

Meeting of the Town Board, Town of Yorktown held on Tuesday, December 20, 2022 held in Yorktown Heights, New York 10598.

Present: Matthew J. Slater, Supervisor
Thomas P. Diana, Councilman
Edward A. Lachterman, Councilman
Sergio Esposito, Councilman
Luciana Haughwout, Councilwoman

Also Present: Diana L. Quast, Town Clerk
Adam Rodriguez, Town Attorney

TOWN BOARD MEETING

Supervisor Matthew Slater called the meeting to order.

EXECUTIVE SESSION

Upon motion made by Councilman Lachterman, seconded by Councilman Esposito, the Town Board moved into Executive Session to discuss individual personnel matters and litigation and negotiations with the Town Attorney. Upon motion made by Councilman Esposito, seconded by Councilman Lachterman, the Town Board moved out of Executive Session and proceeded with the meeting.

Supervisor Slater and Deputy Supervisor Diana spoke of the transition that is taking place in the Supervisor’s office, as Supervisor Slater will be beginning his new elected position to the State Assembly on January 1, 2023.

PLEDGE OF ALLEGIANCE

Supervisor Slater’s son, Charlie, led the Pledge of Allegiance.

MOMENT OF SILENCE

Supervisor Slater asked for a moment of silence to remember all of our troops and first responders who keep us safe and who cannot be home for this holiday season.

INTRODUCTIONS

Deputy Supervisor Diana introduced himself and the Town Board members, as well as Town Clerk Diana Quast, and Town Attorney Adam Rodriguez.

ASSEMBLYMAN KEVIN BYRNE

Assemblyman Kevin Byrne said it was an honor to be able to be present at Supervisor Slater’s last Town Board Meeting as Town Supervisor, as well as the opportunity to serve the Town of Yorktown as their State Assembly Representative. Assemblyman Byrne is also transitioning to his newly elected position as Putnam County Executive on January 1, 2023. He spoke of what he and his staff were able to accomplish over the last six years. Assemblyman Byrne presented Supervisor Slater with a proclamation thanking him for his years of service to the Town of Yorktown and congratulations on his new post to the Assembly and his new post to the U.S. Navy.

DURING REPORTS FROM TOWN SUPERVISOR MATTHEW SLATER

Supervisor Slater reported on recent Town events and updates, including the following:

- thanked the Lakeland School District for their donation of 15 smart boards to the Town;
- Food Securities Task Force is running a Holiday Food Drive at Uncle Giuseppe’s to benefit our local food banks;
- new CVS across from BJ’s has received approval from the DEP and will proceed;
- thanked the Town Clerk for placing the Town Board Minutes on the website, as had been discussed at last week’s meeting;
- Congressman Mondaire Jones came to Yorktown last week to present the check for \$1.4 million for the Hallocks Mill Sewer District Extension project.

Supervisor Slater thanked his staff, Kyra Brunner and Jenna Belcastro, for all of their work over the last three years. He spoke of his term as the “opportunity of a lifetime.” He also thanked Town Attorney Adam Rodriguez for his phenomenal partnership and service to the Town. Supervisor Slater thanked the department heads and employees for their loyalty and dedication. He thanked

the CSEA for their leadership. He spoke of past Town leadership and what he has learned from them. He addressed the residents of the Town and said that Yorktown's best days are ahead. Supervisor Slater also thanked his family for their support.

Deputy Town Supervisor Diana said this is the best Town Board he has worked with so far and thanked Supervisor Slater for his support.

REPORTS FROM TOWN COUNCIL

Members of the Town Council reported on recent Town events and public service announcements.

Councilman Lachterman read a proclamation expressing appreciation for Supervisor Slater's leadership that also highlighted his achievements over the last 3 years.

Councilman Esposito and Supervisor Slater spoke about a streetscape project that is scheduled for Downing Drive that would possibly begin next summer. Councilman Esposito spoke about a project to raise \$5,000 for the Make-A-Wish Foundation that involves writing out a card to Santa Claus and dropping in the box in Town Hall. Macy's will donate \$2 for every card. Councilman Esposito introduced Isabel Sibiski, 10 years old, who is spearheading the project.

Councilman Esposito and Councilwoman Haughwout also expressed their appreciation for Supervisor's Slater support and guidance and that he will be missed.

Supervisor Slater's assistant, Jenna Belcastro, read a statement from the Highway Superintendent, Dave Paganelli, who was unable to attend the meeting expressing his thanks for his support.

Ms. Belcastro and Ms. Brunner presented Supervisor Slater with the completed plaques of Yorktown Town Supervisors, adding Supervisor Slater's name to the list.

Town Clerk Diana Quast said it was an honor for her to work with Supervisor Slater and wished him all the best.

CHIEF ROBERT NOBLE

Chief Noble expressed his thanks to Supervisor Slater and said that the Town was fortunate to have him. He wished him all the best in his new role in Albany.

JOHN C. HART MEMORIAL LIBRARY PRESENTATION

Yvonne Cech, Library Director, thanked Supervisor Slater for his support of the library. Ms. Cech did a presentation of future plans for the library that included:

- Goals
 - More robust programs
 - More digital outreach and community outreach
 - Update collection (in progress)
 - Update service area spaces

She said their fourth goal (update service area spaces) is what she wanted to discuss this evening. Ms. Cech gave the reasons for the need for these spaces due to the fact of the high number of patrons that visit the library. Updating service area spaces are a result of the number of requests the Library receives for private study rooms.

- Taking Action
 - Private Study Space
 - Expanded community room capacity
 - Updated furnishings and floors
 - Dedicated Teen Space
 - Dedicated quiet reading room for adults

Ms. Cech displayed floor plans for potential physical growth of the library that would allow more space for dedicated space.

