

Meeting of the Town Board, Town of Yorktown held on December 22, 2015 at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York 10598.

Present: Michael J. Grace, Supervisor
Vishnu V. Patel, Councilman
Greg Bernard, Councilman
Susan Siegel, Councilwoman
Thomas Diana, Councilman

Diana L. Quast, Deputy Town Clerk
David Paganelli, Highway Superintendent
Patricia Caporale, Town Comptroller
John Tegeder, Planning Director
John Winter, Building Inspector

TOWN BOARD MEETING

Supervisor Michael J. Grace called the meeting to order.

EXECUTIVE SESSION

Upon motion made by Supervisor Grace, seconded by Councilman Bernard, the Town Board moved into Executive Session to discuss negotiations and the employment of a particular person.

Upon motion made by Supervisor Grace, seconded by Councilwoman Siegel, the Town Board moved out of Executive Session and proceeded with the meeting.

CELL TOWER EXTENSION – DARBY STREET

Building Inspector John Winter was present to discuss with the Town Board a request to extend the cell tower located at 1750 Darby Street.

Mr. Stone from Crown Castle stated that the extension request would actually be lowering the current 170 feet cell tower to 164 feet and no modifications to the existing lease is needed. There will be additional revenue gained by this extension.

HILLTOP GAS STATION – 1530 EAST MAIN STREET

The new owner along with Chris Sciarra, CS Construction were present to discuss with the Town Board a proposed site plan that would include some fencing and plantings along the Route 6 portion of the property.

Supervisor Grace stated that a rezoning would be needed for the new owner to sell used cars on this site. He explained that if this is what the applicant wants to do then he should file an application with the Town Clerk to request a Change of Zone.

Supervisor Grace stated that he does have concerns with this area because it is a gateway to the Shrub Oak hamlet area and he would like it to remain aesthetically pleasing to the community.

Councilman Diana would also like the property to remain aesthetically pleasing to the area and is against a canopy being placed over the gas pumps.

AWARD BID – UNMARKED POLICE VEHICLES

RESOLUTION #489

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

WHEREAS, invitations to bid for used vehicles to be used as unmarked vehicles in the Police Department, was duly advertised, and

WHEREAS, said bids were received and opened at 11:00 A.M. on the 22nd day of December 2015, now therefore be it,

RESOLVED, that upon the recommendation of the Chief of Police, the bid be and is hereby awarded to Park Ford of Mahopac Inc., located at 276 Route Six Mahopac NY 10541.

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Yorktown hereby authorizes the Yorktown Police Department to purchase up to four (4) vehicles from Park Ford of Mahopac Inc., at a total cost not to exceed seventy-one thousand seven hundred fifty dollars and no cents (\$71,750.00).

Grace, Patel, Siegel, Bernard, Diana Voting Aye
Resolution adopted.

APPROVE BUDGET TRANSFER
RESOLUTION #490

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

Be It Resolved, that the Comptroller is hereby authorized to process the following budget transfer:

From:	A3120.810	Police - Medical	\$71,750
To:	A3120.210	Police - Vehicles	\$71,750

For the purchase of pre-owned Ford Taurus vehicles as per bid award.

Grace, Patel, Siegel, Bernard, Diana Voting Aye
Resolution adopted.

APPROVE REZONING NEGATIVE DECLARATION – CROMPOND TERRACES –
MANDALAY BUILDERS
RESOLUTION #491

Upon motion made by Supervisor Grace, seconded by Councilman Bernard,

State Environmental Quality Review - Negative Declaration Notice of Determination of Non-Significance Project Name: Bear Mountain Triangle Rezoning - Date: December 22, 2015

Tax Lot ID numbers: Tax ID 26.18-1-9
Tax ID 26.18-1-10
Tax ID 26.18-1-11
Tax ID 26.18-1-12
Tax ID 26.18-1-13
Tax ID 26.18-1-14
Tax ID 26.18-1-15
Tax ID 26.18-1-16

Total acres 23.61

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQR) of the Environmental Conservation Law.

The Town of Yorktown Town Board as the Lead Agency has determined that the proposed action described below will be carried out in conformance with the conditions and thresholds established in the Expanded Environmental Assessment prepared for the Bear Mountain Triangle Rezoning dated September 25, 2015.

Name of Action: Bear Mountain Triangle Rezoning
SEQR Status:Type 1

Description of Action: The project proposed is to rezone approximately 23.61 acres on eight parcels, Tax ID numbers 26.18-1-9, 26.18-1-10, 26.18-1-11, 26.18-1-12, 26.18-1-13, 26.18-1-14, 26.18-1-15 and 26.18-1-16, from R1-20 to R-3 and C2-R, consistent with the goals for this area outlined in the 2010 Comprehensive Plan. Implementation of this proposed rezoning action could potentially allow for the future construction of up to 80 residential townhouse units, 16 affordable rental apartments, a 12,000 square foot multi-purpose recreational facility, up to 45,000 square feet of office space and up to 32,000 square feet of small scale retail space.

Location: The tax lots proposed for rezoning are located on the north side of Old Crompond Road in the Crompond hamlet area, Town of Yorktown, Westchester County, New York.

Reasons Supporting this Determination: The Town of Yorktown is considering a zone change that would allow the redevelopment of the Bear Mountain Triangle (BMT) area into a hamlet. Consistent with the 2010 Comprehensive Plan for the Town, development of the Crompond Hamlet area would provide an opportunity for increased economic development and preservation of identified natural resources. The Comprehensive Plan calls for a mix of uses including housing, office and retail uses. In addition to the Comprehensive Plan, the Routes 202/35/6 Bear Mountain Parkway Sustainable Development Plan sought the establishment of neighborhood centers with transit and pedestrian access potential. The proposed rezoning action would enable implementation of the goals identified in each of these important plans.

