

RESOLUTION OF APPROVAL

PRELIMINARY SUBDIVISION

AMENDED

FOR

ELM FARM ASSOCIATES, LLC [ELM FARM]

PROJECT # 2000-09

Nature of Application

Elm Farm Associates, LLC [Elm Farm] has applied for Subdivision approval allowing it to create 55 new Parcels of land on a ±45.1 acre tract.

Property Involved

The property affected by this resolution is shown on the Tax Maps of the Town of Newburgh as parcel(s) 39-1-12.44 and is commonly referred to as Elm Farm Subdivision.

Zoning District

The property affected by this resolution is located in the RA-2 zoning district of the Town of Newburgh.

Plans

The Subdivision Plat materials being considered consist of the following:

1. Completed application form and Environmental Assessment Form.
2. Plans prepared for Elm Farm Associates, LLC [Elm Farm] as follows:

<u>Author</u>	<u>Title</u>	<u>Last Revision Date</u>
Eustance & Horowitz, P.C.	Preliminary Overall Plan for Elm Farm (1 of 12)	May 2, 2005
Eustance & Horowitz, P.C.	Preliminary Site Plan for Elm Farm (2 of 12)	May 2, 2005
Eustance & Horowitz, P.C.	Preliminary Site Plan for Elm Farm (3 of 12)	May 2, 2005
Eustance & Horowitz, P.C.	Preliminary Grading and Utility Plan for Elm Farm (4 of 12)	May 2, 2005
Eustance & Horowitz, P.C.	Preliminary Grading and Utility Plan for Elm Farm (5 of 12)	May 2, 2005
Eustance & Horowitz, P.C.	Preliminary Stormwater Pollution Prevention Plan (6 of 12)	May 2, 2005
Eustance & Horowitz, P.C.	Preliminary Stormwater Pollution Prevention Plan (7 of 12)	May 2, 2005
Eustance & Horowitz, P.C.	Preliminary Road Profiles (8 of 12)	May 2, 2005
Eustance & Horowitz, P.C.	Preliminary Road Profiles (9 of 12)	May 2, 2005
Eustance & Horowitz, P.C.	Preliminary Stormwater Pollution Prevention Plan Details (10 of 12)	May 2, 2005
Eustance & Horowitz, P.C.	Preliminary Water Details for Elm Farm (11 of 12)	May 2, 2005
Eustance & Horowitz, P.C.	Preliminary Miscellaneous Details (12 of 12)	May 2, 2005

History

Date of Application

The original application was filed with the Planning Board on March 28, 2000. Preliminary approval was granted on June 16, 2005. This application for amended preliminary approval was filed in _____ of 2012.

Public Hearing

A public hearing on this application was convened on January 6, 2005 and closed on the same date.

SEQRA

Type of Action:

This matter constitutes an unlisted action under the State Environmental Quality Review Act.

Lead Agency:

The Town of Newburgh Planning Board is the lead agency in regard to this action. The Planning Board's status as lead agency was established on June 3, 2004.

Declaration of Significance:

A negative declaration was issued on October 21, 2004

GML 239 Referral

This application is not required to be referred to the Orange County Planning Department for review.

Findings

The Planning Board has determined that approval of this subdivision will substantially serve the public convenience, safety and welfare in that the land to be subdivided is of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace. Further, the arrangement, location and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the possible future development of adjoining land as yet un-subdivided are all appropriate and consistent with the requirements of the master plan, the official map, Article I of the Town of Newburgh Subdivision Regulations and applicable zoning regulations, subject to compliance in full with conditions hereinafter imposed.

Resolution of Approval

NOW, THEREFORE, THE PLANNING BOARD RESOLVES to approve the amended preliminary subdivision application of Elm Farm Associates, LLC [Elm Farm] as said proposal is depicted on the plans identified above and upon the conditions outlined below, and the Chairperson (or his designee) is authorized to sign the plat upon satisfaction of those conditions below noted to be conditions precedent to such signing.

Conditions to be Satisfied Before Final Approval

1. The plans shall not be signed until receipt of a letter from the Planning Board Engineer certifying that the plans have been modified in accordance with his memo of July 27, 2012.
2. This approval is subject to and conditioned upon delivery of written approval by the Orange County Department of Health for realty subdivision approval.
3. This approval is subject to review and approval by the New York State Department of Environmental Conservation for the

sewer main extension.

4. This approval is subject to proof of filing of a *Notice of Intent for Stormwater Discharges Associated with Construction Activity Under a SPDES General Permit* and delivery of copy of same to the Town Engineer.
5. This approval is subject to review and approval of the wetlands delineation shown on the plat by the New York State Department of Environmental Conservation and the issuance of a permit for the disturbance activities proposed therein.
6. This approval is conditioned upon the applicant obtaining approval of the City of Newburgh and the Newburgh Town Board to supply sewer service to the project and entering into an out-of-district user agreement with the town board implementing that approval.
7. Cross-Grading Easements, satisfactory to the Planning Board Attorney, must be submitted and approved before the plans are signed.
8. Sight Distance Maintenance Easement, satisfactory to the Planning Board Attorney, must be submitted and approved before the plans are signed.
9. Construction of all roadways to be dedicated to the town shall comply with Section 161-38 of the Code of Ordinances of the Town of Newburgh for vertical and horizontal curve design.
10. This approval is subject to and conditioned upon delivery of written approval by the Orange County Department of Health [realty subdivision approval] and the New York State Department of Environmental Conservation [stormwater SPDES].

