

Meeting of the Town Board, Town of Yorktown held on Tuesday, October 2, 2018 at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York 10598.

Present: Ilan D. Gilbert, Supervisor
Alice E. Roker, Deputy Supervisor
Vishnu V. Patel, Councilman
Edward Lachterman, Councilman

Tardy: Thomas P. Diana, Councilman

Also Present: Diana L. Quast, Town Clerk
Richard S. Abbate, Town Attorney

EXECUTIVE SESSION

Upon motion made by Councilman Lachterman, seconded by Councilman Patel, the Town Board moved into Executive Session to discuss litigation and negotiations and conduct interviews. Upon motion made by Councilman Lachterman, seconded by Councilman Patel, the Town Board moved out of Executive Session and proceeded with the meeting.

TOWN BOARD MEETING

Supervisor Ilan Gilbert called the meeting to order.

PLEDGE OF ALLEGIANCE

Supervisor Gilbert led the Pledge of Allegiance.

MOMENT OF SILENCE

A moment of silence was observed in honor of our men and women serving in the Armed Forces.

REPORTS FROM THE TOWN COUNCIL

Councilman Diana reminded all that this coming Sunday, October 7th, is the 10th Annual Street Fair for the Chamber of Commerce from 11:00 AM to 5:00 PM; there will be food and entertainment. He also announced that excavation has begun in Railroad Park for the Pinesbridge Monument.

Councilwoman Roker said that before the Street Fair on Sunday is Support Connection's annual walk at FDR Park starting at 9:00 AM. Support Connection is now a nationwide organization.

Councilman Patel also mentioned Support Connection and Eagle Scouts projects. He mentioned a complaint he received from a resident regarding speeding near East Main Street in Shrub Oak.

Councilman Lachterman stated that the traffic study near East Main Street is near completion. He invited senior citizens to the free Senior Advisory Luncheon being held at the Albert A. Capellini Community and Cultural Center on Sunday. Cortlandt Colonial Manor is doing a dinner on November 13th at 6:00 PM for My Brother Vinny to raise money for their veterans organization. United for the Troops is doing their send off for the Home for the Holidays program – there is a list of items for donation available.

REPORT FROM THE SUPERVISOR

Supervisor Gilbert reported that Enbridge Pipeline Project was scheduled to be completed by the end of November. They were scheduled to come back in the spring to restore areas disturbed by their work. In addition, at that time, they were scheduled to remove their launch and relay station located at Granite Knolls adjacent to Stony Street. They indicated at last week's meeting that they will not be done by the end of November and they will have to continue the work into 2019. Supervisor Gilbert said that as he meets with Enbridge, he will keep the community informed.

Supervisor Gilbert reported that he attended the Northern Westchester Opioid Summit at Northern Westchester Hospital. He spoke of how this is a major problem for our entire country and, unfortunately, for Yorktown. He met a local representative from Face of America Liberty which held a cycling event that began in lower Westchester and ended at West Point, with a stop in Yorktown. The event was to honor all military, both active members and veterans, both disabled and able bodied. He attended a fund raising farm-to-table dinner held at Hilltop Hanover Farm which served food raised on the farm. County Executive George Latimer has joined forces with Yorktown in our collaboration with Mercy College on incubator and accelerator businesses;

discussions with how we can promote business in empty office space. A business incubator is an entity that helps new and start-up companies develop by providing services such as management training and office space. The National Business Incubation Association (NBIA) defines business incubators as a catalyst tool for either regional or national economic development. He attended a meeting sponsored by County Executive Latimer and discussed the advantages of business incubators, the possible avenues of support, and the possible locations for additional business incubators in Westchester.