The proposed zoning action is being implemented by the Town on eight (8) contiguous parcels in the BMT that are vacant or underutilized to establish the basis for hamlet development on all the vacant or underutilized parcels contained within the BMT area. Six of the parcels are owned or under contract to Mandalay Builders (Mandalay). The other two are owned by Americo Realty, LLC and Alfio Della Vecchia. An Expanded Environmental Assessment Form (EEAF) has been prepared by Mandalay based upon a conceptual implementation of the proposed rezoning action to assess the maximum impacts and benefits associated with hamlet development of this area, consistent with the objectives outlined in the 2010 Comprehensive Plan (Concept Plan). Upon future submission of site plan applications for build out of the elements as generally shown on the concept plan, site specific SEQRA review will be conducted and impacts will be mitigated to the fullest extent practicable.

The Yorktown Town Board carefully considered that the proposed action relates solely to the zone change of the BMT area. The Board further considered the relationship between the impacts of proposed rezoning action and the impacts of the current zoning. The Board determined that the rezoning of this entire area had been previously contemplated by the Town during its review of the 2010 Comprehensive Plan; and that the rezoning action pertains to more than a single project sponsor; and that requiring future site specific SEQRA reviews of all future site plan applications within the BMT area would result in environmental review to the fullest extent possible and would not result in environmental review that is any less protective of the environment, thus these related actions could appropriately be deemed as a permissible segmentation of actions.

The Yorktown Town Board has reviewed a comprehensive Expanded Environmental Assessment Form Part III (EEAF) dated September 25, 2015. This EEAF was prepared in accordance with Section 8-0101 of New York State Environmental Conservation Law and the regulations promulgated by the New York State Department of Environmental Conservation thereunder which appear at 6 NYCRR Part 617 (known as the New York State Environmental Quality Review Act, "SEQRA", or "SEQR"). The EEAF included supplemental studies intended to assist the SEQR lead agency in making a determination whether the proposed action would likely result in any potentially significant environmental impacts. The Concept Plan, the analyses, illustrations, and maps contained in the EEAF have been provided in sufficient detail to allow the Lead Agency to make a determination regarding the proposed rezoning action.

A public hearing on the proposed rezoning action was held on January 20, 2015. Subsequently the EEAF was prepared and reviewed by the Town Board and the Town's technical staff. The Public Hearing on the proposed rezoning action was reconvened on November 17, 2015. The Town Board of the Town of Yorktown, after carefully reviewing all supporting documentation and listening to public comment, acting as the lead agency, has determined that the proposed rezoning action as described will not result in a significant adverse environmental impact.

The proposed rezoning of the tax parcels identified as the BMT is being sought to permit mixed use development of the Bear Mountain Triangle area. The Town Board has determined the proposed rezoning will not result in significant adverse environmental impact based upon the following considerations;

LAND USE & ZONING

As noted in the 2010 Comprehensive Plan, the Bear Mountain Triangle area "BMT" is the Town of Yorktown's major opportunity for an increase in economic development. The vision of the 2010 Plan places priority on continued residential development in the Town and emphasizes the importance of the Town's hamlet centers.

The proposed rezoning is necessary to permit implementation of the following recommended goals of the 2010 Comprehensive Plan:

Promote the five hamlet business centers as hubs of civic life and community identity, and promote a mix of retail, professional office, park/civic uses, and compatible residential uses that create an atmosphere of vitality.

Avoid sprawl along Yorktown's commercial corridors, and encourage a high standard of architectural design, landscaping, and maintenance for all development.

Improve access into and circulation throughout the five hamlet business centers through roadway and intersection improvements, while also promoting walking and biking by creating safer and more comfortable environments for pedestrians and cyclists.

Promote convenient parking, while also promoting more efficient parking patterns and striving to reduce unnecessary expanses of blacktop.

Ensure that infrastructure improvements are provided before or concurrent with significant new development.

The Bear Mountain Triangle is already proximate to shopping, walking trails, and public transportation. Mandalay Builders Concept Plan includes small scale retail and office space suitable to local shops and offices for doctors, lawyers and other professionals, which adds to the desirability of the location. The future concept plan is envisioned as a green community including Energy Star rated housing, pervious pavers for the residential parking areas, consideration of geothermal heating and cooling, incorporation of green roofs and rain gardens and extensive landscaping as shown in EEAF Figure 1-5. The referenced Concept Plan reflects vision of the 2010 Comprehensive Plan vision.

The development in the BMT rezoning area will be connected to the Town's infrastructure and will use municipal water and sewer. Analysis of the Concept Plan under the proposed rezoning anticipates the utilization of approximately 34,412 gallons per day of water and the generation of approximately 30,480 gallons per day of sewage. Municipal water and sewer providers have sufficient capacity to meet the development needs of the BMT.

Wastewater from the surrounding area is treated at the Peekskill Sanitary Sewer Treatment Plant. It is anticipated the district boundary will be expanded to include the Bear Mountain Triangle rezoning area. The Town Board recently passed a resolution authorizing the creation of the Hunterbrook 20 Sewer District, which, upon Westchester County approval, will utilize the Peekskill Sanitary Sewer Treatment Plant to provide sewer service to this area. Sewer service would be funded by a combination of taxes and usage fees which would cover the ongoing maintenance and usage costs for sewer service.

The Bear Mountain Triangle rezoning area is currently located in the Yorktown Consolidated Water District, In addition to the annual taxes paid to the water district, the Town charges user fees based on a flat fee structure plus user fees based on the volume of water used. These taxes and fees are the revenue source the Town uses to cover the cost of the water and sewer service.

Development within the proposed rezoning area will be guided by the Town's Concept Plan for the Bear Mountain Triangle, as illustrated in EAF Figure 1-3. Commercial buildings are envisioned to be small scale and oriented to encourage pedestrian and mass transit access. Future development of the residential townhouse complex should endeavor to create a neighborhood and should provide sidewalks, bike lanes and bike amenities to further facilitate pedestrian access to the residences.

