



TOWN OF ORANGETOWN TOWN BOARD MEETING

Tuesday July 11, 2023

This Town Board Meeting was opened at 7:00 PM.

Councilperson Thomas Diviny _____
Councilperson Paul Valentine _____
Councilperson Jerry Bottari _____
Councilperson Brian Donohue _____
Supervisor Teresa M. Kenny _____

☪ Pledge of Allegiance to the Flag

ANNOUNCEMENTS:

- ◆ The following Public Hearing is scheduled for July 25, 2023:
 - Adopt the Comprehensive Plan
- ◆ The following Public Hearing is scheduled for August 22, 2023:
 - Zone Change for Prel Plaza/ 60 Dutch Hill Rd

PRESENTATIONS:

- ◆ Kyle John Boyce Memorial Scholarship Committee presenting a check to the Parks and Recreation Day Camp for two children to attend the 2023 summer season
- ◆ Hudson Valley iCampus Proposed Zoning Text Amendment

DISCUSSION:

- ◆ WORKSHOP OF AGENDA ITEMS

PUBLIC COMMENT:

1. OPEN PUBLIC COMMENT PORTION

RESOLVED, that the public portion is hereby opened.

SUMMARY OF PUBLIC COMMENTS:

2. **CLOSE PUBLIC COMMENT PORTION**

RESOLVED, that the public portion is hereby closed.

AGENDA ITEMS:

TOWN BOARD

3. **OPEN PUBLIC HEARING / RTBM OF JULY 11, 2023 AT 7:05 P.M. / PROPOSED LOCAL LAW AMENDING / TOWN CODE CHAPTER 39, VEHICLES AND TRAFFIC, ARTICLE 1, VEHICLE AND TRAFFIC REGULATIONS, SECTION 39-8(D) STOP INTERSECTIONS**

RESOLVED, that the public hearing is hereby opened.

PRESENTATION: Notice of Posting and Affidavit of Publication

SUMMARY OF COMMENTS

4. **CLOSE / CONTINUE PUBLIC HEARING / PROPOSED LOCAL LAW AMENDING / TOWN CODE CHAPTER 39, VEHICLES & TRAFFIC, ARTICLE I, VEHICLE AND TRAFFIC REGULATIONS, SECTION 39-8(D), STOP INTERSECTIONS**

RESOLVED, that the Public Hearing to on a proposed local law, amending Chapter 39 of the Town Code entitled Vehicles and Traffic, relating to the addition of a stop intersection at Dederer Street heading southeast at the intersection of Washington Street and Dederer Street in Sparkill in the Town of Orangetown, is hereby closed or continued to _____.

5. **LEAD AGENCY AND DETERMINATION OF SEQRA / PROPOSED LOCAL LAW AMENDING / TOWN CODE CHAPTER 39, VEHICLES & TRAFFIC, ARTICLE I, VEHICLE AND TRAFFIC REGULATIONS, SECTION 39-8(D), STOP INTERSECTIONS**

RESOLVED, that the Town Board declares itself Lead Agency in this matter, and further determines that such action is a Type II action pursuant to SEQRA, that the action will not have a significant adverse environmental impact, and, therefore, no further action is necessary with respect thereto under the State Environmental Quality Review Act.

6. **ADOPT LOCAL LAW ____ - 2023 / AMENDING TOWN CODE CHAPTER 39, VEHICLES & TRAFFIC, ARTICLE I, VEHICLE AND TRAFFIC REGULATIONS, SECTION 39-8(D), STOP INTERSECTIONS**

RESOLVED, that the Town Board hereby adopts Local Law ____ - 2023 to amend the Town Code, Chapter 39, Vehicles & Traffic, Article I, Vehicle and Traffic Regulations, Section 39-8(D) Stop Intersections.

**LOCAL LAW NO. ____ - 2023 OF THE TOWN OF ORANGETOWN,
AMENDING CHAPTER 39 (VEHICLES AND TRAFFIC), ARTICLE I (VEHICLE AND TRAFFIC
REGULATIONS) OF THE CODE OF THE TOWN OF ORANGETOWN**

As amended, additions are underlined. Be it enacted by the Town Board of the Town of Orangetown as follows:

Section 1 – Legislative Findings, Objectives and Purpose of this Local Law No. ____ of 2023: that upon the recommendation of the Orangetown Traffic Advisory Board and in accordance with the NYS Manual on Uniform Traffic Control Devices (MUTCD) and upon the completion of a six month police regulation and having investigated issues related to traffic flow and safety in the hamlet of Sparkill in and around Dederer Street, recommends the Town Board adopt this local law amending the Town Code, to install a stop sign on Dederer Street heading southeast at the intersection of Washington Street and Dederer Street. Having held a public hearing on the matter, the Town Board finds that the installation of a stop sign on Dederer Street heading southeast at the intersection of Washington Street and Dederer Street, is necessary for traffic and pedestrian safety.