He reported that he had the privilege of also attending an Eagle Scout Honor Program for Nicholas DeMarsh (son of town employee, Patty DeMarsh) and RJ Merchandani at which time he presented them with Certificates of Appreciation from the Town. Nicholas' project involved construction of fencing around Wildflower Island at the Teatown Reservation, and RJ's project consisted of the construction of a platform known as Grady's Bridge at FDR Park and for expanding a trail within the park allowing for additional areas to be accessed by the public. Both projects create additional assets for the Town.

This morning was the dedication of the JC Hart Memorial Library drop box at Town Hall in the commuter lot. This provides another location for the return of books and audio-visual material. This box was made possible by state monies procured by Senator Murphy on the Town's behalf. Library staff, trustees, Senator Murphy and members of his staff, Town Clerk Diana Quast, Town Employees, and Supervisor Gilbert and his staff were in attendance.

Supervisor Gilbert reported that there will be a test of the National Emergency Alert System. The Federal Emergency Management Agency (FEMA), in coordination with the Federal Communications Commission, will conduct a nationwide test of the wireless emergency system on October 3rd. The WEA portion of the test will commence at 2:18 EST and will follow at 2:20 EST. The test will assess the operational readiness of the infrastructure for distribution of a national message and will determine whether technological improvements are needed to that system.

Councilman Patel stated the Eagle Scout programs give back to the communities, nationwide, \$250,000,000 worth of projects each year. It is a wonderful program.

PROCLAMATIONS

Proclamations were given to the following organizations:

- National Breast Cancer Awareness Month – Support Connection
- German American Heritage Day
- Italian American Week – Christopher Columbus Society
- Italian Heritage Month – Circolo da Vinci

Mr. Tony Grasso accepted the proclamation on behalf of the Circolo da Vinci organization and thanked the Town Board. He said a few words about his Italian heritage.

POLICE DEPARTMENT PRESENTATION

Robert Noble, Chief of Police, presented Certificates of Appreciation to members of the public: Ryan and Michael Rosen, owners of the Bagel Emporium, and Steve Boylan. A larceny took place in the parking lot of the Bagel Emporium. They allowed the police to review their security cameras from which they received leads. Mr. Boylan assisted the police in their investigation which led to an arrest.

Chief Noble introduced two new police officers, Jerry Permuto and Danny David, and gave biographies of each of the officers. They each thanked the Town Board, the Police Department, and the public for their support. Town Clerk Diana Quast swore in both police officers.

Chief Noble said that the Police Department will be initiating a community camera program that will help record and solve incidents that occur in Town. If any residents in Town that have home security cameras would like to assist the police in collecting a database, they can share their email with the police so that if an incident occurs in their area they would be notified to review their tapes and share any pertinent information with the police. This program will be advertised to the public.

Councilman Lachterman expressed his support of the program and encouraged those with security systems involving cameras to contact the police department.

CABLE ADVISORY COMMITTEE

Mr. Geoffrey Wheeler, Cable Advisory Committee, said there is a lot of hysteria surrounding the shutdown of the Peekskill cable television facility. He wants to think about alternatives and what we can do as a community, along with other communities, on the building of a facility that could be used by many producers in our area whose programs are seen on cable in our area. Part of the problem is that the contracts are worded “at the convenience of the provider” which has made it an onerous process to make information available for public access. Supervisor Gilbert stated that they have an obligation under FCC rules to provide public access but then they claim they provide access but not the facility. Maybe the Town can look into this when renegotiating the contract. Mr. Wheeler stated that our contracts are up in 2023 and now is the time we should be looking down the road to figure this out. He is anticipating the Peekskill contract to see what the new provisions will be. He feels the Town needs to develop a comprehensive community media program that addresses not only the inconvenience of producing the material but also opens up the door for more people to get on board. Yorktown’s representation on Cablevision is sparse compared to other communities. Mr. Wheeler encourages people who are presenting on Cablevision to get the information on how to become approved on FiOS.

Councilwoman Roker suggested joining forces with other towns’ cable committees. Mr. Wheeler said he has already begun that process and they will be getting together at the Northeast Region Association for Media’s meeting on October 11th in Schenectady.

