

**TOWN OF ORANGETOWN
REGULAR TOWN BOARD MEETING
MONDAY, SEPTEMBER 25, 2006**

This Regular Town Board Meeting was opened at 7:37 p.m. Supervisor Kleiner presided. The Town Clerk called the Roll. Present were:

Councilman Denis O'Donnell
Councilman Denis Troy (arrived 8:15 p.m.)
Councilwoman Marie Manning
Councilman Thomas A. Morr

Also present:

Charlotte Madigan, Town Clerk
Eliot Tozer, Deputy Supervisor
Teresa Kenny, Town Attorney
John S. Edwards, First Deputy Town Attorney
Suzanne Barclay, Exec Asst. to Supervisor
Charles Richardson, Director of Finance
James Dean, Superintendent of Highways
Ron Delo, Director of Dept. Environmental Mgt. & Eng.
Robert Zimmerman, Police Captain
Robert Simon, Receiver of Taxes
Mary McCloskey, Assessor's Office
Rich Rose, Superintendent of Parks, Recreation and Buildings
Paul Witte, Assistant Building Inspector

The Pledge of Allegiance to the Flag was led by Charlotte Madigan, Town Clerk.

On July 18, 2006 the Metropolitan Golf Association awarded the 30th MGA Men's Team Championship to Broadacres Golf Course.

Supervisor Kleiner released the 2007 "Preliminary" Budget and gave a quick review. This budget is available for review in the Town Clerk's Office and on the Town's website, www.orangetown.com. For further information regarding Sparkill Zone changes, look for future public hearing dates. The first Hamlet of Palisades open symposium was recently held and the next one will be held November 19th.

RESOLUTION NO. 654

**OPEN CONTINUATION PH/SPECIAL
PERMIT/MIX USE/ORANGEBURG
COMMONS**

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

RESOLVED, that the 8:00 p.m. public hearing, which is a continuation from September 11, 2006, to consider an application for a special permit under Chapter 43 of the Town Code for the proposed mixed-use development known as Orangeburg Commons located at 170 Route 303, Tappan, NY, and Tax Map No. 74.15-1-21 is hereby opened.

Ayes: Councilpersons Manning, Morr, O'Donnell, Troy
Supervisor Kleiner

Noes: None

Charlotte Madigan, Town Clerk, presented the Affidavit of Publication and the Notice of Posting; copies are labeled Exhibit 9-F-06 and made a part of these minutes.

Public Comment

Mr. Rice, Attorney for Applicant, spoke regarding SEQRA, negative declaration, soil remediation and environmental conditions of the Orangeburg pipe contamination. Watson Morgan, Blauvelt, is not sure if the Town Board should vote on a negative declaration. He suggested a conditional declaration.

Andrew Wiley, Pearl River, expressed that the Town Board should not delay this project any longer and leave the project review to the Planning Board.

Robert Fallon, Orangeburg, (letter received by Supervisor Kleiner) expressed his concerns of Route 303 becoming another Route 59, with too many hotels, food stores, and four-story structures.

Eileen Larkin, Palisades, asked if this is a majority plus one vote?

John S. Edwards, First Deputy Town Attorney, advised the Town Board that this is a Type I Action and an additional declaration is not permitted under law. The options are a negative declaration or a positive declaration. He recommended the Town Board to vote on SEQRA and Determinations at the same time the Special Permit is voted on, which must be done in order for it to continue before the Planning Board.

RESOLUTION NO. 655

**CLOSE PH/ SPECIAL PERMIT/MIX
USE/ORANGEBURG COMMONS**

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

RESOLVED, that the public comment portion and this public hearing is hereby closed.

Ayes: Councilpersons Morr, Manning, O'Donnell, Troy
Supervisor Kleiner

Noes: None

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RESOLUTION NO. 656

**DESIGNATION LEAD AGENCY/
SPECIAL PERMIT/MIX USE
ORANGEBURG COMMONS**

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

RESOLVED, that the Town Board hereby declares itself Lead Agency for the purpose of SEQRA in this matter.

Ayes: Councilpersons Morr, Manning, O'Donnell, Troy
Supervisor Kleiner

Noes: None

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RESOLUTION NO. 657

**NEGATIVE SEQRA DECLARATION
SPECIAL PERMIT/MIX USE
ORANGEBURG COMMONS**

Councilman Morr offered the following resolution, which was seconded by Councilman O'Donnell and was unanimously adopted:

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, an application for such a Special Permit has been filed with the Town Board by FB Orangetown L.L.C. for a project to be known as Orangeburg Commons, on property located at the State Route 303 / Palisades Interstate Parkway interchange, and bearing Tax Map designation Section 74.15, Block 1, Lot 21; and

WHEREAS, on or about September 26, 2005, the Town Board circulated amongst all other involved agencies notice of its intention to assume Lead Agency status for the purpose of environmental review of the Special Permit application; and

Resolution No. 657 - Continued

WHEREAS, on July 24, 2006, the Town Board resolved to re-circulate its notice of its intent to assume Lead Agency status, and did so on July 26, 2006, clarifying its intention to act as Lead Agency for the coordinated review of the "project" as a whole; and

WHEREAS, there being no challenge or objection filed to the Town Board's status as Lead Agency by any other involved agency, on September 18, 2006, the Town Board of the Town of Orangetown declared itself to be Lead Agency for coordinated environmental review of the Project; and

WHEREAS, the Town Board, acting in its capacity as Lead Agency has considered the following plans, reports, comments and other documents:

(1) Memoranda from the Town's Planning Consultant, Saccardi & Schiff, dated April 29, 2005, May 3, 2005, November 4 and 23, 2005 and December 1, 2005 and January 18, 2006;

(2) A Full Environmental Assessment Form prepared by Stuart Turner & Associates, consisting of:

Part 1 and Part 2, dated May 6, 2005;
Expanded Part 3, dated September 16, 2005;

(3) Addendum to Full Environmental Assessment Form, dated August 4, 2006, prepared by Stuart Turner & Associates, responding to Agency comments from the following:

- Rockland County Drainage Agency, letters dated November 4, 2005 and June 5, 2006;
- N.Y.S. Department of Transportation, letters dated May 9, 2006, July 10, 2006 and July 11, 2006;
- Rockland County Sewer District No. 1, letter dated May 11, 2006;
- Rockland County Department of Highways, letter dated May 19, 2006;
- Rockland County Department of Planning, letters dated June 12, 2006 and July 26, 2006;
- Palisades Interstate Park Commission, letters dated November 7, 2005, December 2, 2005, January 9, 2006, June 12, 2006 and July 24, 2006;
- Orangeburg Volunteer Fire Department, letter dated June 24, 2006;
- Town of Orangetown Planning Board Project Review Committee, Report dated July 19, 2006;
- Town of Orangetown Planning Board, letter dated July 26, 2006;
- Town of Orangetown Department of Highways, Memorandum dated September 12, 2006;
- Town of Orangetown Department of Environmental Management and Engineering, letter dated July 20, 2006; and
- Town of Orangetown Office of Building, Zoning and Planning Administration and Enforcement, dated July 26, 2006.

(4) A Traffic Impact Study by John Collins Engineers, P.C., dated July 2005 with follow-up reports dated:

- August 3, 2006, September 11, 2006 and September 13, 2006.

(5) Supplemental Engineering reports, letters and memoranda of Leonard Jackson Associates, Applicant's Engineering Consultant, responding to agency comments, as follows:

- Letters dated July 17, 2006, August 14, 2006, and September 14, 2006;
- Memoranda, dated September 13, 2006, September 14, 2006 and September 20, 2006.

