

**PLANNING BOARD
TOWN OF YORKTOWN**

**RESOLUTION APPROVING
SITE PLAN, STORMWATER POLLUTION PREVENTION PLAN,
AND WETLAND PERMIT FOR LAKE OSCEOLA REALTY CORP.**

RESOLUTION NUMBER: #13-02

DATE: FEBRUARY 25, 2013

On motion of _____, seconded by _____, and unanimously voted in favor by Fon, Flynn, Savoca, Rivera, and Kincart the following resolution was adopted:

WHEREAS in accordance with the Planning Board's Land Development Regulations adopted February 13, 1969 and as last revised July 1, 1999, a formal application for the approval of a site plan titled "Lake Osceola Realty," Section 17.05 Block 1 Lot 11 ("the Property"), was submitted to the Planning Board on behalf of Paul Guillaro of Osceola Realty Corp. (hereinafter referred to as "the Applicant") and the applicant has represented to this board that they are the lawful owners of the land within said site plan; and

WHEREAS an application fee of \$5,666.00 covering 4.4 acres in the Country Commercial Business District (CC), has been received by this board; and

WHEREAS pursuant to SEQRA:

1. The action has been identified as an Type I action.
2. The Planning Board has been declared lead agency on February 25, 2013.
3. A negative declaration has been adopted on February 25, 2013 on the basis of a Full EAF dated January 4, 2013.

WHEREAS the applicant has submitted as part of his application the following maps and documents:

1. A map, Sheet 1 of 15, titled "Lake Osceola Realty Corp. - Site Plan," prepared by Site Design Consultants, dated May 30, 2012 and last revised February 5, 2013;
2. A map, Sheet 2 of 15, titled "Lake Osceola Realty Corp. - Existing Conditions & Demolition Plan," prepared by Site Design Consultants, dated May 30, 2012 and last revised January 4, 2013;
3. A map, Sheet 3 of 15, titled "Lake Osceola Realty Corp. - Grading Plan," prepared by Site Design Consultants, dated May 30, 2012 and last revised January 4, 2013;
4. A map, Sheet 4 of 15, titled "Lake Osceola Realty Corp. - Utility Plan," prepared by Site Design Consultants, dated May 30, 2012 and last revised January 4, 2013;

5. A map, Sheet 5 of 15, titled "Lake Osceola Realty Corp. - Erosion & Sediment Control Plan," prepared by Site Design Consultants, dated May 30, 2012 and last revised January 4, 2013;
6. A drawing, Sheet 6 of 15, titled "Lake Osceola Realty Corp. - Erosion & Sediment Control Notes & Details," prepared by Site Design Consultants, dated May 30, 2012 and last revised January 4, 2013;
7. A drawing, Sheet 7 of 15, titled "Lake Osceola Realty Corp. - Erosion & Sediment Control Details," prepared by Site Design Consultants, dated May 30, 2012 and last revised January 4, 2013;
8. A map, Sheet 8 of 15, titled "Lake Osceola Realty Corp. - Landscape Plan," prepared by Frank Giuliano Landscape Architect, dated May 30, 2012 and last revised September 27, 2012;
9. A map, Sheet 9 of 15, titled "Lake Osceola Realty Corp. - Photometric Plan," prepared by Aquity Lighting, dated May 30, 2012 and last revised January 4, 2013;
10. A drawing, Sheet 10 of 15, titled "Lake Osceola Realty Corp. - Details," prepared by Site Design Consultants, dated May 30, 2012 and last revised January 4, 2013;
11. A drawing, Sheet 11 of 15, titled "Lake Osceola Realty Corp. - Details," prepared by Site Design Consultants, dated May 30, 2012 and last revised January 4, 2013;
12. A drawing, Sheet 12 of 15, titled "Lake Osceola Realty Corp. - Stormwater Management Details," prepared by Site Design Consultants, dated May 30, 2012 and last revised January 4, 2013;
13. A drawing, Sheet 13 of 15, titled "Lake Osceola Realty Corp. - Stormwater Management Details," prepared by Site Design Consultants, dated May 30, 2012 and last revised January 4, 2013;
14. A drawing, Sheet 14 of 15, titled "Lake Osceola Realty Corp. - Profiles," prepared by Site Design Consultants, dated May 30, 2012 and last revised January 4, 2013;
15. A drawing, Sheet 15 of 15, titled "Lake Osceola Realty Corp. - Cross Sections" prepared by Site Design Consultants, dated May 30, 2012 and last revised January 4, 2013;
16. A map, Sheet 1 of 1, titled "Lake Osceola Realty Corp. - Existing Conditions Plan," prepared by Site Design Consultants, dated May 30, 2012 and last revised January 4, 2013, and including NYS DEC Wetland Boundary Validation Block signed March 22, 2012;