Mr. Wheeler said the contract “took the teeth” out of citizens’ complaints and discounts.

A discussion took place regarding the positive effects of transparency in televising Town meetings – the Town has a broader reach than they know by doing this.

Councilwoman Roker suggested joining forces with, for example, a college that has a media room. Mr. Wheeler said that space is not the issue, but convincing the Town Board to staff a facility. Supervisor Gilbert asked about the equipment at the Peekskill facility that might be able to be used and Mr. Wheeler said that the equipment is very, very old.

Stewart Glass, Assistant to the Supervisor, interrupted to announce a water main break at 3296 Stony Street and the Water Department is on its way to investigate.

CHAMBER OF COMMERCE

Eric DiBartolo, President of the Chamber of Commerce, came before the Board to talk about the upcoming Street Fair on Sunday, particularly the senior lunch. He listed some of the events and vendors who will be there.

COURTESY OF THE FLOOR

The following members of the public spoke:

Mr. John McMullen, Yorktown Poet Laureate, recited an original piece about how people, despite their differences, can gather at events that celebrate what they have in common. The poem referred to a 40,000 strong gathering at the last baseball game of the Captain of the Mets, David Wright.

Mr. Howard Frank, resident, said that he would like the Board to investigate how Verizon is starting up limited partnerships on sites and who is actually going to be responsible for the cell towers that are providing 5G data. We should be contacting Verizon regarding the Town’s media coverage.

Mrs. Jane Daniels, member of the Yorktown Trailtown Committee, gave an update about the project to install signage for the parks in Town. Signs have now gone up for Sylvan Glen, Granite Knolls, and Turkey Mountain. She expressed her appreciation for those who worked on the Mohansic Trail. She thanked businesses who donated materials and the hard work done by all involved. The project is not completed yet but wanted to celebrate their success so far.

Mr. Harold Pressberg, Shrub Oak resident, thanked the Town Board for the resolution on the agenda to resurface and restore the tennis courts in Town. He urged them to pass the resolution.

Mr. Vincent Alessi, resident, reiterated Mr. Pressberg’s support of tennis court resurfacing and encouraged the Town Board to pass the resolution.

Mr. Dan Strauss, resident, talked about the center of Town – the track, adjacent building, and the gazebo – and security issues. He thinks it is unacceptable what is going on there. Four years ago he began an initiative to clean up the area, and he is appalled at the dog waste that is found there. The Town Board needs to start an initiative to clean up the track, and get security for the Albert A. Capellini Community and Cultural Center and the gazebo. Surveillance needs to be addressed.

Upon motion made by Councilman Lachterman, seconded by Councilman Diana, Courtesy of the Floor was closed.

Councilman Lachterman said the police department makes a huge presence at the gazebo area as much as they can. He acknowledged that the dog waste issue is a big problem. Supervisor Gilbert said that maybe the Town Board should look into signage. Councilman Diana said that the AACCCC is now under video surveillance inside. Councilman Patel said that maintenance and care of the gazebo should be looked at and that some of the railings should be replaced soon.

ADVERTISE PUBLIC HEARING TO CONSIDER THE REZONING PETITION AND ZONING MAP AMENDMENT REQUEST RECEIVED FROM JOHN DEVITO, FOR THE WEYANT PROPERTY

RESOLUTION #348

Upon motion made by Councilman Lachterman, seconded by Councilwoman Roker,

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 16th 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)

Gilbert, Roker, Patel, Diana, Lachterman voting aye.
Resolution adopted.

MUNICIPAL LAW SERVICES TO THE TOWN OF YORKTOWN

Councilman Lachterman requested that this resolution be tabled for discussion. Councilman Diana asked for this as well. Councilman Patel wished to vote this evening. Councilwoman Roker said that this has been a topic since January. When the RFP went out and came back, it again has been on their radar since at least April. There is a point when you table something too often; the discussion at this point involves having an individual town attorney vs. a law firm.