(6) Letter Reports from HDR/LMS, Town engineering consultant, dated July 24, 2006 and September 14, 2006;

(7) Memorandum, Town Department of Environmental Management and Engineering, dated September 11, 2006;

Resolution No. 657 - Continued

- (8) A Closure Work Plan, for portions of premises within the area of the proposed special permit area, prepared by Hydrosience Inc., dated January 23, 2001;
- (9) Report of AKRF Engineering, P.C., dated September 14, 2006 (relating to Applicant's Voluntary Clean-up Agreement with N.Y.S. DEC), as supplemented by letter from AKRF dated September 19, 2006;
- (10) Illustrative layout for the mixed-use development of the site, dated January 9, 2006, revised March 28, 2006;
- (11) Langan Engineering, Revised Detention Basin Landscape Graphic, dated September 15, 2006
- (12) Site Development Plans, consisting of 16 drawings and Sub-surface investigation, dated 4-8-06, last revised 9/21/06, as follows:
- Drawing 1 - Title Sheet, dated 4/8/06, last revised 9/21/06;
 - Drawing 2 - Layout Plan, dated 4/8/06, last revision 9/18/06;
 - Drawing 2A - Layout Plan (Part Plan A), dated 4/8/06, last revision 9/18/06;
 - Drawing 2B - Layout Plan (Part Plan B), dated 4/8/06, last revision 9/18/06;
 - Drawing 3 - Grading, Drainage, Utility Plan, dated 4/8/06, last revision 9/21/06;
 - Drawing 3A - Grading, Drainage, Utility Plan (Part Plan A), dated 4/8/06, last revision 6/19/06;
 - Drawing 3B - Grading, Drainage, Utility Plan (Part Plan B), dated 4/8/06, last revision 6/19/06;
 - Drawing 4 - Erosion & Sediment Control Plan, dated 4/8/06, last revision 4/8/06;
 - Drawing 4A - Erosion & Sediment Control Plan (Part Plan A), dated 4/8/06, last revision 4/8/06;
 - Drawing 4B - Erosion & Sediment Control Plan (Part Plan B), dated 4/8/06, last revision 4/8/06;
 - Drawing 5 - Landscape Plan, dated 4/8/06, last revision 9/20/06;
 - Drawing 5A - Landscape Plan (Part Plan A), dated 4/8/06, last revision 9/20/06;
 - Drawing 5B - Landscape Plan (Part Plan B), dated 4/8/06, last revision 9/20/06;
 - Drawing 6 - Lighting Plan, dated 4/8/06, last revision 6/26/06;
 - Drawing 6A - Lighting Plan (Part Plan A), dated 4/8/06, last revision 6/26/06;
 - Drawing 6B - Lighting Plan (Part Plan B), dated 4/8/06, last revision 6/26/06;
 - Drawing 7 - Construction Details (1 of 4), dated 4/8/06, last revision 4/8/06;
 - Drawing 8 - Construction Details (2 of 4), dated 4/8/06, last revision 4/8/06;
 - Drawing 9 - Construction Details (3 of 4), dated 4/8/06, last revision 6/19/06;
 - Drawing 10 - Construction Details (4 of 4), dated 4/8/06, last revision 6/19/06;
 - Drawing 11 - Stormwater Pollution Prevention and Construction Phasing dated 4/8/06, last revision 4/8/06;
 - Drawing 12 - Storm Profiles (1 of 2), dated 4/8/06, last revision 4/8/06;
 - Drawing 13 - Storm Profiles (2 of 2), dated 4/8/06, last revision 4/8/06;
 - Drawing 14 - Sanitary Profiles, dated 4/8/06, last revision 6/19/06;
 - Drawing 15 - Wall Profiles, dated 4/8/06, last revision 4/8/06;
 - Drawing 16 - Existing Conditions Survey, dated 10/11/05, last revision 11/14/05;
 - O5L343-19 - Subsurface Investigation
- (13) Leonard Jackson Associates Letter to the Town Board, dated September 20, 2006, and accompanying photographs and drawings as follows:
- Building Height Cross Sections (No. P-2), dated 3/28/06, revised 9/20/06;
 - Overall landscaping Plan (Drawing 5), dated 9/20/06

and,

WHEREAS, in making its 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:

Resolution No. 657 - Continued

- 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, and the New York Metropolitan Transportation Council;
- PIPC Corridor Management Plan;

and,

WHEREAS, a public hearing also was conducted before the Town Board in connection with the Applicant's Special Permit application, at which public comment was received and considered by the Board; and

WHEREAS, having carefully considered all of the above referenced plans, reports, comments and other documents, and having taken a hard look at all of the potential environmental impacts that might result from the proposed action, the Town Board has concluded that there will be no significant environmental impacts or effects caused or occasioned by the issuance of a Special Permit or by the development of the Project at the indicated interchange location.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board issues a Determination of Non-significance with respect to the referenced project in the form annexed hereto, and authorizes the Town Supervisor, or his designated agent, to circulate same, and to take such other and further steps as may be necessary to discharge the Town Board's responsibilities as Lead Agency in accordance with the applicable provisions of law.

Ayes: Councilpersons Morr, Manning, O'Donnell, Troy
Supervisor Kleiner

Noes: None

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**TOWN OF ORANGETOWN, ROCKLAND COUNTY
STATE ENVIRONMENTAL QUALITY REVIEW (SEQR)
NEGATIVE DECLARATION
NOTICE OF DETERMINATION OF NON-SIGNIFICANCE**

DATE: September 25, 2006

LEAD AGENCY: The Town Board of the Town of Orangetown
Orangetown Town Hall
26 Orangeburg Road
Orangeburg NY 10962

This Notice is issued pursuant to Part 617 of the implementing regulations of Article 8 (SEQRA) 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:

Orangeburg Commons Mixed Use Project, located in the Light Industrial Zoning District, at the State Route 303 and Palisades Interstate Parkway Interchange.

SEQRA STATUS:

Type 1 Action

DESCRIPTION OF ACTION:

The proposed action consists of the development of an approximately 15.8 acre site, at the intersection of N.Y.S. Route 303 and the Palisades Interstate Parkway, with a mixture of economically viable and compatible non-residential uses planned as an integrated whole. Such mixed use developments are permitted under the Town of Orangetown Zoning Ordinance on sites of 10 acres or larger in the Light Industrial zoning district, with frontage on the Palisades Interstate Parkway and with frontage on, and/or with direct access to N.Y.S. Route 303 by Special Permit of the Town Board, subject to site development plan approval by the Town Planning Board.

The uses proposed for the site, and permitted under the applicable zoning regulations of the Town of Orangetown, include (1) two separate 4-story hotels (approximately 160,000 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; (2) food related uses, totaling approximately 15,000, 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.) .

The site on which the action will take place was previously used, until 1973, as a manufacturing facility for the manufacture of Orangeburg pipe. There has been no activity on the site since that time.

Site plan development approval was recently granted by the Town of Orangetown Planning Board for the improvement of the site with a 176,000 ± S.F. warehouse facility. The proposed action is an alternative to that previously approved action.

DETERMINATION:

There will be no significant adverse environmental impact(s) as a result of the proposed action.

REASONS SUPPORTING THIS DETERMINATION:**I. Background to the Action**

As noted above, the present action involves the proposed development of an approximately 15.8 acre site located at the intersection of N.Y.S. Route 303 and the Palisades Interstate Parkway in the Town of Orangetown with a variety of different, but compatible, uses, including two hotels, restaurants, a bank and a limited amount of retail. The site falls within an area presently zoned Light Industrial ("LI"), but an area that is also particularly well suited, because of its location and proximity to two transportation corridors, to large scale development involving a mix of other types of uses, compatible with each other and with other surrounding uses, if built pursuant to a single, integrated plan. Such mixed use developments are specifically authorized in the LI zone at such interchange areas by Special Permit of the Town Board.

