

**TOWN OF ORANGETOWN
POLICE COMMISSION MEETING
EXECUTIVE SESSION/PUBLIC HEARING/WORKSHOP
TUESDAY, JULY 17, 2012**

This Police Commission Meeting was opened at 7:00 p.m. Supervisor Stewart presided and the Town Clerk called the Roll.

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

Also present: Charlotte Madigan, Town Clerk
Kevin Nulty, Police Chief
Robert Zimmerman, Police Captain

Charlotte Madigan led the Pledge of Allegiance to the Flag.

RESOLUTION NO. 331

ENTERED POLICE COMMISSION

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

RESOLVED, that the Town Board, acting as Police Commission, entered this meeting to discuss updates regarding Police matters, at 7:00 p.m.

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

RESOLUTION NO. 332

ENTERED EXECUTIVE SESSION

In attendance, at this Executive Session, were Supervisor Stewart, Councilmen Troy, Diviny, Morr and Valentine, Kevin Nulty, and Robert Zimmerman.

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

RESOLVED, that the Town Board entered Executive Session to discuss confidential Police matters, at 7:35 p.m.

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

RESOLUTION NO. 333

**ENTERED CONTINUANCE/PUBLIC
HEARING/THE POINTE AT LAKE
TAPPAN/PEARL RIVER VETERANS
LLC 73.10-1/4-6**

The Town Board entered this Public Hearing at 8:12 p.m. Supervisor Stewart presided and the Town Clerk called the Roll.

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

Also present: Charlotte Madigan, Town Clerk
John Edwards, Town Attorney

Charles Richardson, Director of Finance
James Dean, Superintendent of Highways
Joseph Moran, Commissioner of DEME
John Giardiello, Director of OBZPAE,
Aric Gorton, Superintendent of Parks-Rec & Building Maint.

Supervisor Stewart advised that this public hearing is a continuance from June 26, 2012, therefore a motion to open is unnecessary.

Donald Brenner, Attorney for Pearl River Veterans LLC, said that his client is now petitioning to modify the maximum number of units permitted from 142 to 159 units plus one for the caretaker; to eliminate affordable units, to change units from purchase to rentals; and to change the approved layout and concept plan. Presently, the rentals are estimated to be between \$1,800 and \$2,300 a month.

John Edwards explained that this public hearing had to be continued because the Town did not receive comments from the County. Those comments were received earlier today, with twenty-one (21) conditions and one comment. He referenced all of the County conditions and comment in the proposed resolution. Many of the conditions are site plan conditions, which are referred to and decided by the Planning Board. Comment No. 2 suggests that the Planning Board gives River Vale the opportunity to review and comment on this project, before the Planning Board makes any decisions. The petition before the Board is to change units for sale to rentals units, which is permitted under PAC zoning; increase the number of units from 142 to 160 including one for the caretaker; eliminate affordable units and change the overall plan in order to build the project in a smaller area, leaving 19 acres undeveloped green space. The rest of Resolution No. 771/2005 remains unchanged, in respect to a variety of conditions including contributions to sewers and recreation and the status of the Seth House. Mr. Edwards spoke about the options regarding the agreed \$700,000 recreation contribution. The recreation contribution is due after site approval by the Planning Board and before the signing by the Clerk for the Planning Board. The previous Town Board made the determination that \$700,000 was the appropriate sum to be made to the recreational needs of the Town after considering the additional recreational amenities that are to be provided on site. The Town Board has before them to vote on a proposed Negative Declaration resolution and a proposed approval of change resolution. The proposed approval resolution incorporates the information the Town received on the revisions as well as that which was considered at the time Resolution No. 771/2005 was adopted.

Charles Richardson explained that back when the playing fields were increasing in costs, it was decided to look for other options besides increasing the bond resolution. Rather than increase the playing fields bond resolution, there was another \$1 million from other developers contributions, as well as this \$700,000 was earmarked for the Parks Trust Fund. At this time, the Town is short \$700,000.

A lengthy discussion took place regarding the Seth House.

