

**TOWN OF ORANGETOWN  
REGULAR TOWN BOARD MEETING  
WEDNESDAY, MARCH 7, 2012**

Note: Tonight's meeting is a bit unusual because it includes both a REGULAR TOWN BOARD MEETING ("RTBM") and a WORKSHOP meeting. The RTBM agenda includes: 1) the public hearing on the Orangeburg Commons special permit, and 2) appointments to the Town's land use boards. The Workshop agenda covers a variety of other topics in preparation for the RTBM on March 15.

This Town Board Meeting was opened, from the Police Commission Meeting, at 8:05 p.m. Supervisor Stewart presided and the Town Clerk called the Roll.

Present were: Councilman Thomas Diviny  
Councilman Thomas Morr  
Councilman Paul Valentine  
Absent: Councilman Denis Troy

Also present: Charlotte Madigan, Town Clerk  
Teresa Accetta-Pugh, Deputy Town Clerk  
John Edwards, Town Attorney  
Teresa Kenny, First Deputy Town Attorney  
Charles Richardson, Director of Finance  
James Dean, Superintendent of Highways  
Joseph Moran, Commissioner of DEME  
Robert Simon, Receiver of Taxes  
John Giardiello, Director of OBZPAE,  
Aric Gorton, Superintendent of Parks-Rec & Building Maint.

Charlotte Madigan led the Pledge of Allegiance to the Flag.

**RESOLUTION NO. 90**

**OPEN CONTINUE PH/AMEND  
SPECIAL PERMIT/ORANGEBURG  
COMMONS/FB ORANGETOWN  
LLC/170 ROUTE 303  
ORANGEBURG/74.15-1-21**

Councilman Valentine offered the following resolution, which was seconded by Councilman Diviny and was unanimously adopted:

RESOLVED, that the continuance of a public hearing to consider the application from FB Orangetown, LLC to amend a Special Permit previously approved by the Town Board, permitting mixed-use development of property located at 170 Route 303, Orangeburg (74.15-1-21) is hereby opened.

Ayes: Councilmen Valentine, Diviny, Morr  
Supervisor Stewart  
Noes: None  
Absent: Councilman Troy

Geraldine Tortorella, Applicant's Attorney, said a Negative Declaration was approved at the last meeting, they do not have any additional material to submit and other representatives for FB Orangetown, LLC, were available to answer any questions. In response to questions by the Town Board, she said residential area buffering is managed by enclosing the loading docks and dumpsters with screening and landscaping behind them. Stop and Shop's building design is their current prototype and if visual changes are needed, these will be addressed by the Planning Board and HAVOR.

Summary of Public Comments:

Eileen Larkin, Palisades, hopes the contaminated soil doesn't affect the Sparkill Creek and she is concerned about lighting from the signs affecting the Palisades Parkway.

Geraldine Tortorella reiterated that the contaminated soil will be excavated and spread out on the site and all of the soil will stay on the site. The soil will then be covered by pavement, buildings or a plastic lining with layers of clean soil or landscaping (capped). She said there is a soil plan to eliminate erosion. She explained that two different types of signs will be used, a sign affixed to a wall and a stand alone sign which will be located at Stevens Way and Route 303 and that the Palisades Parkway will not be affected by lights from these signs.

**RESOLUTION NO. 91**

**CLOSE PH/AMEND SPECIAL  
PERMIT/ORANGEBURG COMMONS  
FB ORANGETOWN LLC/170 ROUTE  
303 ORANGEBURG/74.15-1-21**

Councilman Valentine offered the following resolution, which was seconded by Councilman Diviny and was unanimously adopted:

RESOLVED, that the public portion is hereby closed.

Ayes: Councilmen Valentine, Diviny, Morr  
Supervisor Stewart  
Noes: None  
Absent: Councilman Troy

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**RESOLUTION NO. 92**

**ADOPTED/AMEND SPECIAL  
PERMIT/ORANGEBURG COMMONS  
FB ORANGETOWN LLC/170 ROUTE  
303 ORANGEBURG/74.15-1-21**

Councilman Valentine offered the following resolution, which was seconded by Councilman Diviny and was unanimously adopted:

**RESOLUTION OF THE TOWN BOARD OF THE TOWN OF ORANGETOWN  
GRANTING AMENDMENT OF A SPECIAL PERMIT GRANTED PURSUANT TO  
CHAPTER 43, § 4.32(O), AND THE RELATED TABLES OF GENERAL USE AND  
BULK AND AREA REGULATIONS, OF THE TOWN ZONING ORDINANCE FOR  
THE DEVELOPMENT OF THE ORANGEBURG COMMONS PROJECT AT THE  
ROUTE 303 / PALISADES INTERSTATE PARKWAY INTERCHANGE IN THE LIGHT  
INDUSTRIAL ZONING DISTRICT (TOWN OF ORANGETOWN TAX MAP  
DESIGNATION 74.15-1-21)**

WHEREAS, the Town Board of the Town of Orangetown (the "Town Board") is the municipal entity, authorized under Chapter 43, § 4.32(O), and the related tables of General Use and Bulk and Area regulations, of the Town Zoning Ordinance to issue a Special Permit allowing mixed use developments at certain interchange locations in the Light Industrial ("LI") zoning district in the Town of Orangetown; and