As presently zoned ("LI"), the subject site can be developed, as of right, subject to site development plan approval, for any one or more of the following uses: theatres, business and professional offices, automotive and machinery repair shops and sales lots, manufacturing uses, wholesale sales and storage, warehouses, serviced establishments, kennels.

In fact, in 2002, before the Town amended its zoning ordinance to allow mixed use developments, the present owner(s) received site development plan approval from the Town Planning Board for the construction of a 176,000 S.F. warehouse facility on the site, and, thereafter, commenced clearing the land in preparation for the construction of that facility. When the Town Board determined to consider other types of uses in portions of the LI zone, further development of the site for the approved use halted.

In or about March 2005, even before the Town had adopted the amendment to its zoning ordinance, allowing mixed use developments at interchange locations, FB Orangetown LLC (the "Applicant") filed a preliminary application for a Special Permit for the instant project with the Town Board in anticipation of the adoption of the referenced zoning text amendment.

II. Lead Agency Status

On September 26, 2005, following due notice to all involved agencies, the Town Board declared itself to be Lead Agency for coordinated environmental review under SEQRA of the Special Permit application filed by the present applicant. Although the said notice was for "coordinated" review, because it did not specifically reference the "project", but only the Special Permit as the nature of the action, on July 24, 2006, the Town Board resolved to re-circulate its notice of its intent, and did so on July 26, 2006, clarifying its intention to act as Lead Agency for the "project" as a whole.

There being no challenge or objection filed to the Town Board's status as such, and more than 30 days having passed, on September 18, 2006, the Town Board of the Town of Orangetown by resolution of even date herewith, declared itself to be Lead Agency for coordinated environmental review of the Project.

III. Information Reviewed and Relied Upon

In making the instant determination of non-significance, the Town Board has considered the following:

(1) Memoranda from the Town's Planning Consultant, Saccardi & Schiff, dated April 29, 2005, May 3, 2005, November 4 and 23, 2005 and December 1, 2005 and January 18, 2006;

(2) A Full Environmental Assessment Form prepared by Stuart Turner & Associates, consisting of:

Part 1 and Part 2, dated May 6, 2005;
Expanded Part 3, dated September 16, 2005;

(3) Addendum to Full Environmental Assessment Form, dated August 4, 2006, prepared by Stuart Turner & Associates, responding to Agency comments from the following:

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- Rockland County Sewer District No. 1, letter dated May 11, 2006;
- Rockland County Department of Highways, letter dated May 19, 2006;
- Rockland County Department of Planning, letters dated June 12, 2006 and July 26, 2006;
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- Orangeburg Volunteer Fire Department, letter dated June 24, 2006;
- Town of Orangetown Planning Board Project Review Committee, Report dated July 19, 2006;
- Town of Orangetown Planning Board, letter dated July 26, 2006;
- Town of Orangetown Department of Highways, Memorandum dated September 12, 2006;
- Town of Orangetown Department of Environmental Management and Engineering, letter dated July 20, 2006; and
- Town of Orangetown Office of Building, Zoning and Planning Administration and Enforcement, dated July 26, 2006.

(4) A Traffic Impact Study by John Collins Engineers, P.C., dated July 2005 with follow-up reports dated:

- August 3, 2006, September 11, 2006 and September 13, 2006.

(5) Supplemental Engineering reports, letters and memoranda of Leonard Jackson Associates, Applicant's Engineering Consultant, responding to agency comments, as follows:

- Letters dated July 17, 2006, August 14, 2006, and September 14, 2006;
- Memoranda, dated September 13, 2006, September 14, 2006 and September 20, 2006.

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(7) Memorandum, Town Department of Environmental Management and Engineering, dated September 11, 2006;

(8) A Closure Work Plan, for portions of premises within the area of the proposed special permit area, prepared by Hydrosience Inc., dated January 23, 2001;

(9) Report of AKRF Engineering, P.C., dated September 14, 2006 (relating to Applicant's Voluntary Clean-up Agreement with N.Y.S. DEC), as supplemented by letter from AKRF dated September 19, 2006;

(10) Illustrative layout for the mixed use development of the site, dated January 9, 2006, revised March 28, 2006;

(11) Langan Engineering, Revised Detention Basin Landscape Graphic, dated September 15, 2006

(12) Site Development Plans, consisting of 16 drawings and Sub-surface investigation, dated 4-8-06, last revised 9/21/06, as follows:

- Drawing 1 - Title Sheet, dated 4/8/06, last revised 9/21/06;
- Drawing 2 - Layout Plan, dated 4/8/06, last revision 9/18/06;
- Drawing 2A - Layout Plan (Part Plan A), dated 4/8/06, last revision 9/18/06;
- Drawing 2B - Layout Plan (Part Plan B), dated 4/8/06, last revision 9/18/06;
- Drawing 3 - Grading, Drainage, Utility Plan, dated 4/8/06, last revision 9/21/06;
- Drawing 3A - Grading, Drainage, Utility Plan (Part Plan A), dated 4/8/06, last revision 6/19/06;
- Drawing 3B - Grading, Drainage, Utility Plan (Part Plan B), dated 4/8/06, last revision 6/19/06;
- Drawing 4 - Erosion & Sediment Control Plan, dated 4/8/06, last revision 4/8/06;
- Drawing 4A - Erosion & Sediment Control Plan (Part Plan A), dated 4/8/06, last revision 4/8/06;
- Drawing 4B - Erosion & Sediment Control Plan (Part Plan B), dated 4/8/06, last revision 4/8/06;
- Drawing 5 - Landscape Plan, dated 4/8/06, last revision 9/20/06;
- Drawing 5A - Landscape Plan (Part Plan A), dated 4/8/06, last revision 9/20/06;
- Drawing 5B - Landscape Plan (Part Plan B), dated 4/8/06, last revision 9/20/06;
- Drawing 6 - Lighting Plan, dated 4/8/06, last revision 6/26/06;
- Drawing 6A - Lighting Plan (Part Plan A), dated 4/8/06, last revision 6/26/06;
- Drawing 6B - Lighting Plan (Part Plan B), dated 4/8/06, last revision 6/26/06;
- Drawing 7 - Construction Details (1 of 4), dated 4/8/06, last revision 4/8/06;
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- Drawing 15 - Wall Profiles, dated 4/8/06, last revision 4/8/06;
- Drawing 16 - Existing Conditions Survey, dated 10/11/05, last revision 11/14/05;
- O5L343-19 - Subsurface Investigation

- (13) Leonard Jackson Associates Letter to the Town Board, dated September 20, 2006, and accompanying photographs and drawings as follows:
- Building Height Cross Sections (No. P-2), dated 3/28/06, revised 9/20/06;
 - Overall landscaping Plan (Drawing 5), dated 9/20/06

In addition to the aforesaid, the Town Board has also considered the following studies, reports and /or other assessments and reviews relating more generally to conditions in and about the area of the proposed development:

- (1) 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;
- (2) The Town's existing Route 303 Overlay Zoning District zoning provisions;
- (3) 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;
- (4) PIPC Corridor Management Plan.

A public hearing also was conducted before the Town Board in connection with the Applicant's Special Permit application, at which public comment was received and considered by the Board.

The Board further considered the fact that the proposed site for the referenced special permit application already had been approved for a large warehouse use, and has concluded that the proposed mixed-use was a more preferable use for the site.

IV. Familiarity with the Site

The members of the Town Board, in general terms, are also each personally familiar with the location affected by the proposed action, including its proximity to the Palisades Interstate Parkway and N.Y.S. Route 303, including the other development in the area.