11. This approval is conditioned upon the Town Board creating a drainage district and upon acceptance of dedication of the retention/detention ponds and drainage structures proposed to be offered for dedication to the Town. The applicant shall appear before the town board and request delivery of a report to the planning board expressing its willingness and comments on the concept of creating such district. The plat will not be signed or released for filing, however, until such district is created. In the event the Town is unwilling to accept such facilities for dedication, an alternative mechanism, satisfactory to the Planning Board, providing for future maintenance of those facilities shall be proposed.
12. The final plans must show the required number of street trees spaced in a pattern satisfactory to the Planning Board and its consultants.
13. This approval is conditioned upon the Town Board approving the names of the roadways in this subdivision.

Specific Conditions

14. All *development* (as defined in Sec. 109-4(B) of the Code) and all construction shall be consistent with the plans submitted and in full compliance with Chapter 109 of the Code. No development shall be commenced within the area of special flood hazard without first obtaining a development permit from the Code Compliance Supervisor in accordance with Sec. 109-11 or variance in accordance with Sec. 109-16,17. No occupation or use of any structures shall be permitted until a certificate of compliance has been issued [Sec. 109-12(H)(1)]. A certificate of compliance shall also be issued for all other development occurring within the designated flood hazard area upon completion of

such work [Sec. 109-12(H)(2)]. Failure to obtain such certificates shall be grounds for revocation of this approval.

15. This subdivision contains more than ten lots and requires architectural review board approval. However, the applicant has no specific housing designs in mind at this time. Section 185-59 (E) of the Code of Ordinances of the Town of Newburgh provides, in such cases, that ARB-review may be deferred until building permit application, and that the Building Department is empowered, at that time, to refer any building permit application to the Planning Board for ARB approval if the specific proposal for that lot does not meet the requirements and the specific criteria of §185-59 (E). Therefore, no building permit shall be issued for any lot not meeting the requirements and the specific criteria of §185-59 (E) of the Code.

Landscape Security & Inspection Fee

16. Pursuant to 185-57 (L), together with 163-9 (B) [incorporated therein by reference], as well as 185-50 (D), this approval shall be subject to the applicant posting, with the Town Clerk, a performance security, in an amount to be fixed by the town board upon recommendation of the town's landscape consultant in order to secure timely completion and appropriate maintenance of the landscaping improvements depicted on the plans, satisfactory to the Town Board, Town Engineer and Town Attorney as to form, sufficiency, manner of execution and surety. The performance security shall recite that all improvements secured thereby shall be completed within three year(s) of this approval and maintained for a period of two years thereafter. The Town's Landscape Architect, is hereby authorized to periodically inspect the site in order to insure compliance with this condition. A separate inspection fee in an amount in accordance

with Section 104-2 (G)(6) shall be submitted and deposited in an escrow account to cover the cost of the Town's Landscape Architect services. The applicant shall be required to pay the required landscaping security to the town before the plans are signed. The amount of the landscape security may be adjusted (upon recommendation of the Town's landscape consultant) if warranted due to changes in the market pricing of the required landscape materials. The applicant shall be required to pay the required landscaping inspection fee in the amount of \$_____ to the town before the plans are signed.

Stormwater Improvement Security & Inspection Fee

17. Prior to the signing of plans or issuance of a building permit, the applicant shall deliver a performance security to the Town Clerk, pursuant to Section 157-10 (B) of the Code of Ordinances of the Town of Newburgh, in order to guarantee to the town that the applicant will faithfully cause to be constructed and completed the required public stormwater improvements shown on the plans. The performance security shall be in an amount set by the Town Board and shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety. A period of three (3) years shall be set forth in the document of surety within which required improvements must be completed. An inspection fee in an amount in accordance with Section 104-2 (A)(8) shall also be paid to the Town prior to signing of the plans. A separate inspection fee in an amount in accordance with Section 104-2 (A)(8) shall also be submitted and deposited in an escrow account to cover the cost of the Town's periodic inspection of the erosion control measures to be implemented by the applicant.
18. This approval is conditioned upon the applicant executing a

stormwater control facility maintenance agreement as required by Section 157-11(K) of the Code of the Town of Newburgh in order to ensure the long term maintenance and proper operation of the stormwater facilities shown on the plans. The plans shall not be signed until that agreement has been executed.