WHEREAS, on September 25, 2006, the Town of Orangetown Town Board issued a Special Permit (the "Special Permit") for the development of an approximately 15.8 acre site at the intersection of N.Y.S. Route 303 and the Palisades Interstate Parkway (Tax Map designation Section 74.15, Block 1, Lot 21) (the "Property"), with a mixture of economically viable and compatible non-residential uses planned as an integrated whole, consisting of the following: (1) two separate 4-story hotels (totaling approximately 160,000 square feet ["S.F."]), one being a residence inn designed to accommodate guests (including business guests) whose stays and needs may be longer and different than those of the typical hotel guest, and the other being a more typical hotel/motel; (2) food related uses, totaling approximately 15,000 S.F., inclusive of one stand-alone restaurant building (approximately 5,200 S.F.); (3) two buildings intended for retail use (totaling approximately 45,000 S.F. of retail space), one with drive thru access; and (4) a drive thru bank (approximately 3,700 S.F.) (commonly referred to as "Orangeburg Commons"); and

WHEREAS, approval of the architectural plans for the buildings in Orangeburg Commons was granted by the Town of Orangetown Architecture and Community Appearance Board of Review ("ACABOR") on December 5, 2006; Final Site Plan Approval for the mixed

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use development was granted by the Town of Orangetown Planning Board in February 2007 and amended on May 14, 2008; the Final Site Plan drawing set was approved for filing by the Planning Board Clerk on May 18, 2011 after all relevant conditions of approval had been met (the “Final Site Plan”); and all such approvals are still in effect; and

WHEREAS, on June 28, 2011, an application for amendment of such Special Permit (the “Amended Special Permit Application”) was filed with the Town Board by FB Orangetown LLC (the “Applicant”) to modify the mixture of uses to substitute a foodmarket for all of the approved retail and the majority of the approved restaurant uses and to modify the approved Concept Plan as follows: (i) to combine the two previously approved retail/restaurant buildings totaling approximately 55,120 S.F. into a single foodmarket building with a footprint of approximately 51,823 S.F. and floor area of approximately 54,614 S.F.; (ii) to relocate an approved bank building on the site to accommodate a shift in the internal road system for the project and the foodmarket parking field; (iii) to increase the footprint and number of rooms in the approved extended stay hotel by approximately 1,450 S.F. and 4 rooms, respectively; and (iv) to reconfigure associated improvements (e.g. internal road, parking, loading areas/docks, trash receptacles) to accommodate such changes, all as shown on that certain plan entitled “Amended Special Permit – Mixed Use Concept Plan with Foodmarket,” prepared by Leonard Jackson Associates, dated June 24, 2011, last revised December 22, 2011 (the “Amended Concept Plan”); and

WHEREAS, the Amended Special Permit Application and the Amended Concept Plan continue to depict the construction of the proposed improvements in two phases, with Phase I being the extended stay hotel, foodmarket, bank and restaurant and Phase II being the second, more traditional hotel; and

WHEREAS, on or about October 14, 2011, the Town Board circulated among all other involved and interested agencies notice of its intention to assume Lead Agency status for the purpose of the environmental review of the Amended Special Permit Application; and

WHEREAS, on or about October 14, 2011, the Town Board referred the Amended Special Permit Application to the Rockland County Department of Planning and Planning Board pursuant to General Municipal Law 239-1, 239-m and 239-n; and

WHEREAS, there being no challenge or objection filed to the Town Board’s status as Lead Agency by any other involved agency, on December 13, 2011, the Town Board declared itself Lead Agency for the coordinated environmental review of the Project; and

WHEREAS, the Town Board, acting both in its capacity as Lead Agency under SEQRA and in connection with its authority under the Town Zoning Ordinance to issue and amend Special Permits for mixed use developments, has considered the following plans, reports, comments and other documents:

- (1) A Full Environmental Assessment Form prepared by Stuart Turner & Associates and Fred Doneit consisting of:
  - a. Part 1 and Part 2, dated June 24, 2011 and revised October 13, 2011;
  - b. Expanded Part 3, dated June 24, 2011 and revised October 13, 2011 and the Appendices thereto, consisting of:
    1. Traffic Impact Study for Orangeburg Commons, prepared by John Collins Engineers, P.C., dated June 27, 2011;
    2. Letters from Marc S. Godick, LEP, of AKRF Engineering, P.C., FB Orangetown’s environmental and remediation consultant, dated April 12, 2011 and June 24, 2011, regarding the status of environmental approvals associated with the redevelopment of the property and its environmental clean-up and the effect of the Amended Concept Plan thereon;
    3. Site Photographs;
    4. Letter from Robert Torgersen, LA, CPESC, dated June 23, 2011 (with May 21, 2008 letter enclosure);

