



# Town of Yorktown

*Office of the Town Clerk*

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## **FINAL TOWN BOARD AGENDA**

**October 2, 2018**

**Spadaccia Meeting Room**

**363 Underhill Avenue, Yorktown, NY 10598**

### **6:30 PM EXECUTIVE SESSION (Closed Session):**

- A motion will be made to go into Executive Session to discuss the following item(s):

#### INTERVIEWS

Environmental Consultants

#### LITIGATION & NEGOTIATION:

Building and Maintenance

Town Attorney

### **7:30 PM TELEVISED TOWN BOARD MEETING**

1. PLEDGE OF ALLEGIANCE
2. MOMENT OF SILENCE
3. INTRODUCTIONS
4. SUPERVISOR ILAN GILBERT'S REPORT TO THE TOWN
5. REPORTS FROM THE TOWN COUNCIL
6. REPORTS FROM THE HIGHWAY SUPERINTENDENT
7. PROCLAMATIONS
  - National Breast Cancer Awareness Month
  - German American Heritage Day
  - Italian American Week - Christopher Columbus Society
  - Italian Heritage Month - Circolo da Vinci
8. PRESENTATIONS
  - Robert Noble, Chief of Police
  - Cable Advisory Committee

9. COURTESY OF THE FLOOR

10. SET PUBLIC HEARING

**Advertise Public Hearing to consider the Rezoning Petition and Zoning Map Amendment request received from John DeVito, the contract vendee for property owned by the Laura F. Weyant Revocable Living Trust, located at 2040 Crompond Road, also known as Section 37.14, Block 2, Lot 32**

NOTICE IS HEREBY GIVEN, that a public hearing will be convened by the Town Board, Town of Yorktown, Westchester County, New York at 363 Underhill Avenue, Yorktown Heights, NY 10598 on the 16<sup>th</sup> day of October 2018 at 7:30 PM, or as soon thereafter as the same can be heard to consider the petition made by John DeVito, the contract vendee for property owned by the Laura F. Weyant Revocable Living Trust, for an amendment to the Zoning Map for property located at 2040 Crompond Road, also known as Section 37.14, Block 2, Lot 32. The petition is for a Change of Zone from R1-20 to Transitional Zone in order to demolish the existing structures and construct rental townhouses. The proposed local law will amend the Town of Yorktown zoning map as follows:

Section I. The Zoning Map of the Town of Yorktown, New York as established under Chapter 300 of the Code of the Town of Yorktown is hereby amended as follows:

The following lot on the Tax Map of the Town of Yorktown is rezoned from the R1-20 Zoning District to Transitional Zoning District:

Section 37.14, Block 2, Lot 32 (37.14-2-32) (2.6 acres)

11. RESOLUTIONS

**Authorize Supervisor to sign an agreement for Municipal Law Services to the Town of Yorktown**

Resolved, that the Supervisor is authorized to sign an agreement with the Oxman Law Group, PLLC to provide Municipal Law Services to the Town of Yorktown.

**From the Parks and Recreation Department**

**Award Bid for Resurfacing and Reconstruction of Town Tennis Courts**

WHEREAS, the Town received Bids on August 13, 2018 from vendors to repair and resurface the tennis courts at Downing Park Lower and Blackberry Woods, and to reconstruct the tennis courts at Downing Park Upper and the Shrub Oak Memorial Park, and

WHEREAS, the Bids received to perform this service were scheduled to be done in phases and the amounts are as follows:

Phase I Downing Park Lower Courts	\$27,400.00	Oval Tennis, Inc
Phase II Blackberry Woods Courts	\$28,660.00	Oval Tennis, Inc
Phase III Shrub Oak Memorial Park Courts	\$124,520.00	Oval Tennis, Inc
Phase IV Downing Park Upper Courts	\$125,100.00	Oval Tennis, Inc

Phase I Downing Park Lower Courts	\$46,247.00	Sport Tech
Phase II Blackberry Woods Courts	\$46,483.00	Sport Tech
Phase III Shrub Oak Memorial Park Courts	\$202,624.00	Sport Tech
Phase IV Downing Park Upper Courts	\$190,828.00	Sport Tech

NOW THEREFORE, BE IT RESOLVED, upon recommendation of the Parks and Recreation Superintendent the bid be awarded to the lowest responsible bidder, Oval Tennis, Inc., and

BE IT FURTHER RESOLVED, the first phase of the project will be to provide crack repair and resurfacing to the Downing Park Lower courts and to reconstruct the Downing Park Upper courts in the amount of \$152,500 to be paid out of the Parks and Recreation Trust Account.