Section 2 – Chapter 39 (Vehicles and Traffic), Article I (Vehicle and Traffic Regulations), §39-8(D), of the Code of the Town of Orangetown (“Orangetown Code”), shall be amended so as to add the following new subsection “10” to paragraph “D” of Section 39-8, and, as amended, shall read as follows:

39-8. Stop intersections.

The following intersections are hereby designated as stop intersections and all vehicles approaching said intersections as hereinafter set forth shall, before entering the intersection, come to a full stop, unless otherwise directed by a peace officer or signal:

D. In the Hamlet of Sparkill:

(10) Dederer Street for traffic proceeding southeast at the intersection of Washington Street and Dederer Street

Section 3 – This Local Law shall become effective immediately upon filing with the New York State Secretary of State.

7. OPEN PUBLIC HEARING / RTBM OF JULY 12, 2023 AT 7:10 P.M. / PROPOSED LOCAL LAW AMENDING / TOWN CODE CHAPTER 39, VEHICLES AND TRAFFIC, ARTICLE 1, VEHICLE AND TRAFFIC REGULATIONS, SECTION 39-6, PROHIBITION OF PARKING ON DESIGNATED HIGHWAYS

RESOLVED, that the public hearing is hereby opened.

PRESENTATION: Notice of Posting and Affidavit of Publication

SUMMARY OF COMMENTS

8. **CLOSE / CONTINUE PUBLIC HEARING / PROPOSED LOCAL LAW AMENDING / TOWN CODE CHAPTER 39, VEHICLES & TRAFFIC, ARTICLE I, VEHICLE AND TRAFFIC REGULATIONS, SECTION 39-6 PROHIBITION OF PARKING ON DESIGNATED HIGHWAYS**

RESOLVED, that the Public Hearing to on a proposed local law, amending Chapter 39 of the Town Code entitled Vehicles and Traffic, relating to restricting parking on the south side of East Crooked Hill Road from North Middletown Road to the entrance of the Meadows at Pearl River Condominium Complex in Pearl River, is hereby closed or continued to _____.

9. **LEAD AGENCY AND DETERMINATION OF SEQRA / PROPOSED LOCAL LAW AMENDING / TOWN CODE CHAPTER 39, VEHICLES & TRAFFIC, ARTICLE I, VEHICLE AND TRAFFIC REGULATIONS, SECTION 39-6 PROHIBITION OF PARKING ON DESIGNATED HIGHWAYS**

RESOLVED, that the Town Board declares itself Lead Agency in this matter, and further determines that such action is a Type II action pursuant to SEQRA, that the action will not have a significant adverse environmental impact, and, therefore, no further action is necessary with respect thereto under the State Environmental Quality Review Act.

10. **ADOPT LOCAL LAW ____ - 2023 / AMENDING TOWN CODE CHAPTER 39, VEHICLES & TRAFFIC, ARTICLE I, VEHICLE AND TRAFFIC REGULATIONS, SECTION 39-6 PROHIBITION OF PARKING ON DESIGNATED HIGHWAYS**

RESOLVED, that the Town Board hereby adopts Local Law ____ - 2023 to amend the Town Code, Chapter 39, Vehicles & Traffic, Article I, Vehicle and Traffic Regulations, Section 39-6 Prohibition of Parking on Designated Highways.

**LOCAL LAW NO. ____ - 2023 OF THE TOWN OF ORANGETOWN,
AMENDING CHAPTER 39 (VEHICLES AND TRAFFIC), ARTICLE I (VEHICLE AND TRAFFIC
REGULATIONS) OF THE CODE OF THE TOWN OF ORANGETOWN**

As amended, additions are underlined. Be it enacted by the Town Board of the Town of Orangetown as follows:

Section 1 – Legislative Findings, Objectives and Purpose of this Local Law No. ____ of 2023: The Town of Orangetown Traffic Advisory Board having investigated issues related to congestion and safety in the hamlet of Pearl River on the south side of East Crooked Hill Road from North Middletown Road to the entrance of the Meadows at Pearl River Condominium Complex in Pearl River, recommends the Town Board adopt this local law amending the Town Code, to prohibit parking on south side of East Crooked Hill Road from North Middletown Road to the entrance of the Meadows at Pearl River Condominium Complex in Pearl River. Having held a public hearing on the matter, the Town Board finds a prohibition on parking along the south side of East Crooked Hill Road from North Middletown Road to the entrance of the Meadows at Pearl River Condominium Complex is necessary for traffic and pedestrian safety.

Section 2 – Chapter 39 (Vehicles and Traffic), Article I (Vehicle and Traffic Regulations), §39-6, of the Code of the Town of Orangetown (“Orangetown Code”), shall be amended so as to add the following new subsection “70” to paragraph “A” of Section 39-6, and, as amended, shall read as follows:

39-6. Prohibition of parking on designated highways.

The parking or standing of vehicles in any of the following locations is hereby prohibited:

A. In the Hamlet of Pearl River:

(70) On the south side of East Crooked Hill Road from North Middletown Road to the entrance of the Meadows at Pearl River Condominium Complex.

Section 3 – This Local Law shall become effective immediately upon filing with the New York State Secretary of State.