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5. Letter from Leonard Jackson Associates, dated June 24, 2011;
6. New York State Department of Environmental Conservation (“NYSDEC”) Notice of Renewal of Coverage under SPDES General Permit, dated February 26, 2010;
7. Plans:
  - “Amended Special Permit – Mixed Use Concept Plan with Foodmarket,” prepared by Leonard Jackson Associates, dated June 24, 2011;
  - “Overall Landscaping Plan for Orangeburg Commons,” prepared by Langan Engineering and Environmental Services, last revised June 24, 2011;
  - Proposed Foodmarket Rendering (Sheet A-5) and Stop & Shop Building Elevations (Sheet A-2), prepared by Rosenbaum Design Group, dated June 24, 2011;
  - Approved Site Development Plans for Orangeburg Commons, Approved for Filing by the Orangetown Planning Board on May 18, 2011, consisting of Drawings 1 through 17, Topographic Survey and Subsoil Investigations Results; and
  - Site Cross Section Location Plan (Drawing P-5) and Site/Building Cross Sections (Drawing P-2), prepared by Leonard Jackson Associates, dated June 24, 2011.
- (2) Plan entitled “Amended Special Permit – Mixed Use Concept Plan with Foodmarket,” prepared by Leonard Jackson Associates, dated June 24, 2011, last revised September 26, 2011;
- (3) Revised Full Environmental Assessment Form, Parts 1, 2 and Expanded Part 3, revised October 13, 2011;
- (4) Letter from Kevin T. Mulhearn, Esq. to Town of Orangetown Town Board, dated September 30, 2011, with Letter from Marriott International, Inc. to FB Orangetown, LLC, dated September 28, 2011;
- (5) Approved Site Plan for Hotel and Stop & Shop Development in the Village of Tarrytown, Westchester County, New York, submitted to the Town Board on October 4, 2011;
- (6) Town of Orangetown Project Review Committee Report, dated November 2, 2011;
- (7) Letter to Town of Orangetown Planning Board from the Town of Orangetown Department of Environmental Management and Engineering, dated November 4, 2011;
- (8) Memorandum to the Town of Orangetown Planning Board from John Giardiello, P.E., of the Town of Orangetown Office of Building, Zoning and Planning Administration and Enforcement, dated November 9, 2011 with respect to a Consultation on the Orangeburg Commons Amended Concept Plan;
- (9) Letter from Palisades Interstate Park Commission to the Orangetown Planning Board, dated November 22, 2011;
- (10) Memorandum from the Orangetown Planning Board to the Town Board, dated December 14, 2011;
- (11) Review of Orangeburg Commons Traffic Impact Study by Adler Consulting, dated December 16, 2011;
- (12) Communication from John Collins Engineers, P.C. to Teresa Kenny, Esq., dated January 10, 2012, responding to Adler Consulting’s Review;

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- (13) Plan entitled “Amended Special Permit – Mixed Use Concept Plan with Foodmarket,” prepared by Leonard Jackson Associates, dated June 24, 2011, last revised December 22, 2011;
- (14) Communications from the New York State Department of Transportation (“NYSDOT”), dated January 11, 2012 (Review Letter from Michael Sassi, P.E. to John Collins Engineers, P.C. and electronic mail communication from Mary Jo Russo to Town Attorney John Edwards, Esq.)
- (15) Communication from John Collins Engineers, P.C. to NYSDOT (Michael Sassi, P.E.), dated January 18, 2012;
- (16) Letter from Rockland County Planning Department to the Orangetown Town Board, dated January 20, 2012;
- (17) Stop & Shop Elevation Plan, prepared by WD Partners;
- (18) Truck Turning Analysis, prepared by Leonard Jackson Associates, dated November 8, 2011;
- (19) Comparison Chart of Approved Project with Amended Concept Plan last revised December 22, 2011; and
- (20) Negative Declaration adopted on September 26, 2006 and the documentation relied upon therein;

and,

WHEREAS, in making both this and its prior determination, the Town Board has also considered the following additional studies, reports and /or other assessments and reviews relating more generally to conditions in and about the area of the proposed development:

- Town of Orangetown Comprehensive Plan, adopted by the Town Board on May 12, 2003, and, in particular, Sections III-3 and V-I relative to the intersection area embraced by the proposed action;
- The Town’s existing Route 303 Overlay Zoning District zoning provisions;
- The Route 303 Sustainable Development Study, dated December 2002, prepared by Wilbur Smith Associates, for the Town of Orangetown, the New York State Department of Transportation, the County of Rockland, the New York Metropolitan Transportation Council; and
- PIPC Corridor Management Plan;

and,

WHEREAS, several duly noticed public hearing sessions also were conducted before the Town Board in connection with the Applicant’s Amended Special Permit Application, at which public comment was received and considered by the Board; and

WHEREAS, on February 16, 2012, after carefully considering all of the above referenced plans, reports, comments and other documents, and taking a hard look at all of the potential environmental impacts that might result from the proposed action, the Town Board adopted a Determination of Non-significance under the State Environmental Quality Review Act, concluding that there will be no significant environmental impacts or effects caused or occasioned by the issuance of the an Amended Special Permit or by the development of the Project at the subject interchange location in the manner shown on the Amended Concept Plan; and

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WHEREAS, the Applicant has affirmatively represented to the Board, at a public meeting, and the Board has relied upon such representation, that the economic viability of the Project is not dependent upon the development of the site area on which the second hotel (Phase 2) is shown, and that, in the event Applicant is unable to construct such hotel, it will not assert “economic hardship” as a basis for any application to further amend this Special Permit,

**NOW, THEREFORE, BE IT RESOLVED**, that, pursuant to Chapter 43 of the Zoning Ordinance, including § 4.32(O) and the related tables of General Use and Bulk and Area regulations in the Zoning Ordinance, the Town Board hereby issues an Amended Special Permit allowing modification of the previously issued Special Permit for Orangeburg Commons to permit the following mix of uses: (1) two separate 4-story hotels (totaling approximately 161,000 S.F.), one being a residence inn and the other being a more typical hotel/motel; (2) a food related use of approximately 5,200 S.F. in a freestanding restaurant building; (3) one building with a footprint of approximately 51,800 S.F. and gross floor area of approximately 54,700 S.F. for retail use as a foodmarket; and (4) a drive thru bank (approximately 3,700 S.F.), to be built in two phases as described above. This Amended Special Permit is subject to the terms and conditions set forth herein, **with the further clarification that, except as otherwise expressly set forth herein, the grant of this Amended Special Permit is not intended to, nor shall it be construed as, approving the site specific details of the modifications to the development that appear on the proposed Amended Concept Plan reviewed by this Board for purposes of the issuance of this Amended Special Permit.**

