

REPORT AND RECOMMENDATION
ZONING CHANGE REVIEW COMMITTEE (ZCRC)

In the Matter of the Application of 550 STEWART ACQUISITIONS, LLC ("Applicant"), for an Amendment or Change of the Zoning Code of the Village of Garden City to allow multiple dwelling housing at Premises situated at Section 44, Block 76, Lot 15 on the Nassau County Land and Tax Map, commonly known and referred to as 555 Stewart Avenue, and located on the north side of Stewart Avenue, east of Village owned buffer property east of Raymond Court, and west of the entrance road to Roosevelt Field Shopping Center, Incorporated Village of Garden City, County of Nassau, State of New York.

Summary of Application

Applicant is a contract vendee of the Premises, which are located in the Village's R-T District, and seeks to develop the Premises for multifamily dwellings in a manner not presently permitted in that District.

The Premises consist of a 4.45 acre lot, which is presently vacant. The present R-T zoning of the property permits (a) any use allowed in the R-8 District, (b) townhouse development having at least 6000 square feet of total plot area per dwelling unit, and (c) multiple dwellings or assisted living residences approved by the Board of Trustees, subject to certain conditions. Pursuant to the existing regulations (Village Code §200-16.1), multiple dwellings in the R-T District must comply with the existing R-M District regulations with certain specified exceptions. The proposed development does not comply with those conditions. The Applicant requests either a change of zone to a new or existing zoning district in which the proposed development would be permitted, or amendment of the R-T District regulations to allow for consideration of the proposed development.

There are only two properties in the Village which presently are in the R-T District: the Premises, and a parcel owned by Nassau County located east of County Seat Drive

where a new Family Court building is being constructed by Nassau County and the State of New York.

For the reasons hereinafter set forth, the ZCRC believes that the proposed development would result in an appropriate use of the Premises and also would create new housing opportunities in the Village. In the opinion of the ZCRC, permitting this project would facilitate the development and use of a prominent parcel of property which is presently in an undesirable condition, which is not suitable for development under current zoning applicable to the property, and which would be much improved by the proposed development. It cannot be overlooked as well that this is the first project proposed in the Village which would fall within the QRD Development regulations enacted by the Village in 2016.

Before discussing the reasons why the ZCRC recommends this project for consideration by the Board of Trustees, it is appropriate to discuss the means by which the zoning of the Premises could be revised to permit the project.

Zoning Options

There are no existing zoning districts in the Village in which the proposed project is a permissible use. To create conditions in which this project would be permissible, the applicant must obtain either variances from the Board of Appeals, or relief through legislation which revises the zoning laws applicable to the Premises.

The variance relief needed from the Board of Appeals would involve a use variance, and a number of area variances. The State law threshold for use variance relief is quite high, and the threshold for area variances is significantly lower. It is conceivable that the Applicant could establish that the Premises cannot reasonably be used in accordance with the existing zoning, and thus be entitled to a use variance. The ZCRC believes that the Village would have less review authority over the development if the Applicant were to obtain relief from the Board of Appeals than if the project were under the authority of the Board of Trustees. Furthermore, if the Applicant were to apply unsuccessfully to the Board of Appeals, the Applicant would no doubt then pursue the same legislative relief as is now being sought. Proceeding first at the Board of Appeals would involve a much more lengthy process, with concomitant expense to all parties, and with no certainty as to the outcome for either party. In contrast, the legislative process is more definitive, shorter, less costly, and has more certainty for the Village as to what may be developed on the Premises. Accordingly, the ZCRC concludes that the legislative alternatives requested by the Applicant are more appropriate to facilitate the proposed development.

The Village could create a new zoning district solely for the Premises, or for the Premises and other properties. The former is very likely to raise legal issues unnecessarily, and could be subject to challenge as "spot zoning". The latter likely would face the same challenges, create opportunities for unintended consequences

throughout the Village, and weaken the Village's guiding zoning principles and its overall plan.

The Village also could reclassify the property from the R-T District to another existing zoning district. However this alone would not allow the proposed development to proceed as there is no other existing zoning district classification in which it would be permissible. In addition to reclassification to another district, the zoning regulations for that district would require amendment so that the proposed development would be permissible in that district. This would also open the possibility of similar development of other properties in that same zoning district, where such development might not be appropriate.