V. Potential Impacts Ultimately Determined Not to Be Significant

In the course of its review, the Town Board, with the assistance of its professional consultants and other outside agencies, interested and involved alike, identified a number of potential impacts that required further analysis beyond the Parts 1 and 2 and Expanded Part III of the Full EAF. Those potential impacts included traffic, aesthetics, and other land issues, including remediation and drainage. For the reasons set forth below, each of the referenced possible impacts, when considered in the light of the further studies and/or responses undertaken or provided by the Applicant, was determined not to be significant either short or in the long term.

· *Traffic*

With specific respect to traffic, the Town Board, as Lead Agency, has received a traffic study from John Collins Engineers, P.C, intended to determine the nature and extent, if any, of the traffic impact that might result from the development of the subject site with a mixed use development of the size, configuration and nature of that proposed by the Applicant.

The initial Collins analysis, dated July 2005, among other things, included a review of the existing roadway and traffic conditions in the area affected by the proposed zoning text amendment, at various intersections, at peak traffic flows. It further considered both build and no-build traffic volumes to the 2008 design year. The analysis concluded that there would be no significant negative impact on the roadways in the vicinity of the site by reason of the contemplated mixed-use development.

In response to further comments by the Rockland County Department of Planning, the Rockland County Highway Department, the Town Planning Board and the Town Department of Highways, particularly in regard to intersection traffic at other than the Rte. 303 access points (with Rte. 303 being, by far, the roadway most likely to be impacted by the development), the Town Board has considered the further analyses undertaken by the applicant's traffic consultant set forth in his letter reports dated August 3, September 11 and September 13, 2006.

With respect to the Highview Ave. (Greenbush) and Western Highway intersection, identified by the County Department of Highways, County Department of Planning, Town Planning Board and Town Highway Department, as having limited stacking capacity, a railroad crossing and likely to receive additional traffic by reason of the proposed development, after taking a hard look at the further Collins' analyses, the Town Board concludes that the project will contribute only a small additional volume of traffic to the intersection even during peak hours (approximately 32 vehicles per hour, 16 in/out) and thus will not have a significant adverse impact. Nor will the Project adversely impact service levels at the intersection. Whether a traffic signal or other improvements such as gates, should be installed at the referenced intersection, in the Board's judgment, is an issue the Town and County will have to analyze in the context of a broader review of traffic conditions up and down the Rte 303 corridor and its tributary streets. Such a need, if it exists, is not occasioned by, nor will it be significantly exacerbated, by the minimal traffic contributed by this Project.

- ***Aesthetics, Including Visual Impacts on Palisades Interstate Parkway***

With respect to aesthetic concerns relative to the proximity of the site to the Palisades Interstate Parkway, the Town Board has received and considered the written comments of the Palisades Interstate Park Commission, has met with representatives of the PIPC, and has considered its concerns which relate primarily to the visual impact of the development of the site from the PIP. Given the elevations along the PIP in relation to the Project site,

the buffer and landscape requirements of the Town's zoning law applicable to the Project and embodied in the proposed landscape plan for the Project, the building height restrictions imposed in the zoning ordinance, and the ability of the Planning Board and Architectural Review Board to regulate the colors of the structures to be constructed so as to further mask any visual impact from the PIP, the Town Board concludes that the Project, as planned, will not have a significant adverse impact upon the scenic nature of the PIP.

In making this determination, the Board expressly recognizes that it is impossible to develop the site in a manner that eliminates entirely any view of the site's development from the PIP. Indeed, notwithstanding the roadway's scenic nature, the development of lands adjacent to the PIP is readily visible all along its course other than where it passes through state parklands, in many locations in a much more obtrusive manner than proposed for this site. To the extent the proposed site plan for this Project significantly limits and filters its view from the PIP, the Town Board concludes that there will be no significant adverse impact occasioned thereby on the PIP.

Having so concluded, the Town Planning Board, in the course of its continuing review, may impose other reasonable conditions not inconsistent herewith or with the applicable zoning regulations to further protect the scenic qualities of the adjacent PIP.

- ***Drainage***

Based on a thorough review on the Applicant's drainage plans and calculations, modified to incorporate the comments of the Town's outside engineering consultant, HDR/LMS, and those of the Town's Department of Environmental Management and Engineering, the Town Board finds that the plans to capture and control on-site drainage, and to achieve a zero net increase in runoff from the developed site, will adequately address any drainage issues presented by the development of the site as proposed.

The Board has specifically considered the fact that the Applicant's plan includes the construction of an above-ground detention basin in the front yard as an integral part thereof, and has concluded, based on a review of the necessity therefore by the Town's engineering department and its outside consulting engineers, that site engineering conditions warrant an open basin in the

indicated location. The Board further finds that, given the site elevations and the ability of the Planning Board to adequately buffer such basin, there will be no significant adverse visual impact relating to the nature or placement of the basin in the front yard.

Under the circumstances, drainage is determined not to be a significant adverse environmental impact.

- ***Sewer and Wastewater Discharge***

Based upon a review of the Applicant's proposal to relocate, at its sole cost and expense, and in accordance with the Town's plans and specifications, a section of the existing Town siphon from Western Highway to the westerly side of State Rte. 303, a portion of which runs through the Project site, or at another location approved by the Town, the Town Board concludes that the proposed development of the site will not result in any significant adverse environmental impact relating to sewer and waste water disposal.

VI. Other Potential Impacts Also Considered, Including Environmental Conditions On Site.

- **Site Contamination and Remediation**

As earlier stated, the Project site was formerly a part of an Orangeburg pipe manufacturing facility, and is the subject of a Voluntary Cleanup Agreement with the NYS DEC. Assuming approval of, and compliance with, the closure and remediation plans under the jurisdiction of the New York State Department of Environmental Conservation and New York State Department of Health, the nature of the site, and the existing contamination thereon, will not result in any significant adverse environmental impact.

- ***Water Supply***

The present application anticipates water use in excess of 20,000 gallons per day. It also provides for an above ground detention basin in the front yard to handle drainage on the site.

Water on the site will be provided by United Water, the local public water utility. Other than a generalized concern, there is no indication that the public water supply is not adequate for the proposed uses that would be permitted by the proposed development. Additionally, the Board has considered the fact that, prior to the grant of final site development plan approval, the Applicant will have to obtain Health Department approval, at which time the local utility will have to demonstrate adequate supply and the ability to serve. Under the circumstances, the Board finds no significant adverse impact relating to water.

- ***Water Quality***

With respect to water quality, the Applicant will be required to meet all applicable standards and requirements -- federal, state and local -- relative to discharges so as to ensure no significant adverse environmental impact as a result.

- ***Agricultural Land Resources***

There are no anticipated impacts on agricultural lands.

- ***Historic and Archaeological Resources***

To the extent there might be a small to moderate visual impact on a nearby historic house, i.e., the Abram Lent House, the proposed action provides for vegetative buffers and other landscaping and landscape features that will mitigate any such impact on the referenced structure, such that the proposed action will not have a significant adverse impact on the structure.

- ***Critical Environmental Areas (CEAs)***

There are no anticipated significant impacts on any CEA.

- ***Energy***

Although there will be an impact on energy resources in that any mixed use development will require energy, it is not anticipated that there will be a significant impact the community's sources of fuel or energy supply.

- ***Public Health***

There are no anticipated significant impacts on the public health.

- ***Air Quality and Noise Levels***

The proposed actions are not expected to have a significant impact on local air quality or noise levels.

- ***Human Health***

The proposed actions will not create a hazard to human health.