**I.****Findings and Conditions**

- (1) The within Amended Special Permit is granted for the integrated development of the Property with the types of uses, and generally in the manner, shown on the Applicant’s proposed Amended Concept Plan, dated June 24, 2011, last revision December 22, 2011 (hereinafter referenced). The Town Board adopts the said Plan as the “Amended Concept Plan” for purposes of the issuance of this Amended Special Permit, subject to the caveat hereinbefore set forth that the Town Board’s use of the proposed Amended Concept Plan, prepared pursuant to § 4.32(O) as the basis for the Amended Special Permit Application, unless otherwise expressly stated, is not intended to, nor shall it be construed as, approving the site specific details of the development that appear thereon other than the specified uses, the sizes, locations and configurations of the buildings, the points of access on Stevens Way and Greenbush Road, the size and location of buffers, the size of the pylon sign structure and the location of the stormwater basin along the Property’s frontage on Route 303.

Notwithstanding this caveat, the Town Board recognizes that the Amended Concept Plan is based upon and incorporates many of the elements of the Final Site Plan approved by the Planning Board. Nothing in this Resolution is intended to invalidate or annul the Planning Board’s prior approval of such elements unless specifically set forth herein, with the further understanding that, to the extent, the Planning Board, in the exercise of its site plan responsibilities, is required to modify one or more of those previously approved elements by reason of the nature and/or extent of changes approved by this Amended Special Permit, it may make such modifications or changes as required.

- (2) Any change in the uses proposed for the site, now or in the future, shall require that the Applicant or any successor in title or interest to the Applicant return to the Town Board at which time the Town shall determine whether the new use or uses is consistent with the single, integrated plan of the development approved by the issuance of this Amended Special Permit. The present uses approved hereby consist of:
- two separate 4-story hotels (totaling approximately 161,000 S.F.), one being a residence inn designed to accommodate guests (including business guests) whose stays and needs may be longer and different than those of the typical hotel guest, and the other being a more typical hotel/motel;

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- one building with a footprint of approximately 51,800 S.F. and total square footage of approximately 54,700 S.F. for a foodmarket;
- a food related use in a freestanding building of approximately 5,200 S.F.; and
- a bank with drive thru of approximately 3,700 S.F.

(hereinafter sometimes collectively referred to as the “Amended Project”).

- (3) Any approved Amended Site Plan for the Amended Project shall include the vegetated and landscaped buffers adjacent to and along the property of the Palisades Interstate Park Commission (“PIPC”) at the distances shown on the Amended Concept Plan, which areas shall be maintained by the Applicant or any successor in title or interest to the Applicant to ensure the least possible visibility of the development from the Palisades Interstate Parkway.

If permitted by the PIPC, the Applicant shall provide further screening in the nature of 14-18 foot high native evergreen trees, or otherwise as shall be acceptable to the PIPC, at the southwest corner area of the site on the property of the PIPC.

There shall be no removal of any tree, bush or other growth in or any disturbance to the PIPC buffer except as otherwise approved by the Town Planning Board. A restrictive covenant shall be filed and recorded against the Property reciting this requirement.

- (4) Any approved Amended Site Plan shall continue to comply with the requirements of §§ 4.32(O) (vi), 4.23(c), and 13.10(B)(4) of the Town Zoning Ordinance with respect to signage.
- (5) The Town Planning Board may, in its discretion, consider the Rockland County Planning Department’s recommendations and comments regarding the proposed development, set forth in its January 20, 2012 letter to the Town Board, as part of the Planning Board’s review of an Amended Site Plan, except those recommendations, conditions and comments expressly overridden herein.
- (6) The Applicant or any successor in title or interest thereto shall comply with the terms, conditions, requirements and recommendations of the NYSDOT as set forth in and clarified by: (i) the letter from the NYSDOT (Michael Sassi, P.E.) to the Applicant’s Traffic Engineer, John Collins Engineers, P.C. (“Collins”), dated January 11, 2012; and (ii) the communication from John Collins Engineers, P.C. to the NYSDOT (Michael Sassi, P.E.) dated January 18, 2012. The Applicant shall further comply with additional traffic mitigation proposed by the Applicant and/or identified in the Negative Declaration adopted on February 16, 2012, including as follows: (a) the installation of a traffic signal on Stevens Way at the intersection of the site access/Lowe’s access and interconnection of that signal with the one at NYS Route 303/Stevens Way; (b) monitoring of the Highview Avenue/Western Highway Intersection for potential signalization after the development is fully occupied for 6 months, subject to additional monitoring 12 months after full occupancy should signalization not be found warranted after the first monitoring effort is performed; and (c) subject to the approval of the NYSDOT, implementation of signal timing measures to maximize the efficiency of area intersections.
- (7) The Applicant or any successor in title or interest thereto shall comply with the provisions of the Remedial Work Plan, approved and required by the NYSDEC including amendments, if any, thereto, the Notice of Intent (“NOI”) and Stormwater Pollution Prevention Plan (“SWPPP”) approved by the NYSDEC for coverage under the SPDES General Permit, the New York State Department of Labor (“NYSDOL”) Variance, issued on January 26, 2012, as well as any other requirements of the N.Y.S. Department of Health and/or any other Federal, State or local agency having jurisdiction over the required clean-up and/or construction of the Amended Project.

