

July 15, 2022

## MEMORANDUM – OUTLINE

### 425 Warburton Avenue, Hastings-on-Hudson, New York

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This Memorandum provides an Outline for the proposed redevelopment of 425 Warburton Avenue in Hastings-on-Hudson, New York, which now also includes the property located to the west of 425 Warburton, identified as 0 Ridge Street.

Both properties have been purchased by Tabi Realty LLC, (“Owner”) specifically for redevelopment. The intent is to combine the two parcels into one property, have the zoning for 0 Ridge Street changed to match the zoning of 425 Warburton, and then obtain the required approvals and entitlements to permit the construction of a new building on the property with eight residential units and a small accessory commercial unit. Tabi Realty intends to operate the building as a rental property.

#### PREVIOUS APPLICATION:

The Owner purchased the 425 Warburton parcel in 2017 and made applications to the Village of Hastings-on-Hudson for the removal of the existing three-family structure on the property and the construction of a new three-family building. The proposed building included a parking garage in the basement, accessed by a driveway along the north side of the property connecting to Warburton Avenue.

The submission in 2017 proposed design of the previous building that required eight variances from the Hastings-on-Hudson Zoning Board of Appeals, including the following:

1. Front yard setback reduction.
2. Rear yard setback reduction.
3. Side yard setback reduction.
4. Driveway slope increase.
5. Driveway slope increase within 30 feet of the side yard property line.
6. Increase in permitted site coverage for the driveway and parking area.
7. Reduction in the size of the parking spaces.
8. Permission for parking paving within a required side yard setback.

With the required variances granted, the submitted application proceeded through the approval process with the Planning Board and got to a point where the approval was expected with a few additional items on the drawings addressed. Unfortunately, it was at that point in time that the Owner determined that, with the restrictions on the design imposed by the Village and the cost of producing the proposed building, it did not make sense for them to proceed with that project.

It should be noted that the review process was contentious with disagreement between the Planning Board and the Zoning Board of Appeals, stimulated by concerns and complaints expressed by neighbors and the public, particularly about the driveway and the way that it combined to eliminate existing on-street parking spaces, was intrusive along the property line, and resulted in a steep driveway crossing a public sidewalk without good visibility.

**PROJECT CONCEPT:**

Recognizing that the previous development concept was not viable, the Owner retained Gotham Design & Community Development Ltd. (Gotham) in 2020 to evaluate other possible ways of developing the 425 Warburton parcel. It is clear from a review of the Minutes from the Zoning Board of Appeals and from the Planning Board that an increase in the size of the building and in the number of residential units would not be permitted.

Gotham investigated the surrounding properties and determined that, by combining the 425 Warburton property with the 0 Ridge parcel, there is an opportunity to create a project that would be financially viable, while also obviating most of the concerns identified during the review of the previous project design.

The new Project Concept is to combine the two parcels into one and then to develop the single parcel with a density that makes the project both Code compliant and financially viable.

**EXISTING PARCELS AND ZONING:**

The 425 Warburton Avenue parcel has a site area of approximately 7,114 square feet with approximately 82 feet of frontage on Warburton. It is currently improved with a three story, three-family building, which is scheduled to be removed. The zoning of the 425 Warburton parcel is MR-0, which permits two dwelling units with a lot area of 5,000 square feet and an additional dwelling unit for each additional 1,500 square feet of lot area. With a lot area 7,114 square feet, a total of three dwelling units is permitted.

The 0 Ridge Street parcel has a site area of approximately 15,491 square feet with approximately 30 feet of frontage on the paper street portion of Ridge Street. Traversing the parcel is a portion of the County Trunk Sanitary Sewer Line. The zoning of the 0 Ridge parcel is 2R-3.5, which permits two family dwellings on lots with a minimum lot area of 5,000 square feet. Assuming a subdivision to create three 5,000 square foot parcels, the yield of this parcel would be three two-family dwellings, for a total of six dwelling units.

**PROPOSED PROJECT:**

The project proposed includes a total of at least eight residential units, as well as an accessory commercial unit (ACU). The building has been designed to be three stories in height as measured from street level on Warburton, with two residential units on the first floor, two residential units on the second floor, and one residential unit located on the third floor level.

Since the property drops significantly from Warburton to the west, there are three levels below the street level with two units located on the first level below the street level, one unit located on the second level below the street level, and a basement level that provides enclosed parking for eight vehicles. The parking level is accessed from an extension of Ridge Street. Two of the residential units are proposed with three bedrooms each and the other six are proposed with two bedrooms each, for a total of 18 bedrooms in the building.