The ZCRC believes that an amendment to the R-T District zoning regulations is the most suitable means to allow for consideration of the proposed development. The special permit use which would be authorized by this amendment is consistent with other uses authorized in the R-T District. It should also be noted that the Premises and one other property are the only properties in the Village presently classified in this district. That other property currently is in development for a governmental use, and adding the proposed use to those authorized in the R-T District would minimize any disruption to the Village's overall zoning plan.

With this Report, the ZCRC transmits to the Board of Trustees the text of Proposed Local Law Bill 1-2018, which would amend the R-T District regulations (which already allow multiple family dwellings under certain conditions), to add additional conditions under which multiple family dwellings would be allowed with the approval of the Board of Trustees.

The Proposed Multiple Family Dwelling Use

The application by 550 Stewart Acquisition, LLC is for a zoning amendment or change, special permit, and site plan approval to allow a two to five story 150 unit multiple residence building, inclusive of 15 affordable rental units. The structure is proposed to be 193,663 square feet. The site would contain 343 parking spaces below grade and 42 spaces at grade. The building is proposed to be set back 84 feet from Stewart Avenue, and 40 feet from the eastern property line (the access to Roosevelt Field Shopping Mall to and from Stewart Avenue). A power transmission line and 30 foot LILCO easement parallels this property line, as well as the northerly property line, and the site contains easements associated with those lines and a water main easement. There is a 40 foot undisturbed buffer area between the nearby homes on Raymond Court and the westerly property line of the site, and the proposed building is set back an additional 40 feet from the westerly property line of the site.

Rationale

The ZCRC has received extensive presentations from the Applicant with regard to the details and consequences of the proposed development, and has also studied reviews

and presentations on those subjects by its retained consultants at H2M Architects and Engineers and Meyer, Suozzi, English & Klein P.C. In particular, the ZCRC has reviewed a January 18, 2018 H2M Report and January 18, 2018 Memorandum from H2M to Superintendent Ausberto Huertas (both of which documents will be transmitted to the Board of Trustees with this Report). For reasons set forth in this ZCRC Report, the ZCRC believes that the proposed project is a positive development for the Village, which will not generate significant adverse effects.

The ZCRC also notes that the Board of Trustees is required to conduct review of environmental impacts pursuant to the State Environmental Quality Review Act. In this report the ZCRC sets forth its detailed review of those potential impacts and its recommendation that the Board of Trustees adopt a Negative Declaration. This recommendation is based upon the information available to the ZCRC as of the date of this Report. The ZCRC notes that the January 18, 2018 H2M Report and Memorandum referenced above indicate the need for the Board of Trustees to obtain additional and more current information regarding traffic issues.

Subsequent to that Report and Memorandum, H2M has advised the ZCRC that the applicant will be submitting updated traffic studies which show no significant change in conclusions from the previous studies, and H2M also has confirmed to the ZCRC that no updated study of school population impact should be required because an updated study as referenced in the H2M Report and Memorandum would not indicate any significant change in the anticipated number of students. Information as to Nassau County's future intentions regarding Stewart Avenue is not yet available, and is not expected to be available prior to any hearings before the Board of Trustees.

As Lead Agency, the Board of Trustees will conduct its own SEQRA review to the extent it determines necessary, at which time it will have all of that other information, and will adopt its own conclusions based on all relevant information then available. This ZCRC Report is predicated upon the information now available to the ZCRC.

The uses and zoning of the properties surrounding the Premises are as follows:

North — immediately to the north of the Premises is property zoned C-R District and improved with office buildings and the site of a newly constructed restaurant;

East — immediately to the east of the Premises is the entrance to the Roosevelt Field Mall, which is situated within the Town of Hempstead;

South — immediately south of the Premises across Stewart Avenue is an unused parcel of property in the Village's C-3 Zoning District, which can be developed for commercial uses.

West — immediately to the west of the Premises is a buffer property owned by the Village as open space, and to the west of that buffer property are single family residences which abut Raymond Court.

If the proposed legislation were enacted, the proposed multiple family dwelling development would require QRD Development approval from the Village Board of Trustees, site plan approval from the Village Planning Commission, and approval of the Village's Architectural Review Board.

The ZCRC is charged with limited jurisdiction to review and make recommendations with respect to proposed changes in the Village zoning regulations. Strictly speaking, any ensuing application for a QRD Development approval, or for site plan or architectural approval, is beyond the scope of ZCRC jurisdiction. As an advisory body, the approval of which is not legally mandated for the proposed change of zone to proceed, or the development otherwise to be approved, the ZCRC is not an "Involved Agency" pursuant to the New York State Environmental Quality Review Act and its implementing regulations (SEQRA).

