

PROCEDURE FOR CONTINUUM APPLICATION

Continuum's proposal is to construct a 121-unit assisted living facility on the property formerly occupied by the Foundation for Economic Education. The actions that ultimately have to be taken to permit that proposal and the boards responsible for the actions are:

Zoning amendment ¹	Board of Trustees
Special Permit (if zoning amendment is passed)	Planning Board
Site development plan approval, including View Preservation Approval (if zoning amendment is passed)	Planning Board

In addition, Architectural Review Board approval and Tree Removal permits will be required. A list of all the required approvals is included on pages 1-3 and 2-18 of the Draft Environmental Impact Statement.

Before any of these actions can be taken, however, review under the State Environmental Quality Review Act (SEQRA), culminating in a SEQRA Findings Statement, must be done. The Board of Trustees asked the Planning Board to be the lead agency for the SEQRA review, which the Planning Board agreed to. In addition, the Board of Trustees retained (at Continuum's expense) a highly regarded planning and environmental firm, Turner Miller Group, to assist in the SEQRA process. The Planning Board is currently in the process of SEQRA review.

As its first step, the Planning Board, with the assistance of its consultants and Village staff (including the Building Inspector, Village Engineer, and Village Attorney) developed an extensive "scope" of the issues that must be addressed in a Draft Environmental Impact Statement (DEIS), the next step in the process. Even though not required by SEQRA, the Planning Board held a public scoping session on September 7, 2011. At that session, interested agencies and the public were invited to identify any items to be included in the DEIS. The Planning Board kept open a written comment period until September 21, 2011. On October 5, 2011, the Planning Board adopted the scoping document, which included as issues: impacts on traffic, drainage, community character, sewer and water, emergency services, other Village

¹ The zoning the applicant is requesting is described at pages 2-4 through 2-6 of the Draft Environmental Impact Statement. If the Planning Board and Board of Trustees decide to move forward with the application, and are comfortable with the proposal, the *language* proposed for the zoning amendment (though not the content) will have to be revised substantially. This is a drafting issue.

services, noise, and lighting, as well as visual impacts from the Aqueduct and other neighboring properties. The DEIS also had to propose measures to mitigate any impacts that were found. Finally, the DEIS had to discuss a number of alternatives to the proposed action, including the alternatives of development compliant with existing zoning and “no action.”

In February, the Planning Board determined that the DEIS addressed all the issues in the scope and was ready for public review. (The Planning Board did not make any judgments as to the substance of the DEIS; it merely determined that all of the issues in the scope were addressed.) It opened the public hearing on the DEIS at its March 7, 2012 meeting, and continued it to its April 4, 2012 meeting. The DEIS is also being reviewed by the Planning Board members themselves, as well as Turner Miller Group, the Village’s engineers, and the Village Attorney, each of whom will prepare comments on the DEIS.

Once the Planning Board closes the hearing on the DEIS, a written comment period of 10 to 14 days will remain open, during which the public may submit additional questions or comments about Continuum’s proposal. Following the end of the comment period, the applicant will prepare a draft of a Final Environmental Impact Statement (FEIS). The FEIS must address all the issues raised at the public hearing, in the written comments, and by the Planning Board and the Planning Board’s consultants. Even though the applicant will draft the FEIS, the FEIS is the Planning Board’s document, and the Planning Board will not accept it until it believes that all issues raised as part of the SEQRA review are adequately addressed and that the document accurately reflects the Planning Board’s conclusions.

After the Planning Board accepts the FEIS, it (with the assistance of its consultants) will prepare a Findings Statement. The Findings Statement must consider all of the impacts of the proposal and balance the adverse impacts against the need for and benefits of the action. The Planning Board may issue a positive Findings Statement or a negative Findings Statement. A positive Findings Statement most likely will include a list of conditions.

Once the Findings Statement is made, the application will go to the Board of Trustees to adopt, reject, or modify the requested zoning amendment. The Board of Trustees must hold a public hearing on the zoning amendment. Whether the Board of Trustees adopts the amendment lies completely within its discretion. The Board of Trustees will enact a zoning amendment to permit the use only if the Board is satisfied that the use will benefit the Village of Irvington and that any impacts on traffic, community character, Village services, etc. have been adequately mitigated.

Before it votes on the amendment, the Board of Trustees must make its own SEQRA findings (although it does not conduct its own SEQRA review). It can adopt all or part of the Planning Board’s findings as its own. The Board of Trustees is not obligated to make the same findings as the Planning Board, even though it asked the Planning Board to be lead agency. Its findings, however, must be based on information and reasons in the EIS record.

If the Board of Trustees enacts the zoning amendment, the application will then have to go back to the Planning Board for site plan approval, View Preservation approval, and a special permit. All of these approvals require a public hearing as well. In addition, as mentioned above, the application will require ARB approval and Tree Removal permits.

Most likely, the proposal will not require action by the Zoning Board of Appeals. Under the proposed action, variances would not be required because the facility would be designed to meet the requested zoning amendment. In other words, the proposal would be fully compliant with the new zoning provisions. If, however, the zoning amendment adopted by the Board of Trustees includes requirements that the proposed facility does not meet, Continuum would be obligated to seek variances from the Zoning Board of Appeals.