The Concept Plan envisions construction of up to 80 units of two and three bedroom market rate townhouse units plus up to 16 one bedroom rental apartment units to help meet the housing needs of the Town. The 16 affordable one bedroom rental apartments are envisioned for the top floor of some of the commercial buildings in the C-2R zone. These units would be rented consistent with the guidelines in Chapter 102 of the Town Code. The Town Board analyzed and compared the impacts of the proposed rezoning as reflected in the Concept Plan to the impacts

associated with the current zoning and found the proposed action did not identify any significant impacts on the environment.

DEMOGRAPHIC & ECONOMIC RESOURCES

Based upon the Concept Plan, demographic multipliers published by the Rutgers University Center for Urban Policy Research (CUPR) approximately 263 persons, including 45 school age children are projected to reside in the anticipated housing at BMT.

Based upon the income value of the townhouses and affordable rental apartments shown in the concept plan, the total value of the residential component is estimated to be \$19,085,880. Based upon the income value of up to 32,000 square foot of retail space and up to 45,000 square foot of general office space, the total value of the commercial development is estimated to be \$19,771,875. Thus the combined market value of the anticipated development is \$38,857,755. Using the current 2015 equalization rate of 2.56 percent, the total future Assessed Value for the BMT is estimated to be \$994,759. This represents an increase of \$930,409 when compared to the current assessed value of the BMT properties, \$64,350 equating to a (15) fifteen fold increase.

Based upon current tax values, the EEAF presented an analysis of the projected tax revenue and municipal costs of the potential development as shown on the Concept Plan. Based on the analysis there are no significant adverse fiscal impacts anticipated from the proposed action.

Development of the BMT area under the proposed rezoning is not anticipated to result in a negative impact to the provision of emergency services, including police and fire protection and the provision of ambulance service.

As part of the BMT rezoning, one of the petitioners has indicated, at a minimum, a willingness to provide the Town with up to 12,000 square foot multi-function building which could be used to supplement the Town's recreation programs fulfilling the applicant's requirement for the provision of recreational amenities.

The applicant further has certain physical assets available which will be donated to the Town to facilitate the relocation of the Parks and Recreation maintenance operations and other operations as deemed appropriate by the Town, thereby opening up space to facilitate the relocation of the Town's Recreation offices and programs to Downing Park resulting in a municipal benefit.

Under the Concept Plan, the potential development of the BMT rezoning area would generate approximately 150 full time equivalent jobs in the various construction trades associated with anticipated development, and would add approximately 231 new jobs to the Town's employment base.

Under the Concept Plan, sales tax revenue generated from the potential development of the BMT is estimated to be more than \$800,000 annually.

SOILS & TOPOGRAPHY

According to a review of the United States Department of Agriculture (USDA) Soil Conservation Service (SCS) of Putnam and Westchester Counties, the majority of soils located on this site were found to be medium to coarse sandy soils which are classified as well drained and suitable for construction.

Based upon preliminary engineering estimates, a maximum of approximately 223,000 cubic yards of material will be cut and approximately 85,000 cubic yards will be filled to implement the aforementioned Concept Plan. Of the remaining 138,000 cubic yards, it is estimated that approximately 130,000 cubic yards of rock could be crushed to be used a base for the parking areas and road improvements to Old Crompond Road. The balance, of 8,000 cubic yards, will be removed from the site. Upon development every effort will be made to utilize the 8,000 cubic yards on the site.

Any blasting necessary for development of the BMT zoning area will be determined during site specific site plan review and would only be carried out in conformance with an approved Blasting Plan. The Blasting Plan would be developed in full conformance with all Town of Yorktown regulations and in accordance with New York State blasting law. The contractor's Blasting Contract would be based on site specific blasting requirements, and would be submitted

to the Town for approval in advance of any site work activity. Peak particle velocity would be maintained at the property line so as to avoid any effects on off-site structures.

STORMWATER

A soil Erosion and Sediment Control Plan will be designed to conform to applicable requirements of the New York State Department of Environmental Conservation, New York City Department of Environmental Conservation, and the Town of Yorktown. The Plan will be completed in accordance with New York State Department of Environmental Conservation best management practices ("BMPs")

Erosion and sediment control measures will be designed during subsequent site specific site plan review and will be installed in accordance with the Soil Erosion and Sediment Control Plan developed as part of the site plan approval. The subject property contains no jurisdictional wetlands, watercourses or waterbodies. Regulated wetland buffers are located on portions of the subject parcels. Any disturbance to these buffers will be subject to Town of Yorktown wetland regulations and NYSDEC regulations.

The site slopes up from US Route 202 toward the northeast, such that the rezoning area generally drains overland and through storm drains toward US Route 202, and ultimately into the Hunter Brook. Based upon preliminary engineering review of the rezoning area, it is anticipated the proposed stormwater maintenance facilities will include two surface detention ponds and subsurface infrastructure located generally under the southwest portion of the site.

Implementation of the proposed rezoning is projected to result in a total of approximately 9 acres of impervious surface.

Consistent with the requirements of the NYS DEC General Permit (GP-0-15-002), NYC DEP regulations, and Town of Yorktown regulations, a Stormwater Pollution Prevention Plan (SWPPP) will be developed to the satisfaction of the Town Engineer to ensure there will be no net gain in the volume, rate of runoff, and the pollutant/thermal loading from the site as compared to existing conditions. Potential development based on the concept plan will not result in any post construction increase in flood conditions.

The Hunterbrook stream is a NYS DEC Cts classified stream suitable for Trout habitat and spawning. The approved SWPPP submitted for future implementation of the rezoning action shall identify measures to protect the Hunterbrook and its buffer area from thermal pollution as a result of stormwater runoff.

Installation of infrastructure for sanitary sewer will connect directly to the sewer main to be located along Old Crompond Road. The connection will be a new direct connection thereby eliminating concerns over additional infiltration and inflow into the stormwater system.

ECOLOGY

The majority of the proposed C-2R zone is located in the area of the existing residences, where the lowest tree density and existing site disturbance is located.