Mr. Brenner said there is an agreement with the Town that his developer will contribute \$300,000 to restore the outside of the Seth House. Now, his developer will leave the Seth House at its current location and completely restore it, at whatever cost.

John Edwards explained that there is a provision in Resolution No. 771/2005 that provides alternatives for the Seth House. It is the Town Board's decision as what alternative is to be followed. This decision was never made. There is no request in the petition to amend Resolution No. 771/2005 in regards to the Seth House. The Town Board is not selecting an alternative now and the applicant is not telling you now.

A copy of the comment letters from the County of Rockland Department of Highways, dated July 17, 2012 and April 18, 2012 and the County of Rockland, Department of Planning, dated July 17, 2012 are labeled Exhibit 07-A-12 and made a part of these minutes.

Summary of Public Comments:

Jeffrey Keahon, Friends of the Orangetown Museum, said "Orangetown is Rich in History" and tonight the Town Board has a chance to make it even richer. The Friends of the Orangetown Museum position is to "Leave It"! They are happy that the developer is willing to fix it up. Two examples of historic sites not under the supervision of the Town are the '76 House and the DeWint House. The Seth House west wing was built in 1752, 260 years ago, the center piece

was built in 1830, when Mr. Blauvelt redesigned it, 182 years ago and the east wing was built at the same time our country was founded in 1776. He urged the Town Board to “Leave It” and let the developer restore it.

Mary Cardenas, Town Historian, said in the 10 years she has been the Town Historian; she has lost two sandstone houses because they were beyond redemption. She did not feel bad because they lost their historic value and became a hazard. The Seth House has a significance to it because it embodies there different types of architectural styles and it was used by the Columbia School of Architecture. It is eligible for state and National Register provided it is not relocated. Being on the National Register means that only the exterior must be maintained as the house was built. The developers might consider using the house for the grounds keeper/maintenance person to live, a community center or both. She thinks it deserves to be saved and she is thrill that the applicant for this project has offered to preserve it and restore. If the applicant needs any kind of assistance, she will gladly help.

Donald Brenner informed the Town Board that they will work with Mary Cardenas to restore the exterior historically.

RESOLUTION NO. 334

CLOSE PH/PEARL RIVER VETERANS LLC/THE POINTE AT LAKE TAPPAN 73.10/1/4-6)/AMEND CONDITIONS

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

RESOLVED, that the public portion is hereby closed.

Aye: Councilmen Troy, Diviny, Morr, Valentine
Supervisor Stewart
Noes: None

* * *

RESOLUTION NO. 335

REAFFIRMS/LEAD AGENCY/PEARL RIVER VETERANS LLC/THE POINTE AT LAKE TAPPAN 73.10/1/4-6/AMEND CONDITIONS

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

RESOLVED that the Town Board reaffirms, declaring itself Lead Agency in this matter.

Aye: Councilmen Diviny, Morr, Troy, Valentine
Supervisor Stewart
Noes: None

* * *

RESOLUTION NO. 336

NEGATIVE DECLARATION/PEARL RIVER VETERANS LLC/THE POINTE AT LAKE TAPPAN (73.10/1/4-6) AMEND CONDITIONS

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

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF ORANGETOWN ISSUING A NEGATIVE DECLARATION WITH RESPECT TO THE MODIFICATION OF CERTAIN OF THE CONDITIONS OF RESOLUTION 771 OF 2005, RELATING TO THE PAC ZONE CHANGE FOR PROPERTY LOCATED IN THE HAMLET OF PEARL RIVER ON THE SOUTH SIDE OF VETERANS MEMORIAL DRIVE, EAST OF THE EXISTING BLUE HILL OFFICE COMPLEX AND WEST OF BLUE HILL SOUTH DRIVE, AND SHOWN ON THE TAX MAP OF THE TOWN OF ORANGETOWN AS SBL 73.10 – 1 – 4, 5 AND 6 (PARTIAL).