GARDEN OF HOPE

The Yorktown Interfaith Organic Community Garden began the Garden of Hope many years ago and gives all of the food grown to local food pantries and families in need. The current director, Paul Silverman, said that the Garden of Hope is a microcosm of Yorktown and how partnering together has seen them through difficult times. He said that the Garden of Hope has brought together persons from all different walks of life through love. He said the heart of the Garden of Hope is Janet Morra, the master gardener, and he wanted to recognize her this evening. Janet spoke about how 2022 was a big inspiration because everyone wanted to get out of the house after COVID. She said that she trained about 48 volunteers. She spoke of her experiences working with the Town's support.

Deputy Supervisor Diana presented Certificates of Appreciation to Paul Silverman and Janet Morra for their service to the Garden of Hope.

POET LAUREATE

John McMullen, Poet Laureate, read an original poem, "Warm Feelings on a Cold, Rainy Night!" and "Democracy."

ACCEPT RETIREMENT RECEIVED FROM POLICE OFFICER ANGEL GARCIA FROM THE YORKTOWN POLICE DEPARTMENT RESOLUTION #550

Upon motion made by Supervisor Slater, seconded by Councilman Lachterman,

RESOLVED, that the Town Board accepts the retirement received from Police Officer Angel Garcia from the Yorktown Police Department with thanks for his many years of service to the Town effective December 21, 2022.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye
Resolution adopted.

APPOINT GINO G. ARGIRO TO THE POSITION OF POLICE OFFICER IN THE YORKTOWN POLICE DEPARTMENT RESOLUTION #551

Upon motion made by Supervisor Slater, seconded by Councilman Lachterman,

BE IT RESOLVED, that Gino G. Argiro of Yorktown Heights, New York is hereby appointed permanent Police Officer in the Town of Yorktown Police Department from Eligible List No. 60-194, effective December 30, 2022 to be paid the contractual salary of \$47,768.00 annually,

BE IT RESOLVED, that this appointment is subject to a probationary period of not less than 12 nor more than 78 weeks, commencing on the first date of appointment on December 30, 2022.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye
Resolution adopted.

PUBLIC HEARING - WETLAND PERMIT APPLICATION SUBMITTED BY HOMELAND TOWERS, LLC FOR THE PROPOSED CONSTRUCTION OF A TELECOMMUNICATIONS FACILITY

Deputy Supervisor Diana convened a public hearing to consider a wetland permit application submitted by Homeland Towers, LLC for the proposed construction of a telecommunications facility at Hill Boulevard, Jefferson Valley, NY.

Supervisor Slater said that the applicant has made the proposal before the Town Board previously and that this proposal is also part of the regional master plan that the Town engaged in with multiple communities in Westchester County.

Doug Warden, attorney for Homeland Towers, reviewed the project – a telecommunications monopole at Route 6 and Hill Boulevard on town-owned property. He said this has been before virtually all boards in the Town and has received consent from those boards. He spoke of the need for this facility, as it is a high traffic, high density growing area. Mr. Warden said they need a wetland permit in order to proceed.

Supervisor Slater said the project was referred out and he reviewed the responses received. He said the applicant also reviewed the comments and addressed any issues.

The following members of the public spoke:

Jay Kopstein, resident, read his comments that had been submitted earlier to the Board. He said that environmental impacts need to be considered and that it is the Town Board's responsibility to do so. He spoke about the need and use of cellular data for emergency response and the need for two onsite generators instead of one for each carrier, which is not in the interests of the environment.

Mr. Warden first noted that the project would go into the wetland buffer, not the wetland itself. He said that for redundancy purposes, each carrier needs its own generator for safety purposes. Klaus Wimmer, Homeland Towers, said each carrier has its own backup equipment, including battery backup. He said the generators are about 30 to 50 kilowatts.

Town Engineer Dan Ciarcia reviewed the bullet points on the Engineering Department's review.

- The flood plains - the Town would potentially be losing storage by losing flood plain. He said they are also asking that the lines from FEMA flood maps be shown on the plans.
- Increase in runoff from taking trees down and putting in a gravel road.
- Details for driveway and yard area
- Town permit is required.
- Erosion control – where they are planning to stockpile soil.

Councilman Esposito asked if the loss of storage is significant and Mr. Ciarcia said yes, but it could be calculated to be replaced in another area.

Jan Johannessen, project engineer from Kellard Sessions Consulting, addressed Mr. Ciarcia's comments and referred him to the grading plan that provided for a cut and fill calculation within the flood plain. He said that they have a net cut of 112 cubic yards and that they are providing more storage in the flood plain in the proposed condition than in the existing condition.

Deputy Supervisor Diana suggested they get together with Mr. Ciarcia to review the bullets from his latest memo in order to be able to move forward. Town Attorney Adam Rodrigues said that much of this could be addressed in the lease, which would be subject to all necessary approvals.

Supervisor Slater asked about the generators at the site. He asked if there is a requirement that requires each carrier to have their own generators or is it just a proposal. Mr. Wimmer said that typically each carrier likes to provide their own backup equipment. Supervisor Slater said that this is then a request from the carrier and not a legislative requirement.

Mr. Kopstein spoke about preventing a "down" from happening, so that emergency services can continue to operate. He said that if there are four generators then there are four oil tanks in the wetland buffer. He spoke about a continuity of operations plan for both the tower and the carriers, something the Town can mandate and review. He spoke about battery backup being affected by several issues.

Mr. Wimmer said each carrier has different equipment and power requirements. An area has been set aside at the site for four propane tanks – one for each carrier. Deputy Supervisor Diana said the redundancy of backup is something that has to be looked into.

A discussion ensued regarding the number of generators, the backup requirements for the carriers, etc.

John McMullen, resident, said that if there was a natural disaster and power was lost, and if each carrier has their own backup, this would not work for emergency responders who do not have accounts with the remaining operating carriers.

Town Engineer Dan Ciarcia said the site is proposed for propane and there is a natural gas line on Hill Boulevard. He said that if a future natural gas connection is shown on the plan, the applicant

would not have to go back to the DEC or the Town for a permit amendment. Natural gas would provide a more robust solution to a power outage.

