

**Landmarks Preservation Commission
of the Village of Baxter Estates**

**(A.) Application under Village Code Section 118-6 for
Proposed New Single-Family Home on Historic Site;**

**(B.) Application under Village Code Section 147-1(A).
for Site Plan Approval**

15 Shore Road

(Public Hearing –June 18, 2024)
(as adopted _____, __, 2024)

A. APPROVAL OF PROPOSED NEW SINGLE-FAMILY HOME ON HISTORIC SITE UNDER VILLAGE CODE CHAPTER 118, "HISTORIC PRESERVATION."

RESOLVED:

WHEREAS, the Landmarks Preservation Commission of the Village of Baxter Estates (the "LPC") has received the application (the "LPC Application") of Haixu (Hal) Liu ("Applicant"), owner of premises at 15 Shore Road, Port Washington, NY 11050, also known as Section 5, Block 5, Lot 61, on the Nassau County Land and Tax Map, located in R-A zoning district (the "Subject Premises") with respect to a proposed new single family home to be constructed at the Subject Premises (the "Project");

WHEREAS, the Subject Premises have been designated as an "historic site," pursuant to Chapter 118, "Historic Preservation," of the Village Code (the "Historic Preservation Chapter") ; and

WHEREAS, the LPC, in its capacity as Board of Jurisdiction pursuant to Village Code Section 147-1.(B), has also received the Applicant's application for site plan approval (the "Site Plan Application") with respect to the Project; and

WHEREAS, the LPC hereby renders its determination with respect to the LPC Application prior to addressing the Site Plan Application, which latter application shall be addressed by separate resolution of the LPC, rendered in its capacity as Board of Jurisdiction; and

WHEREAS, while the LPC is not required to hold a public hearing with respect to the LPC Application, nevertheless, because both the LPC Application and the Site Plan Application (collectively, the "Project Applications"), address the same

proposed Project, and because the LPC customarily entertains public input on projects that come before it, and the Village Board of Jurisdiction customarily conducts public hearings with respect to site plan applications, the LPC has elected to conduct a single public hearing on June 18, 2024, with respect to both Project Applications (the "Public Hearing"), at which all parties in interest were heard, or were given an opportunity to be heard; and

WHEREAS, the LPC has reviewed all materials submitted in connection with both Project Applications as well as all materials submitted by, and testimony received from, persons in support of and in opposition to the Project Applications; and

WHEREAS, the LPC elects to treat all materials and testimony submitted and received in connection with both Project Applications as the record for each Project Application; and

WHEREAS, the LPC has determined that the Project Applications, collectively, are a "Type II unlisted action" for purposes of the New York State Environmental Quality Review Act ("SEQRA"), and the rules and regulations promulgated thereunder (including DEC Rule 617.5, "Type II Actions," clauses (c) (9) and (c) (32) thereof), requiring no further action under SEQRA with respect thereto by the LPC, including in its capacity as Board of Jurisdiction with respect to the Site Plan Application;

NOW, THEREFORE, the LPC makes the following findings of fact and determination with respect to the LPC application:

1. The LPC application proposes construction of a new single-family home on the Subject Premises, an "historic site" under the Historic Preservation Chapter. Pursuant to the Historic Preservation Chapter, the construction of a new home on an historic site requires review and approval of the exterior thereof by the LPC.

2. In reviewing a proposed structure at an historic site, the LPC must exercise sound historic and architectural judgment to maintain the desirable character of the historic site, prevent alterations that are out of harmony with the existing structures as far as style, materials, color, lines and detail are concerned, and prevent any change to topography or landscaping that would subvert the intent of the Chapter. More generally, the LPC is charged with preventing the degeneration of property, safeguarding public health, preventing fires, promoting safety and preserving the beauty and character of an historic site. More specifically, the LPC must consider the following factors: the historic and architectural value and significance of the proposed project; the architectural style, general design, arrangement, texture, materials and colors of the exterior architectural features involved; the relationship of those features to the exterior architectural features of other structures in the immediate vicinity, and the impact of topography and

landscaping on the site; new construction must be consistent with the architectural styles of historic value at the historic site.