17. A map, titled "Lake Osceola Realty Corp. - Overall Site Mitigation Plan," prepared by Tim Miller Associates, and last revised December 28, 2012;
18. A map, titled "Lake Osceola Realty Corp. - Wetland/Buffer Enhancement Plan," prepared by Tim Miller Associates, and last revised December 28, 2012;
19. A report titled, "Wetland Functional Assessment - Summary and Mitigation Proposals," prepared by Steve Marino, PWS of Tim Miller Associates, Inc. and dated October 9, 2012;
20. A report, titled "Stormwater Management Plan," prepared for Lake Osceola Realty Corp., prepared by Site Design Consultants, dated July 2012, and last revised January 2013;
21. An easement, titled "Cross Access and Parking Easements, Covenants, and Restrictions," executed on May 31, 2000, by and among Lake Osceola Realty Corp., a New York corporation, having an office at 5 North Payne Street, Elmsford, New York 10523 and Sinapi Ceola Realty LLC., a New York Limited Liability Company, having an office at Route 6 and Hill Boulevard (P.O. Box 161), Jefferson Valley, New York 10535;
22. A certification of proposed average building height calculations prepared by David Souers, AIA and dated October 9, 2012;
23. A plan, titled "Fire Access Exhibit," prepared by Site Design Consultants, and dated October 12, 2012;
24. A copy of the Flood Plain Development Permit application submitted to the Town Building Inspector on January 8, 2013;
25. A Short Environmental Assessment Form dated January 12, 2012;
26. A Long Environmental Assessment Form last revised January 4, 2013;
27. A drawing, Sheet A100, titled, "Jefferson Valley MOB - Basement Floor Plan," prepared by Optimus Architecture, dated July 11, 2012, and last revised September 14, 2012;
28. A drawing, Sheet A101, titled, "Jefferson Valley MOB - First Floor Plan," prepared by Optimus Architecture, dated July 11, 2012, and last revised September 14, 2012;
29. A drawing, Sheet A102, titled, "Jefferson Valley MOB - Second Floor Plan," prepared by Optimus Architecture, dated July 11, 2012, and last revised September 14, 2012;
30. A drawing, Sheet A200, titled, "Jefferson Valley MOB - Exterior Elevations," prepared by Optimus Architecture, dated July 11, 2012, and last revised September 26, 2012;

31. A drawing, Sheet A201, titled, "Jefferson Valley MOB - Exterior Elevations," prepared by Optimus Architecture, dated July 11, 2012, and last revised September 26, 2012;

WHEREAS the Planning Board has referred this application to the following boards and agencies and has received and considered reports of the following:

Boards & Agencies and Report Dates

ABACA: 08/15/12, 09/27/12, 11/30/12

Building Inspector: 12/03/12

Conservation Board: 06/07/12, 06/21/12, 08/22/12, 09/21/12, 01/02/13, 01/11/13

FEMA: 08/23/12

Fire Inspector: 12/03/12

Planning Department: 08/10/12, 01/11/12

Town Engineer: 12/18/12*, 1/11/12

Water Department:

Wetlands Consultant: 08/10/12, 09/22/12, 12/18/12*

NYS DEC, Division Environmental Permits: 08/03/12, 08/16/12

NYS DOT: 08/14/12

NYS OPRHP: 08/09/12

NYS Dept of Fish, Wildlife & Marine Resources: 07/30/12

Westchester County Dept of Health: 12/20/12

Westchester County Planning Board: 08/15/12

*Denotes same memo written by both listed.

