on the property. Furthermore, there was no consensus as to what traffic improvements would be considered desirable, feasible or satisfying warrant analysis guidelines. The RA-6 District requires the applicant to make a financial contribution of \$10,000 per housing unit towards the City's capital improvement fund. That funding will be used in the event the City finds that potential traffic improvements are necessary and warranted upon project completion.
- 3) The applicant completed a sanitary sewer analysis based on actual flow meter measurements to assess the condition and capacity of the downstream City sewer system. That study concluded that the system has adequate capacity during peak flow periods to accommodate sewage from the proposed development.
- 4) The application provides stormwater measures that will be an improvement over existing conditions.

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- 5) The Planning Commission shares the County's comments regarding refuse and recycling storage and pick up. To address those concerns the Commission notes that the applicant's plans include plan number A8.03, *Trash Usage and Disposal Diagram*.
- 6) The applicant's preliminary floor plans show an approximately 550 square-foot "bike storage" area. The interior court yard is a green roof and the building will be required to comply with the current energy code requirements under the building code.

WHEREAS, the application and plan were referred to the Board of Architectural Review (hereinafter "BAR") for their review and recommendation; and

WHEREAS, the BAR noted in its initial review of the application that the site lighting should be reviewed in detail; and

WHEREAS, on November 15, 2016, the Rye City Planning Commission scheduled a public hearing for its December 13, 2016 meeting; and

WHEREAS, the applicant posted a notification sign of the public hearing on the property as required by law in advance of the meeting and circulated the public notice exceeding the minimum notification distance; and

WHEREAS a public hearing was held on December 13, 2016 there was one member of the public that spoke at the hearing; and

WHEREAS, the public hearing was continued on January 10, 2017 and having no public comment, the Planning Commission closed the public hearing; and

WHEREAS, the Planning Commission inspected the site and vicinity on July 16, 2016, as well as reviewed the application form and the complete record; and

WHEREAS, the Planning Commission determined that the action is a Type I Action pursuant to the New York State Environmental Quality Review Act (SEQRA); and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission designates itself as Lead Agency and based on its review of the Environmental Assessment Form (EAF), the criteria listed in Section 617.7(c) of SEQRA and the complete record, the Planning Commission finds that the proposed action will not have a significant adverse environmental impact due to the extent of the proposed improvements, the modest nature of reasonably expected impacts, modifications in the project design to reduce anticipated impacts and implementation of mitigation measures;

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AND, BE IT FURTHER RESOLVED, that the Planning Commission hereby approves the application for Final Site Plan #363 for the improvements shown on the plans indicated in this resolution, subject to the following conditions:

**A. Conditions to be Completed Prior to the Endorsement of the Plans:**

1. Prior to endorsement of the plans by the Secretary of the Planning Commission, the Applicant shall sign and return one copy of the approved resolution to the Planning Commission indicating acceptance of all conditions of approval. Failure to sign this resolution within sixty (60) days of the filing of this resolution with the City Clerk will deem this approval null and void.
2. Prior to endorsement of the plans by the Secretary of the Planning Commission, the applicant shall submit to the City Planner one (1) digital version of the plans in Adobe Acrobat .pdf format **and** two (2) assembled paper copy sets of the plans to the City Planner.
3. Prior to endorsement of the site plan by the Secretary of the Planning Commission, the Applicant shall pay, as applicable, an inspection fee, which is based on seven (7) percent of the estimated cost of constructing the required site improvements, excluding any building(s), plus \$500.00. Such site improvements shall include sidewalks, drainage, landscaping, exterior parking areas and driveways and grading.

**B. Conditions to be Completed Prior to the Issuance of a Building Permit:**

1. The Applicant shall obtain all necessary Federal, State and County permits and approvals, including, but not limited to permits and approvals required by the Westchester County Department of Public Works.
2. As permitted by Section 197-8.1.A(5) of the Rye City Zoning Code, the applicant shall provide to the satisfaction of Corporation Counsel agreements and covenants to ensure compliance with the limits on occupancy required by Section 197-8.1.A. Said agreements or covenants shall be recorded in the office of the Westchester County Clerk and constitute a covenant running with the land.
3. The applicant shall pay the Capital Improvement contribution as required by Section 197-8.1.C of the Rye City Zoning Code.