In summary, after having taken a hard look at the potential environmental impacts associated with the proposed action, the Town Board concludes that such action will not result in a significant adverse environmental impact

For Further Information, Contact:

Town Supervisor Thom Kleiner
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

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

Edward Devine, Executive Director
Rockland County Drainage Agency
23 New Hempstead Road
New City, New York 10956

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

RESOLUTION NO. 658**TOWN BOARD DECISION/SPECIAL PERMIT/MIX USE/ORANGEBURG COMMONS**

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

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, an application for such a Special Permit has been filed with the Town Board by FB Orangetown L.L.C. for a project to be known as Orangeburg Commons, on property located at the State Route 303 / Palisades Interstate Parkway interchange, and bearing Tax Map designation Section 74.15, Block 1, Lot 21; and

WHEREAS, on or about September 26, 2005, the Town Board first circulated amongst all other involved agencies notice of its intention to assume Lead Agency status for the purpose of environmental review of the Special Permit application; and

WHEREAS, on or about July 24, 2005, the Town Board resolved to re-circulate its notice of its intent to assume Lead Agency status, and did so on July 26, 2006, clarifying its intention to act as Lead Agency for the coordinated review of the "project" as a whole; and

WHEREAS, there being no challenge or objection filed to the Town Board's status as Lead Agency by any other involved agency, on September 18, 2006, the Town Board declared itself to be Lead Agency for 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 Special Permits for mixed use developments, has considered the following plans, reports, comments and other documents:

(1) Memoranda from the Town's Planning Consultant, Saccardi & Schiff, dated April 29, 2005, May 3, 2005, November 4 and 23, 2005 and December 1, 2005 and January 18, 2006;

(2) A Full Environmental Assessment Form prepared by Stuart Turner & Associates, consisting of :

Part 1 and Part 2, dated May 6, 2005;
Expanded Part 3, dated September 16, 2005;

(3) Addendum to Full Environmental Assessment Form, dated August 4, 2006, prepared by Stuart Turner & Associates, responding to Agency comments from the following:

- Rockland County Drainage Agency, letters dated November 4, 2005 and June 5, 2006;
- N.Y.S. Department of Transportation, letters dated May 9, 2006, July 10, 2006 and July 11, 2006;
- Rockland County Sewer District No. 1, letter dated May 11, 2006;
- Rockland County Department of Highways, letter dated May 19, 2006;
- Rockland County Department of Planning, letters dated June 12, 2006 and July 26, 2006;
- Palisades Interstate Park Commission, letters dated November 7, 2005, December 2, 2005, January 9, 2006, June 12, 2006 and July 24, 2006;
- Orangeburg Volunteer Fire Department, letter dated June 24, 2006;
- Town of Orangetown Planning Board Project Review Committee, Report dated July 19, 2006;
- Town of Orangetown Planning Board, letter dated July 26, 2006;

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- Town of Orangetown Department of Highways, Memorandum dated September 12, 2006;
 - Town of Orangetown Department of Environmental Management and Engineering, letter dated July 20, 2006; and
 - Town of Orangetown Office of Building, Zoning and Planning Administration and Enforcement, dated July 26, 2006.
- (4) A Traffic Impact Study by John Collins Engineers, P.C., dated July 2005 with follow-up reports dated:
- August 3, 2006, September 11, 2006 and September 13, 2006.
- (5) Supplemental Engineering reports, letters and memoranda of Leonard Jackson Associates, Applicant's Engineering Consultant, responding to agency comments, as follows:
- Letters dated July 17, 2006, August 14, 2006, and September 14, 2006;
 - Memoranda, dated September 13, 2006, September 14, 2006 and September 20, 2006.
- (6) Letter Reports from HDR/LMS, Town engineering consultant, dated July 24, 2006 and September 14, 2006;
- (7) Memorandum, Town Department of Environmental Management and Engineering, dated September 11, 2006;
- (8) A Closure Work Plan, for portions of premises within the area of the proposed special permit area, prepared by Hydrosience Inc., dated January 23, 2001;
- (9) Report of AKRF Engineering, P.C., dated September 14, 2006 (relating to Applicant's Voluntary Clean-up Agreement with N.Y.S. DEC), as supplemented by letter from AKRF dated September 19, 2006;
- (10) Illustrative layout for the mixed use development of the site, dated January 9, 2006, revised March 28, 2006;
- (11) Langan Engineering, Revised Detention Basin Landscape Graphic, dated September 15, 2006
- (12) Site Development Plans, consisting of 16 drawings and Sub-surface investigation, dated 4-8-06, last revised 9/21/06, as follows:
- Drawing 1 - Title Sheet, dated 4/8/06, last revised 9/21/06;
 - Drawing 2 - Layout Plan, dated 4/8/06, last revision 9/18/06;
 - Drawing 2A - Layout Plan (Part Plan A), dated 4/8/06, last revision 9/18/06;
 - Drawing 2B - Layout Plan (Part Plan B), dated 4/8/06, last revision 9/18/06;
 - Drawing 3 - Grading, Drainage, Utility Plan, dated 4/8/06, last revision 9/21/06;
 - Drawing 3A - Grading, Drainage, Utility Plan (Part Plan A), dated 4/8/06, last revision 6/19/06;
 - Drawing 3B - Grading, Drainage, Utility Plan (Part Plan B), dated 4/8/06, last revision 6/19/06;
 - Drawing 4 - Erosion & Sediment Control Plan, dated 4/8/06, last revision 4/8/06;
 - Drawing 4A - Erosion & Sediment Control Plan (Part Plan A), dated 4/8/06, last revision 4/8/06;
 - Drawing 4B - Erosion & Sediment Control Plan (Part Plan B), dated 4/8/06, last revision 4/8/06;
 - Drawing 5 - Landscape Plan, dated 4/8/06, last revision 9/20/06;
 - Drawing 5A - Landscape Plan (Part Plan A), dated 4/8/06, last revision 9/20/06;
 - Drawing 5B - Landscape Plan (Part Plan B), dated 4/8/06, last revision 9/20/06;
 - Drawing 6 - Lighting Plan, dated 4/8/06, last revision 6/26/06;
 - Drawing 6A - Lighting Plan (Part Plan A), dated 4/8/06, last revision 6/26/06;

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- Drawing 6B - Lighting Plan (Part Plan B), dated 4/8/06, last revision 6/26/06;
- Drawing 7 - Construction Details (1 of 4), dated 4/8/06, last revision 4/8/06;
- Drawing 8 - Construction Details (2 of 4), dated 4/8/06, last revision 4/8/06;
- Drawing 9 - Construction Details (3 of 4), dated 4/8/06, last revision 6/19/06;
- Drawing 10 - Construction Details (4 of 4), dated 4/8/06, last revision 6/19/06;
- Drawing 11 - Stormwater Pollution Prevention and Construction Phasing dated 4/8/06, last revision 4/8/06;
- Drawing 12 - Storm Profiles (1 of 2), dated 4/8/06, last revision 4/8/06;
- Drawing 13 - Storm Profiles (2 of 2), dated 4/8/06, last revision 4/8/06;
- Drawing 14 - Sanitary Profiles, dated 4/8/06, last revision 6/19/06;
- Drawing 15 - Wall Profiles, dated 4/8/06, last revision 4/8/06;
- Drawing 16 - Existing Conditions Survey, dated 10/11/05, last revision 11/14/05;
- O5L343-19 - Subsurface Investigation

(13) Leonard Jackson Associates Letter to the Town Board, dated September 20, 2006, and accompanying photographs and drawings as follows:

- Building Height Cross Sections (No. P-2), dated 3/28/06, revised 9/20/06;
- Overall landscaping Plan (Drawing 5), dated 9/20/06

and,

WHEREAS, in making its 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, and the New York Metropolitan Transportation Council;
- PIPC Corridor Management Plan;

and,

WHEREAS, a public hearing also was conducted before the Town Board in connection with the Applicant's Special Permit application, at which public comment was received and considered by the Board; and

WHEREAS, having carefully considered all of the above referenced plans, reports, comments and other documents, and having taken a hard look at all of the potential environmental impacts that might result from the proposed action, the Town Board, prior to the adoption of this resolution, has issued 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 a Special Permit or by the development of the Project at the subject interchange location,

NOW, THEREFORE, BE IT RESOLVED, that, pursuant to Chapter 43, § 4.32(O), and the related tables of General Use and Bulk and Area regulations, of the Town Zoning Ordinance, the Town Board hereby issues a Special Permit allowing the mixed use development of property located within the LI zoning district at the interchange location of N.Y.S. Route 303 and the Palisades Interstate Parkway, said property bearing Tax Map designation Section 74.15, Block 1, Lot 21 on the Tax Map of the Town of Orangetown, upon the terms and conditions set forth herein, with the further clarification that, unless otherwise expressly set forth herein, the grant of this Special Permit is not intended to, nor shall it be construed as, approving the site specific

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details of the development, that appear in the proposed Site Development Plan reviewed by this Board as a "Concept Plan" for purposes of the issuance of this Special Permit.