While the 0 Ridge parcel being added to the 425 Warburton parcel is critical for the math that allows for the increase in the number of residential units, the proposed building is not located on the 0 Ridge parcel. The use of that parcel is primarily to provide the vehicular access to the building from Ridge Street, to provide the required recreational area of 200 square feet per bedroom, and to provide the area for the stormwater management system.

Section 295-112 in the Village Code requires a set-aside for parkland. With 18 bedrooms, the recreational area is required to be at least 3,600 square feet.

The 0 Ridge parcel also provides the area necessary to provide a 50 foot diameter turn around for vehicles entering from Ridge Street. Ridge Street is a narrow street that has the feeling of being a one way, dead end street. By having a turn around at the end of the street, people using the street will have a safe place to turn around, including emergency vehicles and DPW vehicles. Similarly, the recreational area is proposed to be open to the neighborhood, in addition to serving the needs of the residents of the proposed building.

The units as designed range in size from approximately 1,224 square feet to approximately 1,789 square feet and, with a total for the eight residential units of 12,085 square feet, average 1,510 square feet. Each has a private exterior terrace or deck, the area of which is not included in the square footage of the unit and ranges from approximately 150 square feet for the smaller units to more than 300 square feet for the penthouse unit.

Each of the residential units also has a private, secured storage area with an area of approximately 120 square feet in the building. These are located in the portions of the levels between the street level and the parking level that are fully below grade.

Each of the eight residential units has one of the eight parking spaces in the enclosed garage. There are also four exterior parking spaces in the paved area that serves the building providing the access from Ridge Street, which provides shared parking. The parking provided averages 1.5 spaces per residential unit. While the paved area could provide additional parking spaces, having the turn around at the end of Ridge Street, which is a community benefit is more important. There is public street parking on Warburton Avenue, and the proposed project does not require any loss of spaces.

The project also includes what is being referred to as an “accessory commercial unit.” A store front with an area of approximately 430 square feet has been included in the design and there is also a secure, private storage area in the building to serve this space. The zoning for this property permits commercial use, although the number of businesses in the buildings south of the bridge on Warburton has dwindled with time.

That said, the idea of having a small commercial use on the street provides a number of benefits to the character of the street. Two properties to the south on Warburton is the location of Antoinette's Patisserie, which is a beloved coffee and pastry shop that serves the local area, but also draws customers from other villages with its 5-Star rating.

With a total of six levels in the building, including three stories above street level and three levels below street level, the building is served by an elevator. Having an elevator enables all of the residential units to be ADA compliant. The staircase serving all of the levels on the interior of the building has a skylight on the roof, bringing in natural light filtering down to the stair halls below. There is also an exterior staircase on the west side of the building that connects from the third floor to all levels below. This is intended for the private use of the residential units to make it easier to enjoy the views of the river while providing a direct connection to the recreational area that will be created on the 0 Ridge Street parcel.

In addition to each of the residential units having a private terrace or deck, there is also a roof deck on the third floor level that provides approximately 1,000 square feet as a shared space to be enjoyed by the residents of the building.

As a Village, Hastings-on-Hudson has a highly evolved sense of social responsibility and this translates into requirements for affordable housing units and compliance with the New York State Stretch Energy Code.

Under Section 295-112.1, the Village requires that a minimum of 15% of the residential units in the Project meet affordability standards of either being affordable for a household making 60% of the County's Area Median Income (AMI), if the units are offered for rental, and 80% of the County's AMI, if the units are offered for sale. With eight dwelling units in the Project, the Village requires that 1.2 of the units be made available as affordable by the County's standards. The Village's Code permits the 1.2 units to be rounded down to one of the eight dwelling units.

Under Section 101-10.1, the proposed building is required to be designed to be highly energy efficient both in its construction and in its operation. High efficiency heat pump HVAC systems will be used to reduce dependency on carbon based fuels. The selection of doors and windows, exterior materials, insulation, and components of the thermal barrier will all be determined by creating the most efficient building that is practical. While the building will not be constructed with the intent of filing for LEED designation, the intent is for it to meet the standards required for compliance with a Gold rating. The intent is for solar collector panels to be located on the top roof with a series of panels attributed to each of the apartments.