Bob Giordano, resident, suggested having the four carriers come and do a presentation.

Mr. Warden said he felt the comments from the Engineering Department could be quickly addressed and requested that the Town Board close the public hearing for the wetland permit.

Deputy Supervisor Diana suggested adjourning the public hearing to give the applicant and the Town Engineer time to discuss the Town Engineer's memo.

All those present having been given the opportunity to be heard and there being no further discussion, the hearing was adjourned. Upon motion made by Deputy Supervisor Diana, seconded by Councilman Lachterman, and carried.

COURTESY OF THE FLOOR

The following members of the public spoke:

- Bob Giordano, resident, announced the Friends of Yorktown Parks & Recreation Second Annual Polar Bear Plunge to be held on January 7, 2023 from 9:00 to 11:00 A.M. at Sparkle Lake.
- Jay Kopstein, resident, said Supervisor Slater has a task before him when he gets to Albany as Assemblyman – Section 1174A of the Vehicle and Traffic Law has to be amended to allow school districts to install cameras on school buses in order to record the license plates of vehicles that pass stopped school buses. He asked Deputy Supervisor Diana to work on a local and/or county law to do the same.
- Dotty LaScala, president of Circolo da Vinci, thanked Supervisor Slater for his past support.
- Kevin Byrnes, resident and Chairman of the Yorktown Republican Party, thanked Supervisor Slater and wished him well as State Assemblyman.
- A resident thanked the Supervisor for his leadership and congratulated him on his election to State Assembly.
- Susan Siegel, resident, wished best luck to Supervisor Slater. Ms. Siegel raised the issue of transparency and the recent report she received as part of a FOIL request where four of the six pages were redacted. She displayed the pages. She said the Board has repeatedly said they were transparent. She explained her FOIL request and its denial due to attorney-client privilege, which she said did not apply because the outside attorney had already discussed the report in an open session. She appealed the denial and the redacted report was what she received. She said there was no legal justification for the redactions. Ms. Siegel said the public has no idea how the attorney conducted the investigation. She asked for the Town Board to comment on the redactions.
- Anthony Pichette, resident, thanked the Town Board for listening and being open to his suggestions. He asked about the speed limit reduction he raised previously, as well as roundabouts. Mr. Pichette asked about businesses coming to Town first versus attracting residents to come live here.
- Sarah Wilson, resident, thanked Supervisor Slater and the Town Board for their leadership in enacting a variety of climate smart measures during Supervisor Slater's term in office. She enumerated these measures.
- Ken Belfer, resident, Mohegan Lake Association, and Community Housing Board member, spoke about his experiences with Supervisor Slater regarding Mohegan Lake. He thanked him for his support over his tenure.
- John McMullen, resident, thanked Supervisor Slater for his service to the Town.

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

Town Board members addressed comments raised during Courtesy of the Floor, including the following:

- Town Attorney Adam Rodriguez addressed Ms. Siegel's issue with the redacted document. He said that the portions of Mr. Harrington's report (the attorney who did the

investigation) that was made public during an open session were not redacted but that does not mean that the remainder of the report is not still a privileged communication. He said that, in his view, the appeal was properly decided.

- Councilman Esposito addressed Mr. Pichette’s comments about which comes first – the businesses or new residents. He said that market studies showed that Yorktown did not pass; there was not enough traffic to warrant new businesses. He said that the Town has run into this issue many times. He said that we need to try to bring the people here in Town to shop here in Town and then we also need to bring in the businesses.
- Councilwoman Haughwout addressed Ms. Siegel’s issue. She said she believes that the Town Board is transparent and that the redacted copy of what she received is what she asked for. She said it is hurtful to think that she is being accused of using the word “transparency” as a cover.

Supervisor Slater thanked everyone who came up to give their well wishes.

AUTHORIZE SUPERVISOR TO ENTER INTO AN AMENDMENT TO THE AGREEMENT WITH LIMNOLOGY INFORMATION AND FRESHWATER ECOLOGY INC. FOR THE PROVISION OF AQUATIC PESTICIDE TREATMENTS
RESOLUTION #552

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

RESOLVED, the Supervisor is authorized to enter into an amendment to the agreement with Limnology Information and Freshwater Ecology Inc. for the provision of aquatic pesticide treatments for calendar year 2023 in an amount not to exceed \$45,250.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye
Resolution adopted.

AUTHORIZE SUPERVISOR TO EXECUTE AN AGREEMENT WITH THE LAW OFFICE OF INGRID E. O’SULLIVAN FOR LOCAL JUSTICE COURT PROSECUTION SERVICES
RESOLUTION #553

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

RESOLVED, the Supervisor is authorized to execute an agreement with the Law Office of Ingrid E. O’Sullivan for the provision of local justice court prosecution services for the 2023 calendar year.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye
Resolution adopted.

AUTHORIZE THE PARKS SUPERINTENDENT TO EXECUTE AN APPLICATION FOR THE TREES FOR TRIBS GRANT PROGRAM
RESOLUTION #554

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

RESOLVED, the Parks Superintendent is authorized to execute an application for the Trees for Tribs grant program, for the installation of trees at Willow Park.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye
Resolution adopted.