Nevertheless, in reaching its conclusion to recommend Board of Trustees' action to facilitate and approve this project, the ZCRC has conducted extensive review of the legal and planning issues presented, as well as the proposed zoning amendment legislation, and potential consequences of the development. As part of that review, the ZCRC engaged H2M Architects + Engineers (H2M) as a consultant. H2M conducted an extensive review of the proposed project, and the current and proposed zoning and has reported to the ZCRC with respect to the same in its Report and Memorandum, each dated January 18, 2018. H2M's detailed report includes review of the potential environmental and other impacts of the proposed use, and notes the need to obtain additional and more current information regarding traffic issues. Based on the information presently available, H2M's review identifies no significant adverse impacts which would result from a properly planned and authorized project. The ZCRC finds no reason to conclude otherwise.

The ZCRC has carefully and extensively considered all submissions by the applicant, the H2M Report, and all other comments received by the ZCRC during its review process including the reports and recommendations of the Village's very competent Building Department. Having done so, and having extensively studied the proposed zoning amendment, the details of the proposed multiple family dwelling development as a QRD Development, the H2M Report and Memorandum, the recommendations of the Village Building Department, all other information brought forth during the ZCRC review process, and the personal knowledge of the individual members of the ZCRC, all of whom are long-time residents of the Village, the ZCRC concludes that the proposed amendatory zoning legislation would be consistent with the objectives and recommendations of the Village's Comprehensive Plan, and would encourage and enhance the development of the Premises in a manner positive for the Village.

Also, based on the information considered by the ZCRC, the proposed development would not meaningfully increase or impair vehicular or pedestrian traffic. Although it cannot be anticipated when, or if, Nassau County will provide information regarding its

future plans for Stewart Avenue or its environs, the ZCRC is confident that the Board of Trustees will study that issue as part of its proceedings.

The existing undeveloped buffers from neighboring properties are unaffected by the proposed development, and the conditions proposed by the Applicant (and those which likely will be added by the Board of Trustees and other agencies with authority to approve this project), will mitigate noise, visual or other impacts on neighboring residential properties. H2M also has reviewed the anticipated school population impact analysis produced by the applicant, and has examined that analysis using updated formulae as suggested in the H2M Report and Memorandum, and concludes that there is no likely significant projected impact on school population. The proposed development would enhance the economic circumstances of the Village, provide a valuable addition to the tax base, and open new housing opportunities in the Village.

Further, the conditions and amenities proposed by the Applicant mitigate adverse impacts, and would protect the Village and neighbors from resulting impacts or financial consequences. The proposed use would not have significant demand on Village resources, while making a reasonable and positive financial contribution to the public fisc.

The ZCRC believes that the proposed use would be a reasonable use of the Premises. It is in the Village's interests to encourage this residential development, as the property has been essentially unused for many years, and is a blight on the community. Development of the property would improve the aesthetics of the area, would add value to the Village's tax roll, and be consistent with the Village's legal obligations with respect to affordable housing.

Environmental Review Conclusions

As noted above, as SEQRA Lead Agency with respect to the proposed zoning amendment legislation, the Board of Trustees is charged with the duty to classify the proposed action and make a determination as to its environmental impact. While the ZCRC does not have jurisdiction to make such determinations, it has conducted a review of the relevant environmental factors, particularly as discussed in the January 18, 2018 H2M Report and Memorandum, and believes it appropriate to include in its recommendation to the Board of Trustees a summary of its conclusions in that regard.

Having conducted that review as noted above, including H2M's additional information provided to the ZCRC, the ZCRC reports that it has considered the following factors, and recommends the following conclusions in respect to the environmental impacts of the proposed action:

- (i) the proposed action would not result in any substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels, nor any substantial increase in solid waste production, nor create a substantial increase in the potential for erosion, flooding, leaching or drainage problems;
- (ii) the proposed action would 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, impacts on a significant habitat area, substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species, or other significant adverse impacts to natural resources;

(iii) the proposed action would not impair the environmental characteristics of any Critical Environmental Area;

(iv) the proposed action would not conflict with the community's current plans or goals as official approved or adopted;