3. The Historic Preservation Chapter authorizes the LPC to approve construction of structures with architectural style dissimilar to that of the historic site, if the LPC determines that such new construction will be in the best interests of the historic site. Presently, the Subject Premises is unimproved.

4. The Applicant attended the Public Hearing with his architect, Xiu Chen, P.E., a principal of CX Consulting and XC Engineering, P.C., Commack, New York, which prepared the architectural drawings, and site plan for the Project.

5. The LPC notes that, at the time of the "historic site" designation, the Subject Premises were improved with a structure known within the Village and throughout the local community as "The Baxter House." The LPC notes that, following a fire at The Baxter House in 2017, the fire damaged structure was demolished at the direction of the Village Building Department, for public health and safety reasons.

6. During the Public Hearing, one resident noted that the Applicant's proposed new home will not be a replica of the now-demolished Baxter House. The LPC notes that the Historic Preservation Chapter standards that pertain to the LPC application permit the LPC to approve a structure that is "dissimilar" to historic structures at the site or in close proximity to the site.

7. The LPC recognizes that the Subject Premises are privately owned, and zoned for single-family homeownership, and that the Applicant's predecessor as owner spent several years considering, prior to the fire and demolition of the former structure, how to update and possibly expand The Baxter House, and then, after the fire and demolition, how to replace same. In 2019, the prior owner applied for and obtained from the LPC the same approvals sought in the present Application, with respect to a differently designed proposed home, which was never constructed.

8. In the context of the 2019 application which the LPC approved, the LPC found that The Baxter House, as it existed at the time of the fire, was not a cohesive unit, but an assemblage of components built, in certain instances, centuries apart, each addressing functional needs or desires relevant at the time it was constructed, which resulted in a rambling and internally inconsistent structure with poor flow. A cohesive single-family home constructed today to be consistent with community norms, as well as with current building and fire code requirements, necessitates departures from the exact structure that had existed. At the same time, the LPC finds that the home proposed in the present Application does echo in meaningful ways historic elements of The Baxter House and does bear significant resemblance in material ways to the actual Baxter House, even if the proposed home is not an exact replica thereof. As a general

proposition, the LPC finds that the proposed home as presented in the Application, with certain conditions, will satisfy the standards that the LPC must apply before approving any plans to construct a new home at the Subject Premises.

9. The Architect created the following documents as part of the Application: architectural plans and schematic designs entitled “Liu Residence New Construction, 15 Shore Road, Baxter Estates, NY 11050,” comprised of 7 pages, identified as SK-C.16, SK-1.16, SK-2.16, SK-S.16, SK-E.16, SK-N.16, and SK-W.16 (collectively, the “Schematic Designs”); the following four exterior renderings of the proposed single family home: RNDR-1, RNDR-2, RNDR-3 and RNDR-4 (collectively, the “Exterior Renderings”); a radius map; a topographic map; and a proposed site plan, including proposed landscaping. All of the foregoing documentation is collectively referred to herein as the “Plans.”

10. The architect noted that the proposed Project fully complies with the Village Zoning Code, and so no zoning variances are required with respect to the Project.

11. The architect noted that the architectural design was intended to create a modern livable home consistent with contemporary standards, while also honoring the mandate of the Village Code with respect to historic sites.

12. The architect noted that the proposed design incorporates several significant elements from the Baxter House, including the appearance of a third story with dormer windows, roof lines, brackets along the gabled roof section, historically consistent hardware, functioning shutters, profiles of railings and banisters, integral rather than exterior chimney, and other historic elements.

13. The architect observed that the lot is peninsula-shaped, with frontage upon three different streets, Shore Road, Central Drive and Ridgeway Road. Shore Road and Central Drive, both County roads, bear significant traffic from time to time, while Ridgeway Road, a village street, is the least heavily trafficked road. Therefore, Ridgeway Road was selected as the road to and from which vehicle ingress and egress to the site would be accomplished, consistent with the condition that existed for the Baxter House. To that end, the proposed garage is oriented towards Ridgeway Road and relocates the existing curb cut further from the intersection.