APPROVE REZONING OF 2040 CROMPOND ROAD A/K/A SECTION 37.14, PARCEL 2, LOT 32 ON THE TAX MAP OF THE TOWN OF YORKTOWN (WEYANT PROPERTY)
RESOLUTION #555

Upon motion made by Deputy Supervisor Diana, seconded by Councilman Esposito,

WHEREAS, John DeVito, (the “Applicant”) as contract vendee, petitioned the Town Board to rezone an approximately 2.62 acre parcel located at 2040 Crompond Road in the Town of Yorktown, also known as Section 37.14, Parcel 2, Lot 32 on the Tax Map of the Town of Yorktown (the “Property”) from the R1-10 residential district to the Transitional Zone special district as governed by Article VIII and Article XVII of the Yorktown Zoning Code, to facilitate the Property

to be used and developed for a multifamily residential use consisting of 23 units of townhouse style housing; and

WHEREAS, the Property is currently zoned R1-10, and is currently improved with a single-family residential structure which has been vacant for nearly a decade; and

WHEREAS, the Property is currently under the ownership of the applicant; and

WHEREAS, the Town Board held a duly noticed Public Hearing commencing on October 16, 2018 at the Town Hall, 363 Underhill Avenue in Yorktown Heights, New York, which was reconvened and closed on May 14, 2019; and

WHEREAS, the Applicants submitted as part of its application an Environmental Assessment Form dated April 14, 2017 evaluating the potential environmental impacts of the proposed action; and

WHEREAS, the Town Board circulated its intent to become lead agency; and

WHEREAS, receiving no objection or opposition to its intent to act as lead agency, the Town Board hereby declares itself lead agency for carrying out the procedural requirements of the SEQRA regulations; and

WHEREAS, the Town Board, using the information provided by the Applicants and comparing it with the thresholds set forth in Section 617.12 of SEQRA, classified the proposed action as unlisted; and

WHEREAS, the Town Board created the transitional zone designation specifically for residentially zoned properties that, have unique characteristics that make them difficult to develop under their zoning designation; and

WHEREAS, the transitional zoning designation considers the unique characteristics of these specific parcels and establishes uses, and area and bulk requirements to assure compatibility with the surrounding uses and character of the immediate neighborhood; and

WHEREAS, the Property abuts the Roma building, a commercial retail building, to its east, three single family residences to its north, Hamblyn Road to its west, and Crompond Road, also known as New York State Route 202/35 (“NYS Route 202/35”), to its south, across from which exists commercial retail property formerly known as the Cablevision site, and three single family residences; and

WHEREAS, the Applicant’s parcel qualifies as a targeted property for a transitional zoning designation as defined in Article XVII of the Town Code in that:

1. The Property Lies between two distinctly different zoning districts, R1-10 Single Family Residential and C-3 Commercial Limited, acts as a buffer between these two uses, and acts as a buffer between the major traffic thoroughfare of NYS Route 202/35 which is used by heavy trucks, commercial vehicles, and commuter traffic; and
2. The Applicant has sufficiently demonstrated that the present residential zoning of the Property as single family residential is not compatible with surrounding and nearby commercial uses and is not compatible with the environmental conditions present by virtue of the major traffic thoroughfare of NYS Route 202/35 upon which it fronts, and further that an alternative use would provide an appropriate buffer and transition to the adjacent single-family residential uses; and

WHEREAS, the Town Board referred the application to the involved boards and agencies and received and considered the following memoranda:

Planning Board
Conservation Board
ABACA
Town Engineer

and;

WHEREAS, pursuant to Article XVII, the Town Board hereby finds the following:

- i. The use of the subject Property is compatible with adjacent land uses and will not adversely affect the continued use of adjacent properties as presently zoned;
- ii. The use is compatible with the environmental constraints of the site;
- iii. The use of the subject site cannot be accommodated by the existing zoning; and
- iv. The subject site is not economically developable under the existing zoning designation; and therefore

BE IT HEREBY RESOLVED, that the Town Board pursuant to 6NYCRR §617.7 of the State Environmental Quality Review Act determines that there will be no adverse environmental impacts resulting from this action and therefore adopts a negative declaration pursuant thereto; and

BE IT FURTHER RESOLVED that the request for rezoning of the subject parcel to a transitional zone is hereby granted; and

The use, density, setback and area and bulk requirements for the subject site shall be as follows:

PERMITTED MAIN USES:

- 1. Multi-family housing
- 2. Accessory uses incidental to the main use.

PERMITTED ACCESSORY USES:

- 1. Permitted Accessory Uses in accordance with the provisions of § 300-21(C)(1)(c) and subject to the provisions of § 300-182.

SCHEDULE OF REGULATIONS

TRANSITIONAL ZONE BULK REGULATIONS

Lot area	2.62 ac
Lot width at front yard	394.21 ft
Front yard	26.0 ft at Hambllyn Street; 39.9 ft at Rte. 202
Side yard	30.7 ft
Rear yard	21.5 ft
Maximum height	35 ft main building 20 ft accessory building
Maximum coverage	23%
Off street parking	71 parking spaces

FURTHER RESOLVED, that no development shall be permitted except in accordance with a plan of development approved by the Town Board pursuant to the State Environmental Quality Review Act and Article VIII of the Yorktown Town Code and all other relevant laws.

Deputy Supervisor Diana	Voting Aye
Supervisor Slater	Voting Aye
Councilman Lachterman	Voting Aye
Councilman Esposito	Voting Aye
Councilwoman Haughwout	Voting Aye

Resolution Adopted.

APPROVE SITE PLAN FOR 2040 CROMPOND ROAD A/K/A SECTION 37.14, PARCEL 2, LOT 32 ON THE TAX MAP OF THE TOWN OF YORKTOWN (WEYANT PROPERTY) RESOLUTION #556

Upon motion made by Supervisor Slater, seconded by Councilman Lachterman,

WHEREAS, John DeVito, (the “Applicant”) as contract vendee, applied to the Town Board of the Town of Yorktown for site plan approval under Article XVII of the Town Code of the Town of Yorktown on Property located at 2040 Crompond Road in the Town of Yorktown, also known as Section 37.14, Parcel 2, Lot 32 on the Tax Map of the Town of Yorktown (the “Property”); and

WHEREAS, the subject site is a 2.62 acre parcel located at 2040 Crompond Road in the Yorktown Heights hamlet of the Town of Yorktown and is transitionally zoned; and

WHEREAS, the applicant submitted as part of his application the following site plan related drawings:

1. A drawing, titled " Interim Site Plan," Sheet C-101, prepared by Site Design Consultants, dated October 26, 2018, last revised March 21, 2022;
2. A drawing, titled “Post DOT Widening Site Plan,” Sheet C-102, prepared by Site Design Consultants, dated October 26, 2018, last revised March 21, 2022; and
3. A drawing, titled “Existing Conditions Plan,” Sheet C-103, prepared by Site Design Consultants, dated October 26, 2018, last revised March 21, 2022; and
4. A drawing, titled “E & SC Plan,” Sheet C-104, prepared by Site Design Consultants, dated October 26, 2018, last revised March 21, 2022; and
5. A drawing, titled “Improvement Plan,” Sheet C-105, prepared by Site Design Consultants, dated October 26, 2018, last revised March 21, 2022; and
6. A drawing, titled “Stormwater Plan,” Sheet C-106, prepared by Site Design Consultants, dated October 26, 2018, last revised March 21, 2022; and
7. A drawing, titled “Lighting Plan,” C-107, prepared by Site Design Consultants, dated October 26, 2018, last revised April 2, 2020; and
8. A drawing, titled “Landscape Plan,” Sheet C-108, prepared by Site Design Consultants, dated April 21, 2017, last revised April 29, 2019; and
9. A drawing, titled “Profiles,” Sheet C-301, prepared by Site Design Consultants, dated October 26, 2018, last revised March 21, 2022; and
10. A drawing, titled “Drainage Profiles” Sheet C-302, prepared by Site Design Consultants, dated October 26, 2018, last revised March 21, 2022; and
11. A drawing, titled “Notes,” Sheet G-1, prepared by Site Design Consultants, dated October 26, 2018, last revised March 21, 2022; and
12. A drawing, titled “E & SC Notes,” Sheet G-2, prepared by Site Design Consultants, dated October 26, 2018, last revised March 21, 2022; and
13. A drawing, titled “E & SC Details,” Sheet C-501, prepared by Site Design Consultants, dated October 26, 2018, last revised March 21, 2022; and
14. A drawing, titled “Site Details,” C-502, prepared by Site Design Consultants, dated October 26, 2018, last revised March 21, 2022; and
15. A drawing, titled “Drainage Details,” Sheet C-503, prepared by Site Design Consultants, dated October 26, 2018, last revised March 21, 2022; and
16. A drawing, titled “Stormwater Management Details,” Sheet C-504, prepared by Site Design Consultants, dated October 26, 2018, last revised September 24, 2021; and

17. A drawing, titled “Water Main Details,” Sheet C-505, prepared by Site Design Consultants, dated October 26, 2018, last revised March 21, 2022; and
18. A drawing, titled “Sanitary Sewer Details,” Sheet C-506, prepared by Site Design Consultants, dated October 26, 2018, last revised March 21, 2022; and
19. A drawing, titled “Downstream Defender Details,” Sheet C-507, prepared by Site Design Consultants, dated October 26, 2018, last revised March 21, 2022; and
20. A drawing, titled “Cistern Details,” Sheet C-508, prepared by Site Design Consultants, dated October 26, 2018, last revised September 24, 2021; and
21. A drawing, titled “Stormtech Details,” Sheet C-509, prepared by Site Design Consultants, dated October 26, 2018, last revised March 21, 2022; and

WHEREAS, the Applicants also submitted as part of its application an Environmental Assessment Form dated April 14, 2017 evaluating the potential environmental impacts of the proposed action; and

WHEREAS, the Town Board declared itself lead agency for carrying out the procedural requirements of the SEQRA regulations; and

WHEREAS, the Town Board, using the information provided by the applicant and comparing it with the thresholds set forth in Section 617.12 of SEQRA, classified the proposed action as unlisted; and

WHEREAS, the Town Board referred the application to the involved boards and agencies and received and considered the following memoranda:

Planning Board
Conservation Board
ABACA
Town Engineer

and;

WHEREAS, the Town Board held a duly noticed Public Hearing commencing on October 16, 2018 at the Town Hall, 363 Underhill Avenue in Yorktown Heights, New York, which was reconvened and closed on May 14, 2019; and

WHEREAS, the Town Board, based on the Applicant's submissions, comments received by the involved boards and agencies and the testimony received at the public hearings, issued a negative declaration pursuant to SEQRA §617.7 finding the proposed action would not significantly affect the environment; and

WHEREAS, the Applicant has filed a permit with New York state Department of Transportation (NYSDOT) to grant a curb cut onto NYS Route 202/35 in conformance with the plans enumerated herein; and

WHEREAS, due to the time constraints of the NYSDOT permitting process, the primary means of ingress/egress will be through the temporary use of the Hamblyn Street connection as indicated on the “Interim Site Plan” enumerated herein; and

WHEREAS, upon issuance of the NYSDOT permit to allow a permanent curb cut, the primary means of ingress/egress will move from Hamblyn Street to NYS Route 202/35 in accordance with “Post DOT Widening Plan” as shown and enumerated herein; and

WHEREAS, on November 15, 2022, the Town Board approved the Applicant’s verified petition to rezone the Property from R1-10 to the Transitional Zone; be it hereby

RESOLVED, that site plan approval is hereby granted for a multi-family housing use on the Property and that the Property shall be improved as per the latest revised drawings listed above and pursuant to the following amendments and conditions:

1. The primary use of the subject Property shall be limited to the uses cited above and as listed in the resolution granting approval for rezone of 2040 Crompond Road (the “Rezoning Resolution”);
2. The following bulk regulations, as established by the Town Board at the rezoning stage, shall be met by the proposed development as shown on the site plan drawings enumerated herein and as listed below:

Lot area	2.62 ac
Lot width at front yard	394.21 ft
Front yard	26.0 ft at Hamblyn Street; 39.9 ft at Rte. 202
Side yard	30.7 ft
Rear yard	21.5 ft
Maximum height	35 ft main building 20 ft accessory building
Maximum coverage	23%
Off street parking	71 parking spaces