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- (8) In compliance with § 4.31 of the Zoning Ordinance of the Town, this Amended Special Permit shall not be effective unless and until the proposed drainage structures and plans shall be approved by the Town Engineer or the Town consulting engineers, at the request of the Town Engineer. In the event it shall be determined by the Town Engineer that it is not practical to install the permanent drainage facilities prior to the completion of all, or any part, of the work comprising the Amended Project, the Applicant or its successor in title or interest shall provide temporary drainage structures, satisfactory to the Town Engineer, sufficient to protect all surrounding properties from flooding hazards during construction. The permanent improvements, thereafter, shall be installed promptly upon notice by the Town Engineer that it is practicable, in his sole judgment and discretion, to do so.
- (9) No Building Permit shall be issued for the development of the Property until such time as the NYSDEC and/or any other agency having jurisdiction over the environmental remediation of the Property shall have approved the site for actual construction in accordance with an approved Remedial Work Plan that is consistent with an Amended Site Plan approved for the Amended Project.
- (10) No Certificate of Occupancy shall be issued:
- (i) for the supermarket building unless and until the Phase 1 hotel building shall have been substantially completed as reasonably determined by the Director of the Office of Building, Zoning, Planning, Administration & Enforcement, or reasonable financial security has been posted with the Town of Orangetown to assure substantial completion of those items not yet substantially complete; or
  - (ii) for the Phase 1 hotel unless and until the supermarket building shall have been substantially completed, as reasonably determined by the Director of the Office of Building, Zoning, Planning, Administration & Enforcement, or reasonable financial security has been posted with the Town of Orangetown to assure substantial completion of those items not yet substantially complete.
- In the case of the supermarket building, the phrase “substantially completed”, as used herein, shall mean that the foundation and all exterior walls for such building, shall have been constructed.
- In the case of the hotel building, the phrase “substantially completed”, as used herein, shall mean: (i) substantial completion of (a) the environmental site remediation, (b) the cut and fill work required to establish the subgrade, (c) sewer, water, other utility and drainage improvements, including the stormwater basin, and (d) site lighting; (ii) completion of the foundation for the hotel; (iii) commencement of vertical construction of the hotel building; and (iv) installation of the traffic signal at the entrance drive and Stevens Way.
- (11) This Special Permit is further conditioned on the grant of Amended Site Plan Approval by the Town Planning Board.

**II.****Additional Findings Made Pursuant to § 4.32(O) of the Town Zoning Ordinance.**

Pursuant to § 4.32(O) (iv) of the Town Zoning Ordinance, the Town Board makes the following additional Findings, and/or imposes the following additional conditions on the issuance of the within Amended Special Permit:

- (1) The Board determines, in accordance with § 4.32(O)(iv)(b) of the Town Zoning Ordinance, that the total gross floor area that may be developed for all retail uses, personal service establishments, and/or restaurants upon completion shall not exceed 30% of the total gross floor area to be developed in the Amended Project. If built in



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phases, not more than 45% of the development may consist of retail, personal service and/or restaurant uses during any initial phase of development. Provided further that no Building Permits and/or Certificates of Occupancy shall be issued for any of the mixed uses, unless compliance with the percentages referenced herein and at subparagraph (2) below shall be met.

- (2) Except as otherwise set forth herein, in accordance with § 4.32(O)(iv)(b) of the Town Zoning Ordinance the Town Board hereby determines that the maximum amounts of retail, personal service and restaurant uses that may be developed as part of the subject mixed use development are as follows:

<u>Use</u>	<u>Maximum Permitted Amount of Use(s)</u>
Retail (Foodmarket)	54,700 S.F.
Retail (Bank)	3,700 S.F.
Restaurant	5,200 S.F.

The Town Board acknowledges and recognizes that the footprints for the bank and restaurant buildings shown on the Amended Concept Plan are generic inasmuch as tenants for those spaces have not yet been secured, and that the footprints for the uses may change slightly once tenants are identified. The Town Board determines that minor increases in the square footages of the maximum floor areas for the uses set forth above, of up to ten percent (10%), are acceptable and that the “Maximum Permitted Amount of Use(s)” set forth above shall be increased by such amounts without the need for the Applicant to further amend the Amended Special Permit, provided the percentage and development limitations set forth at ¶ II(1) above are met.

**III.****Additional Findings Made Pursuant to § 4.31 of the Town Zoning Ordinance**

Pursuant to § 4.32(O)(xi) of the Town Zoning Ordinance, on the basis of the information set forth in the Amended Special Permit Application and the analyses, reviews and reports of the Town’s in-house and outside consulting professionals, the Town Board makes the following additional Findings under § 4.31 of the Town Zoning Ordinance:

- (1) The Amended Project will continue to be appropriately located with respect to transportation, water supply, waste disposal, fire and police protection and other public facilities.
- (2) The Amended Project will not cause undue traffic congestion or cause a traffic hazard.
- (3) The Amended Project will not create, at any point of determination set forth in §§ 4.16, 4.17 or 4.18, any more dangerous and objectionable elements referred to in § 4.11 (fire, explosive, radioactive, noise, vibration, smoke, dust, odor or other form of air pollution, electrical or other disturbance, glare, liquid or solid refuse or waste, condition conducive to the breeding of rodents, insects or other substance, condition or element adversely affecting the surrounding area) than is characteristic of the uses expressly permitted as of right in the LI district.
- (4) The Amended Project will not adversely affect the character of, or property values in, the area.
- (5) The Amended Project will not otherwise impair the public health, safety, morals, convenience, comfort, prosperity and other aspects of the general welfare of the Town.
- (6) The Amended Project will continue to comply with all other regulations applicable to the uses allowed and approved hereby.