Ayes: Councilpersons Manning, Morr, O'Donnell, Troy
Supervisor Kleiner

Noes: None

I.**Findings and Conditions**

(1) The within Special Permit is granted for the integrated development of the said property with the types of uses, and generally in the manner, shown on the Applicant's proposed Site Development Plan, dated 4/8/06, last revision 9/21/06 (hereinbefore referenced). The Town Board adopts the said Plan as the "Concept Site Plan" for purposes of the issuance of this Special Permit, subject to the caveat hereinbefore set forth that the Town Board's use of the proposed Site Development Plan in its current state as the Concept Site Plan required under § 4.32(O) as a part of the application for a Special Permit, 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, and the locations and configurations of the buildings.

(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 Special Permit. The present uses approved hereby consist of:

- two separate 4-story hotels (approximately 160,000 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;
- food related uses, totaling approximately 15,000, inclusive of one stand alone restaurant building (approximately 5,200 S.F.);
- two buildings intended for retail use (totaling approximately 45,000 S.F. of retail space), one (1) with drive thru access; and
- a bank with drive thru (approximately 3,700 S.F.)

(3) Any approved site plan shall include the vegetated and landscaped buffers adjacent to and along the property of the Palisades Interstate Park Commission at the distances shown on the referenced 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 Palisades Interstate Park Commission, 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 or disturbance of any tree, bush or other growth in the buffer without the prior approval of the Town Planning Board. There shall be no buildings, parking, access or loading permitted in the buffer area. A restrictive covenant shall be filed and recorded against the property reciting the within restrictions, provided, however, a landscaped retaining wall, as shown on the Concept Plan, shall be allowed in the buffer area.

(4) The grant of this Special Permit is expressly conditioned upon the ability of the Town to secure all required easements and approvals from other parties and/or agencies for the relocation and improvement of its existing sewer siphon that runs in an easement through the subject site.

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(5) Subject to ¶4 hereof, the Applicant or any successor in title or interest to the Applicant shall pay to the Town, as a condition of the grant of Final Site Development Plan approval, and within thirty (30) days of the resolution granting same, the sum of \$ 540,000.00 representing the Applicant's pro rata share of the cost of relocating the existing Town siphon and/or the construction of that portion of the new Town siphon (proposed as part of the Town's capital sewer plan) that would have been constructed in an easement within the limits of the Applicant's property but for the development of the property under this Special Permit. Excavated material from the relocation, construction and/or reconstruction of the Town siphon not otherwise used as fill in the siphon trench shall remain on the Applicant's site and shall be disposed of by the Applicant at no cost to the Town in a manner authorized by law.

In addition, at no cost to the Town, and within 30 days of the grant of this Special Permit, the Applicant shall grant the Town a new permanent 30 foot wide easement (to be a 40 foot wide temporary easement during construction) on, over, under and across its property, in the approximate location shown on the Concept Plan, for general municipal purposes (including but not limited to the relocation, construction and/or reconstruction and maintenance of the referenced own siphon). The said easement shall include a metes and bounds description and shall be delivered in form suitable for recording and otherwise as approved by the Town Attorney. Upon the Applicant's payment of the referenced sum, and the Town's acceptance of the referenced easements, in writing, and the construction of the new siphon, placing same in service, the Town shall abandon the existing sewer easement across the Applicant's property.

This conditions of this ¶5 are material conditions of the Town's agreement to abandon its existing sewer line across the Applicant's property, thereby allowing for the issuance of the within Special Permit.

- (6) Any approved site development plan shall comply with the requirements of § 4.32(O) (vi) of the Town Zoning Ordinance with respect to signage.
- (7) The Applicant or any successor in title or interest thereto shall meet the requirements of the Rockland County Planning Department, as set forth in its letter dated July 24, 2006, except as to those provisions expressly overridden herein.
- (8) The Applicant or any successor in title or interest thereto shall comply with the terms/conditions/requirements/concerns of the N.Y.S. Department of Transportation relative to the Rte 340, Orangeburg Road and Kings Highway intersections as set forth in the letter from the N.Y.S. D.O.T. to the Town Board of the Town of Orangetown dated August 3, 2006.
- (9) The Applicant or any successor in title or interest thereto shall comply with the provisions of any Voluntary Cleanup Agreement and Closure Plan, approved and required by the N.Y.S. Department of Environmental Conservation, including amendments, if any, thereto, 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.
- (10) If, at any time following completion of construction of the Project, or Phase 1 thereof in the event the Project is developed in phases, the Town, alone or in conjunction with the Rockland County Highway Department and/or the N.Y.S. Department of Transportation, concludes that a traffic signal is warranted at or about the location on Stevens Way constituting the access point for the Project and the adjacent site to the north (now occupied by Lowe's) the Applicant or its successor in title, within 60 days of demand by the Town shall contribute 50% of the cost of the purchase and installation of such signal.
- (11) In compliance with § 4.31 of the Zoning Ordinance of the Town, this 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

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part of the work comprising the 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.

- (12) No Building Permit shall be issued for the development of the site until such time as the N.Y.S. Department of Environmental Conservation and/or any other agency having jurisdiction over the environmental remediation of the site shall have approved the site for actual construction in accordance with an approved Site Development Plan.
- (13) This Special Permit is further conditioned on 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 to the issuance of the within Special Permit:

- (1) The Board determines, in accordance with § 4.32(O)(iv) of the Town Zoning Ordinance, that the total gross floor area that may be developed for all retail and/or personal service uses, upon completion, shall not exceed 30% of the total gross floor area to be developed. If built in phases, not more than 45% of the development may consist of retail uses during any initial phase of development. No Building Permits and/or Certificates of Occupancy shall be issued for any of the mixed uses, unless compliance with the percentages referenced herein shall be met.
- (2) Notwithstanding the aforesaid, in accordance with § 4.32(O)(iv) of the Town Zoning Ordinance, the Town Board hereby determines the following to be the maximum amount that may be developed as a part of the subject mixed use development:

<u>Use</u>	<u>Maximum Permitted Amount of Use(s)</u>
Retail and Personal Service	45,000 S.F.
Retail (Bank)	3,700 S.F.
Food Service	15,000 S.F.

All of the above otherwise subject to the percentage and development limitations set forth at II(1) above.

III.

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

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

- (1) The Project will be appropriately located with respect to transportation, water supply, waste disposal, fire and police protection and other public facilities.
- (2) The Project will not cause undue traffic congestion or cause a traffic hazard.
- (3) The 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,

Resolution No. 658 - Continued

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 Project will not adversely affect the character of or property values in the area.
- (5) The 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 Project will comply with all other regulations applicable to the uses allowed and approved hereby.