3. Lighting shall be consistent with the lighting shown on the Site Plan;
4. Signage will be consistent in size and style with the recommendations of the sign ordinance manual and approved by the Town Board; and

BE IT THEREFORE RESOLVED, that no certificates of occupancy shall be issued until the site improvements shown on the improvement plans as modified, are completed by the applicant to the satisfaction of the Superintendent of Highway, Town Engineer and Town Board within one (1) year from the date of this resolution or alternatively:

The applicant post 5% of estimated cost of improvements in the form of cash or other security acceptable by the Town Board and additionally a performance bond for 95% of the estimated cost of improvements with the term of two (2) years, approved by the Town Board as to manner of execution, form and sufficiency to guarantee and assure full compliance by the applicant with all the terms, conditions, requirements and provisions as set forth in this resolution and for the following improvements roadways and parking areas; stormwater and drainage infrastructure; public sidewalk and walkways; landscaping; and other required installations as identified by the Town Board; and

BE IT FURTHER RESOLVED, that said bond should contain the provisions that when the principals have fully and properly completed all of the work and improvements as required by this resolution and the work has been accepted by the Town Board, after recommendation of the Highway Superintendent and the Town Engineer, and upon the request of the applicant the same be canceled in the manner provided for by law, and that said bond shall not be canceled or reduced to less than 5% of the estimated cost of improvements and that the bond so reduced and the deposit of cash surety remain in full force and effect to assure the satisfactory condition of said work and improvements until released by the Town at the request of the applicant. Such release shall be not earlier than one (1) year from the date of acceptance of the work and improvements, and

BE IT FURTHER RESOLVED, that the proposed main ingress/egress drive connecting to NYS Route 202 and subject to NYSDOT permitting shall require a separate cash bond to be posted by the applicant which represents the value of the work as shown on the plans enumerated herein, and that said bond shall not be canceled or reduced to less than 5% of the estimated cost of improvements and that the bond so reduced and the deposit of cash surety remain in full force and effect to assure the satisfactory condition of said work and improvements until released by the Town Board at the request of the applicant; and

Be it Further Resolved, that the improvements shown and represented on the “Post DOT Widening Plan” excluding the work related to the main ingress/egress point for the development,

shall require that the applicant post a cash bond representing the value of the work required by said plan and that said bond shall not be canceled or reduced to less than 5% of the estimated cost of improvements and that the bond so reduced and the deposit of cash surety remain in full force and effect to assure the satisfactory condition of said work and improvements until released by the Town at the request of the applicant or at the cessation of five years from the acceptance of the bond by the Town Board; and

BE IT FURTHER RESOLVED, that certificates of occupancy for each of the twenty-three units may be issued provided that the above bonds are secured by the Town and remain in full force and effect or until the improvements as shown on the "Post DOT Widening Plan" are constructed as required by the plans enumerated herein, and provided that all other site improvements as shown on the improvement plans and enumerated herein have been satisfactorily completed; and

FURTHER RESOLVED, the Applicant shall submit copies of the final approved site plan with required modifications for signature by the Town Supervisor and distribution to appropriate agencies; and

BE IT FURTHER RESOLVED, that unless a building permit is issued within 365 days of this approval, this resolution shall be null and void.

Supervisor Slater	Voting	Aye
Deputy Supervisor Diana	Voting	Aye
Councilman Lachterman	Voting	Aye
Councilman Esposito	Voting	Aye
Councilwoman Haughwout	Voting	Aye

Resolution Adopted.

Supervisor Slater asked Director of Planning, John Tegeder, to discuss a memo received from the Heritage Commission regarding unique versus landmarked buildings. Mr. Tegeder provided clarification.

APPROVE REQUEST FROM 1952 COMMERCE STREET, LLC TO APPLY THE STANDARDS OF THE YORKTOWN HEIGHTS OVERLAY DISTRICT PURSUANT TO CHAPTER 300, ARTICLE XXXI FOR THE GARDENA HOTEL PROPERTY RESOLUTION #557

Upon motion made by Supervisor Slater, seconded by Councilman Lachterman,

WHEREAS, Jack Xiao of 1952 Commerce Street, LLC (hereinafter the "Applicant") is owner of property located at 1952 Commerce Street and known on the tax map of the Town of Yorktown as Section 37.14, Block 2, Lot 54 (hereinafter the " Gardena Hotel Property"), Yorktown Heights, formerly Mulvey Real Estate office; and

WHEREAS, the Applicant has by letter dated September 22, 2022, requested authorization from the Town Board to apply the standards set forth in Article XXXI of the Yorktown Zoning Code in furtherance of a project to construct a boutique hotel on the property; and

WHEREAS, the Town Board 's consideration of the requested authorization to apply standards pursuant to Article XXXI is based on its intent to promote and encourage economic development, to stimulate growth and provide for revitalization, while utilizing smart-growth techniques capable of creating smarter, less wasteful, and more economically efficient development patterns that engender flexibility in land uses by providing a diverse array of mixed-use residential and commercial parcels; and

WHEREAS, the proposed project which is the basis of this request calls for the construction of 18 residential hotel units distributed among 3 floors, and accessed by 1 proposed driveway from Veterans Road ("Proposed Project "); and

WHEREAS, applying the standards set forth in Article XXXI affords the project flexibility in the application of the zoning code's bulk requirements with respect to building height, lot frontage, lot coverage, lot area, and minimum floor area, floor area ratio, open space requirements, side

yard requirements, front and rear yard requirements, maximum allowable coverage, parking regulations, unit density per acre, and off-street parking and loading spaces; and

WHEREAS, the applicant's request is a required step in obtaining the ability to apply Article XXXI as outlined in Section §300-251B of said Article which sets forth the procedure to request such authorization and the criteria by which the Town Board must consider the request;