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Open Detention Basin in the Front Yard.**

Pursuant to § 4.32(O)(v), the Town Board re-affirms its previous finding, on the basis of site information provided by the Applicant, and reviewed by the Town's consulting engineer and Town Department of Environmental Management and Engineering, that site engineering conditions warrant the placement of an open detention basin in the front yard, and the Town Board, by this Amended Special Permit, confirms and readopts its prior authorization for the basin in that location. The basin shall be developed and landscaped in a manner substantially in accordance with an Amended Site Plan Approval to be issued by the Planning Board in order to ensure that the said basin is both functional and visually attractive given its location.

**V.****The Rockland County Planning Department's Comments and Conditions**

The Town Board has received, and has considered, the General Municipal Law § 239 l, m and n review submitted by the Rockland County Department of Planning dated January 20, 2012. The Town Board has considered each of the County's recommendations, conditions and/or concerns and addresses each in the following manner.

**A. Traffic Circulation**

**County Comment 1** relates to the County's proposal to make Highview Avenue one-way eastbound in furtherance of a plan for a quiet zone and to address local traffic safety issues in the area of Highview Avenue and Western Highway. The County recommends that the Traffic Impact Study prepared by John Collins Engineers, P.C. be revised to reflect the County's possible one-way plan for Highview Avenue and to reflect the Applicant's participation in the costs of implementing such planning efforts.

Collins addressed the impact of the potential one-way change to Highview Avenue during the proceedings before the Town Board, and the Town's traffic consultant, Adler Consulting ("Adler"), concurred with its findings that the Project's potential traffic impacts would not be materially different if Highview Avenue is ultimately made one-way eastbound. The NYSDOT requested the Applicant's assistance with studying the ramifications of making Highview Avenue one-way and, in response, the Applicant agreed to perform a study of the possible change as part of its Highway Permit Application. Adler concurred with the timing of such a study.

To the extent the County recommends that the Amended Special Permit be conditioned upon revision of the Traffic Impact Study in the manner described above, the Town Board overrides the referenced condition in connection with the issuance of the Amended Special Permit.

**County Comment 2** relates to the relocation of the Bus Stop currently approved on the Final Site Plan on Stevens Way, to a location in front of Orangeburg Commons on Route 303, and the installation of a related pedestrian signal for a crosswalk over Route 303 at Stevens Way.

At the public hearing, members of the public and Town Board members disagreed strongly with the County's recommendation that the Bus Stop be relocated to Route 303. Therefore, the Town Board overrides the recommendation and condition.

**County Comments 3, 4, 5, 6 and 7** relate to the construction, location and orientation of pedestrian crosswalks, sidewalks and signals, the installation of appropriate pedestrian crosswalk markings, and the inclusion of a bike rack in the Orangeburg Commons Amended Project.

The Town Board concludes that the proposed Amended Concept Plan before the Town Board is sufficient for Amended Special Permit purposes. Indeed, the Amended Concept Plan includes some of the recommended measures and Collins addressed the Applicant's willingness to implement others of them. To the extent it may be appropriate to add, or provide greater detail

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on, sidewalks and/or other pedestrian amenities on site, or to relocate such amenities as presently may be shown on the Applicant's Amended Concept Plan, the Town Board defers to the Planning Board on those issues and invites it to consider them in the course of the Amended Site Plan Approval process. County Comments 3, 4, 5, 6 and 7 are overridden insofar as they require changes to the Amended Concept Plan before issuance of the Amended Special Permit or the inclusion of specific measures on an Amended Site Plan.

**County Comment 8** relates to the absence of a sidewalk along the Property's frontage on Route 303, from Orangeburg Commons south through the Palisades Interstate Parkway ("PIP") parcel to properties further south along Route 303.

As acknowledged by the County, in a Memorandum dated May 20, 2008, the Town Highway Superintendent determined that such sidewalk should not be installed for public safety reasons. At the request of the NYSDOT, the Applicant has agreed to install other Pedestrian Signal Heads/crosswalks/sidewalk improvements at the intersection of Route 303/340 in lieu of the sidewalk along the Property's Route 303 frontage, which the Town Board favors. Therefore, to the extent County Comment 8 recommends that the sidewalk along the Property's frontage be reconsidered as part of the Amended Special Permit or Amended Site Plan review processes, the Town Board has reconsidered same and affirmatively overrides such condition.

**County Comment 9** recommends that consideration be given to providing a minimum 50-space park and ride lot near Route 303. The Town Board has considered the item and, therefore, the condition has been satisfied without the necessity to override it. The Town Board observes that it will not impose the requirement for a park and ride on the Property and that unless the Applicant offers to construct one, none will be required. No such offer has been made.

**B. Protection of the  
Palisades Interstate Parkway**

**County Comment (unnumbered)** relates to the provision of a landscaped berm or elevated, planted wall on the Property's south side to buffer visual impacts of the project from the PIP. With respect to the nature of landscaping to be provided to buffer visual impacts for persons traveling on the PIP, such an item is a site specific detail to be addressed by the Planning Board. To the extent the County's comment requires a specific form of visual buffer, the Town Board overrides the condition.

**C. Landscape Plans**

**County Comments 1, 2, 3, 4 and 5** relate to the use of the 25-foot vegetated buffer along Route 303 (including for the stormwater basin) and the inclusion of a note on the Amended Concept Plan to specify such use, the adequacy of the use of evergreen plants along all boundaries, the adequacy of screening and landscaping of the stormwater basin and whether a berm will be used and where, and the visual impact of the proposed retaining walls and the landscaping thereof.