The remainder of the site is proposed for R-3, which allows medium density multi-family development. This use will require tree clearing and removal however, the forest here is of a relatively young age and sparse cover is available for wildlife. A comprehensive landscape plan, listing specific tree mitigation including the use of native trees and shrubs in addition to strategies for the deterrence of deer browsing will offset the vegetative impacts.

The Concept Plan analysis indicated that approximately 17% percent of the site would remain as woodland and 45% would be managed lawn and landscape areas. This combined 62% area of open space meets or exceeds the recommendations of the Comprehensive Plan as it relates to the BMT.

Under the maximum environmental impacts studied, there will not be any thermal or pollutant loading impacts when compared to pre-construction conditions.

TRAFFIC & TRANSPORTATION

The area of the proposed rezoning will be accessed from NYS Route 35/U.S. Route 202 as well as from Stony Street and Old Crompond Road. The concept plan calls for multiple driveways from Old Crompond Road to provide access to the internal road circulation system for the future Crompond Terraces development. The internal roads will be private roads maintained by a management company. Frontage along Old Crompond Road will be pedestrian oriented with a system of sidewalks, crosswalks and bicycle accommodations.

Based upon the information as presented in the *Traffic Impact Analysis* prepared by Maser Consulting, dated April 7, 2015, contained in the EEAF, in addition to the traffic and roadway improvements that are already planned to be completed by the proposed Costco development, certain other improvements will be required to accommodate other planned or potential developments in the area even without the implementation of the proposed rezoning referenced herein. Upon implementation of the planned improvements, no significant impact to Transportation operations is anticipated as a result of the BMT rezoning.

As future development projects undergo site specific review, each project will be obligated to ensure that traffic operations will be able to occur in a safe and effective manner upon project completion with roadway improvements appropriate to accommodate the specific project's traffic. This will include any land dedication to increase the right-of-way to an appropriate width along the individual project's frontage. The Traffic Study identifies a series of improvements which could be implemented in stages as actual development occurs in the area. EEAF Figure 7.3 – Conceptual Traffic and Pedestrian Improvement Plan, which identified conceptually these traffic and pedestrian improvements, provides a potential assignment of the improvements to specific development projects. However, the level of traffic improvements necessary to be completed by each applicant will be dependent upon the timing of individual site development projects. The traffic mitigation, its timing, and site specific assignment will be determined by the Planning Board during the Site Plan Approval Process for each application.

Route 15 Bus Service is provided regularly during the AM and PM Hours and limited service is provided on Saturday. Bus stops are positioned on both sides of NYS Route 35/U.S. Route 202 and service is included for both directions of travel. This satisfies the goals of the Comprehensive Plan to provide public transit opportunities to the BMT.

Internal pathways, sidewalks along Old Crompond Road and crosswalks provide internal pedestrian circulation. External sidewalks are provided along Old Crompond Road and along US Route 202 extending from Stony Street to Strang Boulevard, providing connections to the existing businesses and recreational facilities in the area. Bicycle parking locations shall be included in the future design of the Crompond Terraces project. This satisfies the goals of the Comprehensive Plan to provide bicycle and pedestrian opportunities in the BMT.

ALTERNATIVES CONSIDERED

Three alternative development scenarios were considered. The No action Alternative; A Single Family Alternative consistent with the existing R1-20 zoning for the site; and an Industrial Development scenario. None of these alternatives advance the goals of the Yorktown 2010 Comprehensive plan as fully as the Concept Plan and thus did not warrant further consideration.

The Town Board analyzed and compared the impacts of the proposed rezoning as reflected in the Concept Plan to the impacts associated with the current zoning and found the proposed action did not identify any significant impacts on the environment.

In consideration of the foregoing, the Town Board has determined that the proposed zone change to 23.61 acres of property known as the Bear Mountain Triangle from R1-20 to C-2R and R-3 will not create any significant adverse impacts.

The approved action is a zone change from R1-20 to 16.9 acres of R-3 and 6.71 acres of C-2R on Town of Yorktown tax ID parcels 26.18-1-9, 26.18-1-10, 26.18-1-11, 26.18-1-12, 26.18-1-13, 26.18-1-14, 26.18-1-15, and 26.18-1-16. Planning Board review will be necessary for Site Plan approval, and the project will be subject to site specific environmental review and all required permitting.

Grace, Patel, Bernard, Diana	Voting	Aye
Siegel	Voting	Nay

APPROVE REZONING CROMPOND TERRACES – MANDALAY BUILDERS
RESOLUTION #492

Upon motion made by Supervisor Grace, seconded by Councilman Bernard,

WHEREAS, the Town has designated all parcels within the triangular shaped area bound by the Taconic State Parkway, Routes 202/35, and the Bear Mountain Parkway as the Bear Mountain Triangle (the “BMT”); and

WHEREAS, Mandalay Builders, LLC ("Mandalay"), is the owner or contract vendee of certain real property within the BMT, comprised of ±20.29 acres, also known on the Town Tax Maps as the following six parcels Section 26.18, Block 1, Lots 11, 12, 13, 14, 15, and 16; and

WHEREAS, Americo Realty, LLC ("Americo") is the owner of certain real property within the BMT, also known as Section 26.18 Block 1 Lot 9 on the Town Tax maps and consisting of a ±2.59 acres; and

WHEREAS, Alfio Della Vecchia ("Della Vecchia") is the owner of certain real property within the BMT known as Section 26.18 Block 1 Lot 10, consisting of a combined ±0.73 acres; and

WHEREAS, Mandalay, Americo, and Della Vecchia (collectively the “Petitioners”) are seeking a Zoning Map change from the current of R1-20 (one half-acre single-family residential zone) to C-2R (commercial/limited residential zone) and R-3 (multi-family residential zone); where approximately 6.71 acres along Old Crompond Road is requested to be a C-2R zone and the remaining approximately 16.9 acres is requested to be an R-3 zone (the “Proposed Action”); and