11. APPROVE AMENDMENT TO SPECIAL PERMIT / FB ORANGETOWN / ORANGEBURG COMMONS / ROUTE 303 AND STEVENS WAY / PERMIT FAST FOOD

WHEREAS, the Town Board of the Town of Orangetown (the “Town Board”) is the municipal entity, authorized under Chapter 43, § 4.32(O) and (P), 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 and expansions at certain interchange locations in the Light Industrial (“LI”) zoning district in the Town of Orangetown; and

WHEREAS, by letter application dated April 20, 2023, and Petition dated March 30, 2023, FB Orangetown Retail, LLC and other related entities petitioned the Town Board to amend Town Code, Chapter 43 (Zoning) at § 4.32(O)(iii)(h) to permit “Restaurant, Fast Food” for Mixed Use Developments and Mixed Use Expansions, relating to properties located in the “LI” zoning district in the vicinity of the intersection of State Rte. 303 and the Palisades Interstate Parkway (Exit 5 Interchange), in the Town of Orangetown; and

WHEREAS, on June 27 2023, the Town Board, by Resolution No. 2023-345 approved a Local Law amending the Town Zoning Law as set forth above to allow for “Restaurant, Fast Food” under such Special Permits, as set forth more fully therein, and

WHEREAS, as part of its letter application referenced above, the applicant simultaneously requested that the Board amend the existing Special Permit for Mixed Use Development on the property designated as Section 74.15, Block 1, Lot 21./1, 21./2, 21./3, 21./4 and 21./5 and known as “Orangeburg Commons” (the “Project”) to permit “Restaurant, Fast Food” as a permitted use under such Special Permits, and

WHEREAS, on or about May 9, 2023, the Town Board circulated among all other involved and interested agencies notice of its intention to assume Lead Agency status for the purpose of the environmental review of the Project; and

WHEREAS, on or about May 9, 2023, the Town Board referred the Project to the Rockland County Department of Planning and Planning Board pursuant to General Municipal Law 239-l, 239-m and 239-n; and

WHEREAS, there being no challenge or objection filed to the Town Board’s status as Lead Agency by any other involved agency, on June 27, 2023, the Town Board declared itself Lead Agency for the coordinated environmental review of the Project; and

WHEREAS, the Town Board, acting both in its capacity as Lead Agency under SEQRA and in connection with its authority under the Town Zoning Ordinance to issue and amend

Special Permits for mixed use developments, has considered the following plans, reports, comments and other documents:

1. Full Environmental Assessment Form, signed by Alfred T. Rossi on behalf of the applicants and the attachments thereto by Colliers Engineering (Trip Generation Analysis) dated April 14, 2023 and Bhatt Thakkar Engineering, DPC (Sewer and Stormwater Statement) dated April 18, 2023;
2. Petition for Amendment of the Town Code signed by Richard Birdoff, Managing Member of the FB Orangetown Entities;
3. Concept Plan prepared by Bhatt Thakkar Engineering, DPC, Drawing Nos. CP16 and CP16A last revised April 12, 2023;
4. Renderings, Elevations and Lease Outline Drawing Site Plan for Chipotle, the abutting tenant space and the tenant space on the north pad, prepared by Onyx Creative, dated April 18, 2023;

WHEREAS, the within application and Petition were circulated to the Rockland County Department of Planning for review and comment pursuant to General Municipal Law §§ 239-l & m, which responded by letter dated June 30, 2023. County Planning indicated, among other items, that

- 1) It is recommended that the Town review §8.13 subsections A through D to ensure that exceptions to these requirements would not negatively impact nearby properties.
 - Response: The provisions of §8.13 regarding location are not concerning for properties eligible for a special permit under the applicable section since any fast food restaurants would be part of a mixed use development, and subject to site plan approval by the Planning Board, which will address any concerns regarding location as part of that process. .

WHEREAS, the Town Board adopted a Negative Declaration pursuant to SEQRA on June 27, 2023 by Town Board Resolution No. 2023-344 and,

WHEREAS, in addition to the aforesaid, the Town Board also has evaluated the proposed amendments in the light of the following studies, reports and /or other assessments and reviews relating more generally to conditions in and about the area of the proposed amendment:

- Town of Orangetown Comprehensive Plan, adopted by the Town Board on May 12, 2003, and, in particular, Sections III-3 and V-1 relative to the intersection area embraced by the proposed zoning text amendment;
- The Town's existing Route 303 Overlay Zoning District zoning provisions;
- The Route 303 Sustainable Development Study, dated December 2002, prepared by Wilbur Smith Associates, for the Town of Orangetown, the New York State Department of Transportation, the County of Rockland, the New York State Metropolitan Transportation Council.

WHEREAS, a duly noticed public hearing session was conducted before the Town Board on June 27, 2023 in connection with the Applicant's Amended Special Permit Applications, at which public comment was received and considered by the Board.