Councilwoman Roker said that the Town has had two law firms in the past and, speaking as a former Town Clerk, they are easy to work with and the Town is saving money with the proposal.

Supervisor Gilbert said he believes it is a 20% savings across the board. He surveyed 19 towns in local proximity as to which they use. Out of the 19, 12 municipalities utilize law firms as a cost savings mechanism. The total cost on the submitted RFP is \$211,700 for full coverage of the town's legal services. Last year's budget for legal services was \$358,263.35. Tax certiorari, labor, and zoning counsel would be covered by the firm. Supervisor Gilbert said the firms that are representing these boards have only been with them for a few years.

Councilman Lachterman asked Supervisor Gilbert if he intended to replace these law firms against department head wishes, to which Supervisor Gilbert stated that is not necessarily true.

Councilman Lachterman asked John Tegeder, Director of Planning, if he was happy with their current services and he said yes. Supervisor Gilbert asked if he was happy with the current town attorney, Richard Abbate and he said yes. Mr. Tegeder said it is more about the idea of continuity, which is important in understanding the mindset of the board and understanding the unwritten rules and procedures of the board. Councilman Diana said it was never discussed to take Blanchard & Wilson away and Councilman Lachterman agreed.

The Town Board took a 5-minute recess. Supervisor Gilbert asked that the Town Board show decorum and that everyone be given the opportunity to speak uninterrupted and asked for emotions to be tempered.

Councilman Lachterman said that he is disappointed to find out the scope of this resolution at this point. He believes this has not been discussed enough. He said that two members of the Board did not realize that this resolution would replace existing law firms working for the other boards. He apologized in advance to Mr. Oxman because he did not want to put this out in the public and Councilman Lachterman began to speak about a grievance.

Town Attorney Richard Abbate, cautioned Councilman Lachterman that the information he was about to divulge was confidential under the judiciary law and he may be opening himself up to libel and slander claims. He cautioned Councilman Lachterman before he went any further that he saw his earlier email and cautioned him again. Councilman Lachterman said he apologized because he thought his email was going to just the Town Board. He stated that he felt the information he was going to divulge was relevant to the vote and information the Town needs to know about. He said that he did not want to put this out because he wanted to see it worked out before the judiciary committee before anything comes back to the Town. He began to say that this issue has been around since January. Before he could continue further, Mr. Abbate cautioned Mr. Lachterman again that this is confidential information under the judiciary law. Councilman Lachterman said that it actually was not and Mr. Abbate referred him to Section 90 of the judiciary law that information “may only be disclosed under written court order by an appellate division judge.” Councilman Diana suggested that the Board table this for another 30 days since he and Councilman Lachterman were not aware of the decision to do away with the tax certiorari, labor, and zoning counsels. His motion would be to hold this off until such time as they can discuss the different attorneys that are working with these boards to ensure continuity with these boards or departments.

Councilwoman Roker said she appreciated Mr. John Tegeder’s comments but as a member of the Town Board, a decision needs to be made.

Supervisor Gilbert said the original RFP was for a law firm to do all of the different services. He believes that it would be disingenuous to say we never considered using the RFP as it was published. He believes the Oxman Law Firm has great talent and experts that will represent the Town well. He said that Mr. Abbate has been able to handle all situations (including writing contracts) and has displayed an enormous breadth of talent since he came on board in February.

Councilman Lachterman insisted that this was not discussed and that Supervisor Gilbert said that they were not considering a complete replacement of the different law firms.

Councilwoman Roker said that a few weeks ago Councilman Lachterman came to her after a meeting to discuss the law firm that handled the Planning Board to which she said there was nothing to discuss. She said he characterized his words as though they made a deal. Councilman Lachterman said he and Councilman Diana wanted to discuss using Blanchard and Wilson as a potential firm. He said there was supposed to be more conversation after that. Councilman Diana said that in the name of transparency, there should be more discussion.