Resolution No. 336 - Continued

WHEREAS, by Resolution No. 771 of 2005, the Town Board adopted Local Law No. 18 of 2005, changing the zoning district designation for property located in the Hamlet of Pearl River, on the south side of Veterans Memorial Drive, east of the existing Blue Hill Office Complex and west of Blue Hill South Drive, and shown on the Tax Map of the Town of Orangetown as SBL 73.10 – 1 – 4, 5 and 6 (partial) from Office-Park ("OP") to Planned Adult Community ("PAC") pursuant to the provisions of Chapter 43, Section 4.6 of the Town Code of the Town of Orangetown; and

WHEREAS, in granting the said zone change, Resolution 771 imposed certain conditions, restrictions and or obligations required to be satisfied by the owner, or any successor owner/developer, in both the pre-development and development processes; and

WHEREAS, subsequent to the grant of the PAC zone change, on or about May 24, 2006, the Applicant received site development plan approval from the Town Planning Board, which approved a site plan consistent with the conceptual plan approved by the Town Board as part of the zone change, and which otherwise satisfied or incorporated the conditions and restrictions of Town Board Resolution 771; and

WHEREAS, the economic downturn in the housing market over the ensuing years impeded the development of the Premises in the manner contemplated and approved by both the Town Board and Planning Board, in fact, rendering such approved plans not economically feasible; and

WHEREAS, the Owner, Pearl River Veterans LLC, has proposed certain changes to the approved plan for the development of the Premises that deviate significantly from the original conceptual plan approved by the Town Board, and later by the Planning Board; and

WHEREAS, in order to proceed further with its revised plan, the Owner requires new conceptual plan approval from the Town Board that includes relief from certain of the conditions embodied in Resolution 771 of 2005; and

WHEREAS, by Petition dated, June 12, 2012, the Owner seeks Town Board approval of a revised conceptual plan, and relief from certain of the conditions imposed by Resolution 771, including a change to the maximum number of units permitted to be constructed on the property; the elimination of the condition that affordable dwelling units be included among the units constructed; a change in the concept proposal from units for sale to units for rental, and an overall change to the previously approved concept plan and layout; and

WHEREAS, on June 26, 2012, following notice duly and properly given, a public hearing was conducted on the Petition, at which the Owner provided testimony and other evidence from several consultants and experts, regarding various aspects of the revised senior housing project proposed for the site, including consultants on traffic, demographics, and taxes, and at which members of the public spoke; and

WHEREAS, the said public hearing was continued on July 17, 2012; and

WHEREAS, the Town Board has considered the continuing need for adult housing and, in particular, the need for senior rental housing units within the Town, as contemplated by the adoption of Local Law 18 of 2005, granting the change in the zoning classification from OP to PAC for the subject Premises; and

WHEREAS, the Town Board has further considered the earlier, and still valid, approval of the Town Planning Board; and

WHEREAS, the Town Board continues to serve as Lead Agency for environmental review under the State Environmental Quality Act, pursuant to its earlier designation as such in the context of the zone change; and

WHEREAS, the Town Board has considered the changes to Resolution 771 requested in the within Petition in the light of, among other things, (i) its previously adopted Negative

Resolution No. 336 - Continued

Declaration and the Findings therein; (ii) the changes to the area over the approximately 7-year period since the adoption of the said Negative Declaration, including the development of proximate lands for recreational and residential uses; (iii) the updated traffic report and market study included as part of the Petition, and has concluded that there will be no significant environmental impacts or effects caused or occasioned by the changes in the

WHEREAS, the Town Board, acting in its capacity as Lead Agency for environmental review, having carefully considered and taken the requisite "hard look" at all of the potential environmental impacts that might result from the proposed action, has concluded that there will be no significant environmental impacts or effects caused or occasioned by the proposed modification to the conditions imposed by Resolution 771 of 2005,

NOW, THEREFORE, BE IT RESOLVED, that the Town Board adopts the annexed Negative Declaration in accordance with the applicable provisions of law; and

BE IT FURTHER RESOLVED, that the Town Board authorizes the Town Supervisor, or his designated agent, to take such further steps as may be necessary to discharge the Town Board's responsibilities as Lead Agency.