**From the Police Department**

**Authorize Comptroller to pay tuition, books and fees for Police Officer John E. Doherty**  
Resolved, that the Town Comptroller is authorized to pay the Fall 2018 tuition, books and fees for Police Officer John E. Doherty upon the satisfactory completion of courses, in the amount of \$2,248.00.

**From the Town Attorney's Office**

**Authorize Supervisor to sign an Indemnification and Agreement to Construct Sewer Line with the International School**

RESOLVED, that the Town Board authorizes the Town Supervisor to sign an Indemnification Agreement and Construction Agreement with the International School to construct a sanitary sewer line at Granite Knolls Sports and Recreation Complex.

**From the Town Board**

**Authorize Town Clerk to Circulate Lead Agency Coordination Letter for Old Hill Farm (DP Yorktown) Property Rezoning Request to involved and interested parties**

WHEREAS, DP Yorktown, LLC ("DP Yorktown") is the contract purchaser of certain real property located at 571 East Main Street in the Town of Yorktown, State of New York, known and designated on the Town Tax Map as Section 17.08, Block 1, Lots 4 and 17 totaling approximately 19.3 acres (the "Property"); and

WHEREAS, the entire Property is presently zoned R1-20; and

WHEREAS, on or about September 18, 2018, DP Yorktown filed a Petition for a rezoning of the subject Property from the R1-20 Zoning District into the R-3 District (the "Rezoning"); and

WHEREAS, the fee owner of the Property, Old Hill Farm, LLC, through its managing member, Kathryn L. Hoenig, consents to the Petition requesting the Rezoning; and

WHEREAS, in conjunction with said Rezoning, DP Yorktown has proposed constructing 150 two-story rental apartments on the Property contained within eleven buildings and has submitted a conceptual site plan and a full Environmental Assessment Form ("EAF") under SEQRA and associated materials (together with the Rezoning, hereinafter the "Action"); and

WHEREAS, on September 25, 2018, at a work session meeting of the Town Board, the Board reviewed the Action and discussed the processing of this application under SEQRA; and

WHEREAS, the Town Board desires to assume Lead Agency status (“Lead Agency”) and conduct a coordinated review with respect to the review of the Rezoning request and the Action in accordance with Article 8 of the Environmental Conservation Law of the State of New York, and the regulations promulgated thereunder at 6 NYCRR Section 617.6(b).

NOW THEREFORE BE IT RESOLVED, THAT:

1. The Action will require review pursuant to SEQRA, and the governing regulations promulgated thereunder.
2. The proposed Action is an Unlisted Action under SEQRA.
3. The Town Board desires to assume Lead Agency status in connection with the SEQRA review of the Action.
4. The Town Board directs that a Lead Agency coordination letter be circulated amongst the various Involved and Interested Agencies, together with a distribution package, including the EAF, the Plan, and such other relevant information submitted by DP Yorktown, notifying them that a Lead Agency must be agreed within 30 calendar days of the date that the Town Board’s Notice of Intent was transmitted to them.
5. The Town Board further directs that this Action be referred to the Planning Board for review and recommendation in accordance with the Town Code.

**Approve Negative Declaration and Amended Special Use Permit for Mobil Gasoline Filling Station located at 2035 Saw Mill River Road**

WHEREAS, CPD ENERGY CORP. (“CPD” or the “Applicant”) operates the Mobil Gasoline Filling Station (“Mobil Station”), which is located and doing business on certain real property, located east of Route 202 at 2035 Saw Mill River Road, also known on the Town Tax Map as Section 37.14, Block 2, and Lot 51 (the “Property”), which is situated within a C-3 zoning district; and

WHEREAS, CPD, in order to facilitate the re-development of the Mobil Station, including a new, relocated and expanded convenience store, submitted an application to the Town Board of the Town of Yorktown for an amended Special Use Permit for a Gasoline Filling Station pursuant to Town Code Section §300-46, dated November 2, 2015; and