NOW, THEREFORE, BE IT RESOLVED, that, pursuant to Chapter 43 of the Zoning Ordinance, including § 4.32(O) and (P) and the related tables of General Use and Bulk and

Area regulations in the Zoning Ordinance, the Town Board hereby issues an Amended Special Permit allowing modification of the previously issued Special Permit as follows: (i) The existing Special Permit for Mixed-Use Expansion on the property designated as Section 72.15, Block 1, Lots 21./1, 21./2, 21./3, 21./4 and 21./5 and known as "Orangeburg Commons" is hereby amended to permit a "Restaurant, Fast Food" in accordance with the definition of same in the Town Code.

Findings and Conditions

(1) The within Amended Special Permit is granted for the integrated development of the Property with the types of uses, and generally in the manner, shown on the Applicant's Concept Plan, last revised April 12, 2023 (hereinbefore referenced). The Town Board adopts the said Plans as the "Amended Site Plan for Orangeburg Commons Residence Inn/Fairfield Inn Dual Brand Hotel" for purposes of the issuance of this Amended Special Permit, subject to the caveat hereinbefore set forth that the Town Board's use of the proposed Amended Concept Plan, prepared pursuant to § 4.32(O) and (P) as the basis for the Amended Special Permit Applications, unless otherwise expressly stated, is not intended to, nor shall it be construed as, approving the site specific details of the development that appear thereon other than the specified uses, the sizes, locations and configurations of the buildings, the points of access on Stevens Way and Greenbush Road, the size and location of buffers, the size of the pylon sign structure and the location of the stormwater basin along the Property's frontage on Route 303.

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

(2) Any change in the uses proposed for the site, now or in the future, shall require that the Applicant or any successor in title or interest to the Applicant return to the Town Board at which time the Town shall determine whether the new use or uses is consistent with the single, integrated plan of the development approved by the issuance of these Amended Special Permits.

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

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

(4) Any approved Amended Site Plan shall continue to comply with the requirements of §§ 4.32(O) (vi), 4.23(c), and 13.10(B)(4) of the Town Zoning Ordinance, and any related variances with respect to signage.

(5) The Applicant or any successor in title or interest thereto shall comply with all previous issued approvals with respect to the properties that are the subject of this Amended Special Permit.

(6) This Amended Special Permit is further conditioned on the grant of Amended Site Plan Approval by the Town Planning Board.

2. Additional Findings Made Pursuant to § 31 of the Town Zoning Ordinance

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

(1) The Amended Project will continue to be appropriately located with respect to transportation, water supply, waste disposal, fire and police protection and other public facilities.

(2) The Amended Project will not cause undue traffic congestion or cause a traffic hazard.

(3) The Amended Project will not create, at any point of determination set forth in §§ 4.16, 4.17 or 4.18, any more dangerous and objectionable elements referred to in § 4.11 (fire, explosive, radioactive, noise, vibration, smoke, dust, odor or other form of air pollution, electrical or other disturbance, glare, liquid or solid refuse or waste, condition conducive to the breeding of rodents, insects or other substance, condition or element adversely affecting the surrounding area) than is characteristic of the uses expressly permitted as of right in the LI district.

(4) The Amended Project will not adversely affect the character of, or property values in, the area.

(5) The Amended Project will not otherwise impair the public health, safety, morals, convenience, comfort, prosperity and other aspects of the general welfare of the Town.

(6) The Amended Project must continue to comply with all other regulations applicable to the uses allowed and approved hereby.

12. **DETERMINATION AND FINDINGS BY THE TOWN OF ORANGETOWN PURSUANT TO EMINENT DOMAIN PROCEDURE LAW ("EDPL") SECTION 204 IN CONNECTION WITH THE PROPOSED ACQUISITION OF THE PROPERTY KNOWN AS THE HNA PALISADES PREMIER CONFERENCE CENTER / 334 ROUTE 9W, PALISADES, NY (TAX LOT 78.13-1-1)**

WHEREAS, the property located at 334 Route 9W, Orangetown, New York (Tax Lot 78.13-1-1) ("Property") is currently owned by HNA Training Center NY LLC ("HNA" or "Owner"), which was primarily used and operated as a hotel/conference center; and

WHEREAS, the Property has been vacant and/or not in use as a hotel/conference center for approximately five (5) years;

WHEREAS, the Town of Orangetown ("Town") has a vision for maximizing, revitalizing, and redeveloping the currently underutilized and vacant Property for the benefit of the community, with a use or mix of uses that will enhance the sound growth of the Town,

increasing its tax base, preserving key environmental on-site features, providing public amenities and uses, and encouraging good design standards; and

WHEREAS, in order to realize this vision, the Town, in cooperation with HNA, issued a Request for Expressions of Interest (“RFEI”), identified Reveil LLC (“Reveil”) as its Preferred Developer and entered into a Memorandum of Understanding (“MOU”) with Reveil for the development of the Property, which contemplated, inter alia, the Town using its eminent domain authority to facilitate redevelopment of the Property, if necessary; and

WHEREAS, with the assistance of the Town, on or about April 28, 2022, HNA entered into a Letter of Intent (“LOI”) with Reveil, which set forth the terms pursuant to which, among other things, Reveil would hopefully enter into a consensual Purchase and Sale Agreement with HNA (“PSA”) to sell the Property to Reveil; and