Supervisor Gilbert said that Councilman Lachterman and Councilman Diana keep using the word “blindsided” by this when the RFP went out as a request for proposals on all services. This is not being done out of thin air and is an inaccurate statement.

Councilman Diana said that if the Supervisor was going into this so deeply, they all should have been brought in on the discussion. Councilwoman Roker said she called and asked for the numbers to be run and received them – if you wanted information, you should ask.

Supervisor Gilbert reiterated that the Oxman proposal shows a 20% reduction in all services over what we have budgeted. He feels this savings is not at the expense of quality.

AUTHORIZE SUPERVISOR TO SIGN AN AGREEMENT FOR MUNICIPAL LAW SERVICES TO THE TOWN OF YORKTOWN

RESOLUTION #349

Upon motion made by Councilman Patel, seconded by Councilwoman Roker,

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.

Gilbert, Roker, Patel Voting Aye
Diana, Lachterman Voting Nay
Resolution adopted.

AWARD BID FOR RESURFACING AND RECONSTRUCTION OF TOWN TENNIS COURTS
RESOLUTION #350

Upon motion made by Councilman Lachterman, seconded by Councilman Diana,

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.

Gilbert, Roker, Patel, Diana, Lachterman Voting Aye
Resolution adopted.

AUTHORIZE COMPTROLLER TO PAY TUITION, BOOKS AND FEES FOR POLICE OFFICER JOHN E. DOHERTY

RESOLUTION #351

Upon motion made by Councilman Lachterman, seconded by Councilman Diana,

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.

Gilbert, Roker, Patel, Diana, Lachterman Voting Aye
Resolution adopted.

AUTHORIZE SUPERVISOR TO SIGN AN INDEMNIFICATION AND AGREEMENT TO CONSTRUCT SEWER LINE WITH THE INTERNATIONAL SCHOOL

RESOLUTION #352

Upon motion made by Councilman Lachterman, seconded by Councilman Diana,

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.

Gilbert, Roker, Patel, Diana, Lachterman Voting Aye
Resolution adopted.

AUTHORIZE TOWN CLERK TO CIRCULATE LEAD AGENCY COORDINATION LETTER FOR OLD HILL FARM (DP YORKTOWN) PROPERTY REZONING REQUEST TO INVOLVED AND INTERESTED PARTIES
RESOLUTION #353

Upon motion made by Councilman Lachterman, seconded by Councilman Diana,

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.
1. 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.
 2. The Town Board further directs that this Action be referred to the Planning Board for review and recommendation in accordance with the Town Code.

Gilbert, Roker, Patel, Diana, Lachterman Voting Aye
Resolution adopted.

APPROVE NEGATIVE DECLARATION AND AMENDED SPECIAL USE PERMIT FOR MOBIL GASOLINE FILLING STATION LOCATED AT 2035 SAW MILL RIVER ROAD RESOLUTION #354

Upon motion made by Councilman Lachterman, seconded by Councilman Diana,

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 30 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.

Gilbert, Roker, Patel, Diana, Lachterman Voting Aye
Resolution adopted.

AUTHORIZE SUPERVISOR TO SIGN A CONTRACT WITH NY TRI-STATE VENDING TO PROVIDE A SODA VENDING MACHINE FOR THE WATER DEPARTMENT RESOLUTION #355

Upon motion made by Councilman Lachterman, seconded by Councilman Diana,

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.

Gilbert, Roker, Patel, Diana, Lachterman Voting Aye
Resolution adopted.

EXECUTIVE SESSION (CLOSED SESSION)

Upon motion made by Councilman Diana, seconded by Councilmember Roker, the Town Board moved into Executive Session to discuss litigation and negotiations.

ADJOURN

Upon motion made by Councilwoman Roker, seconded by Councilman Diana, the Town Board meeting was adjourned.

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