WHEREAS, the Proposed Mobil Gas Station would consist of three (3) fuel pumps, with a total of six (6) fueling stations, covered by an existing canopy which is proposed to be remodeled to improve its aesthetics, and a new 3000 SF convenience store, all of which would be operated by CPD or its agent; and

WHEREAS, a gasoline filling station is a main use permitted by special permit in the C-3 zoning district; and

WHEREAS, in accordance with the New York State Environmental Quality Review Act (“SEQRA”), a Short Environmental Assessment Form prepared by High Point Engineering, dated December 2, 2016, was submitted together with site plan documents as follows:

1. A drawing, sheet SP-100 Entitled "Site Plan," prepared by MAP architecture PLLC, not dated and last revised June 21, 2018; and
2. A drawing, sheet A-200 Entitled "Elevations," prepared by MAP architecture PLLC, not dated and last revised June 21, 2018; and
3. A drawing, sheet A-201 Entitled "Elevations," prepared by MAP architecture PLLC, not dated, and last revised June 21, 2018; and
4. A drawing, sheet 1 of 9 Entitled "Title Sheet," prepared by Morris Associates PLLC, dated November 30, 2107 and last revised June 22, 2018; and
5. A drawing, sheet 2 of 9 Entitled "Project Notes and Legend," prepared by Morris Associates PLLC, dated November 30, 2107 and last revised June 22, 2018; and
6. A drawing, sheet 4 of 9 Entitled "Utility, Grading, and Erosion Control Plan," prepared by Morris Associates PLLC, dated November 30, 2107 and last revised June 22, 2018; and
7. A drawing, sheet 5 of 9 Entitled "Vehicle Maneuvering Plan," prepared by Morris Associates PLLC, dated November 30, 2107 and last revised June 22, 2018; and
8. A drawing, sheet 6 of 9 Entitled "Landscaping Plan," prepared by Morris Associates PLLC, dated November 30, 2107 and last revised June 22, 2018; and
9. A drawing, sheet 7 of 9 Entitled "Site Details," prepared by Morris Associates PLLC, dated November 30, 2107 and last revised June 22, 2018; and
10. A drawing, sheet 8 of 9 Entitled "Stormwater Details," prepared by Morris Associates PLLC, dated November 30, 2107 and last revised June 22, 2018; and
11. A drawing, sheet 9 of 9 Entitled "Lighting Plan," prepared by Red Leonard Associates, dated March 13, 2018, no revision; and
12. A set of seven (7) drawings describing site lighting prepared by Red Leonard Associates, dated May 14, 2018, no revisions; and

WHEREAS, at meetings on March 20, 2018 and September 25, 2018, the Applicant and their development team presented the Action to the Town Board, and addressed preliminary questions regarding the Action; and

WHEREAS, on February 26, 2018, the Yorktown Planning Board reviewed the application and issued a Memorandum, which set forth various recommendations regarding the Proposed Mobil Gas Station, including providing landscaping, streetscaping, and parking lot improvements in the site, among others; and

WHEREAS, the Town Board has concluded that the EAF and supplemental materials submitted in connection with the Action "has identified analyzed, and shown mitigation for all possible significant impacts," and

WHEREAS, the notice and hearing requirements for this Application as provided for in the Code of the Town of Yorktown and New York State law have been satisfied; and

WHEREAS, the Application was presented to the Town Board at a duly noticed Public Hearing held on said application commencing on March 20, 2018 and continuing and closing on September 25, 2018 at the Town Hall, 363 Underhill Avenue in Yorktown Heights, New York; and

WHEREAS, following the close of the Public Hearing on September 25, 2018, and upon review of the EAF and accompanying empirical studies, expert reports, plans and other related materials submitted by Petitioners, as well as all comments, memoranda and correspondence from its professional consultants and staff, the Planning Board, the public

and neighbors residing in the vicinity of the Site, and in accordance with SEQRA, the Town Board as Lead Agency adopted a Negative Declaration dated October 2, 2018; and

WHEREAS, the Town Board has fully considered the Application, including the general “standards applicable to all special uses,” set forth in Section §300-36 of the Town Zoning Code, and adopts the following findings of fact:

1. The location and size of the Proposed Mobil Gas Station, the nature and intensity of the operation involved in or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it is in harmony with the appropriate and orderly development of the C-3 zoning district in which it is located.
2. The location, nature and height of buildings and other associated structures and the extent of the landscaping on the site is such that the Proposed Mobil Gas Station will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.
3. The operations in connection with the Proposed Mobil Gas Station will not be more objectionable to nearby properties by reason of noise, vibration, excessive light, smoke, gas, fumes, odor or other atmospheric pollutants than would be the operations of any other permitted uses.
4. The associated parking areas are of adequate size for the Proposed Mobil Gas Station, and are properly located and suitably screened from adjoining residential uses, and the entrance and exit drives are laid out so as to prevent traffic hazards and nuisances.