14. The front of the home, like The Baxter House, is oriented to face Shore Road, a heavily trafficked road with the views of Manhasset Bay across Shore Road to the West.

15. Village Superintendent of Buildings Robert Barbach, R.A., confirmed Architect Chen’s statement that site grading and drainage would now be implemented in

a manner that complies with the Village rules and regulations regarding storm water containment, compliance which does not now exist, and which did not exist when the premises were improved with The Baxter House. The only re-grading proposed is to enable the new drainage system to contain storm water on-site.

16. Ms. Chen noted that the nature and placement of the hardscape in the southerly front yard, fronting upon Central Avenue, was designed to be faithful to historic features of the sight, and that the pedestrian entry would be located in that front yard, departing from the front entry for the old Baxter House, which was on Shore Road. The LPC find that the relocation of the pedestrian entry to Central enhances the project and the site, as it serves as a more natural location for such ingress and egress. The Architect noted that the pedestrian entry from the sidewalk will be through the existing and long standing stone wall at the intersection of Shore and Central, the only remaining developed feature on the site.

17. The LPC finds that the proposed landscape plan serves to enable passers-by to see the proposed home at the Subject Premises from the abutting streets, while serving to buffer views and noise for the occupants of the Subject Premises, in the northerly side yard, the area proposed to contain outdoor recreation space, as well as for the neighbors to the north, in the two abutting residential parcels.

18. The LPC heard testimony during the Public Hearing regarding the possibility of historic artifacts at the site, some possibly relating to contents of the demolished Baxter House. In order to take reasonable precautions to address the possibility that artifacts or other items of historical significance might be unearthed during excavation and construction of the Project, the Board believes that it is reasonable and appropriate to impose relevant conditions, described below.

19. The LPC heard testimony during the Public Hearing regarding the possibility of soil contaminants, including lead, at the Subject Premises. While the LPC did not receive any additional evidence beyond testimony regarding possible soil contaminants, the LPC recognizes that, in light of the centuries during which The Baxter House was situated at the Subject Premises, and expanded and maintained, including with paint, there is a reasonable possibility that materials used for maintenance and painting of structures over the years that do not satisfy current requirements applicable to construction and maintenance materials may have been used at the Subject Premises. Therefore, the LPC finds that it is reasonable and appropriate to impose relevant conditions, as described below.

20. Based upon the foregoing findings, the LPC hereby approves the Application, conditioned upon the following:

A. All exterior portions of the proposed improvements at the Subject Premises

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shall be constructed and maintained in accordance with the Exterior Renderings, and shall be situated in the locations on the Subject Premises as depicted in the Site Plan; provided, however, that the underside of the roof that extends beyond the walls of the home shall be white.

B. All landscaping and landscape and hardscape features contemplated in the Project shall be installed, or planted, as applicable, and maintained in accordance with the Site Plan;

C. The following materials are hereby approved to be included in the construction of the home proposed in the Project in accordance with the Exterior Renderings:

1. Siding, Hardie plank wood substitute, manufactured by James Hardie, color: bluish gray;
2. Exterior trim product, called "traditional trim board," made by AZEK, color: white;
3. Exterior moldings for windowsills, AZEK historic line, including top crown molding above Windows, color: white;
4. top rail of railings, also AZEK, color: white;
5. Balustrades, square rather than round, also AZEK; color: white;
6. Windows, Anderson Woodwright 400 series, double hung, six over one, with permanently affixed mullions, color: white;
7. Doors, Anderson Woodwright 400 series, consistent with sample/brochures presented; color: white;
8. Shutters: operating shutters, not merely decorative; louvered, with drop-hinges and S/hooks to hold shutters, color: Dark charcoal gray to match roof;
9. Roof: Timbertex GAF Architectural Shingles, color: dark charcoal gray;
10. Roof brackets along gabled sides consistent with drawings, color: white;
11. Columns, 12 inch tapered columns, rounded, color: white;
12. Front porch to be composed of wood; rear deck to be composed of wood or wood-like material, color, if wood: natural wood coloring or if painted, white; wood-like material color: white.
13. Chimney: shall be integral to home, rather than external to the structure, as depicted in Exterior Renderings; material: red brick;
14. Palladian windows on north and south walls, in non-

habitable attic space, as depicted in Exterior Renderings, colors: white.