The Amended Concept Plan before the Town Board shows the required 25-foot buffer and the stormwater basin within it, which this Board has expressly authorized on the basis of documented site engineering conditions. With respect to the adequacy and nature of the landscaping to be included within that buffer and elsewhere on the site including on retaining walls, such items are site specific details to be further addressed by the Planning Board in connection with the Amended Site Plan review. To the extent the County's Comments require revision of the Amended Concept Plan and/or the inclusion of specific treatments on an Amended Site Plan, the Town Board overrides them.

**D. Site Planning Issues**

**County Comment 1** requires that the phasing line in the vicinity of the future 119-room hotel to be developed in Phase II be modified on the Amended Concept Plan to delineate such phasing line at the curb of the hotel.

**Resolution No. 92 - Continued**

The Town Board defers to the Planning Board to determine whether the phasing line for the Phase II hotel is delineated appropriately and, to the extent the County Comment requires modification of the Amended Concept Plan before issuance of the Amended Special Permit or a specific delineation on the Amended Site Plan, the Town Board overrides the condition.

**County Comment 2** requires there “be no net increase in storm water runoff from the site at all design points.”

The Town Board defers to the Planning Board and the Town’s Department of Environmental Management and Engineering to confirm the continued adequacy of the stormwater management plan for the Amended Project. The Town Board understands that the governing standard to be applied requires, in general terms, that there be no net increase in the rate of runoff from the Project Site in the post-development condition. To the extent the County’s Comment purports to impose or apply a different standard, the Town Board overrides the condition.

**County Comment 3** requires that prior to any grading or construction on the Property, a soil and erosion control plan be developed that meets New York State’s latest guidelines and standards. The Town Board notes that the Applicant has approval of its NOI and coverage under the SPDES General Permit from the NYSDEC. In any event, the requirement is a standard condition in the Town. Therefore, no override is required.

**E. Sign Design**

**County Comment (unnumbered)** recommends that the pylon sign be reduced in size and that the signage permitted be limited to that which is permitted under the Town Code.

The proposed pylon sign structure is the same size (height and width) as the pylon sign structure previously approved by ACABOR and the Planning Board. Therefore, the size of the pylon sign structure is hereby reaffirmed as acceptable. Provided the pylon sign continues to comply with the provisions of the Town Zoning Ordinance, the County’s Comment is hereby overridden. The foregoing notwithstanding, the Town Board defers to the Planning Board and ACABOR to review the pylon sign panels and determine their compliance with the Town Zoning Ordinance.

**F. Sewer Easements**

**County Comment (unnumbered)** relates to including the location of existing and proposed sewer line easements on layout and landscape plans. The Applicant shall comply with this requirement and include the information on the Amended Site Plan drawings.

**G. Agency Reviews**

**County Comments 1, 2, 3, 4, 5, 6 and 7** relate to having the Applicant comply with the comments/reviews and permitting processes of other agencies, in particular the NYSDOT, the Rockland County Highway Department, Rockland County Drainage Agency, and the NYSDEC, in connection with the proposed modifications and/or if a future subdivision of the Property is desired. The Comments further identify the types of plans and specifications required in connection with such applications and/or the requirements that may need to be met. The Applicant shall comply with the referenced conditions to the extent, and only to the extent, such other agencies have permitting authority or other jurisdiction over the Amended Project. However, nothing in this finding shall be construed to create jurisdiction in such agencies if jurisdiction does not otherwise exist or require compliance with standards or requirements that otherwise are not applicable.

Ayes: Councilmen Valentine, Diviny, Morr  
Supervisor Stewart  
Noes: None  
Absent: Councilman Troy

\* \* \*

**Summary of Public Comments (RTBM):**

Eileen Larkin, Palisades, is opposed to United Water constructing a desalinization plant and she suggested the Town Board take a stand by doing a memorializing resolution. She believes Hi-Tor Animal Shelter should stay operational and in better condition for the animals.

Genevieve Coffey, Pearl River, is against a ban on leaf blowers, but is in favor of restricted hours. She is opposed to any new job positions.

Mike Mandel, Pearl River, is opposed to United Water's desalinization plant and he suggested Orangetown's Environmental Committee join the coalition.

Watson Morgan, Environmental Committee member, said the committee has made in the past various recommendations to the Town Board. He also advised the Board, the committee is attending United Water's public hearings.

Alex DiMenna, Blauvelt, said the desalinization plant should not be made a political issue and it is important for a Town Board resolution opposing this.

**RESOLUTION NO. 93****CLOSE PUBLIC COMMENTS**

Councilman Morr offered the following resolution, which was seconded by Councilman Diviny and was unanimously adopted:

RESOLVED, that the public portion is hereby closed.

Ayes: Councilmen Morr, Diviny, Valentine  
Supervisor Stewart  
Noes: None  
Absent: Councilman Troy

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**RESOLUTION NO. 94****REAPPOINT JOAN SALOMON  
ZONING BOARD OF APPEALS**

Councilman Diviny offered the following resolution, which was seconded by Councilman Valentine and was unanimously adopted:

RESOLVED, that Joan Salomon is hereby reappointed to the Zoning Board of Appeals, for a 5-year term expiring on December 31, 2016.

Ayes: Councilmen Diviny, Valentine, Morr  
Supervisor Stewart  
Noes: None  
Absent: Councilman Troy

\* \* \*

**RESOLUTION NO. 95****REAPPOINT WILLIAM MOWERSON  
CHAIRMAN/ZONING BOARD OF  
APPEALS**

Councilman Morr offered the following resolution, which was seconded by Councilman Valentine and was unanimously adopted:

RESOLVED, that William Mowerson is hereby reappointed Chairman to the Zoning Board of Appeals for 2012.