WHEREAS, therefore together Town Tax Map parcels Section 26.18, Block 1, Lots 9, 10, 11, 12, 13, 14, 15, and 16 make up the Bear Mountain Triangle Rezoning Area (the Properties") consisting of approximately 23.61 acres; and

WHEREAS, on September 25, 2015 Mandalay filed an amended Rezoning Petition with the Town Board and on May 14, 2015 Americo and on April 24, 2015 Della Vecchia each filed a Rezoning Petition (collectively “the Petition”) which was received and reviewed by the Town Board; and

WHEREAS, the Town Board referred the Application to the following government officials and agencies for review and comment:

Yorktown Town Board
Acting Yorktown Town Engineer
Yorktown Conservation Board
Yorktown Environmental Consultant
Yorktown Planning Board
Yorktown Planning Department
Yorktown Town Attorney
Yorktown Highway Department
Yorktown Water District

WHEREAS, the Town Board, by resolutions dated May 27, 2014, and again on December 2, 2014 declared its desire and intent to assume Lead Agency status in connection with the SEQRA review of the Proposed Action; and directed the Town Clerk to refer the application to the following government officials and agencies for review and comment:

Westchester County Planning Department
Westchester County Planning Board
Westchester County Department of Public Works and Transportation
Westchester County Department of Health
Westchester County Parks Department
NYS DOT Region 8
NYS DEC Region 3
NYS OPRHP

US Army Corps of Engineers
NYC DEP
Town of Cortlandt Town Clerk
Yorktown Central School District
Mohegan Lake Fire District
Yorktown Chamber of Commerce
Advisory Committee on Open Space
ABACA
Yorktown Building Inspector
Yorktown Community Housing Board
Yorktown Fire Inspector
Yorktown Highway Department
Yorktown Planning Department
Yorktown Planning Board
Yorktown Police Department
Yorktown Recreation Commission
Yorktown Town Attorney
Yorktown Town Engineer
Yorktown Water Department

WHEREAS, the Town Board by resolution on December 2, 2014, gave notice of a public hearing to be held on January 9, 2015, to consider the Application; due notice was posted at Town Hall on January 7, 2015, January 8, 2015 and January 14, 2015; due notice was published in the official Yorktown newspaper, *Yorktown News* on January 7, 2015, January 15, 2015 and November 4, 2015; and the Applicant provided certification that due notice was delivered to the owners of the properties adjoining the Property; and

WHEREAS, the Petition was presented to the Town Board at a duly noticed Public Hearing conducted on January 20, 2015, in the Board Room at Town Hall at 7:30 pm, at the conclusion of which the Town adjourned the hearing; and

WHEREAS, an Expanded Environmental Assessment Form (Expanded EAF) dated September 25, 2015, was submitted to the Town Board consisting of NYS DEC EAF Form Parts 1, 2 and an Expanded Part 3 narrative, which includes the following Appendices:

- A. Zoning Petitions by Adjoiners
- B. Correspondence
- C. Traffic Study
- D. KW Housing Trends
- E. Soil Sample Data Sheets
- F. Westchester Bee-Line Route 15 Map; and

WHEREAS, The Town Board directed the Town Clerk to identify the distribution list for the Expanded EAF and have the applicant distribute to the following government officials and agencies for review and comment:

Westchester County Planning Department
Westchester County Planning Board
Westchester County Department of Public Works and Transportation
Westchester County Department of Health
Westchester County Parks Department
NYS DOT Region 8
NYS DEC Region 3
NYS OPRHP
US Army Corps of Engineers
NYC DEP
Town of Cortlandt Town Clerk
Yorktown Central School District
Mohegan Lake Fire District
Yorktown Chamber of Commerce
Advisory Committee on Open Space
ABACA

Yorktown Building Inspector
Yorktown Community Housing Board
Yorktown Fire Inspector
Yorktown Highway Department
Yorktown Planning Department
Yorktown Planning Board
Yorktown Police Department
Yorktown Recreation Commission
Yorktown Town Attorney
Yorktown Town Engineer
Yorktown Water Department; and

WHEREAS, the public hearing was reconvened on November 17, 2015, at the conclusion of which the Town Board closed the public hearing and left the written comment period open until December 1, 2015; and

WHEREAS, the following written comments were received:

Town of Yorktown Conservation Board 8/21/14, 1/20/15
Town of Yorktown Planning Board 10/10/14, 2/24/15, 11/17/15, 11/25/15,
Town of Yorktown Planning Department 11/17/15, 12/1/15
ABACA 12/17/14
Yorktown Police Department 12/8/14
Westchester County Planning Board 12/23/14, 10/20/15
NYS DOT 1/14/15
NYC DEP 1/12/15, 11/23/15
Gary Ajello, Esq. 12/3/14, 1/20/15, 11/17/15, 11/20/15; and

WHEREAS, the Town of Yorktown Comprehensive Plan , adopted June 2010 (“Comprehensive Plan”), envisions the BMT to be developed as a hamlet-styled village center with a mix of uses, including compatible residential uses, small scale retail, and a larger scale regional draw, and the plan further stated, as shown on the plan’s land use map, that the Properties should remain low-density zoning until such time as the Town prepares a Planned Design District for the area, indicating the amenities and infrastructure improvements that must be provided before or concurrent with more significant development; and

WHEREAS, this vision is set forth in Policy 4-24 as follows:

“Policy 4-24: At the eastern end of the hamlet business center, promote retail, office, and country inn uses with a regional draw in a high-quality master-planned format, with compatible residential uses as well.

- With the completion of the BMP, the Bear Mountain Triangle will become even more accessible and visible, making it the Town's best opportunity for economic development in a hamlet, mixed-use design.
- On the north side of Route 202, adjoining the Taconic State Parkway, there should be areas for retail, retail/mixed use, housing, and office/country inn.
 - At the bottom of the hill, the "village center" should have a mix of uses, including a "Main Street" shopping spine, with limits on floor area and an emphasis on small stores, possible second-floor apartments, and professional offices, in a pedestrian-oriented format.
 - At the top of the hill, leave as C-3 zoning and adopt an overlay for office and/or hotel or country inn uses, building off the location next to the Taconic-Route 202 interchange and highway visibility.
 - In between, plan for a mix of senior and small-scale professional offices, with conservation of open space and protection of wetlands and steep slopes.
 - Set aside space that can be converted into a village green.
 - These three areas should be integrated, rather than having each element feed only Route 202. There would be pedestrian amenities, with parkland and public spaces.