WHEREAS, Section §300-251B requires the Town Board consider the following factors when considering authorizing a project to apply the standards set forth in Article XXXI:

- (a) Whether the project is consistent with the general goals of the Comprehensive Plan;
- (b) Whether the project will likely be detrimental to the character of its immediate neighboring properties, or the district and Town at large;
- (c) Whether the scope of the project will likely cause operational difficulties on the site that have potential to negatively affect the health, safety, and welfare of the public;
- (d) Whether the Town's infrastructure is capable of servicing the project or that the impacts or deficiencies of the infrastructure can be appropriately mitigated;
- (e) Whether the project will eliminate a blight or potential blight within the district;
- (f) Whether the project is consistent with the goals and intent of the overlay district;
- (g) Whether the project is consistent with the requirements of the overlay district and does not exceed the limitations or requirements set forth therein;
- (h) Whether the project is likely to contribute to the economic development of the district and the Town at large.

WHEREAS, the Town Board considered the request at its meeting of October 11, 2022, at which time the applicant presented information in favor of authorizing the use of Article XXXI; and

WHEREAS, the Town Board under Section §300-251B is empowered, in its discretion, to hold a public hearing and determined a public hearing was not necessary as the Board has publicly discussed the adoption of Article XXXI, the inclusion of the project in the boundaries of the district in which the Article may be applied, and the merits of the project at various meeting throughout 2022, and heard comments from the public, its professional staff, advisory boards, and other interested parties; and

WHEREAS, the Town Board considered all the factors as above enumerated and notes the following:

- a) The Yorktown Comprehensive Plan in Chapter 2, Land Use, recommends the use of overlay zones to protect resources and to help implement various land uses or mixes of land uses, and Chapter 4, Economic Development and Hamlet Business Centers recommends actions that strengthen economic viability of Yorktown and maintain economic strength by addressing trends in the market place and the development industry, and recommends promoting a mix of uses in the hamlets as set forth, inter alia, in Goals 4C, 4D, and 4E and 4F; and
- b) The project is located on Veterans Road and Commerce Street, main collector roads, abutting and across from commercial development at which the project proposes complementary, historically inspired architecture of the new structure; and
- c) The project proposes a mix of complementary uses associated with hotels such as café, lounge, and eating spaces, parking area with a connection to Veterans Road; and
- d) The Town's professional staff has stated that water and sewer capacity are available to handle the scope of the project, and the applicant has submitted plans and data that indicated that the road infrastructure is adequate to accept the traffic impacts of the project and that there is sufficient parking available in and around the project; and
- e) The goals of the Overlay district, Article XXXI, as stated herein seek promote mixed uses, promote residential development within and near the hamlets, promote economic development, and the project creates a hotel use which is not present within the Town and is identified in the Comprehensive plan as a desirable use, creating small scale commercial space, and creating pedestrian amenities and connections that promote walkability, health, and economic viability;
- f) The bulk requirements cited in Article XXXI support the project scope and physical characteristics and none have been shown to be exceeded; and

- g) The project will locate 18 units of hotel residential which places consumers within walking distance of the hamlet's businesses; and

WHEREAS, the application was referred to the Westchester County Planning Board under General Municipal Law § 239-m; and

WHEREAS, the Westchester County Planning Board responded to the referral, and noted that it was supportive of the Town Board authorizing the application to proceed to the Yorktown Planning Board for consideration under Article XXXI; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act ("S.E.Q.R.A."), this action is considered a Type II action under N.Y.C.R.R. Title 6, Section 617.5(c)(33), and (c)(34); and

WHEREAS, based on the entire record before the Town Board, the Town Board finds that the request to apply the standards of the Yorktown Heights Overlay District pursuant to Chapter 300, Article XXXI, Section §300-250 through Section §300-255 of the code of the Town of Yorktown to the Gardena Hotel Property will achieve the Town's objectives of the Comprehensive Plan and the preservation and enhancement of hamlet of Yorktown Heights, promote economic development, pedestrian connections and complete street initiatives, and high architectural design standards, and other areas of economic and social value; now therefore be it

RESOLVED, that the request by 1952 Commerce Street, LLC for authorization to apply the standards pursuant to Chapter 300, Article XXXI, Section §300-250 through Section §300-255, to the Proposed Project is granted; and

BE IT FURTHER RESOLVED, that the Proposed Project will require site plan approval by the Planning Board, and must comply with all applicable laws, including but not limited to the SEQRA; and

BE IT FURTHER RESOLVED, that the permission herein granted is subject to and contingent on the site plan being in substantial conformance with the Proposed Project as presented to the Town Board on the instant application.

Supervisor Slater	Voting	Aye
Deputy Supervisor Diana	Voting	Aye
Councilman Lachterman	Voting	Aye
Councilman Esposito	Voting	Aye
Councilwoman Haughwout	Voting	Aye

Resolution Adopted.

AUTHORIZE TOWN CLERK TO REFER OUT TO APPROPRIATE AGENCIES A PROPOSED LOCAL LAW TO AMEND CHAPTER 300, SECTION 39 (B) OF THE CODE OF THE TOWN OF YORKTOWN ENTITLED: "ZONING" AND SET PUBLIC HEARING RESOLUTION #558

Upon motion made by Supervisor Slater, seconded by Councilman Lachterman,

RESOLVED, that the Town Clerk is authorized to refer out to appropriate agencies a proposed local law to amend Chapter 300, Section 39 (B) by replacing the definition of Affordable Housing with: A Residential dwelling unit made available for sale or rent at a price established in conformance with the provision hereof, and

BE IT FURTHER RESOLVED, that the public hearing will be held on Tuesday, January 17, 2023.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye
Resolution adopted.