Ayes: Councilmen Morr, Valentine, Diviny  
Supervisor Stewart  
Noes: None  
Absent: Councilman Troy

\* \* \*

**RESOLUTION NO. 96****APPOINT MICHAEL BOSCO  
ALTERNATE ZONING BOARD OF  
APPEALS**

Councilman Diviny offered the following resolution, which was seconded by Councilman Valentine and was unanimously adopted:

**Resolution No. 96 - Continued**

RESOLVED, that Michael Bosco is hereby appointed as an Alternate Member of the Zoning Board of Appeals for 2012.

Ayes: Councilmen Diviny, Valentine, Morr  
Supervisor Stewart  
Noes: None  
Absent: Councilman Troy

\* \* \*

**RESOLUTION NO. 97****APPOINT MICHAEL MANDEL  
PLANNING BOARD**

Councilman Valentine offered the following resolution, which was seconded by Councilman Morr and was unanimously adopted:

RESOLVED, that Michael Mandel is hereby appointed to the Planning Board, to fill the unexpired term which expires on 12/31/2015.

Ayes: Councilmen Valentine, Morr, Diviny  
Supervisor Stewart  
Noes: None  
Absent: Councilman Troy

\* \* \*

**RESOLUTION NO. 98****REAPPOINT KEVIN GARVEY  
PLANNING BOARD**

Councilman Valentine offered the following resolution, which was seconded by Councilman Diviny and was unanimously adopted:

RESOLVED, that Kevin Garvey is hereby reappointed to the Planning Board, for a 7-year term expiring December 31, 2018.

Ayes: Councilmen Valentine, Diviny, Morr  
Supervisor Stewart  
Noes: None  
Absent: Councilman Troy

\* \* \*

**RESOLUTION NO. 99****APPOINT KEVIN GARVEY  
CHAIRMAN PLANNING BOARD**

Councilman Morr offered the following resolution, which was seconded by Councilman Valentine and was unanimously adopted:

RESOLVED, that Kevin Garvey is hereby appointed Chairman to the Planning Board for 2012.

Ayes: Councilmen Morr, Valentine, Diviny  
Noes: Supervisor Stewart  
Absent: Councilman Troy

\* \* \*

**RESOLUTION NO. 100****REAPPOINT JAMES DODGE/ACABOR**

Councilman Diviny offered the following resolution, which was seconded by Councilman Morr and was unanimously adopted:

**Resolution No. 100 - Continued**

RESOLVED, that James Dodge is hereby reappointed to the Architecture & Community Appearance Board of Review, for a 3-year term expiring on December 31, 2014.

Ayes: Councilmen Diviny, Morr, Valentine  
Supervisor Stewart  
Noes: None  
Absent: Councilman Troy

\* \* \*

**RESOLUTION NO. 101****APPOINT ALEX DIMENNA/ ACABOR**

Councilman Valentine offered the following resolution, which was seconded by Councilman Diviny and was unanimously adopted:

RESOLVED, that Alex DiMenna is hereby appointed to the Architecture & Community Appearance Board of Review, for a 3-year term expiring on December 31, 2014.

Ayes: Councilmen Valentine, Diviny, Morr  
Supervisor Stewart  
Noes: None  
Absent: Councilman Troy

**RESOLUTION NO. 102****APPOINT BLYTHE YOST/ACABOR**

Councilman Morr offered the following resolution, which was seconded by Councilman Valentine and was unanimously adopted:

RESOLVED, that Blythe Yost is hereby appointed to the Architecture & Community Appearance Board of Review, for a 3-year term expiring on December 31, 2014.

Ayes: Councilmen Morr, Valentine, Diviny  
Noes: Supervisor Stewart  
Absent: Councilman Troy

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**RESOLUTION NO. 103****APPOINT THOMAS WARREN/ACABOR**

Councilman Diviny offered the following resolution, which was seconded by Councilman Valentine and was unanimously adopted:

RESOLVED, that Thomas Warren is hereby appointed to the Architecture & Community Appearance Board of Review, for a 3-year term expiring on December 31, 2014.

Ayes: Councilmen Diviny, Valentine, Morr  
Supervisor Stewart  
Noes: None  
Absent: Councilman Troy

\* \* \*

**RESOLUTION NO. 104****APPOINT PAUL PAPAY/CHAIRMAN  
ACABOR**

Councilman Valentine offered the following resolution, which was seconded by Councilman Diviny and was unanimously adopted:

RESOLVED, that Paul Papay is hereby appointed Chairman of the Architecture & Community Appearance Board of Review (ACABOR) for 2012.

Ayes: Councilmen Valentine, Diviny, Morr  
Supervisor Stewart  
Noes: None  
Absent: Councilman Troy

\* \* \*

**RESOLUTION NO. 105**

**ADJOURNMENT/MEMORY  
ENTERED WORKSHOP**

Councilman Diviny offered the following resolution, which was seconded by Councilman Valentine and was unanimously adopted:

RESOLVED, that the Town Board adjourned the Regular Town Board Meeting, in memory of Ralph Scaglione, Blauvelt; and entered the Workshop at 9:05 p.m.

Ayes: Councilmen Diviny, Valentine, Morr  
Supervisor Stewart  
Noes: None  
Absent: Councilman Troy

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**Charlotte Madigan, Town Clerk**

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**Teresa Accetta-Pugh, Deputy Town Clerk**