

**PLANNING BOARD
TOWN OF YORKTOWN**

**RESOLUTION APPROVING PRELIMINARY LAYOUT
OF ORCHARD VIEW REALTY MAJOR SUBDIVISION**

RESOLUTION NUMBER: #17-01

DATE: JANUARY 9, 2017

On motion of William LaScala, seconded by John Savoca, and unanimously voted in favor by Fon, Savoca, Kincart, and LaScala the following resolution was adopted:

WHEREAS, in accordance with the Planning Board's Land Development Regulations, Town of Yorktown Town Code Chapter 195, adopted February 4, 1969 and as amended, a formal application for the approval of a preliminary subdivision plan titled "Orchard View Realty Subdivision," prepared by Hudson Engineering & Consulting, P.C., dated July 26, 2016, and last revised September 6, 2016, was submitted to the Planning Board on behalf of Zappico Orchard View, LLC. (hereinafter referred to as "the Applicant"); and

WHEREAS, the property owned by the Applicant is located at 2425 Sherry Drive, Yorktown Heights, also known as Section 36.06, Block 2, Lot 78 on the Town of Yorktown Tax Map (herein after referred to as "The Property") and the applicant has represented to this Board that they are the lawful owners of the land within said subdivision; and

WHEREAS, a Preliminary Application Fee was received by this board on January 18, 2016; and

WHEREAS, pursuant to SEQRA:

1. The action has been identified as an Unlisted action.
2. The Planning Board has been declared lead agency on January 9, 2017.
3. A negative declaration has been adopted on January 9, 2017 on the basis of a Full Environmental Assessment Form dated March 16, 2016.

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

1. A drawing, C-1, titled "Site Layout Plan," prepared by Hudson Engineering & Consulting, P.C., dated July 26, 2016, and last revised September 6, 2016;
2. A drawing, C-2, titled "Grading & Utilities Plan," prepared by Hudson Engineering & Consulting, P.C., dated July 26, 2016, and last revised September 6, 2016;
3. A drawing, C-3, titled "Erosion & Sediment Control Plan," prepared by Hudson Engineering & Consulting, P.C., dated July 26, 2016, and last revised September 6, 2016;

4. A drawing, C-4, titled “Tree Preservation Plan,” prepared by Hudson Engineering & Consulting, P.C., dated July 26, 2016, and last revised September 6, 2016;
5. A drawing, C-5, titled “Roadway, Driveway & Stormwater Profiles,” prepared by Hudson Engineering & Consulting, P.C., dated July 26, 2016 and last revised September 6, 2016;
6. A drawing, C-6, titled “Utility Profiles,” prepared by Hudson Engineering & Consulting, P.C., dated July 26, 2016, and last revised September 6, 2016;
7. A drawing, C-7, titled “Site Details” prepared by Hudson Engineering & Consulting, P.C., dated July 26, 2016, and last revised September 6, 2016;
8. A drawing, C-8, titled “Site Details,” prepared by Hudson Engineering & Consulting, P.C., dated July 26, 2016, and no revisions dated;
9. A map titled “Survey of Property prepared for Zappico,” prepared by Ward Carpenter Engineers, Inc., dated December 18, 2013 and last revised May 24, 2016;
10. A report titled, “Stormwater Pollution Prevention Plan and Drainage Analysis,” prepared by Hudson Engineering and Consulting P.C. dated August 2, 2016, and last revised September 6, 2016; and
11. A wetlands and soils report titled, “The Zappi Site,” prepared by Paul J. Jaenig and dated December 13, 2013; and

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	Report Date
Building Inspector	02/08/16, 03/18/16, 08/08/16
Conservation Board	02/18/16, 05/19/16, 08/08/16, 09/22/16
Fire Inspector/Fire Advisory Board	09/22/16
Planning Department	02/04/16, 02/12/16, 05/23/16, 08/04/16, 09/23/16, 10/11/16, 12/09/16
Town Engineer	05/31/16, 09/23/16, 12/15/16
Yorktown Water District	10/25/16
Environmental Consultant	12/09/16 (<i>same memo as Planning Dept of same date</i>)
NYS DEC	04/15/16
NYC DEP	04/22/16, 11/30/16
NYS Parks, Recreation and Historic Preservation	04/12/16

WHEREAS, the proper endorsement of the County Health Office has not been obtained; and

WHEREAS, the requirements of this Board's Land Development Regulations, *inter alia* Town Code Chapter 195, have been met; and

WHEREAS, the Planning Board has reviewed the recreation needs created by the subject subdivision as well as the present and anticipated future needs of the surrounding area as analyzed and planned for in the Town's Recreation Plan adopted in 1978; and

WHEREAS, pursuant to Town Code Section §195-35(C), the Planning Board may accept money in lieu of parkland reservation upon written application from the sub divider and consideration of the following:

- (a) The relationship of the subdivision to the town Plan, and particularly as such plan may show proposed park and playground area;
- (b) The character and recreation needs of the neighborhood in which the subdivision is located;
- (c) The unsuitability of land in the subdivision for park and playground purposes by reason of location, access, grade or cost of development or maintenance;
- (d) The possibility that land immediately adjoining the subdivision will serve, in whole or in part, the park and playground needs of such subdivision; and

WHEREAS based on an assessment of the configuration and topography of the subject subdivision, and based on the recommendations of the Recreation Commission, the Planning Board found that the subject subdivision contains no land suitable for recreation purposes as identified in the Town's Recreation Plan adopted in 1978; and