WHEREAS, despite Reveil’s signing of a PSA in October 2022 and depositing a total \$600,000.00 with an Escrow Agent in contemplation of the sale of the Property, HNA has not released a signed version of the PSA, and the parties have not consummated the sale; and

WHEREAS, HNA has effectively abandoned the Property and the already blighted Property continues to deteriorate and fall further into an unsafe condition, including, among other conditions, numerous events of vandalism and trespass; utilities to the Property being cut off resulting in standing water accumulating in the basement of the existing buildings due to pipes freezing and bursting; HNA failing to maintain the emergency access road in a passable condition for fire apparatus, and failing to repair a large sink hole on the secondary access road and under HNA’s continued ownership; and

WHEREAS, due to the aforementioned conditions, numerous violations have been issued to HNA due to the failure to upkeep the Property, causing the Property to exhibit a deteriorating and unsafe condition, including, but not limited to, several environmental incidents that have occurred recently on the Property, such as discharges of wastewater into the Town’s WWTP and illegal dumping of C&D material; and

WHEREAS, based upon HNA’s failure to sign the PSA with Reveil, the continuing and worsening underutilized and unsafe nature of the Property, the various open violations, and the significant amount of taxes in arrears, on October 25, 2022, the Town Board adopted a Resolution, which authorized Zarin & Steinmetz to take all necessary steps pursuant to the MOU to commence and prosecute eminent domain proceedings against the Property and HNA; and

WHEREAS, on February 21, 2023, March 21, 2023 and April 25, 2023, the Town Board conducted public hearings pursuant to EDPL Section 201 to review with the public and Property owner the proposed public purpose and potential environmental impact of the acquisition of the Property through the use of the Town’s eminent domain authority; and

WHEREAS, on May 19, 2023, the United States District Court for the Southern District of New York issued an Opinion and Order compelling an affiliate of HNA to turn fee title to the Property over to an affiliate of SL Green Realty Corp. (“SL Green”) as partial satisfaction of an arbitration award, but, due to several stays granted by the Court, HNA remains the owner of the Property; and

WHEREAS, it is not clear at this juncture whether SL Green will be able to obtain title to the Property and/or consummate the PSA with Reveil in a timely manner; and

WHEREAS, since HNA remains the owner of the Property, the above-described conditions remain, and the PSA to sell the Property to Reveil for redevelopment is still not consummated; and

WHEREAS, the Town must adopt Determinations and Findings under the EDPL within 90 days of the close of the public hearings.

NOW, THEREFORE, IT IS HEREBY RESOLVED that, upon considering the above-summarized facts and the record compiled during the public hearings between February and April 2023, the Town Board makes the following determinations and findings in accordance with the EDPL and the State Environmental Quality Review Act (“SEQRA”) in support of the Town’s acquisition of the Property through the exercise of its eminent domain authority:

Location of Proposed Project

The 106-acre parcel located in the Town’s Office Park (OP) zoning district currently known as the HNA Palisades Premier Conference Center / 334 Route 9W, Orangetown, NY (Identified on the tax map as: 78.13-1 -1). This location has been selected because it is a large, abandoned site with significant tax arrears in the Town that presents a significant redevelopment opportunity after being secured, and unsafe conditions are remediated and repaired.

Public Purpose and Benefit to be Served

The Property is improved with a 206-room hotel and conference center, previously used by IBM and then sold to HNA. HNA closed the facility several years ago, and the Property has been dormant since 2020. The shuttered Property has not generated significant tax revenue or other public benefits since the closure of the hotel/conference center. To the contrary, there are currently tax arrears totaling approximately \$400,000 on the Property.

Since the hotel/conference center closed, various private entities have expressed an interest to the Town in redeveloping the Property. In addition, residents have expressed concern about the Property being dormant. Accordingly, the Town concluded that the Property presents a unique opportunity for a public/private partnership aimed at revitalizing, redeveloping and maximizing the currently underutilized and vacant Property for the benefit of the community. This redevelopment effort would include a use or uses that will enhance the sound growth of the Town, increasing its tax base, preserving key environmental on-site features, providing public amenities and uses, and encouraging good design standards.

In October 2022, the Town entered into the MOU with Reveil with the goal of redeveloping the Property to meet the aforementioned goals. While specific future uses or layout have not yet been identified, Reveil presented a redevelopment concept that could include improving the Property with a refurbished/rebranded hotel, a restaurant/bar, event space, a working farm/test kitchen, co-working spaces, some residential use and the preservation of open space and other public amenities. The MOU contemplated Reveil purchasing the Property, and then pursuing development approvals from the Town to carry out its vision. In the event Reveil was unable to purchase the Property with commercially reasonable effort, the parties contemplated in the MOU the Town being able to utilize its eminent domain authority to acquire the Property for redevelopment.

Despite Reveil's good faith efforts and negotiations with HNA since executing the MOU, including Reveil executing the PSA and depositing \$600,000 in escrow, HNA has failed to release a signed version of the PSA. As such, the purchase and sale contemplated in the MOU to facilitate redevelopment of the Property has not been consummated for almost two years.