IV.**The Site Engineering Necessity for the Open Detention Basin in the Front Yard.**

Pursuant to § 4.32(O)(v), the Town Board finds, 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 Special Permit, so authorizes its construction in that location. The said basin shall be developed and landscaped substantially in accordance with the proposed Site Development Plan, including the supplemental Revised Detention Basin Landscape Graphic, prepared by Langan Engineering, dated September 15, 2006, subject to Planning Board review and approval 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 review submitted by the Rockland County Department of Planning dated June 12, 2006. The Town Board has considered each of the County's concerns and/or conditions and addresses each in the following manner.

Integrated Design of Site

County Comments 1 and 2 relate to the requirement of 4.32(O) that any Special Permit issued there under involve a plan of development that combines economically viable, non-residential uses, planned as an "integrated whole". Toward that end, the County recommends modifications to the proposed plan that would require:

- roofed walkways between buildings and uses on site, or multiple uses within buildings;
- a design that makes it unnecessary for pedestrians to traverse parking and traffic areas to use the various uses on site;
- sidewalks between buildings on site and between the Project site and Lowe's to the north;
- architectural, landscape and signage themes that will unite and integrate the design within the site and surrounding sites, utilizing colors, materials, plants, etc.

The County further conditions approval on the submission of a preliminary sketch plat if it is anticipated the site will, in the future be subdivided.

The Town Board concludes that the Concept Plan, including the general design, locations and configuration of the buildings with respect to each other and to adjacent sites, satisfies the requirements of the § 4.32(O) that the proposed development be designed is an integrated development consisting of multiple, compatible and viable non-residential uses. With respect to the internal traffic and pedestrian circulation patterns, and the colors, materials, plantings to be used in the development, this Board believes that level of detail to be beyond the jurisdiction of the County Planning Department, and, in any event, are matters to be reviewed by the Town

Resolution No. 658 - Continued

Planning Board and/or other Town land use Boards in connection with site development plan approval.

To the extent the County, by the referenced conditions, would condition its approval of the Special Permit on some change to the proposed layout, the Town Board overrides the referenced conditions in connection with the issuance of the within Special Permit.

Buffers, Landscaping and Lighting

County Comment 1 relates to the compatibility of the development, and, in particular of the hotel uses in proximity to the West Shore Railroad line.

The Town Board concludes that the proposed hotels are not incompatible with the nearby rail line, and that the level of "buffer" between the rail line and hotels is sufficient. Insofar as the issue of landscaping is concerned, that is a site-specific detail to be addressed by the Planning Board in the course of its review.

To the extent the County's comment requires only that the Town consider the compatibility of the various uses to a site proximate to a rail line, the Town Board has done so and no override is necessary.

County Comment 2 requires a review by the PIPC and satisfaction of its concerns.

The Town has met with, and otherwise has received comments from the PIPC, and believes that it has reasonably addressed the PIPC's concerns with modifications that were made initially to the Special Permit legislation prior to its adoption, and, more recently, by changes that have been required to the Applicant's Concept Plan. In short, the Town has sought to rationally balance the competing interests of the Town, the Applicant and the PIPC. To the extent the PIPC may not be entirely satisfied with the result, and the County's comments would require satisfaction of all PIPC concerns in the manner determined by the PIPC as a condition of County Planning Department approval, the Town Board hereby overrides that condition.

County Comment 3 relates to the claimed absence of the required 25" vegetated buffer along Rte. 303 and plantings within that buffer.

The Concept Plan before the Town Board shows the required buffer. With respect to the nature of the landscaping to be included within that buffer, that is a site specific detail to be addressed by the Planning Board, consistent with the guidance and requirements of § 4.32(O). No override is necessary by the Town Board.

County Comment 4 and 5 relate to the nature, extent and types of landscaping to be provided on site, within the designated buffer areas and elsewhere, and to the proposed lighting plan.

The Applicant shall comply with the County's comments.

Other Site Planning Issues

County Comment 1 relates to the location on the site for snow plies, requiring that same be shown on the Concept Plan.

The detail required by the County is a site specific detail to be addressed by the Planning Board during site plan review and on the final approved Site Development Plan. It need not be shown on the Concept Plan. The Town Board overrides the referenced condition in connection with the issuance of the Special Permit.

Comments 2, 3, 4 and 5, shall be satisfied by the Applicant, notwithstanding that certain of the comments, in the Town Board's judgment, entail a level of site specific review that is beyond the jurisdiction of the County Planning Department.

Resolution No. 658 - Continued**Sign Design**

Comments 1, 2 and 3 relate to the details of the signage proposed for the development, and whether the signs shown on the Concept Plan comply with the Town's regulations for a mixed use development.

Once again, the Board's use of the Applicant's proposed site development plan as a Concept Plan to show the location, configuration, orientation and other site features required to be shown on the Applicant's Special Permit application is not intended to be, nor shall it be construed as, an approval of the sufficiency, or site specific details, of the plan as a Final Site Development Plan. As such, the details of the signage shown on the Concept Plan are neither approved nor disapproved by the grant of this Special Permit. Rather, signage on the site shall be in accordance with the applicable Town laws and regulations unless varied in the normal approval process.

To the extent the County's comment requires compliance with applicable Town laws and regulations relative to signage, the Applicant shall satisfy that comment. To the extent, the County would impose requirements different from, or greater than required by applicable Town regulations, the Town Board overrides that condition in the context of the issuance of the within Special Permit.

Parking

County Comments 1 and 2 relate to the number of parking spaces on site, suggesting that the Town Board reduce the required number of spaces to a number that might reasonably be anticipated to be needed for the uses proposed, utilizing the concept of "shared" parking and land banking, all with a view toward reducing the amount of impervious coverage on site.

The Town Board has considered the County's comments in this regard, thereby satisfying its condition(s) to approval, without the necessity to override same. That said, the Town Board defers to the Planning Board to determine whether fewer spaces might practically be needed than required by existing Town regulations and shown on the Concept Plan. No override is necessary.

Transportation

County Comments 1, 2 and 3 relate to specific traffic and pedestrian travels concerns on site, or on the roads and highways off-site, but immediately adjacent thereto.

The Applicant shall comply with Comment No. 1, recognizing that issues of railroad gating, signalization and other roadway improvements involve agency and municipal approvals often beyond the private Applicant's control.

The Applicant shall comply with Comment 2, but shall do so prior to the grant of Site Development Plan approval, rather than before the issuance of a Special Permit. To the extent the timing of the required consultation does not satisfy the County's condition, the Town Board overrides such condition.

With respect to Comment 3, the Town Board concludes that the proposed Site Development Plan before the Town Board as the Concept Plan required for the issuance of a Special Permit is sufficient for that purpose. To the extent it may be appropriate to add, or provide greater detail on, sidewalks and/or other pedestrian amenities on site, or to relocate such amenities as presently may be shown on the Applicant's Plan, the Town Board defers on those issues to the Planning Board to consider in the course of the site plan approval process. County Comment 3 is overridden insofar as it requires changes to the Concept Plan before issuance of the Special Permit.

Agency Reviews

County Comments 1 through 8, inclusive require compliance with the comments and review and permitting processes of other agencies. The Applicant shall comply with the referenced conditions to the extent, and only to the extent, those agencies have permitting authority or other jurisdiction over the project.

Public Comment

Ed Fitzpatrick, Pearl River, spoke regarding health premiums adding to the tax increase for Orangetown residents.

Michael Mandel, Pearl River, spoke regarding the Town Board vote of 3-2 to increase their pension benefits, employees and health benefits.

Carol Silverstein, Orangeburg, spoke about health benefits, employees and CSEA and would like to review percentage increases in the overall budget with Finance.

Eileen Larkin, Palisades, said according to the Comptroller Office, the Town may review/reduce benefits and asked if the child-care on RPC has insurance and pays rent?

Shelly Morgan, Tappan, said the Town Board and part-time employees are not entitled to full-time benefits. He believes the resolution should be rescinded.