WHEREAS, the Town Board has also considered the specific special use permit standards applicable to “gasoline filling stations,” set forth in Section §300-46 of the Town Zoning Code, and adopts the following additional findings of fact:

1. The use of the proposed Mobil Gas Station is limited to the retail sale of motor fuels and related merchandise and merchandise normally sold from within the convenience store. No sales or rental of new or used motor vehicles is proposed or permitted. No other retail sales are proposed or permitted on the property in connection with the Proposed Mobil Gas Station.
2. The Proposed Mobil Gas Station is located at least 300 feet from any building or place of public assembly.
3. Approval of the Proposed Mobil Gas Station would not result in more than two (2) gasoline filling stations within 1,000 feet (the northwest corner of the existing Shell gas station property is ±150 feet from the Proposed Mobil Gas Station and no other gas station is within 1,000 feet).
4. The property upon which the Proposed Mobil Gas Station will be located exceeds the minimum lot size of 20,000 square feet.
5. The lot frontage and depth of the property exceeds the required minimum 100 feet.

6. The Proposed Mobil Gas Station complies with the maximum driveway requirement.
7. The maximum coverage of all buildings and structures, including the canopy, complies with the underlying C-3 zoning district.
8. All buildings and structures are set back at least 30 feet from the street right-of-way, 10 feet from each side line, and 30 feet from the rear lot lines. The roof edge of the proposed canopy is set back at least \_\_ feet from the street right-of-way where 10 feet is required, and therefore complies with the requirements of 300-46(J) of the Zoning Code.
9. The front yard setback is sufficiently landscaped.
10. All fuel pumps are set back from the street right-of-way more than the required 25 feet and at least 15 feet from any buildings, and therefore complies with the requirements of 300-46(J) of the Zoning Code.
11. No more than two (2) fuel pumps per 3,000 square feet of lot area are proposed. The underground storage tanks fully comply with all applicable laws, codes and regulations.
12. The Proposed Mobil Gas Station provides sufficient parking.

NOW, THEREFORE BE IT RESOLVED by the Town Board that, the proposed Mobil Gas Station complies with both the general and specific special permit criteria; and be it further

RESOLVED, that the application for the Proposed Special Permit is granted, subject to the following conditions:

1. There shall be no new or used car sales on the Property.
2. The streetscape design shall be finalized to the satisfaction of the Town Planning department; and
3. The remodeled canopy shall be finalized to the satisfaction of the Town Planning Department and ABACA and shown on the plans; and
4. The Applicant must obtain approval of a Stormwater Pollution Prevention Plan and Wetland Permit from the Town Board.
5. The Applicant shall provide a final site plan set with amendments cited herein, for signature by the Town Supervisor.

**From the Water Department**

**Authorize Supervisor to sign a contract with NY Tri-State Vending to provide a soda vending machine for the Water Department**

RESOLVED, that the Supervisor is authorized to sign a contract with NY Tri-State Vending to provide a soda vending machine to be located in the Water Department garage at 1080 Spillway Road at no cost to the Town.

**EXECUTIVE SESSION (Closed Session):**

A motion will be made to go into Executive Session to discuss the following item(s):

**LITIGATION & NEGOTIATION:**

Town Attorney

12. **ADJOURN MEETING**

A motion will be made to adjourn the Town Board meeting.

Dated: October 2, 2018

DIANA L. QUAST, RMC, CMC  
TOWN CLERK  
TOWN OF YORKTOWN

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**AGENDAS ARE SUBJECT TO CHANGE**

**Americans with Disabilities Act:** If you need special assistance to participate in a Town meeting or other services offered by this Town, please contact the Town Clerk's office, (914) 962-5722, x210. Assisted listening devices are available at all meetings.