During this time, conditions at the Property have worsened. Utilities have been shut off, and a series of mechanical failures have occurred in the buildings. In November 2021, a mechanical failure led to petroleum spilling into the wastewater system at the Property, eventually discharging into the Town's WWTP. In January and February 2022, the Town Fire Department responding to alarms triggered due to burst pipes discovered multiple sinkholes on access roads, making emergency access to the Property treacherous or impossible. Fire hydrants were also observed leaking and unusable. In addition, a series of break-ins, burglaries and vandalism events have occurred at the Property, including property damage, graffiti and multiple reports of illegal dumping of construction and demolition debris.

Given the apparent stagnation of the PSA execution and the aforementioned public health and safety hazards identified at the Property, the Town has concluded that acquiring the Property in order to secure the Property and remediate the on-going damage, as well as facilitate its redevelopment will serve a public purpose.

General Effect on the Environment and Town Residents / SEQRA Compliance

The Town Board has reviewed the Environmental Assessment Forms (EAF) in the Record prepared for the action being considered by the Town Board – i.e., the acquisition of the Property through eminent domain. The Town Board, as the sole agency with approval authority over the action (the lead agency), hereby classifies the action as a Type I action. The Town Board finds, for the purposes set forth in the attached Negative Declaration, that the acquisition of the Property would not result in any significant adverse environmental impacts. Nor will the acquisition result in any significant adverse impacts upon Town residents. Rather, the acquisition would produce several benefits to the community, including being able to secure the Property, resolve on-going safety concerns, and potentially facilitate redevelopment.

Other Relevant Factors

Three public hearings were conducted prior to the Town Board issuing this Determination and Findings. Notice was provided to the Property owner, as well as the Property owner's attorney. The Property owner did not appear or otherwise present any objections to the Town acquiring the Property through eminent domain, or question the public purpose of such acquisition.

A handful of Town residents did appear at the public hearings, none of whom expressed any objections. The residents corroborated the Town Board's view that the current state of the Property is problematic, and a desire to see redevelopment. As one speaker put it, redevelopment of the Property can "serve Orangetown in many ways as far as revenue, taxes and all that stuff." Another commented that the community wants the Property "to go in the right direction and paying property taxes, sales taxes and all of those wonderful things that help everybody." Others expressed similar support for using eminent domain to facilitate redevelopment at the Property.

Determination and Findings

Based upon due consideration of the Record and the foregoing, it is determined that the Town Board should exercise its authority of eminent domain to acquire the above-described Property because said acquisition would further various public purposes and benefits.

Copies of this Determination and Findings by the Town are available and will be forwarded without cost and upon request, by writing to the Town Clerk.

ATTENTION: ANY PERSON WHO WISHES TO SEEK JUDICIAL REVIEW OF THIS DETERMINATION AND FINDINGS, OR WHO CLAIMS TO BE AGGRIEVED BY SUCH DETERMINATION AND FINDINGS AND WISHES TO CHALLENGE THE SAME, MUST DO SO, IF AT ALL, (1) BY, PURSUANT TO EDPL SECTIONS 207 AND 208, DULY COMMENCING A LEGAL PROCEEDING IN THE N.Y. STATE APPELLATE DIVISION, SECOND DEPARTMENT, 45 MONROE PLACE, BROOKLYN, NEW YORK, 11202, NO LATER THAN THIRTY DAYS AFTER THE SECOND PUBLICATION OF THIS NOTICE IN THE OFFICIAL NEWSPAPER OF THE TOWN, OTHERWISE ANY SUCH CHALLENGE OR JUDICIAL REVIEW MAY BE TIME BARRED, AND (2) BY DULY SERVING A DEMAND UPON THE TOWN TO FILE THE RECORD UNDERLYING THIS DETERMINATION AND FINDINGS. THE APPELLATE DIVISION MAY CONSIDER THE PUBLIC USE, BENEFIT OR PURPOSE TO BE SERVED BY THE PROPOSED ACQUISITION AND OTHER MATTERS SET FORTH IN NEW YORK EMINENT DOMAIN PROCEDURE LAW SECTION 207. ANYONE WISHING TO CHALLENGE THIS DETERMINATION AND FINDINGS IS ADVISED TO CONSULT AN ATTORNEY PROMPTLY.

13. **AUTHORIZING SUBMISSION OF AN APPLICATION TO APPLY FOR A NYS DEPARTMENT OF ENVIRONMENTAL CONSERVATION (NYSDEC) 2023 MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) MAPPING GRANT & DEFINING THIS PLANNING ACTIVITY AS SEQRA TYPE II ACTION**

WHEREAS the Town of Orangetown has determined it desirable and in the public interest to submit an application to NYSDEC for funding consideration in furtherance of basic elements mapping of current Municipal Separate Storm Sewer System (MS4) infrastructure throughout the Town; and

WHEREAS the Town of Orangetown has remained an active member of the Rockland County Stormwater Consortium since 2019; and

WHEREAS the Town of Orangetown has committed to mapping the entirety of the basic elements of its storm sewer system in order to maintain progress and compliance with SPDES permit regulations; and