#### **BUILDING DESIGN CONSTRAINTS:**

The site conditions, which include a relatively steep slope from Warburton Avenue down to the west, as well as a lot shape that is irregular, have a direct impact on the kind of building that can work for this project. The proposed building inflects to accommodate the fact that the width of the lot reduces from the east property line, which is approximately 82 feet wide, to the original west property line on the 425 Warburton parcel, which is approximately 60 feet wide.

The height of the building similarly steps down to follow the slope dropping to the west so that it is not more than three stories in height from the existing grade at any point. This means that the roof at the west end of the building has been designed to be at the same approximate level as the street at the east end of the building.

Where the previous project was permitted to have a building with a height of 40 feet, the Village has changed the permitted height limit to 35 feet. Hastings-on-Hudson defines the maximum permitted building height as being measured vertically from the existing site topography to an imaginary plane set at the permitted height above and parallel to the existing topography. The building has been set down into the site in an effort to comply with the 35 foot maximum height limit. Due to the unevenness of the terrain, there may be a couple of places where the building penetrates the imaginary plane, particularly with the roof parapet, the elevator penthouse, and the solar panels.

The east portion of the building has been designed to have a relatively traditional massing and detailing that fits in with the character of the older buildings on Warburton Avenue. The balance of the building to the west of the traditional massing has been design with a more modern massing and detailing, enhancing the opportunity to take advantage of the views to the Hudson River.

#### **ENTITLEMENT PROCESS AND REQUIREMENTS:**

The first step in obtaining the approvals for this project as proposed is to combine the two parcels into a single parcel, which will have a total area of approximately 22,605 square feet. Since the Village requires single parcels to be of a single zoning designation, the request will be made to the **Hastings-on-Hudson Board of Trustees** for the **Zoning Change**, moving the zoning line of the MR-0 zoning district to include the 0 Ridge Street parcel. This should not be considered “spot zoning,” since the new combined parcel is consistent with the zoning of its neighbors and the original zoning of the 425 Warburton parcel.

It is anticipated that an application will then be made to the **Hastings-on-Hudson Planning Board** for two processes: Approval of construction on a property with **Steep Slopes**, as stipulated in Section 240-7; and **Site Plan Approval**, as stipulated in Section 295-104 of the Village Code.

Since this Project includes at least one affordable and/or workforce housing unit, the applicant is entitled to a **Pre-Application Meeting** at which representatives will be in attendance from each municipal department, agency, board, committee and staff expected to play a role in the review and approval of the Project, including the application and the construction. Whether this precedes the process of combining the two parcels into one and the change of the zoning district boundary, or is concurrent with that process, or follows the changing the zoning boundary has to be determined. The purpose of this **Pre-Application Meeting** is to identify the issues, concerns, code compliance and coordination matters at the start so that the review and approval process can be expedited. From this meeting, the Village is supposed to establish a comprehensive review process outline, a proposed meeting schedule, and a conceptual time line.

The existing property has substantial steep slopes, which are defined as exceeding 15% (1.5 feet vertical to 10 feet horizontal). Hastings-on-Hudson Code stipulates that the **Planning Board** impose specific requirements on properties with **Steep Slopes** and require the following to be addressed:

1. The methods that will be used to provide structural stability of the site and building foundations;
2. The preservation of the natural watershed in a way that will prevent soil erosion;
3. The methods that will be used to mitigate stormwater runoff from imposing on all adjacent properties; and
4. The methods that will be used to minimize the impact of changes in topography on adjacent and nearby properties through landscaping, retaining walls, and the terracing of gardens.

A **Site Plan Approval** is required in Hastings-on-Hudson for any construction except for one and two family homes. The Standards for **Site Plan Approval** provide the **Planning Board** with broad obligations, which require specific details and documentation.

The Code stipulates that *“In acting upon any application for **Site Plan Approval**, the **Planning Board** shall consider the site layout and overall appearance of all buildings, structures and land in the proposed development in relation to the public health, safety and general welfare and the comfort and convenience of the public in general and the residents of the immediate neighborhood in particular.”* The objective is for the proposed development of the property to fit in well with the context and avoid any adverse impacts on the community or neighboring properties.

Much of what needs to be submitted for the **Site Plan Review** are the specific details on the means and methods of how the building is to be built, how that building will relate to its neighboring properties, how stormwater will be managed on the site, how the site will be protected during construction to avoid erosion and sedimentation, and how parking and traffic generated by the proposed development will be managed.