WHEREAS the requirements of this Board's Land Development Regulations have been met except as noted below; and

WHEREAS a Public Informational Hearing was held in accordance with §195-39B(1) of the Yorktown Town Code on the said site plan application at the Town Hall in Yorktown Heights, New York, which commenced and closed on July 16, 2012; and

WHEREAS having reviewed all current site plans, building plans, environmental plans and reports, comments and reports from Town professional staff, the public, and other interested and involved agencies associated with the application before it; and having conducted a Public Hearing that was held in accordance with §195-39B(2) of the Yorktown Town Code on the said site plan application commencing and closing on December 3, 2012 at Town Hall in Yorktown Heights, New York with written comment period open for an additional 30 days ending January 2, 2013; and

WHEREAS the Advisory Board on Architecture & Community Appearance (ABACA) has reviewed and gave positive recommendation to the Planning Board for the building materials, building colors, rooftop mechanical screening, Lighting Fixtures, and the Landscape Plan and Photometric Plan listed herein; and

WHEREAS portions of the proposed development are located within a regulated Floodplain and therefore a Floodplain Development Permit must be obtained from the Town Building Inspector; and

WHEREAS portions of the proposed development are located within a New York State Department of Environmental Conservation (NYSDEC) Type I Wetland and therefore a Wetland Permit from the NYSDEC must be obtained; and

WHEREAS pursuant to Section §300-182A(4) of the Town of Yorktown Town Code, the applicant must provide four (4) parking space per 1,000 square feet of gross floor area thereby requiring a total of 108 parking spaces where 107 parking spaces have been provided on the Lake Osceola site as shown on the site plan; and

WHEREAS Town Code Section §300-246(B) amends the requirements of §300-182(C)(2) and allows joint use of parking spaces in the Country Commercial Business District to be considered for contiguous lots even if they are not in the same ownership; and

WHEREAS with respect to parking and access, the existing Cross Access and Parking Easements, Covenants, and Restrictions listed herein provides for the shared parking between the Lake Osceola Realty Corp. parcel (“Lake Osceola Parcel”) and the Sinapi Ceola Realty LLC parcel (“Sinapi Parcel”) as follows: the Osceola Parcel was granted an unlimited number of parking spaces on the Sinapi Parcel; By agreement, Lake Osceola Realty Corp. has the right to relocate the 12 parking spaces on its property within 150 feet of their present location; and the free right of access between the properties and their users; and

WHEREAS the applicant has also proposed to improve 12 currently unimproved parking spaces located on the Sinapi Parcel; and

WHEREAS with respect to existing sanitary sewer pump stations, the existing Cross Access and Parking Easements, Covenants, and Restrictions provides for the relocation of the sanitary sewer pump station serving both the Lake Osceola Parcel and the Sinapi Parcel and presently located at the remote southern end of the Osceola Property; and

WHEREAS as a result of the proposed development, the Lake Osceola Parcel and the Sinapi Parcel will each have their own sewer and water service connections to Town mains located in Hill Boulevard; and

WHEREAS public access to Lake Osceola is a goal of the Yorktown Comprehensive Plan and the Planning Board has determined allowing access to the lake through the Lake Osceola property would serve as a benefit for both the employees and patrons of the proposed building as well as the residents of the Town of Yorktown;