Aye: Councilmen Diviny, Troy, Morr, Valentine
Supervisor Stewart

Noes: None

* * *

**TOWN OF ORANGETOWN
STATE ENVIRONMENTAL QUALITY REVIEW
NEGATIVE DECLARATION
NOTICE OF DETERMINATION OF NON-SIGNIFICANCE**

July 17, 2012

Lead Agency :

The Town Board of the Town of Orangetown
Orangetown Town Hall
26 Orangeburg Road
Orangeburg, New York 10962

This Notice is issued pursuant to Part 617 of the implementing regulations of Article 8 (State Environmental Quality Review) of the Environmental Conservation Law.

The Lead Agency has determined that the proposed action described below will not have a significant effect on the environment.

Title of Action:

Limited amendment to conditions imposed by previous Town Board resolution by which the Board granted a change in zoning classification from OP (Office-Park) to PAC (Planned Adult Community) for property located in the Hamlet of Pearl River, on the South side of Veterans Memorial Drive, East of the Existing Blue Hill Office Complex and West of Blue Hill South Drive, and shown on the Tax Map of the Town of Orangetown as SBL 73.10 – 1 – 4, 5 and 6 (partial).

Original SEQR Status:

Type I Action

Negative Declaration - Continued

Description of the Action:

The action entails a limited modification of conditions imposed by previous Town Board resolution in connection with a change to the Zoning Law and Zoning Map of the Town of Orangetown, affecting a 44.81 ± acre parcel of land, changing the parcel's present zoning classification from Office-Park (OP) to Planned Adult Community (PAC), the latter zone being a "floating" zone designation applicable to parcels deemed suitable for improvement with Senior / Adult housing.

Specifically, the proposed action entails a change to the maximum number of units permitted to be constructed on the property from 142 to 160; the elimination of the condition that affordable dwelling units be included among the units constructed; a change in the concept proposal from units for sale to units for rental, and an overall change to the previously approved concept plan and layout.

Location:

The proposed action affects property located in the Hamlet of Pearl River, on the South side of Veterans Memorial Drive, East of the Existing Blue Hill Office Complex and West of Blue Hill South Drive, and shown on the Tax Map of the Town of Orangetown as SBL 73.10 – 1 – 4, 5 and 6 (partial)

REASONS SUPPORTING THIS DETERMINATION

I. Information Reviewed and Relied Upon

In making its determination, the Town Board, acting in its capacity as Lead Agency, considered the following:

All of the documents and other evidence that resulted in the adoption of Town Board Resolution 771 of 2005, and the Findings therein, supplemented and updated by the following :

- Petition of Owner dated June 12, 2012, with revised Conceptual Plan;
- Reconfiguration Documents, dated and submitted as of April 2012;
- Updated Traffic Study by John Collins Engineers, P.C. , dated April 10, 2012;
- Market Analysis by the OTTEAU Valuation Group, Inc., dated January 26, 2012;
- GML § 239 review letter, dated July, __, 2012 from the Rockland County Department of Planning;

A public hearing was conducted on the zone change, at which the Project Sponsor provided testimony from several consultants and experts regarding various aspects of the senior housing project proposed for the site under consideration, including consultants on traffic, demographics, market absorption and taxes, as well as comments from members of the public, almost all of whom spoke in favor of the proposed zone change.

A further public hearing was conducted on the proposed limited modification of the conditions imposed on the grant of that earlier zone change.

II. Familiarity with the Site

The members of the Town Board, in general terms, are also each personally familiar with the location of the proposed development, including its proximity to the nearby roadways as well as other development in the area.

III. There Will Be No Significant Adverse Environmental Impact As a Result of the Within Action

Based on the extensive record developed in connection with the previously granted change in the zoning classification of the subject property from OP to PAC, and the Negative

Negative Declaration - Continued

Declaration that resulted therefrom, supplemented by the additional information provided in connection with this application to modify certain of the conditions imposed at the time of that earlier zone change, which include the documents and updated analyses set forth and described at Section I hereof, the Board both ratifies its earlier determination of non-significance, and further concludes that the proposed changes, consisting of a change to the maximum number of units permitted to be constructed on the property from 142 to 160; the elimination of the condition that affordable dwelling units be included among the units constructed; a change in the concept proposal from units for sale to units for rental, and an overall change to the previously approved concept plan and layout will not have a significant adverse environmental impact.