WHEREAS the Project shall be titled "Town of Orangetown MS4 Basic Elements Mapping Project - 2023" and include a grant narrative, work plan and schedule, and other supporting documents necessary for submission of the application; and

WHEREAS the mapping of the MS4 system and recording of its physical attributes is an operational activity, which does not provide for potential alteration of the environment because it involves mapping existing infrastructure and features of the community's resource environment; and

WHEREAS the amount of funding being requested under this program shall not exceed the maximum request of \$75,000 for individual municipalities, such funding which is intended to perform requisite storm sewer system mapping; and

WHEREAS the 2023 NYSDEC MS4 Mapping Grant Program requires a minimum 10 percent (10%) local match totaling no less than \$7,500; and

WHEREAS the Town of Orangetown Town Board is hereby committed to a cash match of no less than \$7,500; and

THEREFORE, BE IT RESOLVED the Town of Orangetown defines the proposed MS4 mapping undertaking as a Type II action according 6 NYCRR Part 617, State Environmental Quality Review standards, 617.5(c)(24), and other parts, because the undertaking involves basic data collection on the Town's existing facilities and this recording of information does not commit the Town to undertaking, funding or approving any other Type I or Unlisted actions, and as such no further environmental review is required; and

BE IT FURTHER RESOLVED the Town of Orangetown is hereby committed to using municipal funds to provide a local cash match of at least \$7,500 of the total project cost; and

BE IT FURTHER RESOLVED that the Town Board authorizes and directs the Town Supervisor to submit an application on behalf of the Town of Orangetown for MS4 basic elements mapping activities under the 2023 NYSDEC MS4 Mapping Grant Program, and is authorized to execute all other documents necessary for the implementation of this work, and is authorized to execute all financial and/or administrative processes relating to the grant program.

TOWN ATTORNEY

14. APPROVAL OF 2023 CERTIFICATE OF SEWER REGISTRATION

RESOLVED, that upon the recommendation of the Town Attorney and the Commissioner of the Department of Environmental Management and Engineering, a Certificate of Registration for 2023 Sewer Work is approved to:

- Mouacdie Excavating Corp., 175 N Rte 9W, Ste 6, Congers, NY 10920

15. ACCEPT TEMPORARY AND PERMANENT DRAINAGE EASEMENT / BUCCI / 19 VILLA DRIVE NANUET

WHEREAS, Ezio and Renee Bucci are the owners and residents of the property located at 19 Villa Drive, Nanuet, New York, tax lot 64.18/1/69, and

WHEREAS, due to excessive flooding in the area of Villa Drive, which impacts the Bucci property, other properties, and Villa Drive, the Town Department of Environmental Management and Engineering (DEME) and Town Highway Department have presented a proposed plan to the Town Board to address drainage issues at this location, and which plan requires the Town to acquire a permanent and a temporary easement for the purpose of completing the project,

NOW THEREFORE IT IS HEREBY RESOLVED, that based upon a review of the records and upon the recommendation of the Town Attorney's Office, Commissioner of DEME and the Town Highway Superintendent, that the Town hereby accepts from Ezio Bucci and Renee Bucci a permanent drainage easement and a temporary drainage easement, upon and across the property known as 19 Villa Drive, Nanuet, New York and identified as tax lot number 64.18/1/69 and authorizes the Supervisor or her designee to execute any documents necessary to accept such easements and authorizes same to be recorded in the Rockland County Clerk's Office.

16. **APPROVE / AUTHORIZE TOWN ATTORNEY TO SIGN SETTLEMENT DOCUMENTS / TAX CERTIORARI PROCEEDING CHROMALLOY AMERICAN, LLC / CHROMALLOY GAS TURBINE, LLC V. THE ASSESSOR, et al. (73.20-1-1.1)**

RESOLVED, upon the recommendation of the Assessor, approve and authorize Dennis D. Michaels, Deputy Town Attorney, to sign settlement documents regarding the tax certiorari proceeding Chromalloy American, LLC / Chromalloy Gas Turbine, LLC v. The Assessor, etc. et al., tax map designation 73.20-1-1.1 (330 Blaisdell Rd., Pearl River), for the tax assessment years 2012 - 2022 for a total refund by the County of \$ 14,540, a total refund by the Town of \$41,180, and a total refund by the School District of \$ 139,870. Interest on the Town's liability as a result of assessment decrease or refund is waived if payment is made within sixty (60) days after a copy of the order based upon the settlement is served on the Rockland County Finance Department.

PARKS AND RECREATION

17. **APPROVE ASSIGNMENT / AMENDMENT TO LICENSE AGREEMENT / APPLIED GOLF / BLUE HILL AND BROADACRES GOLF COURSES / ASSIGNMENT OF LICENSE TO TROON GOLF, LLC**

WHEREAS, Applied Golf–Blue Hill, LLC and Applied Golf–Broadacres, LLC (both LLCs referred to herein as “Applied Golf”) has requested that the Town consent to the prospective assignment of the 01/01/2021 License Agreement between the Town and Applied Golf, relating to the management, maintenance and operation of the Blue Hill Golf Course (including the mansion/castle restaurant) and the Broadacres Golf Course (“License Agreement”), from Applied Golf to Troon Golf, L.L.C.