Stormwater Improvement Security & Inspection Fee

Water Main Extension Security & Inspection Fee

19. Prior to the signing of plans or issuance of a building permit, the applicant shall deliver a performance security to the Town Clerk, pursuant to Sections 179-32 (l) and 163-9 of the Code of Ordinances of the Town of Newburgh, in order to guarantee to the town that the applicant will faithfully cause to be constructed and completed the required public water system improvements. The performance security shall be in an amount set by the Town Board and shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety. It shall be in an amount sufficient to cover the entire cost of the water system as shown on the approved plans. An inspection fee in an amount in accordance with Section 104-2 (A)(8) shall also be paid to the Town prior to signing of the plans.

Sewer Main Extension Security & Inspection Fee

20. Prior to the signing of plans or issuance of a building permit, the applicant shall deliver a performance security to the Town Clerk, pursuant to Section 163-9 of the Code of Ordinances of the Town of Newburgh, in order to guarantee to the town that the applicant will faithfully cause to be constructed and completed the required sewer main extension improvements. The performance security shall be in an amount set by the Town

Board and shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety. It shall be in an amount sufficient to cover the entire cost of the sewer main extension as shown on the approved plans. An inspection fee in an amount in accordance with Section 104-2 (A)(8) shall also be paid to the Town prior to signing of the plans.

Town Road Security & Inspection Fee

21. Prior to the signing of the plat or issuance of a building permit, the applicant shall deliver a performance and maintenance security to the Town Clerk, pursuant to Section 161-41 (B) & (C) of the Code of Ordinances of the Town of Newburgh, in order to guarantee to the town that the subdivider will faithfully cause to be constructed and completed within a reasonable term the roads proposed to be offered to the town (together with all related improvements [161-41 (A)]) and convey the required lands and improvements to the town free and clear of encumbrances. The security shall be in an amount set by the Town Board and shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety. An inspection fee in an amount in accordance with Section 104-2 (A)(8) shall also be paid to the Town prior to signing of the plans.

Private Road Security & Inspection Fee

22. Prior to the signing of the plat or issuance of a building permit, the applicant shall deliver a performance and maintenance security to the Town Clerk, pursuant to Sections 161-20 and 161-22 of the Code of Ordinances of the Town of Newburgh, in order to guarantee to the town that the subdivider will faithfully

cause to be constructed and completed within a reasonable term the private roads proposed to be constructed (together with all related improvements). The security shall be in an amount set by the Town Board and shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety. An inspection fee in an amount in accordance with Section 104-2 (A)(8) shall also be paid to the Town prior to signing of the plans.

Offers of Dedication

23. Before signing of the final plat or plans, the applicant shall deliver appropriate offer(s) of dedication, in duplicate, executed and acknowledged by the owner of the property affected, in form suitable for filing in the Orange County Clerk's Office and the Town Clerk's Office for all such lands as are shown on the plans to be so offered. The offer shall include a metes and bounds description of said parcel(s). The documents shall be in form suitable for recording and shall be satisfactory to the Town Attorney.

Bayswater Findings

24. The Planning Board has determined, based upon the present and anticipated future need for park and recreational facilities in the Town [as calculated from projected population growth to which this subdivision will contribute], that parklands should be created as a condition of approval of this subdivision. However, because parks of size adequate to meet the Town's requirements cannot be properly located on the subdivision plat, the Planning Board, pursuant to Section 163-20 (F) of the Subdivision Regulations of the Town of Newburgh, and Section 277 (4) of the Town Law of the State of New York, requires that the ap-

plicant deliver payment, by cashier's check or certified check drawn to the order of the Town of Newburgh, a fee of \$2,000 for each lot created in this subdivision, bringing the total due to \$110,000 (see Chapter 104, *Fees* [§104-2 (A)(9)]). Said sum shall be paid to the Town in full before the plans are signed.

General Conditions

This approval is conditioned upon the applicant submitting all necessary copies of the plans to be signed, including mylars when required, to the Town of Newburgh Building Department. A full set of the plans to be signed shall simultaneously be submitted to BC Planning, LLC, the Planning Board's planning consultant. The plans shall not be signed until BC Planning, LLC has reported to the Chair that all conditions of this resolution required to be satisfied before the plans can be signed have, in fact, been satisfied.

This approval is further conditioned upon the applicant delivering (prior to signing of the plat) proof, in writing, that all fees—engineering, planning, legal and otherwise—in regard to this project have been fully paid. The applicant shall also be required to deliver proof that all required Public Improvement, Erosion Control and Landscaping inspection fees and escrow have been deposited with the Town. The plat shall not be signed until proof, satisfactory to the Chair, has been presented showing that all such fees have been paid and escrow deposits made.

A FAILURE to comply with the general conditions immediately above in a timely manner shall result, without further action, in a lapsing of this approval.

In Favor _____ Against _____ Abstain _____ Absent _____

Dated: _____

JOHN P. EWASUTYN, CHAIRPERSON
TOWN OF NEWBURGH PLANNING BOARD