WHEREAS to accomplish this goal the applicant has proposed to deed 42,497.02 square feet (0.98 acres) of land in an L-shaped parcel which is 60 feet in width along the entire length of the eastern property line and 30 feet in width along the entire length of the southern property line

to allow public access to Lake Osceola as shown on the site plan listed herein; and

WHEREAS the applicant has proposed to place a Conservation/Town Access Easement to protect the 72,365.89 square feet (1.66 acres) undeveloped portion of the site and to allow public access through and on the site for the purpose of recreation on the Conservation Easement area and the land to be deeded to the Town as shown on the site plan listed herein; and

WHEREAS the applicant has designed an Overall Site Mitigation Plan and Wetland/Buffer Enhancement Plan as listed herein, to mitigate the impact of the proposed development on the existing Wetland, Wetland Buffer, and Lake Osceola; and

WHEREAS Town Code Section 200-6(D) requires all exterior illumination shall be less than 1.0 footcandles at the property line; and

WHEREAS the Applicant proposes a maximum of 4.5 footcandles along the western property line as shown on the Photometric Plan, Sheet 9 of 15 of the site plan listed herein; and

WHEREAS the Planning Board has evaluated the western property line and determined the site's current condition have freestanding unshielded light fixtures from the adjacent property to the west spilling onto the Lake Osceola site; and

WHEREAS the Planning Board has determined the light spillage between the adjacent sites is unavoidable due to the necessity to illuminate the adjacent parking lots with similar uses;

WHEREAS Town Code Section §300-246(C) requires bike racks to be provided to accommodate one (1) bike for each five (5) parking spaces, where there are 108 parking spaces required on the site, bicycle parking for 21 bikes is to be provided on the Property;

WHEREAS the Planning Board has determined one (1) bike rack is adequate for use by site patrons and the general public accessing the Town Access Easement area. Should additional bike storage be necessary, the Applicant may return to the Planning Board to locate placement of additional bike racks; and

THEREFORE BE IT NOW RESOLVED that the application of Paul Guillaro of Lake Osceola Realty Corp. for the approval of a site plan titled, "Lake Osceola Realty Corp.," be approved subject to the modifications and conditions listed below, and that the Chairman of this Board be and hereby is authorized to endorse this Board's approval of said plan upon compliance by the applicant with such modifications and requirements as noted below:

To the satisfaction of the Planning Board, modify plans to show:

1. Revise the entire site plan set to correspond with revised Sheet 1 listed herein.
2. Note the Photometric Plan is prepared by Acquity Lighting and show all exterior lighting details including poles, wall packs, bollards, etc. Submit catalog cuts of same.

3. Modify lighting proposed on the western property line along the retaining wall.
4. Modification of the sidewalk system to the frontage of the property to the satisfaction of the Planning Board. Provide a larger scale plan of this area.
5. Show existing street trees, street trees that must be removed due to sidewalk construction, and proposed street trees if any trees are proposed to be planted.
6. Show proposed stairway within the parking area immediately adjacent and to the north of the proposed building in order to better connect the shared parking on the Sinapi Parcel to the front entrance of the proposed building. A crosswalk to the Sinapi Parcel parking and pedestrian crossing signs should be added along the entrance retaining wall to warn motorists of the crossing.
7. Provide a larger scale plan of the loading area at the proposed entrance to the building.
8. Provide revised Cross Access Easement with the Sinapi Parcel necessary to implement the proposed site plan on the Lake Osceola Parcel as required by paragraph 1.1 of the existing easement listed herein. This shall include revisions to paragraph 1.7 to make clear that general public access shall not be restricted within the Town Access Easement on the Lake Osceola Parcel.
9. Revise the Wetland/Buffer Enhancement Plan to allow for views of Lake Osceola from Hill Boulevard and the proposed building now and in the future by spacing the taller proposed trees and/or proposing trees and shrubs of lower maximum height.
10. Show a walking trail from the 30 foot access way on the southern border of the property, along the curbing of the proposed parking and the retaining wall, and down to the lakefront. Show proposed public access area at lake shore.
11. Provide four (4) parking spaces on site within the Town Access Easement for the purpose of public parking and access to the walking trail and lakefront.
12. Revise the southern parking area to provide access for a fire department ladder truck to access the site and the least intrusion into the wetland buffer.
13. Location and detail for bike rack.
14. Construction details of all retaining walls, curbs, curb walls, etc. including full cross-sections.
15. Include a signage plan showing all signs proposed on the site, including signage for parking and public access areas.