How the proposed development will relate to the socio/economic concerns of the community will also be important for **Site Plan Approval**. Data on the impact of students in the School District to be generated by the Project and tax revenue generated by the proposed Project, in comparison with the demands that the Project will impose on the Village, will be important to document for this process. Similarly, how the proposed Project will relate to the Master Plan expectations for this area will be important to evaluate and present.

The Village has recently made several **Changes to the Village Code** on November 15, 2021 (L.L.No.8-2021) affecting the MR-0 zoning district specifically to encourage the development of more dwelling units that are within walking distance of the MetroNorth train station and the downtown commercial district. A need for a greater diversity in residential units to accommodate households that are not the “nuclear family” has previously been identified. A restriction that buildings in this zoning district had to be limited to a maximum of 8 dwelling units was removed by the change to the Code.

An issue that will need to be discussed in the Review process will be whether a greater number of smaller residential units would be preferable to the eight units proposed. It needs to be noted that, if the number of dwelling units increased to 10, the requirement for affordable dwelling units would calculate to 1.5 units, which the Code requires be rounded up to 2 units.

It is possible that there may also need to be **Variances** granted for the proposed building, including potentially a variance for the height and a variance for the side yard setbacks. **Variances** are granted by the **Zoning Board of Appeals**. It should be noted that, since the property is located in the **View Preservation District**, there will be increased attention given to the building needing to fit within all of the required limits. An effort will be made to be compliant, but the site conditions are tight and a couple of variances may still be needed.

As was noted above, a series of variances were required for the previous project, but these are not needed for the current Project. The proposed building has been designed to be slightly shorter than the previous project. However, the recent **Change to the Village Code** reduced the permitted height from 40 feet to 35 feet, which makes compliance more difficult. As currently designed, the height of the building on the Warburton end of the lot is proposed at approximately 32 feet. Due to the steep drop in the site grade, however, there may be a number of places where the building pokes through the imaginary plane set 35 feet above the existing grade. If it can be demonstrated that they small penetrations do not affect the view towards the River from neighboring properties, granting a small variance may be acceptable to the ZBA.

Since the property is not a rectangle, it is unclear how the required **Side Yard Setbacks** are supposed to be determined. The side yard setback requirements were another recent change to the Village Code, but one that is potentially favorable for the proposed Project. The previous required side yard setback of two 12 foot side yards has been changed to be a sliding scale based on the width of the lot, with the minimum side yard reduced to 3 feet. While the east property line of 82 feet would require an increase in the total side yard setback to a minimum of 30 feet, the west property line of 60 feet would permit a reduction in the total side yard setback to a minimum of 20 feet. If the average of the two is the determinant, the total required minimum side yard setback would be the same as the previous 24 feet, but with more flexibility, allowing one of the side yard setbacks to be as tight as only 3 feet. As currently designed the total side yard setback is more than 24 feet, with a 10 foot setback along the south property line and slightly more than 14 feet along the north property line. The shape of the building is also irregular, which means that, while the closest point on the wall to the side yard may be the 10 or 14 foot setback, the wall jogs away from the side yard, increasing the setback.

It should also be noted that there is a portion of the parking garage that is closer to the North property side yard, but fully below grade. This may require a variance for the total side yard setback requirement. The closet point of the garage to the North property line is 4 feet, which is compliant, since it is greater than 3 feet.

The required **Front Yard Setback** in the MR-0 zoning district is 10 feet. However, during the review of the previous project, there was support to reduce the required set back to 5 feet and a variance was granted for that setback. The proposed Project has the same front yard setback of 5 feet. It will need to be determined whether a new variance is required for the proposed Project or whether the previous variance applies.

Coverage of both buildings and impervious surfaces is also controlled by the Hastings-on-Hudson Zoning Ordinance.

In the MR-0 zoning district, the Code limits **Building Coverage** to a maximum of 55% of the lot area and the **Development Coverage** to a maximum of 70% of the lot area. As proposed, the building will have a Building Coverage of 22.2%. The combination of buildings, paving, and other structures including the retaining walls will have a Development Coverage of approximately 68.8%. This includes the pervious pathways in the recreation area.

The MR-0 zoning district also restricts the **Floor Area Ratio (FAR)** to not exceed 1.37 times the lot area. With a lot area of the parcels combined of 22,605 square feet, the FAR should not exceed 30,968 square feet. As proposed, including the cellars on the lower floors, the total square footage in the building is 25,728.1. However, the square footage of cellars is specifically excluded from the FAR. Without the parking level and other two cellars below the street level included (9,130.9 square feet), the net square footage is 16,597.2. This is an FAR for the proposed Project of 0.734 where 1.37 is permitted.