- Landscaping would be abundant, and except for the area in front of the "village center" there would be significant buffering along the Route 202 frontage.
- Parking lots would be shared and interconnected, forming a parking network.
- The area should retain low-density zoning until such time as the Town prepares a Planned Design District for the Triangle, indicating the amenities and infrastructure improvements that must be provided before or concurrent with more significant development.”; and

WHEREAS, in response to the initial petition of Mandalay, the Town produced a Concept Plan which represents the concepts and goals put forth in the Comprehensive Plan and more specifically in Policy 4-24 for the BMT and inclusive of the generalized uses proposed by Mandalay; and

WHEREAS, the Town Board determined that the proposed action should be confined to the change of zone of the Properties for the following reasons:

1. The Petition is consistent with and advances the goals and policies of the Comprehensive Plan, specifically but not limited to Policy 4-24 and as represented in the concept plan produced by the Town,
2. The concept plan does not represent a proposed project by any of the Petitioners, nor any of the surrounding parcels, and no physical changes are proposed by this action,
3. The future buildout of the BMT and individual projects that are accommodated and envisioned by the Comprehensive Plan, the current zoning of the surrounding parcels, and the proposed zoning of the Petition, are speculative in anticipated form, design, intensity, use, timing, and ownership, and
4. The Concept Plan sufficiently represents development that allows analysis to compare the relative impacts of land use and development of the existing zoning and the proposed zoning, and
5. The EAF analyzes the most intensive uses allowable under the proposed zoning as represented by the Concept Plan and analyzes other alternative uses allowed under other zones, and
6. The EAF considers the relative impacts of the proposed zone change on Land Use, Zoning , and Community character, Economic and Demographic Resources, Soils and Topography, Water, Ecology, Stormwater, Traffic, and Construction Related Effects, and

WHEREAS, based upon the foregoing findings this Town Board has demonstrated its review is “no less protective of the environment” as defined by §617.3(g)(1) of SEQRA. The SEQRA Handbook specifies that:

“Under certain circumstances, however, certain forms of segmentation may be reasonable. For example, if a landowner is seeking to rezone a parcel of land to conform the parcel to changing uses in the surrounding area, segmentation may be justified if the owner has no present plan to develop the parcel for a particular use. Nonetheless, the lead agency should conceptually review the potential impacts for the maximum development that could be realized on the rezoned parcel of land. In general, segmented review should be justified in writing and used sparingly.”; and

WHEREAS, the Town Board, having considered all of the evidence pursuant to the future development possible under the proposed zoning, makes the following determinations:

- a) The Petitioners are proposing zoning that is consistent with the vision set forth in the comprehensive plan and consistent with recent development and development approvals in the BMT that are physically altering the existing land use pattern as envisioned in the Comprehensive Plan; and
- b) The approval of the petition to rezone the subject parcels from R1-20 to R-3 and C-2R, does not commit the Planning Board, nor any other approving entities, to approve the plan put forth in support of the request, in either form or intensity; and
- c) The Town Board further determines as indicated in the foregoing, that the instant Application’s review and evaluation under the State Environmental Quality Review

Act can be segmented from future site plans and/or subdivision applications, and that a segmented review will be no less protective of the environment and thus the Town Board concludes that these actions constitute permissible segmentation under SEQRA; and

- d) a full site specific environmental review pursuant to SEQRA, will be undertaken for each property when submitted for site plan and/or subdivision approval and therefore separate review of the request for a zone change will result in no less protection of the environment; and

WHEREAS, by letter, dated November 23, 2015, the New York City Department of Environmental Protection (“NYCDEP”) recommended the Town Board adopt a Positive Declaration and direct the Petitioners to prepare a Draft Environmental Impact Statement because the proposed project has the potential to result in at least one significant adverse environmental impact would result from development of the BMT Rezoning Area based on the concept plan presented; and

WHEREAS, because the Proposed Action is solely the request for a Zoning Map change, the Town Board takes the comments of the NYCDEP under advisement and will seek to apply them to the full environmental review pursuant to SEQRA that will be required for approval of a site plan or subdivision; and

NOW THEREFORE BE IT RESOLVED, that the Town Board hereby declares itself lead agency, determines the action should be classified as a Type I Action in accordance with SEQRA; and

WHEREAS, the Town Board has undertaken a comprehensive review and consideration of all 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

WHEREAS, Mandalay has offered to construct a multi-use recreation facility of up to 12,000 sq. ft. to meet the recreation component and other community benefit requirements of the Town Code as discussed in the EAF; and

WHEREAS, to further meet the recreation component and other community benefit requirements of the Town Code, Mandalay has also offered to provide 2 prefabricated steel buildings approximately 120’x 80’ and 200’ x 60’ in size, and to erect the prefabricated steel buildings at a site determined during site plan review and upon a foundation prepared and constructed by the Town; and

WHEREAS, a letter of intent describing this offer, including plans of the prefabricated building, has been submitted to the Town Board and are on file in the Office of the Town Clerk; and

WHEREAS, the Town Board has determined that the recreation component and other community benefits required to be provided by the Petitioners, their successors, heirs, or assigns, are most appropriately determined in terms of exact configuration and location by the Town Board prior to future Site Plan Approval; and

WHEREAS, the Town Board has determined that Petitioners satisfactorily addressed all comments raised with regard to potential adverse impacts resulting from the Action; and

WHEREAS, in consultation with the Town Board’s legal counsel and Planning Staff it has considered, inter alia, the criteria pursuant to 6 N.Y.C.R.R. Section 617.7(c) and the potential for environmental significance as listed in the adopted Negative Declaration; and