The need for the proposed changes are the direct result of the economic downturn that has plagued the building industry not just in the Town of Orangetown and regionally, but throughout the State of New York and the nation as a whole.

The limited relief granted hereby from conditions imposed in a resolution adopted at a time when the economy was vibrant will allow a much needed project to move forward, where it otherwise would.

In summary, after evaluating all of the potential environmental impacts relating to the proposed actions, the Town Board concludes that there will be no significant environmental effect caused thereby

For Further Information, Contact:

Town Supervisor Andy Stewart
Town Hall, Town of Orangetown
26 Orangeburg Road
Orangeburg, New York 10962
(845) 359-5100

Copies of this Notice Sent to:

Commissioner, Department of Environmental Conservation
50 Wolf Road
Albany, New York 12233-0001

Mark Moran
Regional Director, Region 3
New York State Department of Environmental Conservation
21 South Putt Corners Road
New Paltz, New York 12561-1696

Rockland County Department of Planning
Building T
50 Sanatorium Road
Pomona, New York 10970

Rockland County Drainage Agency
23 New Hempstead Road
New City, New York 10956

Rockland County Health Department
50 Sanatorium Road
Pomona, New York 10970

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RESOLUTION NO. 337**PEARL RIVER VETERANS LLC/THE
POINTE AT LAKE TAPPAN 73.10/1/4-6
AMEND CONDITIONS OF
RESOLUTION NO. 771/2005**

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

RESOLUTION, AMENDING CONDITIONS OF RESOLUTION 771 OF 2005, RELATING TO THE PAC ZONE CHANGE FOR PROPERTY LOCATED IN THE HAMLET OF PEARL RIVER ON THE SOUTH SIDE OF VETERANS MEMORIAL DRIVE, EAST OF THE EXISTING BLUE HILL OFFICE COMPLEX AND WEST OF BLUE HILL SOUTH DRIVE, AND SHOWN ON THE TAX MAP OF THE TOWN OF ORANGETOWN AS SBL 73.10 – 1 – 4 *

(* The prior approval related to a larger parcel, SBL 73.10-4, 5 and 6, partial. The adjacent OP parcel, including the portion sold to Hunter Douglas is not affected by this Resolution)

WHEREAS, by Resolution No. 771 of 2005, the Town Board adopted Local Law No. 18 of 2005, changing the zoning district designation for property located in the Hamlet of Pearl River, on the south side of Veterans Memorial Drive, east of the existing Blue Hill Office Complex and west of Blue Hill South Drive, and shown on the Tax Map of the Town of Orangetown as SBL 73.10 – 1 – 4, 5 and 6 (partial) from Office-Park ("OP") to Planned Adult Community ("PAC") pursuant to the provisions of Chapter 43, Section 4.6 of the Town Code of the Town of Orangetown; and

WHEREAS, in granting the said zone change, Resolution 771 imposed certain conditions, restrictions and or obligations required to be satisfied by the owner, or any successor owner/developer, in both the pre-development and development processes; and

WHEREAS, subsequent to the grant of the PAC zone change, on or about October 10, 2007, the Applicant received site development plan approval from the Town Planning Board, which approved a site plan consistent with the conceptual plan approved by the Town Board as part of the zone change, and which otherwise satisfied or incorporated the conditions and restrictions of Town Board Resolution 771; and

WHEREAS, the economic downturn in the housing market over the ensuing years impeded the development of the Premises in the manner contemplated and approved by both the Town Board and Planning Board, in fact, rendering such approved plans not economically feasible; and

WHEREAS, the Owner, Pearl River Veterans LLC, has proposed certain changes to the approved plan for the development of the Premises that deviate significantly from the original conceptual plan approved by the Town Board, and later by the Planning Board; and