(v) the proposed action would not impair the existing character or quality of important historical, archeological, architectural or aesthetic resources or of existing community or neighborhood character;

(vi) the proposed action would not result in a major change in the use of either the quantity or type of energy;

(vii) the proposed action would not create a hazard to human health;

(viii) the proposed action would 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;

(ix) the proposed action would not encourage or attract large numbers of persons to any place for more than a few days, compared to the number who would come to such place without such action, and under presently authorized uses;

(x) the proposed action would not create changes in two or more elements of the environment, no one of which would have a significant impact on the environment, but when taken considered together would result in a substantial adverse impact on the environment;

(xi) the proposed action would not create substantial adverse impacts when considered cumulatively with any other actions, proposed or in process;

(xii) the proposed action would not result in substantial adverse impact with respect to any relevant environmental consideration, including noise, aesthetics, traffic, air quality, water quality or adequacy of water supply, drainage, soil conditions, or quality of life in the community in general and the immediate neighborhood in particular.

Accordingly, the ZCRC recommends that the Board of Trustees classify the proposed legislation as a SEQRA Unlisted Action.

Provided that after full compliance with the procedural requirements of SEQRA (including any additional information received by the Board of Trustees) no contrary conclusion is indicated, the ZCRC further recommends that the Board of Trustees issue a Negative Declaration determining that the proposed legislation, and the proposed project, would not have a significant adverse environmental impact.

ZCRC Conclusions and Recommendations

For the reasons stated herein, the ZCRC concludes that the proposed zoning law modification is reasonable and appropriate, and the ZCRC recommends that the Board of Trustees approve such an amendment to the Village zoning regulations.

These conclusions and recommendation are made with the knowledge that the Premises, and one other parcel presently under development, are the only R-T District properties the Village, and that the proposed zoning amendment therefore would have practical effect at this time only with respect to the Premises. In the opinion of the ZCRC, the proposed amendment is consistent with the overall zoning plan of the Village, and the QRD Development use which would be authorized by that amendment would be compatible with the other uses allowed in the R-T District, and on other properties in the vicinity of the Premises.

The ZCRC further concludes that the subsequent approval of a QRD Development and a site plan for the multiple family residential use as described by the applicant also would be reasonable and appropriate, and that neither of those actions would result in a significant adverse environmental impact. Indeed, in the opinion of the ZCRC, any substantial adverse impacts which conceivably could result from the proposed development can be mitigated by appropriate conditions of site plan approval.

In reaching those conclusions and making the foregoing recommendations, the ZCRC is mindful that the determination whether to adopt the proposed zoning amendment, and a subsequent decision whether to approve QRD Development, each are functions of the Board of Trustees, subsequent decision whether to grant site plan approval is a function of the Board of Trustees after recommendation from the Village Planning Commission, and approval of detailed architectural plans is a function of the Architectural Review Board.

Lastly, pursuant to the State Environmental Quality Review Act (SEQRA), the responsibility to classify those applications and make determinations as to environmental impact thereof is vested in those respective bodies to the extent they are "Involved Agencies" under SEQRA, unless they agree to permit one of them to serve as Lead Agency for coordinated SEQRA review. For the reasons herein stated, the ZCRC recommends that the Board of Trustees, as Lead Agency for SEQRA review with respect to the proposed zoning legislation, special permit, and site plan, conclude that the proposed action be classified as an Unlisted Action, and adopt a SEQRA Negative Declaration with respect to such legislation and site plan.

Accordingly, the ZCRC unanimously recommends to the Board of Trustees that the Board act as follows:

1. Schedule a public hearing with respect to adoption of the proposed zoning amendment legislation to amend the R-T District regulations to permit multiple family dwellings as QRD Developments, subject to permission of the Board of

Trustees;

2. Determine that the Board of Trustees is the Lead Agency for review and approval of such legislation and site plan as provided in SEQRA;
3. Classify the proposed legislation and site plan as a SEQRA Unlisted Action;
4. After consideration of all information currently available, and any additional information elicited before the Board of Trustees, issue a SEQRA Negative Declaration with respect to such proposed legislation and site plan;
5. Refer the proposed site plan to the Village Planning Commission, for its review and recommendation pursuant to the Village Code; and
6. Refer the proposed legislation, the special permit application, and site plan to the Nassau County Planning Commission for its review and recommendation pursuant to General Municipal Law §239-m.

Dated: March 5, 2018