- D. Any trees shown on the Site Plan as to be removed that are within the Village right-of-way shall not be removed unless and until the Village Board of Trustees (“BOT”) approves the removal of same; if the BOT does not permit removal of same, and as a result, curb cut or driveway must be reconfigured, then the Applicant shall present any such proposed modification to the LPC for review and approval.
- E. The air-conditioning and generator equipment to be installed in the northerly yard, which is the only side yard for the Subject Premises, shall be screened from the streets and abutting properties by (i) dense, live evergreen screening as depicted in the Landscape Plan, which shall be planted and maintained at all times while such equipment is placed in such yard, and (ii) sound attenuation panels acceptable to the Village Superintendent of Buildings, to be maintained at all times while such equipment is placed in such yard. Furthermore, such equipment shall satisfy all rules and regulations applicable to such equipment located on lots used for single-family homes, including sound attenuating casing around generators, and the air-conditioning equipment shall be a low noise mode, creating the lowest noise levels feasible for equipment reasonably necessary to cool the proposed home;
- F. In order to address the possibility of historic artifacts on the Subject Premises, prior to the issuance of any building permit with respect to the Project, the owner of the Subject Premises shall confirm in a signed writing as follows:

“The undersigned, as owner of the premises known as 15 Shore Road, Port Washington, NY, acknowledges and agrees that Section 12-A of the N.Y. State Indian Law (“Indian Cemetery or Burial Grounds”) grants to the NYS Office of Parks and Recreation (“NYSOP&R”) the power to designate any Indian cemetery or burial ground as a place of historic interest. See also N.Y. Parks and Recreation Law Section 3.09; 9 NYCRR Section 426, et seq.

Pursuant to Section 12-A of the N.Y. Indian Law, no person shall destroy or alter in any way an area, artifact, or object thereon which has been “designated” as “a place of historic interest . . . without the prior express written permission” of the [NYSOP&R].

If, during construction or excavation at the Subject Premises under any building permit issued by the Village with respect to the Project that is the

subject of any approval by the Village Landmarks Preservation Commission, the owner, builder or any contractor or agent of the owner or builder observes any items that might reasonably be deemed to constitute an artifact or object of historical interest, or human remains, all work under any such permit shall cease and the Village shall be notified. Work may resume only after the Village Superintendent of Buildings so authorizes; the Superintendent of Buildings may confer with any person or agency he deems appropriate for guidance in determining whether and when excavation and/or construction may resume, including notifying the NYSOP&R.”

G. In order to address the possibility of soil contaminants, including lead, at the Subject Premises, prior to the issuance of any building permit with respect to the Project, the owner of the Subject Premises shall present to the Village Superintendent of Buildings such evidence, including soil samples and evaluation by an appropriate engineer, as the Village Superintendent of Buildings may reasonably request, in order to ascertain the presence of possible contaminants, including lead paint, at the Subject Premises, and to comply with such reasonable remediation requirements as the Village Superintendent of Buildings may establish in the event that contaminants that are subject to regulation are determined to exist at the Subject Premises in quantities in excess of those permitted by applicable regulation.

