



# Town of Poughkeepsie

## Planning Department

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**August 12, 2021**

M. Welti, Director of Municipal Development  
D. Cooper, Esq., Zarin & Steinmetz

### **C.1. HUDSON HERITAGE**

**Amend Resolutions of Subdivision Approval** to allow for Certificates of Occupancy to be issued for additional users on Lot 3 before the Hudson Heritage Sewer District is approved by the State Comptroller. 3532 North Road; Zoned HRDD (Historic Revitalization Development District); Grid #6163-03-011149; Town Board SEQRA Findings (Type 1 Action) issued 12/06/2017; Planning Board SEQR Findings, Modified Development Master Plan, and Phase 1 Site Plan approved 06/04/2019, Amended Phase 1 Site Plan approved 04/16/2020; Final Major Subdivision approval on 04/30/2020, Amended Preliminary Subdivision Approval and Amended Final Subdivision Section 1 approval on 07/16/2020; and Amended Conditional Final (Major) Subdivision Section 2 and Section 3 approval on 08/20/2020; *EFG/Saber Heritage SC, LLC, f/k/a/ EFG/DRA Heritage, LLC, Owner.*

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By letter dated August 11, 2021 (attached), the Applicant is requesting that the Planning Board modify Condition #4 of the Preliminary and Conditional Final (Major) Subdivision Plat Approval, dated July 16, 2020, and Condition #3 of the Amended Conditional Final (Major) Subdivision Approval, dated August 20, 2020. The purpose of this request is to allow for Certificates of Occupancy to be issued for additional users on Lot 3 before the Hudson Heritage Sewer District is approved by the State Comptroller. The Town forwarded a Sewer District Formation Petition to the Comptroller's Office on February 4, 2021.

On April 15, 2021, the Planning Board approved modifications to the original conditions which allowed only the grocery store on Lot 4 to obtain a Certificate of Occupancy prior to the formation of a Sewer District. The April modification allowed for additional commercial spaces on Lot 4 to obtain CO's prior to district formation.

The current request would allow additional users on Lot 3 (Phase 1 tenants that will soon be ready to open) to obtain certificates of occupancy should the proposed sewer district still be under review by the State Comptroller at that time. These users will connect to the same sewer line that serves the users on Lot 4. This sewer line will eventually be public; however that transfer of ownership will not occur until after the district is formed. Because the current situation necessitates the conveyance of sewage from more than one lot through a common pipe that will still be privately owned, the Town worked with the Dutchess County Department of Behavioral & Community Health to assure the County that there is a "responsible entity" to ensure repairs are undertaken in the event that the property owner fails to maintain the shared portions of the sewer line (the Town in this case). The arrangement requires the Town to enter into an agreement with the developer. Under the agreement, the developer will be responsible for any required maintenance or repairs but security in the form of a bond or similar mechanism will be provided to allow the Town to perform those tasks should the Developer fail to do so. In return, the Town will guarantee to the County that common lines will be properly operated and maintained. The agreement will include a 12 month time limit.

Staff recommends that the Planning Board consider a resolution to amend the prior Subdivision Approvals, as follows:

**“I move that the Planning Board amend Condition #4 of the Preliminary and Conditional Final (Major) Subdivision Plat Approval, dated July 16, 2020, and Condition #3 of the Amended Conditional Final (Major) Subdivision Approval, dated August 20, 2020, as necessary to allow for additional users on Lot 3 to receive CO’s prior to formation of the sewer improvement district subject to approval by the Town Board of all necessary agreements with the developer (as described within this staff report) and authorization to operate the shared sewer line by the Dutchess County Department of Behavioral & Community Health.**

# ***EFG/SABER HERITAGE SC, LLC***



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August 11, 2021

Honorable Carl Whitehead, Chairman  
Members of the Planning Board  
Town of Poughkeepsie Planning Board  
Town of Poughkeepsie  
One Overocker Road  
Poughkeepsie, NY 12603

RE: Hudson Heritage – Modification of Condition #4 of the Preliminary and Conditional Final (Major) Subdivision Plat Approval, dated July 16, 2020, and Condition #3 of the Amended Conditional Final (Major) Subdivision Approval, dated August 20, 2020

Dear Chairman Whitehead and Members of the Planning Board,

The purpose of this letter is to request your approval of a further modification to the two referenced conditions to allow for Certificates of Occupancy to be issued for additional users on Lot 3 before the Hudson Heritage Sewer District is approved by the State Comptroller. The users will connect to the same sewer line that serves the users on Lot 4. Our request emanates from our lease delivery obligations to tenants that are soon to open including Burger King, Starbucks, Chipotle and others and the extraordinary time it is taking to obtain the State Comptrollers' approval of the formation of the Sewer District.

Background:

The original Subdivision Approval contains a condition allowing only the grocery store on Lot 4 to obtain a Certificate of Occupancy prior to the formation of the Hudson Heritage Sewer District. On April 15, 2021, the Planning Board modified the condition to allow Certificates of Occupancy for other buildings on lot 4 before the Comptroller's Office approves the formation of the Sewer District. The Comptroller's Office continues to have a significant backlog and is still processing the Town's application and we now need to allow other Phase I tenants to connect to the (future public) sewer line and open. Thus, this request.

To enable Lot 3 uses to connect to the sewer line before it's public, our professionals will prepare 1) an amendment to the existing Security Agreement for the "overall" Section 1 performance bond to allow the bond to cover Town costs incurred for maintenance and repair of the sewer line, and 2) an amendment to the existing Sewer Use Agreement to, among other things, make it cover Lot 3, and add our agreement to indemnify and hold the Town harmless for any costs it incurs to operate, maintain or repair the sewer line before its becomes public.

We request that this matter be considered by the Board at its meeting on August 19, 2021.

Very truly yours,  
EFG/SABER HERITAGE SC, LLC

By: 

Martin G. Berger, Development Manager

cc: Michael Welti  
Eric Hollman  
David Cooper  
Liz Axelson  
Peter Wise  
Carol Barone