The November 16, 2021 change to the **Village Code** includes a provision to limit the number of residential units permitted in the MR-0 zoning district computed by dividing the FAR by 1000 and then rounding up or down to the closest whole number. Dividing 30,968 (22,605 X 1.37) by 1000 computes to a maximum permitted number of dwelling units on this site of 31.

The **Village Code** also establishes minimum parking requirements for properties and use. The MR-0 zoning district requires 0.8 parking spaces per residential unit. With eight residential units, that computes to 6.4 spaces being required, which is rounded down to 6. Since having a reserved parking space for a residential unit increases the unit's value, one parking space has been assigned in the garage for each of the residential units, exceeding required number of on-site spaces. There are 4 additional parking spaces in the paved area to the west of the building, increasing the number of on-site spaces to 12; almost twice the required number. Our hope is that this will reduce concerns previously expressed that this project will adversely affect neighbors by increasing competition for parking on Warburton. The previous loss of curb side parking has been eliminated

The property is located in the **View Preservation District** created by the Village for the properties west of Broadway, which enjoy views of the Hudson River. Under Section 295-82 of the Village Code, the **Planning Board** initiates the review that is intended to promote improved visual relationships between the Village and the Hudson River.



The **Zoning Board of Appeals** (ZBA) is also involved in the **View Preservation Review**. The **Planning Board** first determines a design that, in its opinion will be acceptable in terms of its impacts on the views of the River, and the matter is then referred to the **ZBA**, which conducts the **Public Hearing** on the Project specifically for consideration of the impacts on the views.

The **View Preservation Review** requires photographs to be taken from key locations, including from the interior of neighboring buildings, to document the impact that the proposed building will have on views towards the Hudson River. To obviate questions of accuracy of the claims, it is protocol to erect a mock-up of the front facade volume so that this is included in the photos that have been used to determine which views will be lost. A SketchUp model of the proposed building has also been prepared, which will be useful in understanding how the massing will affect the views from a variety of off-site locations.

Hastings-on-Hudson Village Code has an **Architectural Review Board (ARB)**, but it is not clear when the ARB becomes involved and exactly what its charge and responsibilities will be on this Project. The ARB's powers and duties are described in the **Code** as follows: "Serves in an advisory capacity to the Building Inspector and Planning Board and upon request, shall consult with the Board of Trustees, Zoning Board and other Village Boards and Commissions regarding appropriate design and quality of building materials for exteriors of buildings, signs and other structures erected in the Village." Where the ARB fits in to this review process for this Project will need to be confirmed.

#### **PROJECT CALENDAR FOR APPROVALS:**

While it is difficult to prepare a schedule for an approval process, given the input of neighbors and concerns with often competing objectives, the following time line has been provided for this Project:

- August 2022 Presentation to Hastings-on-Hudson Board of Trustees
- September Pre-Application Conference
- October Public Hearing on the Change of Zoning for 0 Ridge Street
- November Approval of the Change of Zone by Board of Trustees
- December Site Plan Review and Steep Slopes Review by the Planning Board
- January 2023 Zoning Board of Appeals review of Variances and View Preservation

This is an aggressive schedule and does not factor in the reality that most of these steps will require more than one appearance before each Board. A time period of eight months should be anticipated for the review and approval of the Site Plan, Steep Slopes, and View Preservation, as well as the variances that may be required. None of the time spent on the previous project should be counted in this time frame, except that the Village and neighbors should already be familiar with the fact that this property will be redeveloped.

**Development Costs:**

The Development Costs are in the process of being determined. For purposes of this Memorandum, the Building Construction Cost has been estimated to be \$5,161,250 for the building itself based on a total floor area of 20,645 times a cost of \$250 per square feet. The site work, which includes the road extension, the retaining walls, the storm water system, utilities, and landscaping, has been estimated to be \$1,338,750. These figures include the consultant fees for the project. This totals \$6,500,000. Additional costs are the acquisition of the property, which is approximately \$950,000, carrying costs, and marketing costs.

**MARKET VALUE:**

It has not yet been determined whether the proposed Project will sell condominium units or be rental apartments. This is to be evaluated and projected values will subsequently be provided, once this has been determined. For purposes of this Memorandum a sales value of \$725 per net square foot of the eight apartments and the accessory commercial space has been used. With a net floor area of 12,520 at \$725, this totals \$9,077,000.