AUTHORIZE TOWN CLERK TO ADVERTISE A BID FOR LABORATORY SERVICES FOR THE WATER POLLUTION CONTROL PLANT RESOLUTION #559

Upon motion made by Supervisor Slater, seconded by Councilman Lachterman,

RESOLVED, that the Town Clerk is hereby authorized to advertise a bid for Laboratory Services for the Water Pollution Control Plant, Bid #22-11.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye
Resolution adopted.

AUTHORIZE COMPTROLLER TO RELEASE BONDS FOR STORMWATER PERMIT #FSWPPP-005-21 TO AMERICAN CUSTOM BUILDERS IN THE AMOUNT OF \$16,500.00 RESOLUTION #560

Upon motion made by Supervisor Slater, seconded by Councilman Lachterman,

WHEREAS, American Custom Builders, as applicant, posted check #1351 in the amount of \$1,500 to serve as the Erosion Control Bond which was deposited into the T33 account on November 22, 2021, and

WHEREAS, American Custom Builders, as applicant, posted check #1811 in the amount of \$15,000 to serve as the Landscape Performance Bond which was deposited to the T33 account on June 30, 2022 for Stormwater Permit #FSWPPP-005-21, and

WHEREAS, the applicant has requested his money be released as the site is now complete, and

WHEREAS, the Town Engineer has informed this Board that a representative of his department has inspected the property and determined that the work has been satisfactorily completed, and that the above referenced monies may be released, NOW, THEREFORE BE IT

RESOLVED, the above referenced bonds be released to American Custom Builders, P.O. Box 815, Yorktown Heights, NY 10598.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye
Resolution adopted.

AUTHORIZE COMPTROLLER TO RELEASE BONDS FOR WETLAND & STORMWATER PERMIT #WP-FSWPPP-004-21 TO MARCIA SAUNDERS IN THE AMOUNT OF \$2,500.00 RESOLUTION #561

Upon motion made by Supervisor Slater, seconded by Councilman Lachterman,

WHEREAS, Marcia Saunders, as applicant, posted check #1857 in the amount of \$2,500 to serve as the Performance Bond which was deposited to the T33 account on March 23, 2021 for Wetland & Stormwater Permit #WP-FSWPPP-004-21, and

WHEREAS, the applicant has requested her money be released as the site is now complete, and

WHEREAS, the Town Engineer has informed this Board that a representative of his department has inspected the property and determined that the work has been satisfactorily completed, and that the above referenced monies may be released,

NOW, THEREFORE BE IT RESOLVED, the above referenced bond be released to Marcia Saunders, 410 Illington Road, Ossining, NY 10562.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye
Resolution adopted.

AUTHORIZE THE SUPERVISOR TO SIGN AN AGREEMENT WITH THE TOWN'S INSURANCE BROKER, ARTHUR J GALLAGHER & COMPANY FOR 2023 RESOLUTION #562

Upon motion made by Supervisor Slater, seconded by Councilman Lachterman,

RESOLVED, the Supervisor is authorized to sign an agreement with The Town's insurance broker, Arthur J Gallagher & Company for 2023 Insurance coverage in an amount not to exceed \$1,144,925.24 as per their quote prepared 12/16/22.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye
Resolution adopted.

AUTHORIZE SUPERVISOR TO SIGN AN INTERMUNICIPAL AGREEMENT WITH WESTCHESTER COUNTY TO PARTICIPATE IN THE NEW YORK STATE FUNDED STOP-DWI DETAILS
RESOLUTION #563

Upon motion made by Supervisor Slater, seconded by Councilman Lachterman,

RESOLVED, that the Town Board authorizes the Supervisor to sign an Intermunicipal agreement with Westchester County to Participate in the New York State funded STOP-DWI Details (also known as High Visibility Enforcement Details) that will also involve DRE (Drug Recognition Experts for the period of October 1, 2022 through September 30, 2023, not to exceed \$10,000.00 per year. This is a Reimbursement Agreement to implement special enforcement details that will conduct high visibility road checks, saturation patrols, and drug recognition expert call outs.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye
Resolution adopted.

AUTHORIZE SUPERVISOR TO SIGN AGREEMENT WITH BARRETT CPA, P.C. FOR ACCOUNTING SERVICES IN CONNECTION WITH TOWN'S SECTION 8 PROGRAM
RESOLUTION #564

Upon motion made by Supervisor Slater, seconded by Councilman Lachterman,

RESOLVED, the Supervisor is authorized to enter into an agreement with BARRETT CPA, P.C. for the provision of accounting services in connection with the Town's administration of the Section 8 program for calendar years 2023 (in an amount of \$10,800.00) and 2024 (in an amount of \$11,100.00).

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye
Resolution adopted.

APPOINTMENT OF DAVID T. NIKISHER, LABORER, TO THE PARKS & RECREATION DEPARTMENT
RESOLUTION #565

Upon motion made by Supervisor Slater, seconded by Councilman Lachterman,

BE IT RESOLVED, that David T. Nikisher of Poughkeepsie, NY, is hereby appointed to the civil service title, Laborer, job class code 0425-05, to be paid from Yorktown CSEA Salary Schedule A, Group 5, Step 1 which is \$47,549.00 annually with benefits, such as, sick days, personal days, and floating holidays to follow the CSEA agreement,

BE IT RESOLVED, contingent upon successful completion of a drug test,

BE IT RESOLVED, that David T. Nikisher will report to work at the Parks & Recreation Department on January 3, 2023 and this date will be used as the first date of appointment;

BE IT FURTHER RESOLVED, that this appointment is subject to a probationary period of not less than 12 nor more than 52 weeks, commencing on the first date of appointment on January 3, 2023.

Slater, Diana, Esposito, Haughwout, Lachterman Voting Aye
Resolution adopted.

ADJOURN

Upon motion made by Deputy Supervisor Diana, seconded by Councilman Lachterman, the Town Board meeting was adjourned.

DIANA L. QUAIST, TOWN CLERK
MASTER MUNICIPAL CLERK
TOWN OF YORKTOWN