B. SITE PLAN APPROVAL UNDER VILLAGE CODE CHAPTER 147.

RESOLVED,

WHEREAS, the Landmarks Preservation Commission of the Village of Baxter Estates, in its capacity as Board of Jurisdiction pursuant to Village Code Section 147-1.(B) (the "BOJ"), has considered the Site Plan Application of Haixu (Hal) Liu ("Applicant"), owner of premises at 15 Shore Road, Port Washington, NY 11050, also known as Section 5, Block 5, Lot 61, on the Nassau County Land and Tax Map, located in R-A zoning district (the "Subject Premises) with respect to the proposed construction of a single-family home at the Subject Premises (the "Project");

WHEREAS, the BOJ has considered the application and the site plan drawing and all statements and data submitted to the BOJ with respect thereto;

WHEREAS, all construction and improvements contemplated in the Application are hereinafter collectively referred to as the "Proposed Project";

WHEREAS, the BOJ finds that the Application is a Type II action for purposes of the New York State Environmental Quality Review Act, requiring no further analysis thereunder;

WHEREAS, the BOJ has considered the substance and the merits of the Application at a public hearing, at which all interested parties were heard or were given an opportunity to be heard;

WHEREAS, Village Superintendent of Buildings Robert Barbach has advised the Board that he has reviewed the Plans proposed for approval, described below, and found all in order for BOJ approval;

WHEREAS, the BOJ in its capacity as the Village Landmarks Preservation Commission (“LPC”) has consulted, contemporaneously with its consideration of the Site Plan application, the approval of the Project pursuant to the Village Code Chapter 118, “Historic Preservation”; and

WHEREAS, the BOJ and LPC, have adopted a resolution on _____, 2024, conditionally approving the Project for purposes of Village Code Chapter 118 (the “LPC Approval Resolution”); and

WHEREAS, the BOJ incorporates the LPC Approval Resolution herein by reference;

NOW, THEREFORE, the Board hereby grants the Application as presented, conditioned as follows:

1. All construction, re-grading and introduction and removal of fill, and all plantings at the Premises shall comply with the Plans, as defined in the LPC Approval Resolution, with such minor changes thereto as are deemed acceptable to the Village Superintendent of Buildings;
2. The Applicant shall obtain the approval of the Village Board of Trustees with respect to the removal of any trees that are located on Village property, and which are reflected as to be removed in connection with the proposed Project; provided, however, that the approvals granted hereunder shall not be impacted if the approval of the Board of Trustees as so required is not obtained, and the Applicant implements the proposed project in accordance with all the Plans but for the aspect thereof contemplating removal of Village trees, in which case alterations to the location of curb cut and driveway to accommodate maintenance of such Village trees shall be deemed authorized by this resolution, provided that same is deemed acceptable to the Village Landmarks Preservation Commission.

3. The Applicant has included on the Site Plan a drainage and grading plan designed to contain storm water runoff and prevent it from flowing onto neighboring lots and adjacent streets, which shall be strictly adhered to.

4. The location of all new buildings, structures, driveways, curb cuts and other improvements shall be located as shown on the Site Plan and all offsite improvements shown on the Site Plan also shall be made by the Applicant and located as shown on the Site Plan, subject to the other conditions hereof, including condition “2.” above, and subject to compliance with all applicable laws, rules and regulations and minor deviations that are approved by the Village Superintendent of Buildings.

5. Appropriate measures and special care shall be taken to protect those trees indicated on the Site Plan as not to be removed; trees so indicated that die within one year after issuance of the certificate of occupancy relating to the Proposed Project, or that die during the second year after issuance of the certificate of occupancy and as to which the Superintendent of Buildings reasonably determines to have died as the result of the construction of the Proposed Project or the related land disturbance, shall be replaced by the owner, with a tree or trees, in number, species, size and location, reasonably acceptable to the Superintendent of Buildings, who may confer with the Village Landmark Preservation Commission in reaching such decision.

6. Prior to the commencement of any of the work authorized hereunder, the Applicant shall: (i) present for review and approval to the Village Superintendent of Buildings a staging and project sequencing plan that minimizes to the extent reasonably possible any adverse impacts upon neighboring properties, the abutting public roads and the neighborhood; and (ii) notify all contractors of the traffic and parking rules and regulations applicable to construction vehicles to be used in the Project.

Landmarks Preservation Commission of the
 Village of Baxter Estates, acting as
 Board of Jurisdiction under Village Code Sec. 147-1.(B)

By: _____ Date: _____, 2024
 Peter Salins, Chairman