WHEREAS, in order to proceed further with its revised plan, the Owner requires new conceptual plan approval from the Town Board that includes relief from certain of the conditions embodied in Resolution 771 of 2005; and

WHEREAS, by Petition dated, June 12, 2012, the Owner seeks Town Board approval of a revised conceptual plan, and relief from certain of the conditions imposed by Resolution 771, including a change to the maximum number of units permitted to be constructed on the property; the elimination of the condition that affordable dwelling units be included among the units constructed; a change in the concept proposal from units for sale to units for rental, and an overall change to the previously approved concept plan and layout; and

WHEREAS, on June 26, 2012, following notice duly and properly given, a public hearing was conducted on the Petition, at which the Owner provided testimony and other evidence from several consultants and experts, regarding various aspects of the revised senior

Resolution No. 337 - Continued

housing project proposed for the site, including consultants on traffic, demographics, and taxes, and at which members of the public spoke; and

WHEREAS, the said public hearing was continued on July 17, 2012; and

WHEREAS, the Town Board has considered the continuing need for adult housing and, in particular, the need for senior rental housing units within the Town, as contemplated by the adoption of Local Law 18 of 2005, granting the change in the zoning classification from OP to PAC for the subject Premises; and

WHEREAS, the Town Board has further considered the earlier, and still valid, approval of the Town Planning Board; and

WHEREAS, the Town Board continues to serve as Lead Agency for environmental review under the State Environmental Quality Act, pursuant to its earlier designation as such in the context of the zone change; and

WHEREAS, the Town Board has considered the changes to Resolution 771 requested in the within Petition in the light of, among other things, (i) its previously adopted Negative Declaration and the Findings therein; (ii) the changes to the area over the approximately 7-year period since the adoption of the said Negative Declaration, including the development of proximate lands for recreational and residential uses; (iii) the updated traffic report and market study included as part of the Petition, and has concluded that there will be no significant environmental impacts or effects caused or occasioned by the changes in the conditions made herein; and

WHEREAS, the Board has considered all of the documents and other evidence that resulted in the adoption of Resolution 771, and the Findings therein, supplemented and updated by the following:

- Petition of Owner dated June 12, 2012, with revised Conceptual Plan;
- Reconfiguration Documents, dated and submitted as of April 2012;
- Updated Traffic Study by John Collins Engineers, P.C. , dated April 10, 2012;
- Market Analysis by the OTTEAU Valuation Group, Inc., dated January 26, 2012;
- GML § 239 review letter, dated July, 17, 2012 from the Rockland County Department of Planning;
- Rockland Count Highway Department letters, dated April 2012 and July 2012;

NOW, BASED ON ALL OF THE INFORMATION BEFORE THE BOARD, AND THE FINDINGS HEREINAFTER MADE, BE IT RESOLVED, that the Town Board hereby amends the conditions of Resolution 771 of 2005 as follows:

Conceptual Plan

The Board approves the layout of the revised conceptual plan. In doing so, the Board notes that the revised conceptual plan, in fact, reflects a suitable mix of open space and senior housing development as contemplated under the PAC Law (Local Law No. 1 of 2004), and the intent of the PAC zone change previously granted.

In fact, the revised plan actually improves upon the earlier plan, providing, as it does, for additional open space of approximately 19 acres that would have been developed under the old plan, but will not be developed under the revised plan.

Maximum Unit Count and Affordable Units

- *Maximum No. of Units*

The maximum unit count previously fixed at 142 is hereby changed and increased to a maximum of 160 units, which includes one caretaker unit.

Resolution No. 337 - Continued

As in the case of the previous approval embodied in Resolution 771, the 160 units provided for in this resolution is the *maximum* number of units that may be developed, and not a number to which the Owner is necessarily entitled as of right. Whether that number, or such lesser number of units, may actually be developed shall be a determination to be made by the Planning Board as part of its further site development plan review of the application.