16. Include plan and details for the relocation of the sewer service on the Sinapi Parcel.
17. Any additional details required by Yorktown Consolidated Water for connection to the Town Water service.

Additional requirements prior to signature by the Planning Board Chairman:

1. Submit the architectural elevation showing the proposed retaining walls.
2. Sign permits must be obtained for all proposed signage.
3. Approval of a final Full Stormwater Pollution Prevention Plan to the satisfaction of the Town Engineer.
4. Approval of a Floodplain Development Permit from the Town Building Inspector.
5. Approval of a NYSDEC Wetland Permit.
6. Submission of fees as per town requirements in the form of separate checks made payable to the Town of Yorktown:

General Development	\$4,200.00
---------------------	------------
7. Submission of the following fees and security to the Engineering Department as required by the Town Engineer: Erosion Control Bond, Performance Bond, and Inspection Fee. Fees to be determined after Planning Board approval and a complete final set of drawings are submitted to the Planning Department and Town Engineer.
8. The Applicant shall prepare the following documents all of which shall be in form and substance satisfactory to the Planning Board and Town Attorney, and approved by the Town Board, and duly executed by the parties thereto together with appropriate recording forms all in form satisfactory for recording with the Office of the Westchester County Clerk, Division of Land Records:
 - a. Conservation Easement
 - b. Town Access Easement.
 - c. Vehicle/Pedestrian Access Easement.
 - d. An Irrevocable Offer of Dedication for the 42,497.02 square feet (0.98 acres) of land shown on the site plan as proposed land to be deeded to the Town.

Additional requirements:

9. The trail and public access area at the lakeshore must be completed before a Certificate of Occupancy is issued.

10. Applicant must submit final plans including as-built with all improvements in AutoCAD DWG readable format.
11. Proposed plan must comply with all current applicable ADA standards.
12. Applicant must obtain all necessary permits from outside agencies in order to complete the project.

BE IT FURTHER RESOLVED amendments to the Photometric Plan approved as a part of this site plan approval shall require review and approval by the Planning Board; and

BE IT FURTHER RESOLVED the Stormwater Pollution Prevention Plan and Wetland Permit #SWPPP/WP-039-12 is hereby approved by this resolution with the conditions listed therein; and

BE IT FURTHER RESOLVED said Stormwater Pollution Prevention Plan and Wetland Permit is not valid until signed by the Planning Board Chairman and no site work is to commence on site prior to the signing of said permit and site plan; and

BE IT FURTHER RESOLVED the Applicant will retain an independent third-party Environmental Systems Planner, a “Qualified Inspector” as defined by the New York State Department of Environmental Conservation in the SPDES General Permit for Stormwater Discharges from Construction Activity, to supervise and be present during the construction of the erosion control measures, and which Environmental Systems Planner will provide weekly inspection reports regarding the status of erosion control measures to the approval authority via the Environmental Inspector and the Planning Department throughout construction; and

BE IT FURTHER RESOLVED the Applicant must notify the Planning Board in writing stating the name of the Environmental Systems Planner or Firm that will be completing the weekly inspection reports and shall notify the Planning Board in writing if this Planner or Firm changes; and

BE IT FURTHER RESOLVED that unless a building permit has been issued within 360 days of the date of this resolution, **February 20, 2014**, this approval will be null and void, unless said approval is extended by the Planning Board.