Genevieve Coffey, Pearl River, disagrees that the property abutting hers doesn't have any violations and wants a solution to the violations of the Planning Board's decision.

Henry Rand, Nyack, agrees with contributions being made toward benefits and disagrees with retroactive full-time retirement credit.

Mary McCloskey, Blauvelt, disagrees with employees losing benefits. Town employees were hired with a low salary because of the benefits.

Kevin Clancy, Sparkill, spoke about the overcrowding, loud noise and several vehicles at 35 Edward St., Sparkill. He asked the Town to address these violations.

RESOLUTION NO. 659

CLOSE PUBLIC PORTION

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

RESOLVED, that the public comment portion and this public hearing is hereby closed.

Ayes: Councilpersons Manning, Morr, O'Donnell, Troy
Supervisor Kleiner

Noes: None

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RESOLUTION NO. 660

COMBINE AGENDA ITEMS

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

RESOLVED, that agenda items six (6) through sixteen (16) are hereby combined.

Ayes: Councilpersons Manning, Morr, O'Donnell, Troy
Supervisor Kleiner

Noes: None

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RESOLUTION NO. 661

**RESCHEDULE WORKSHOP
OCTOBER 2 – OCTOBER 3**

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

RESOLVED, that the October 2nd Workshop is rescheduled to October 3rd.

Ayes: Councilpersons Manning, Morr, O'Donnell, Troy
Supervisor Kleiner

Noes: None

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RESOLUTION NO. 662

**AID/TAPPAN REFORMED CHURCH
FALL FESTIVAL/SEPTEMBER 30TH**

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

Resolution No. 662 - Continued

RESOLVED, that the request of the Tappan Reformed Church for barricades and trash receptacles for their annual Fall Festival to be held at the Tappan Reformed Church on Saturday, September 30 is hereby approved.

Ayes: Councilpersons Manning, Morr, O'Donnell, Troy
Supervisor Kleiner
Noes: None

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RESOLUTION NO. 663**COMPUTER EQUIP/DECLARE
SURPLUS/HIGHWAY DEPARTMENT**

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

RESOLVED, that the following computer equipment from the Orangetown Highway Department is hereby declared surplus:

Dell Monitor - D1028L 1998 - 84799JJMA988
Dell Monitor - D1028L 1998 - 84799JJMA988
Gateway Monitor - EV910A 1999 - 19007B175228
Gateway Monitor - EV910A 1999 - 19007B165116
Gateway Monitor - EV910C 2001 - MU19003A0103413
Gateway Monitor - EV910C 2001 - MU19003A0103745
Gateway Monitor - EV910C 2001 - MU19003A0088649
Dell Dimension XPS D300 - FWNFR 1998 Pent II
Gateway LP Mini-tower - TB3GP7-500 1999 - 0016293955 Pent III
Gateway LP Mini-tower - TB3GP7-500 1999 - 0016293959 Pent III
Gateway LP Mini-tower - TB3GP7-500 1999 - 0016293958 Pent III
Gateway NLX Mini Desktop - CO2E3400 2001 - 00025269835 Pent III

Ayes: Councilpersons Manning, Morr, O'Donnell, Troy
Supervisor Kleiner
Noes: None

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RESOLUTION NO. 664**APPROVE/EMPLOYEE ASSISTANCE
CONTRACT/NYACK HOSPITAL**

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

RESOLVED, that the Employee Assistance Contract with Nyack Hospital in the amount of \$8,277.00 for the period October 1, 2006 through September 30, 2007 is hereby approved.

Ayes: Councilpersons Manning, Morr, O'Donnell, Troy
Supervisor Kleiner
Noes: None

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RESOLUTION NO. 665**LABOR AGREEMENT/CAPTAIN
ROBERT ZIMMERMAN/APPROVE**

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

RESOLVED, that the labor agreement with Captain Robert Zimmerman covering the time period of May 30, 2006 to December 31, 2007 is hereby approved.

Ayes: Councilpersons Manning, Morr, O'Donnell, Troy
Supervisor Kleiner
Noes: None

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RESOLUTION NO. 666**LABOR AGREEMENT/ADM LT DONALD BUTTERWORTH /APPROVE**

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

RESOLVED, that the labor agreement with Administrative Lieutenant Donald Butterworth covering the time period of June 20, 2006 to December 31, 2007 is hereby approved.

Ayes: Councilpersons Manning, Morr, O'Donnell, Troy
Supervisor Kleiner
Noes: None

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RESOLUTION NO. 667**NYSPIN COMM SYSTEM ADVISORY PERMISSION GRANTED/POLICE**

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

RESOLVED, that permission is hereby granted to two Police Officers to attend the NYSPIN Communications System Advisory Committee meeting in Albany, NY from November 3, 2006 at a cost of \$180.00 to be charged to Acct. #B3120/50441/50480.

Ayes: Councilpersons Manning, Morr, O'Donnell, Troy
Supervisor Kleiner
Noes: None

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RESOLUTION NO. 668**FBI SWAT SCHOOL/PERMISSION GRANTED/POLICE**

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

RESOLVED, that permission is hereby granted to one Police Officer to attend the Budget Impact for FBI SWAT School (a mandatory training school for members of the Regional REACT L Team) from September 25-October 6, 2006 at a cost of \$1,641.68 to be charged to Account No. B3120164/50441/50480.

Ayes: Councilpersons Manning, Morr, O'Donnell, Troy
Supervisor Kleiner
Noes: None

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RESOLUTION NO. 669**ACCEPT MINUTES**

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

RESOLVED, that the Executive Session minutes of September 5, 2006; Regular Town Board, Audit Meeting, Executive Session minutes of September 11, 2006; and Special Town Board Meeting of September 13, 2006 are hereby accepted.

Ayes: Councilpersons Manning, Morr, O'Donnell, Troy
Supervisor Kleiner
Noes: None

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RESOLUTION NO. 670**PEARL RIVER ROTARY/SHARE CHRISTMAS/FUNDING/AID**

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

Resolution No. 670 - Continued

RESOLVED, that the request of the Rotary Club of Pearl River for a donation in the amount of \$1,000, the use of the Town's show-mobile, sound system, personnel to operate same, and rental of two port-a-johns to be used for the annual Rotary "Share Christmas" holiday program to be held on December 15, 2006 and to be charged to Account No. A7550/50457 is hereby approved.

Ayes: Councilpersons Manning, Morr, O'Donnell, Troy
Supervisor Kleiner
Noes: None

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RESOLUTION NO. 671**OFFICE EQUIPMENT/SUPPLIES
DECLARE SURPLUS/TOWN CLERK**

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

RESOLVED, that the following office equipment/supplies from the Town Clerk's Office is hereby declared surplus:

- 4 Mini-tower computers
- 1 Texas Instrument Adding Machine s/n 0178740C-1192A
- 2 Swingline Electric Staplers
S/n LI621167
S/n NE701817
- 1 Swingline Heavy Duty Stapler
- 2 Computer VDT Filter Screens

Ayes: Councilpersons Manning, Morr, O'Donnell, Troy
Supervisor Kleiner
Noes: None

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RESOLUTION NO. 672**ADJOURNMENT/MEMORY**

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

RESOLVED, that the Town Board adjourned this meeting at 9:35 p.m. in memory of Marie Tharp, South Nyack, Dr. Seymour Cohen, Orangeburg, Janet Maestri, Blauvelt, Roberta Nevin, Blauvelt, Lacey Beau Duhrsen "Boudou", Nyack and Anna C. Keiser, Sparkill.

Ayes: Councilpersons Manning, Morr, O'Donnell, Troy
Supervisor Kleiner
Noes: None

Charlotte Madigan, Town Clerk