- ***Affordable Units***

The previous requirement that 10% of the number of units approved shall be at a base price of not more than \$295,000, adjusted for inflation (so-called affordable units), is hereby eliminated. In this regard, the affordable unit condition of the resolution amended hereby was volunteered by the Owner, without the benefit of any additional bonus market-rate units. In the absence of any bonus units, affordable units are not *required* under Chapter 43, Section 4.6 of the Town Code. Moreover, although Chapter 43 § 4.6 does provide for the inclusion of affordable units in the context of both sale and rental developments, in the Board's judgment, based on the economics of the project, such units ought not be required unless the Owner seeks additional bonus market-rate units, which it has not done.

Adjacent Office Development

The Owner is hereby relieved of the further condition that no building permit shall be issued, and no site work shall commence, unless and until the Owner, or any successor, shall first have filed a complete application for site plan approval for the development of a 50,000 sq. ft. commercial office building on adjacent lands.

The adjacent lands contemplated in Resolution 771 for development with an office building already have been sold to a proposed user whom the Town encouraged to relocate to Orangetown. That user, Hunter Douglas, has since relocated its corporate offices to the nearby Blue Hill complex. It is anticipated that, when economic conditions improve, it will construct a building and relocate its offices to the site adjacent to the Premises. The Board does not believe it to be in the best interests of the Town to delay development by this Owner, based on the uncertain plans of the owner of adjacent lands.

Conceptual Plan and Change to Rental Rather Than Sale Units

This approval of a revised conceptual plan for a rental complex is not intended to bar a future change by the Owner to a condominium, cooperative or other age restricted residential use permitted in the PAC zone, if the Owner at such time, elects to do so, provided that all of the conditions of the zone change granted by Resolution 771, adopting Local Law 18 of 2005, as modified herein, are otherwise satisfied.

Seth Perry/David House

Resolution 771 addresses, in detail, the issues related to the use or disposition of the Seth Perry/David House, and the Applicant's obligations with respect thereto.

Although the Applicant had not requested that the provisions of Resolution 771 be changed insofar as the Seth/Perry David house is concerned, at the continued public hearing on July 17 2012, the Applicant consented to a modification of those provisions to include, at the option of the Town, the following:

At the direction of the Town Board, the Applicant, or any successor, shall leave the Seth Perry/David House in place, at its existing location on the property, incorporating same into its project layout for display and/or use by the Applicant, thereby preserving the historic nature of the structure. The Applicant shall further remediate, restore and, thereafter, maintain the *exterior* of the structure in a manner that maintains its historic quality to be *guided* in the process, if required, through *consultation* with the Town Historian the State Historic Preservation Office.

Based on testimony of the Town Historian the Board understands that the historic nature of the structure is adequately preserved by maintaining it in place, and with remediation of the

Resolution No. 337 - Continued

exterior of the structure in a manner consistent with the period(s) of its construction. The Applicant agrees to, and, as a condition hereof, shall work with the Town Historian in an attempt to achieve historic status for the structure.

Although the Applicant is not required to preserve, improve or maintain the *interior* of the structure in any particular manner or fashion reflective of its historic nature, the structure shall be incorporated into the overall plan of development of the site, and actually occupied and used as a part thereof, thereby ensuring that the historic exterior, and its immediately surrounding environs are not neglected or allowed to deteriorate.

In the event the total cost of the restoration and remediation (interior and exterior) of the structure shall be less than \$300,000.00, the difference in cost up to \$300,000.00 shall be paid to the Town. Should the cost of such restoration and remediation exceed \$300,000.00, the Applicant shall be responsible for the full cost. The Town reserves the right to audit such costs, which shall not include any allocation for land value.

The Town and/or the State shall have the further right to install, or cause to be installed, a plaque or other marking on, or near to, the building calling attention to its historic nature.

The conditions of this provision, relating to the location, remediation and future maintenance of the structure shall appear on any site development plan approved by the Town Planning Board, and shall burden future owners of the structure and the property on which it is presently situate.

Amended Site Plan and Other Approvals

The adoption of this resolution based upon the revised conceptual site plan and related materials is not intended, nor shall it be interpreted, to circumvent or usurp the authority of the Planning Board or of any other land use board having authority over site specific details.