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4. The applicant shall provide to the Building Department a copy of the completed Stormwater Pollution Prevention Plan (SWPPP) as approved by the City Engineer.

**C. Conditions to be Completed Prior to the Commencement of Any Construction:**

1. The Applicant shall notify in writing the City Planner, Building Inspector and Engineer of the date on which the work is to begin, at least five (5) days in advance of such date.

**D. Conditions to be Completed Prior to the Issuance of a Certificate of Occupancy:**

1. Prior to the issuance of the certificate of occupancy, all sidewalks, walkways, curbing, curb cuts, driveways and paved areas shall be installed, repaired or replaced to the satisfaction of the City Engineer.
2. No certificate of occupancy shall be issued until all improvements shown on the approved plans have been provided and applicable conditions of this approval have been complied with to the satisfaction of the City Planner, Building Inspector and Engineer.
3. If the application involves a restaurant or similar use involving on-site cooking, the Applicant shall provide grease traps to the satisfaction of the City Building Inspector.

**E. General Conditions:**

1. Work conducted under this conditional approval shall be open to inspection at any time, including weekends and holidays, by City Staff or their designated representative(s).
2. The applicant shall comply with the requirements of Chapter 174, *Stormwater Management*, of the Rye City Code. The applicant shall provide to the satisfaction of the City Engineer information demonstrating that the proposed drainage system is properly sized to accommodate anticipated stormwater runoff and that the soil conditions on the property can support the proposed drainage measures without adversely impacting neighboring properties. No sub-surface system shall be installed without an inspection and approval by the City Engineering or Building Department. The applicant shall notify the City Engineering or Building Department in writing at least five (5) days prior to the installation of any drainage system to afford the Department(s) sufficient opportunity to inspect soil conditions and the system installation.

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3. Prior to the transfer of any interest or title in or to the land subject to this approval, the approval holder shall notify the City in writing of the name and address of such transferee and such transferee shall endorse and submit to the City Planner a copy of this resolution indicating acceptance of all conditions of approval. This paragraph shall not apply to the transfer if improvements have been completed in conformity with this approval.
4. Notwithstanding paragraph E.2 above, there shall be no deviation from the approved plans and City specifications and, further, no modification may be made unless plans for the modification, prepared by the Applicant, and a new application has been approved by the Planning Commission.
5. All parking spaces, if any, shall be marked and maintained in accordance with the parking layout shown on the approved site plan and parking shall be prohibited except in designated parking spaces.
6. The continued validity of the certificate of occupancy is subject to continued compliance with all conditions set forth herein, and the satisfactory maintenance of all improvements, including landscaping, as shown on the approved site plans.
7. The Applicant shall comply with all applicable Federal, State and Local laws and regulations governing construction noise and related activities.
8. All solid waste shall be separated and recycled in accordance with Federal, State, County and City regulations.

**F. Other Special Conditions:**

1. Refuse and recyclables shall be provided by private carter and not the City of Rye.
2. All amenity spaces shall be limited to use by residents or their accompanied guests. The intent of this restriction is to prohibit the use of such space for events or groups not directly affiliated with residents of the building or to rent or lease out such amenities to non-residents.

AND, BE IT FURTHER RESOLVED, that this approval and the right to undertake work under this approval shall expire two (2) years after the date of the filing of this approval resolution with the Rye City Clerk. In the event that the work permitted by this approval cannot be substantially completed within one year after the date of the approval of this resolution, a one (1) year extension of the original approval may be granted by the Planning Commission upon written request by the

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original approval holder or his/her legal agent at least 90 days prior to the expiration date of the original approval. The Planning Commission may require new hearings if, in its judgment, the original scope of the approval is altered or extended by the renewal, or if the Applicant has failed to abide by the terms of the original approval in any way. The request for renewal of an approval shall follow the same form and procedure as the original application except that the Planning Commission shall have the option of not holding a hearing if the original scope of the approval is not altered or extended in any significant way.

I certify that the foregoing resolution is a correct copy of Planning Commission Resolution #01-2017, which was duly adopted on January 10, 2017.



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Christian K. Miller, AICP  
City Planner

March 1, 2017  
Date

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Applicant Signature

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Date