NOW, THEREFORE, BE IT RESOLVED, that pursuant to SEQRA, the Town Board, as Lead Agency, has carefully considered the Action, and the criteria listed in 6 NYCRR Section 617.7(c), including the EAF, the Petition, and all supplemental materials submitted by the Applicant and public relating thereto, as well as comments from Interested Agencies, the Town Board hereby finds that the proposed Type I Action will not have a significant effect on the environment for the reasons enumerated in the attached Negative Declaration; and

BE IT FURTHER RESOLVED, that the Town Board has fully considered the Petition and adopts the following findings of fact:

1. The Applicant has, pursuant to SEQRA submitted a concept plan for the Properties that sets forth the most intensive development that may be practical and reasonable given the natural constraints of the Property. The Applicant's illustrative plans are understood to be conceptual, not an actual project, as Petitioners have not applied for site plan approval with respect to the plan, that any future development of the site will require site plan review and approval by the Town of Yorktown Planning Board and approvals from other regulatory agencies, and that additional environmental review is not precluded by this rezoning action; and
2. Under the most intense development scenario, the Concept Plan puts forth a development scheme of approximately 77,000 square feet of commercial space, plus approximately 12,000 square feet of recreational space on approximately 6.71 acres of C-2R property in the southern portion of the site, and 80 multi-family units on 16.9 acres of R-3 property in the northern portion of the site. The Concept Plan represents the maximum use intensity that the Properties will support and results in a density of approximately 30% coverage in the proposed C-2R commercial zone and approximately 6 units/acre in the proposed R-3 multi-family zone; and
3. The Expanded EAF provided the Town Board with sufficient probable build-out scenarios, under both the present R1-20 existing zoning and the proposed zoning, to conduct the requisite hard look under SEQRA; and
4. The rezoning of the Properties to R-3 and C-2R is consistent with the Comprehensive Plan, which recommends creation of a hamlet style village center with a mix of uses in the BMT area; and
5. Any future application for site plan and/or subdivision approval for property located within the Properties will be subject to a full environmental review by the Planning Board, pursuant to SEQRA; and
6. Any future application for site plan and/or subdivision approval for any of the Properties will be required to provide a detailed Traffic Impact Study and mitigate any potential adverse impacts by making improvements to the transportation network, including but not limited to, the dedication of additional right-of-way, the widening of Old Crompond Road, and other intersection improvements in the immediate area; and

BE IT FURTHER RESOLVED by the Town Board that the Petition for a Zoning Map Amendment rezoning from the R1-20 Zoning District to the C-2R and R-3 zoning districts is hereby approved as legally described in Exhibits A and B; and

BE IT FURTHER RESOLVED, that the Town Board shall adopt a local law amending the zoning and the Town's Zoning Map; and

BE IT FURTHER RESOLVED, that the Yorktown Planning Board, during subsequent site specific review of proposed development applications of the Properties, may adjust the maximum use intensity adopted herein, provided the Planning Board makes a finding that there are no significant adverse environmental impacts associated with such change, that the resultant development furthers and advances the goals and policies of the Comprehensive Plan, and that such findings are made in accordance with all applicable laws including but not limited to SEQRA; and

BE IT FURTHER RESOLVED, the Town Board accepts Mandalay's offer of the recreation facility and prefabricated steel buildings as the required recreation components and other community benefits and finds those components to be appropriate in size and scope to adequately meet the recreational needs imposed by the potential development on the Mandalay parcels; and

BE IT FURTHER RESOLVED, the Town Board has determined that the recreation components and other community benefits required to be provided by the Petitioners, their

successors, heirs, or assigns, are more appropriately determined in terms of exact configuration, location, design, siting, timing, and any other pertinent attributes thereto, during project specific site plan review and approval; and

BE IT FURTHER RESOLVED that final Site Plan approval by the Planning Board is subject to, and contingent upon, the Town Boards final approval of those recreation components and other community benefits; and

BE IT FURTHER RESOLVED that by virtue of the Town Boards' approval of the recreation components and other community benefits that all subsequent subdivision and site plan review conducted by the Planning Board for all of the subject Properties shall include the Town Board as an involved agency.

Grace, Bernard, Diana	Voting	Aye
Siegel	Voting	Nay
Patel	Abstained	

ADVERTISE PUBLIC HEARING - PROPOSED LOCAL LAW AMENDING THE ZONING MAP OF THE TOWN OF YORKTOWN RESOLUTION #493

Upon motion made by Supervisor Grace, seconded by Councilman Bernard,

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, New York 10598 on the 19th day of January, 2016 at 7:30 o'clock PM, or as soon thereafter as the same can be heard, to consider a proposed local law to amend Chapter 300 of the Code of the Town of Yorktown entitled "ZONING".

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:

Portions of the following lots on the Tax Map of the Town of Yorktown are rezoned from the R1-20 Zoning District to the C-2R and R-3 zoning districts:

- Section 26.18, Block 1, Lots 11, 12, 13, 14, 15, and 16 (±20.29acres);
- Section 26.18 Block 1 Lot 9 (±2.59 acres)
- Section 26.18 Block 1 Lot 10 (±0.73acres)

A copy of said proposed local law is on file in the office of the Town Clerk, at the said Town Hall, where the same may be inspected during regular office hours.

A copy can also be viewed on the Town Website at www.yorktownny.org.

All persons in interest and citizens will be heard at the public hearing to be held as aforesaid.

Grace, Patel, Siegel, Bernard, Patel	Voting	Aye
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Resolution adopted.

AUTHORIZE SUPERVISOR TO SIGN AN AGREEMENT WITH MICHAEL DUBOVSKY FOR ENVIRONMENTAL CONSULTANT SERVICES RESOLUTION #494

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

RESOLVED, that the Town Board authorizes the Town Supervisor to sign an Amendment to the Agreement dated October 26, 2011, with Michael Dubovsky at the hourly rate set forth in the Agreement, and to extend the term of the contract until December 31, 2017, at the pleasure of the Town Board, to provide professional environmental consulting services for the Town of Yorktown.

