

Item #3:

AC Appeal Harbor Retirement Associates - 1190 Old McHenry

David Lothspeich

From: David Lothspeich
Sent: Thursday, January 08, 2015 2:18 PM
To: 'Lori Lyman'; 'jrichards@hraonline.net'; 'John Marshall (jmarshall@jmarshallconstruction.com)'; 'lynnmicohn@aol.com'; 'eclosson22@gmail.com'
Cc: Betsy Gates; 'Victor Filippini'; James Hogue
Subject: RE: Harborchase

All,

Thank you again for your time yesterday. As discussed, Village Counsel Filippini reviewed the approval ordinances and confirmed that the maximum height of the cupola is limited by the following definition of building height under the Village Zoning Code:

HEIGHT, BUILDING: The vertical distance from the lowest ground surface adjacent to the structure and the highest point of the underside of the ceiling beams in case of a flat roof; to the deck line of a mansard roof; and to the mean level of the underside of rafters between eaves and the ridge of a gable, hip or gambrel roof. Chimneys, spires, towers, elevator penthouses, tanks and similar architectural projections but not including signs, shall not be included in calculating building height.

By measuring to the mean level, the overall height of the tower (to the ridge) can be increased beyond the existing 42'-0" which should allow for the roofline of the central portion of the building to be raised by the 1' to 2' to create an offset between the rooflines.

The Village Board will be considering the review recommendations during their upcoming January 13, 2015 Meeting. Assuming that the Village Board is in agreement with the proposed changes, HRA will need to develop the revised plans for consideration of approval by the Village Board during their January 27, 2015 Meeting. Please refer to Village Counsel Filippini's review below for details and let me know if you have any questions or concerns with the proposed process.

Thanks,

Dave

From: Victor Filippini [mailto:Victor.Filippini@filippinilawfirm.com]
Sent: Thursday, January 08, 2015 1:48 PM
To: David Lothspeich
Cc: Betsy Gates
Subject: Harborchase

Hi Dave,

I am writing to follow-up our conversation from yesterday regarding the Harborchase development, its approval, and the plan modifications that are being contemplated that will, among other things, affect the overall height of the ridgeline of the structure. As you will recall, the final PUD approval (the "**PUD Ordinance**") was based on the "Final PUD Plans" that were exhibits to the PUD Ordinance, but they were subject to modification and final approval based on, among other things, the Architectural Commission process, final landscaping review, and final engineering review. (See PUD Ordinance §§3.c, 3.d, 3.e.) The PUD Ordinance further provided that changes based on either the landscaping or engineering reviews would not "require public notice or hearing or amendment to this Ordinance, unless otherwise determined by the Village Board." (PUD Ordinance §3.c, 3.d.) Likewise, per the Village Code, the Architectural Commission's determination is subject to further review by the Village Board (which review prerogative had been exercised during the 11/11/14 Village Board meeting). Ultimately, after all the engineering, landscaping, and architectural review processes are completed, the PUD Ordinance provided that:

Designation of Approved Final PUD Plans. Upon the review and approval of the Final PUD Plans (including without limitation the Final PUD Plat, engineering plans, landscaping and tree preservation plans, and architectural plans) in accordance with Sections 3.c, 3.d, 3.e, and 3.g of this Ordinance (including any modifications to the Final PUD Plans attached hereto as Exhibit B)(the “**Final Approved Plans**”), the Village Manager shall sign and date such Final Approved Plans and cause a true and correct copy of the signed and dated Final Approved Plans to be recorded against the Property.

(PUD Ordinance §3.h.)

As noted above, at the 11/11/14 Board meeting, the Board called for a further review of the elevation plans as approved by the Architectural Commission. Under the Zoning Code (Section 5-11-19), this is technically an “appeal” of the Architectural Commission’s recommendation. The Board direction at the 11/11/14 meeting was to delegate the appeal review process to two Trustees, who would meet with developer representatives. I understand that Trustees Lyman and Marshall served as the Board’s hearing body on the appeal, and that two Arch members participated in the appeal [as they are entitled to do pursuant to 5-11-19(E)(2)(c) of the Zoning Code]. I further understand that the hearing body’s recommendation on the appeal is to affirm the Architectural Commission’s approval with modifications. Based on this recommendation, and the Village Board can vote on a motion simply to approve the hearing body’s recommendation. Accordingly, I would have the upcoming agenda provide for “Consideration of Architectural Review Appeal for the Senior Living Center With Memory Care And Assisted Living Facilities Harbor Retirement Associates, 1190 Old McHenry Road.” The write-up might read:

At the 11/11/14 Board meeting, the Board approved the Harborchase PUD amendment, but also provided for a further review of the Architectural Commission’s recommendation. On behalf of the Village Board, Trustees Lyman and Marshall reviewed this matter, during which representatives of Harborchase and certain members of the Architectural Commission appeared. At the conclusion of this review, a general consensus emerged to raise the roofline of the proposed facility in order to provide greater definition between different portions of the proposed facility, and to make associated façade changes consistent with the change in roofline. Based on these efforts, the recommendation for the Architectural Review appeal is to approve a motion: (a) to affirm with modifications the recommendation of the Architectural Commission; (b) direct that Harborchase prepare revised building elevation plans consistent with the recommendation to raise the roofline and make various façade changes, and (c) have the revised building elevations presented to the Village Board for final approval.

The 1/27/15 Board Agenda would then include the following:

Consideration Of A Resolution Approving Final Building Elevations For The Senior Living Center With Memory Care And Assisted Living Facilities Harbor Retirement Associates, 1190 Old McHenry Road (Res. #2015-R-02).

That resolution would include as exhibits the revised elevation drawings reflective of the consensus reached among Trustees Lyman, Marshall, and Harborchase.

Assuming that the Board follows the hearing body recommendation, you will ultimately identify and record the “Final Approval Plans” pursuant to Section 3.h of the PUD Ordinance. These Final Approval Plans would include the elevations that would be approved on 1/27/15, as well as the final engineering, landscaping, and tree plans that the Village’s engineering and forestry consultants review and approve.

Please let me know if you have any questions. Thanks,

Vic

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