WHEREAS, the Applicant submitted a petition to the Town Board to include the Property in a proposed sewer district extension to be known as Hunterbrook Sewer District Extension – Orchard View; and

WHEREAS, on May 3, 2016 by Resolution #206, the Town Board approved the creation of Hunterbrook Sewer District Extension – Orchard View; and

WHEREAS, on behalf of the Applicant, the Town Board has petitioned the Westchester County Board of Legislators for a district boundary modification to include the Property in the Westchester County Peekskill Sewer District; and

WHEREAS, a Public Informational Hearing was held in accordance with Town Code Section §195-22A(5) of the Yorktown Town Code on the said preliminary layout at the Town Hall in Yorktown Heights, New York on March 14, 2016; and

WHEREAS, having reviewed all current 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 on the said preliminary layout in accordance with Town Code Section §195-22E commencing on September 26, 2016, and continuing and closing on October 17, 2016, at Town Hall in Yorktown Heights, New York, and allowed an additional 10 day written public comment period ending October 27, 2016; and

BE IT THEREFORE NOW RESOLVED, that the application of Zappico Orchard View, LLC. for approval of a preliminary subdivision layout titled "Orchard View Realty," prepared by Hudson Engineering & Consulting, P.C., dated July 26, 2016, and last revised September 6, 2016, is APPROVED subject to the following modifications and conditions listed below; and

BE IT FURTHER RESOLVED pursuant to Section §195-23(J), said approval shall expire 180 days from the date of this resolution unless a plat in final form, for at least 10% of the number of lots, has been submitted to the Board as required in §195-27; and

RESOLVED, based on an assessment of the recreation needs created by the subject subdivision, the recreation needs of the surrounding area reflected in the Town's Recreation Plan, the Applicant shall provide \$10,000.00 per eight (8) new home lots (\$80,000.00) in lieu of recreation lands to satisfy the recreational needs created by the subject subdivision and to help meet the present and anticipated needs of the surrounding neighborhood or an equivalent alternate mitigation for recreation needs as approved by the Town Board; and

RESOLVED, the preliminary plan shall be modified to show:

1. Show all adjacent lot buildings and owner's names.
2. The existing Conservation Easement Area expanded to 50 feet beyond the wetland boundary on Lots 7, 8, and 9.
3. Add a split rail fence along the Conservation Easement Area on Lots 7, 8, and 9.
4. Add a note stating the homeowners association will maintain the Conservation Area lot and that this lot is not a building lot.
5. Show gravel access to the existing detention basin.
6. Add a note stating the Town will maintain the existing drainage basin.

7. Revise Lot 1 to add the long strip of land between the right-of-way and the southern property boundary to the private right-of-way to the satisfaction of the Planning Board.
8. Add note to the plan stating proposed decks are elevated.

RESOLVED, the homeowner's association will be responsible for maintaining the private road and right-of-way with a maintenance agreement to be reviewed by the Town Attorney; and

RESOLVED, the homeowner's association will be responsible for maintaining the conservation easement area with a conservation easement agreement to the satisfaction of the Planning Board and Town Attorney; and

RESOLVED, the Applicant has agreed to inspect the condition of the existing drainage infrastructure in Pine Grove Court so the Town Engineer may determine if the system can accommodate the proposed subdivision; and

BE IT FURTHER RESOLVED, prior to deeming the application for final approval, complete the following additional requirements:

1. Submission final subdivision application and fees as per town requirements in the form of separate checks made payable to the Town of Yorktown:

Final Application Fee	\$1,850.00
ABACA	\$900.00

RESOLVED, the Planning Board shall consider as conditions for final subdivision approval the following requirements:

1. Approval of a Stormwater Pollution Prevention Plan by the New York City Department of Environmental Protection.
2. The Town Engineer shall be referred all building plans to confirm the stormwater design complies with the erosion and sediment control plan and approved stormwater pollution prevention plan.
3. Approval of the Westchester County Board of Legislators of extension of the Peekskill Sewer District to include Yorktown Hunterbrook Sewer District – Orchard View.
4. Submission of a conservation easement agreement to the satisfaction of the Planning Board and Town Attorney.

5. Submission of homeowner's association documents for review by the Town Engineer, Town Attorney, Planning Department, and the Planning Board.
6. A Stormwater Maintenance Agreement shall be executed with the Town with a \$5,000 escrow account to provide the necessary assurance that the require maintenance will be performed on a yearly basis.
7. Submission of the deeds, offer of dedication, and certificate of title when required, insured by an approved titled company, of any and all land reserved in fee to the town for right-of-way purposes have been tendered to the town.
8. Submission of similar deed or conveyance giving rights of easement and use for the sewer easement as shown on said plat, have been tendered to the town to be held in escrow until formal acceptance by resolution of the Town Board.
9. The final plat must be reviewed by the Town Assessor prior to submission to the Westchester County Board of Health.
10. Endorsement of the plat by the Westchester County Commissioner of Health.

BE IT FURTHER RESOLVED, that a Stormwater Pollution Prevention Plan Permit, Wetland Permit, and Tree Removal Permit **#WP-FSWPP-T-060-16** will be considered for approval as part of the Final Subdivision Plat approval; and

BE IT FURTHER RESOLVED that upon consideration by the Board the installation of sidewalks required by Town Code Section §195-31, are hereby waived; and

BE IT FURTHER RESOLVED, that upon due consideration by the Board no other requirements of these regulations be modified; and

BE IT FURTHER RESOLVED, this approval shall not authorize grading of land or any construction work on the site except as is necessary for the completion of studies required for the design and analysis of the map in final form.