Other Findings, Conditions and Restrictions Embodied in Resolution 771 of 2005

Except as otherwise modified herein, all other conditions, restrictions, obligations and requirements specifically enumerated in Resolution 771 of 2005 remain unchanged, including but not necessarily limited to those relating to the recreation fee, the sewer impact fee, the improvement or/ or relocation of the Seth/David Perry House and the age restriction on occupancy.

Rockland County Planning Department Comments

The Town Board has received, and has considered, the General Municipal Law § 239 (l) & (m) review submitted by the Rockland County Department of Planning, and responds to its comments and conditions as follows:

County Condition 1, relates to Rockland County Highway Department review and permits required for access on to adjacent and nearby County roads.

To the extent the County's comment would require County Highway Department review and comment prior to the Town Board's action, revising the conditions of its earlier granted PAC zone change, including the revised conceptual plan, the Board overrides such comment. The County's comments will be heard and considered by the Town Planning Board at the time of, and in connection with site plan review.

County Condition 2, requires a referral to the adjacent Borough of River Vale, purportedly in accordance with GML § 239-nn. The Town Board overrides County Comment 2.

Although the Town Planning Board typically refers proposed projects and developments to nearby or adjacent communities in New Jersey, where such projects and developments are in proximity to such communities, the Board has concluded, in consultation with the Town Attorney, that GML § 239-nn does not require such referrals.

Resolution No. 337 - Continued

That said, by this resolution, the Town Board recommends that, in connection with site plan review, the Town Planning Board solicit the comments of the Borough of River Vale.

County Condition 3, relating to the proposed revisions in the overall context of the Town’s Comprehensive Plan and its PAC zoning Law, the Town Board concludes that the proposed revisions to the conditions of Resolution 771, approved hereby, are consistent with the Town’s Comprehensive Plan and Chapter 42, § 4.6, relating to Planned Adult Communities.

County Condition 4, requires that this Town Board Resolution include specifications for recreational amenities to be developed on site.

Resolution 771 of 2005 specifically addressed the recreational amenities and contributions to be developed on site and/or paid by the Applicant. Those provisions of 771 are not being modified hereby and remain in full force and effect. To the extent that County Comment 4 requires this Board to do more precedent to approving a revised conceptual plan, the Town Board overrides such condition. The Town Planning Board will more fully identify and map all such improvements as part of site plan review, as well as make the determination whether the combination of such amenities to be provided and the \$700,000 recreational contribution satisfies the Applicant’s obligations under the law.

County Conditions 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20 address matters (most by the language of the comments themselves) to be addressed by the Town Planning Board as part of its site plan review process, at which stage the County Planning Department will again have the opportunity to raise its concerns by condition or comment. In the event, such comments are intended to require action by this Town Board prior to approval, the Town Board expressly overrides such comments and refers such comments to the Planning Board.

County Condition 21 relates to the Seth Perry/David House located on the site, and seeks to impose conditions on its use and/or preservation.

The issues of the Seth House was addressed, in detail, in Resolution 771, as modified herein. To the extent that the County Planning Department would seek to impose different or additional conditions at item 21, the Town Board expressly overrides such condition.

Additional County Comments (not conditions)

County Comment (not condition) 23.1, relating to the development of Rules and Regulations pertaining to affordable units, the revisions to the earlier approval granted hereby relieve the Applicant of the obligation to provide affordable units. As such, the issue is not relevant to the within application.

Aye: Councilmen Diviny, Troy, Morr, Valentine
Supervisor Stewart

Noes: None

* * *

RESOLUTION NO. 338

ENTERED WORKSHOP/ADJOURNED

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

RESOLVED, that the Town Board entered the Workshop Meeting at 9:40 p.m. and adjourned, in memory of George W. Hadelor, Pearl River and Jack Ryan, Pearl River at 10:35 p.m.

Ayes: Councilmen Diviny, Valentine, Troy, Morr
Supervisor Stewart

Noes: None

Charlotte Madigan, Town Clerk