WHEREAS, License Agreement ¶6(O) proscribes that the License Agreement cannot be assigned.

WHEREAS, the Town and Applied Golf are desirous of amending the License Agreement, so as to allow Applied Golf to assign the License Agreement to Troon Golf, L.L.C., with the consent of the Town Board; and the Town Board finds that such an assignment would be in the best interests of the Town.

NOW, THEREFORE, BE IT RESOLVED that the Town Board hereby agrees and consents to, and accepts, the amendment of License Agreement ¶6(O), so that, as amended, an assignment of the License Agreement may be permissible, with the consent of the Town, which consent may be reasonably withheld; and, as so amended, the Town Board hereby agrees and consents to, and accepts, the assignment of the License Agreement from Applied Golf to Troon Golf L.L.C.

BE IT FURTHER RESOLVED that the Town Board hereby authorizes the Supervisor (or her designee) to execute the assignment, on behalf of the Town, under the terms and conditions as set forth therein.

FIRE PREVENTION

18. **SET PUBLIC HEARING ON PROPOSED LOCAL LAW NO. ___ OF 2023 AMENDING CHAPTER 15 OF THE TOWN CODE, "FIRE PREVENTION CODE" BY REPEALING AND ADDING A NEW SECTION 15-10(D)"**

RESOLVED that a public hearing on a proposed local law, amending Chapter 15 ("Fire Prevention Code") of the Town Code, Article I ("Uniform Fire Prevention Code") Section 15-10 entitled "General Fire Safety Requirements", subsection "D" by repealing the current Section 15-10(D) and replacing it in its' entirety, is scheduled for July 25, 2023 at 7:10 pm.

19. **DECLARATION OF INTENTION OF TOWN BOARD TO SERVE AS LEAD AGENCY PURSUANT TO SEQRA / AMENDING CHAPTER 15 OF THE TOWN CODE, "FIRE PREVENTION CODE" BY REPEALING AND ADDING A NEW SECTION 15-10(D)"**

WHEREAS, upon review of the proposed Local Law and any related documents and filings, the Board makes the following preliminary determinations:

1. The proposed action is one subject to review under the State Environmental Quality Review Act ("SEQRA");
2. The proposed action as a "Type II" (NYCRR 617.5(21) and (33)) action;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby declares its intention to serve as Lead Agency for the purpose of environmental review under SEQRA.

FINANCE

20. **APPROVE / 2022 FINAL BUDGET LINE ADJUSTMENTS**

RESOLVED, that based upon the recommendation of the Finance Director, the Town Board approves the following 2022 final Budget line adjustments:

| | Original/Adjusted Budget | Final Budget |
|--|--------------------------|--------------|
| B.1001.000.16Real Property Taxes. Police | \$28,961,084 | \$28,761,084 |
| B.1520.000.16Police Fees. Police | \$267,719 | \$467,719 |

LEND ASSISTANCE

21. **APPROVE / LEND ASSISTANCE / SHOWMOBILE / PIERMONT BASTILLE DAY**

RESOLVED upon the completion of the necessary paperwork, the Superintendent of Parks & Recreation has forwarded for approval by the Town Board use of the showmobile at a rental cost of \$500.00 for the Piermont Bastille Day on July 15, 2023, with the organization providing a certificate of insurance listing the Town of Orangetown as additionally insured.

TOWN CLERK

22. ACCEPT / RECEIVE / FILE DOCUMENTS/TOWN CLERK'S OFFICE

RESOLVED that the following documents are accepted, received and filed in the Town Clerk's Office:

Town Board Meeting minutes:

1. June 13, 2023 Police Commission; and June 13, 2023 & June 27, 2023 Regular Town Board Meeting.

Agreement & Contracts:

2. Dichter Law LLC, Veolia Water New York (rate increase)
3. School Resource Officer with the South Orangetown School District.
4. Salonniere for Veterans Park Concession Stand
5. Walden Environmental Engineering, Grant writer for MS4 Mapping

AUDIT

23. PAY VOUCHERS

RESOLVED, upon the recommendation of the Director of Finance, Jeffrey Bencik, the Finance Office is hereby authorized to pay vouchers for a total amount of three (3) warrants (attached) for a total of **\$2,943,464.74**.

EXECUTIVE SESSION

24. ENTER EXECUTIVE SESSION

RESOLVED, at ____ pm, the Town Board entered Executive Session to discuss the proposed acquisition/sale/lease of real property when publicity might affect value.

ADJOURNMENTS

25. RE-ENTER RTBM / ADJOURNED / MEMORY

RESOLVED, at ____ pm, the Town Board re-entered the Regular Town Board Meeting and adjourned in memory of:

- ❖ **Ruth Ellen Carlsen**, *Retired Longtime Employee of the Assessor's Office*
- ❖ **Ruth Weber**, *Resident of Upper Grandview*