Grace, Patel, Siegel, Bernard, Diana	Voting	Aye
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Resolution adopted.

AUTHORIZE SUPERVISOR TO SIGN AN AGREEMENT WITH FREDERICK KOELSCH FOR GIS SERVICES
RESOLUTION #495

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

RESOLVED, that the Town Board authorizes the Town Supervisor to sign an Amendment to the Agreement dated March 16, 2010, with Frederick L. Koelsch at the hourly rate set forth in the Agreement, and to extend the term of the contract until December 31, 2017, at the pleasure of the Town Board, to provide professional GIS services for the Town of Yorktown.

Grace, Patel, Siegel, Bernard, Diana Voting Aye
Resolution adopted.

APPROVE PAYMENT TO WSP SELLS FOR BAPTIST CHURCH CULVERT REPLACEMENT PROJECT
RESOLUTION #496

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

RESOLVED, that the Town Board authorizes the remaining monies in the amount of \$5,402.96 that were initially approved for monthly inspections of the Baptist Church Road Culverts be utilized for a portion of the additional construction inspection services, AND BE IT FURTHER

RESOLVED, that the Town Board authorizes the Town Supervisor to sign an amendment to a Professional Services Agreement with WSP Sells for the Baptist Church Culvert Project for additional construction administration/inspection services in accordance with the attachment, AND, BE IT FURTHER

RESOLVED, that the above referenced agreement total additional fee not to exceed cost of \$22,934.82 to be funded from the Capital Projects budget for the Baptist Church project.

Grace, Patel, Siegel, Bernard, Diana Voting Aye
Resolution adopted.

NOISE ORDINANCE EXEMPTION FOR NEW YEAR'S EVE BALL DROP
RESOLUTION #497

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

RESOLVED, that the Town Board finds that the provisions of Section 216-2, which pertain to "unreasonable, unnecessary or excessive noise," are inapplicable to noise from municipally and civic sponsored celebrations or events pursuant to Section 216-2D(2).

Grace, Patel, Siegel, Bernard, Diana Voting Aye
Resolution adopted.

AUTHORIZE SUPERVISOR TO SIGN MATCHING GRANT AGREEMENT WITH HUDSON VALLEY GREENEWAY
RESOLUTION #498

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

WHEREAS, the Town of Yorktown Town Board authorized the Planning Department to apply to the Greenway Conservancy Trail Grant Program in 2015 for a trailway grant to fund the Yorktown Trailway from North County Trailway to the FDR Park; and

WHEREAS, the Town of Yorktown has received a Greenway Conservancy Trail Grant in the amount of \$7,500 to begin clearing the trailway; and

WHEREAS the grant program requires the Town to commit to a matching share of \$7,500; and

NOW THEREFORE BE IT RESOLVED that the Town Board authorizes the expenditure of \$7,500 for matching funds for the purpose of trail construction for the proposed trail connection from the North County Trailway to FDR Park and further authorizes the Supervisor of the Town of Yorktown to sign the grant agreement with the Hudson Valley Greenway Conservancy.

Grace, Patel, Siegel, Bernard, Diana Voting Aye
Resolution adopted.

APPOINTMENT

MAURA WEISSELEDER – DEPUTY TOWN CLERK

RESOLUTION #499

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

BE IT RESOLVED, that Maura Weissleder is hereby appointed to the office of Deputy Town Clerk effective January 18, 2016 at an annual salary of \$70,353.00, and

Be It Further Resolved, that the terms of Maura Weissleder's employment shall include the following:

- Shall be a full-time employee of the Town. The term full-time shall include at least seven hours per day, plus attendance at evening Town Board Meetings and Work Sessions and such off-hour meetings/events as determined by the Town Clerk.
- The term of Maura Weissleder's appointment as Deputy Town Clerk shall be at the pleasure of the Town Clerk.
- It shall not be a requirement of this appointment that the Deputy Town Clerk reside in the Town of Yorktown.
- Sick days, personal days, and floating holidays shall track the Department Head Agreement.
- Participation in medical/dental/vision benefits shall track the Department Head Agreement.
- Vacation entitlement is as follows:
 - First year through ninth year of employment: 20 days
 - Tenth year and beyond follows Department Head Agreement

Grace, Patel, Siegel, Bernard, Diana Voting Aye
Resolution adopted.

ADVERTISE ORGANIZATIONAL MEETING FOR JANUARY 5, 2015 AND CANCEL DECEMBER 31, TOWN BOARD MEETING

RESOLUTION #500

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

Resolved, that the Town Board of the Town of Yorktown will meet on January 5, 2016 at 6:45 P.M., for the purpose of conducting an organizational meeting as required by law. The meeting will take place at the Town Hall, 363 Underhill Avenue, Yorktown Heights, NY. 10598.

Further Resolved, that the Town Board meeting scheduled for December 31, 2015 is cancelled.

Grace, Patel, Siegel, Bernard, Diana Voting Aye
Resolution adopted.

AUTHORIZE SUPERVISOR TO SIGN CONTRACT WITH ARTHUR J. GALLAGHER & CO. FOR INSURANCE COVERAGE

RESOLUTION #501

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

Be it resolved that the Town Board authorizes the Supervisor to sign a contract with Arthur J Gallagher & Co for insurance coverage for the calendar year 2016. Total costs for property, equipment floater, equipment breakdown, general liability, automobile, umbrella, E&O

public officials, liability, law enforcement liability, workers comp, excess employers' liability and other-ocp premiums not to exceed \$765,000.

Grace, Patel, Siegel, Bernard, Diana Voting Aye
Resolution adopted.

ADJOURN

Upon motion made by Supervisor Grace, seconded by Councilman Bernard,
The Town Board Meeting was adjourned.

Diana L. Quast, Deputy Town Clerk
Town of Yorktown