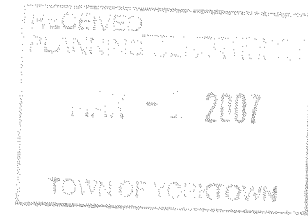


ALICE E. ROKER  
TOWN CLERK

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TOWN OF YORKTOWN  
363 UNDERHILL AVENUE, P.O. BOX 703  
YORKTOWN HEIGHTS, N.Y. 10598



This is a resolution adopted by the Town Board of the Town of Yorktown at its meeting held on February 27, 2007.

WHEREAS, the V.S. Construction Corp. ("VS") is the owner in fee of certain real property located along Route 6 and at the end of Gay Ridge Road in the Town of Yorktown, State of New York, known and designated on the Town Tax Map as Section 6.17, Parcel 3 totaling approximately 43 acres (the "Property");

WHEREAS, VS filed an application with the Yorktown Planning Board for approval of a residential subdivision on the Property known as the Yorktown Farms Subdivision; and

WHEREAS, at the time of the filing of the application, the Property was located within the Town's R1-20 Zoning District allowing the creation of ½ acre lots; and

WHEREAS, said application was originally filed for 37 lots, was reduced by VS to 34 lots, and then further reduced to 28 single-family lots as a result of the processing of the application pursuant to the New York State Environmental Quality Review Act ("SEQRA"); and

WHEREAS, VS prepared and submitted to the Planning Board a Draft Environmental Impact Statement ("DEIS") pursuant to SEQRA which DEIS was accepted as complete by the Planning Board and a public hearing was conducted thereon and closed; and

WHEREAS, the subject Property was thereafter rezoned by the Town from the R1-20 District to the R1-80 District; and

WHEREAS, said rezoning places the Property within a zoning district allowing the creation of lots no smaller than 80,000 square feet; and

WHEREAS, residential lots within the Town in the immediate vicinity of the Property are generally 20,000 square foot lots; and

WHEREAS, on or about July 20, 2006, VS filed a Petition for the Rezoning of the subject Property from the R1-80 Zoning District to the R1-40 District (the "Rezoning Petition"); and

WHEREAS, in conjunction with said Rezoning Petition, VS has proposed a rezoning of the Property into the R1-40 zone, allowing for the creation of lots no smaller than 40,000 square feet in size; and

WHEREAS, VS has proposed to condition such rezoning on certain express limitations and the provision of certain specific benefits, namely:

- a) that no more than 22 single-family homes may be built on the Property,
- b) that VS will sponsor the establishment of a Town sewer district consisting of the Yorktown Farms Subdivision and 67 neighborhood properties all of which have been identified to the Town and are in the surrounding area (the "Neighborhood Properties", as identified on the attached Schedule A),
- c) that VS will install all necessary infrastructure and appurtenances to connect the Yorktown Farms Subdivision and the Neighborhood Properties to public sewers, including the installation of a sewage pump station associated with said sewer project,
- d) that VS will provide a stipend of \$3,000 to each of the owners of each of the Neighborhood Properties to defray the cost of making the necessary lateral connection to the sewer mains,
- e) that in lieu of constructing an on-site soccer/recreational field VS will contribute the requisite recreation fee to enable the Town to construct an appropriate recreational amenity elsewhere in the Town; and

WHEREAS, VS has met on several occasions with the Town and owners of the Neighborhood Properties to discuss the Yorktown Farms Subdivision, the Rezoning Petition and the proposed community benefit project set forth above; and

WHEREAS, on July 25, 2006, at a work session meeting of the Town Board, the Board reviewed the request for the rezoning and discussed the processing of this application under SEQRA as an action subject to a determination of significance; and

WHEREAS, VS has filed with the Town revised plans for the 22 lots pursuant to the R1-40 zoning, and a full SEQRA Environmental Assessment Form Parts 1, 2, and 3 and supplemental information addressing the revised layout and the sewer improvements and incorporating by reference the DEIS prepared for the Project (the "full EAF"); and

WHEREAS, pursuant to SEQRA, the Town Board identified the proposed Rezoning as a Type I action; and

WHEREAS, the Town Board assumed Lead Agency status ("Lead Agency") and conducted a coordinated review solely with respect to the Rezoning request in accordance with Article 8 of Environmental Conservation Law of the State of New York, and the regulations promulgated thereunder at 6 NYCRR Section 617.6(b); and

WHEREAS, the Town Board and its technical staff, Planning Board and Conservation Board have reviewed the full EAF and the Rezoning Petition; and

WHEREAS, the Town Board determined that the full EAF was complete and adequate for the purpose of public review of the proposed Petition; and

WHEREAS, the Rezoning Petition was referred for review and comment to other boards and agencies within the Town; and

WHEREAS, the Town Board held a Public Hearing on the Rezoning Petition and the proposed limitations and community benefits on January 16, 2007, at which time the public was given a full and fair opportunity to speak on this matter and the Public Hearing was closed; and

WHEREAS, the Town Board finds that the Yorktown Farms Subdivision with no more than 22 homes and municipal sewer for the Yorktown Farms Subdivision and the Neighborhood Properties mitigates the environmental impacts associated with 28 homes as proposed in the DEIS; and

WHEREAS, the Town Board finds that the proposed density is not greater than that of the existing surrounding neighborhood within the Town of Yorktown; and

WHEREAS, the Town Board finds that community concerns regarding traffic outweigh the benefit of a proposed on-site soccer field and associated parking, and that the payment by VS of a recreation fee in lieu of the dedication of parkland is therefore more appropriate to satisfy recreational requirements of the Town Code; and

WHEREAS, the Town Board finds that the location of access from Route 6 for emergency access only (to and from the Yorktown Farms Subdivision) is most appropriate on the eastern side of the Route 6 frontage of the Property in the location originally proposed in the DEIS; and

WHEREAS, the Town Board finds that formation of the Yorktown Farms Sewer District pursuant to the VS proposal would yield environmental benefits by decommissioning aging septic systems and thereby reducing or eliminating the flow of septic effluent from entering surface and subsurface watercourses; and

WHEREAS, the Town Board finds that formation of the Yorktown Farms Sewer District pursuant to the VS proposal would also yield economic benefits by providing actual sewer service to residents in return for County sewer tax payments at a cost dramatically lower than the cost for this entire sewer system to the individual owners of the Neighborhood Properties the Town were to itself provide such service; and

WHEREAS, VS has stated that it will not be financially feasible to construct the above-described sewer project unless VS is able to develop 22 homes in the Yorktown Farms Subdivision, and

WHEREAS, The Town finds that the proposed sewer improvements will significantly benefit existing area households and the community at large, as well as the environment; and

WHEREAS, the Yorktown Farms Subdivision still requires further review and approval by the Planning Board for environmental and planning issues even if its Rezoning Petition is granted; and

WHEREAS, at its January 23, 2007 meeting the Town Board conducted further review and discussion of this Project.


NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Yorktown adopts a Negative Declaration consistent with Article 8 of Environmental Conservation Law based on the information presented in the full EAF for the Yorktown Farms Subdivision Rezoning Petition; and be it

FURTHER RESOLVED that the Town Board hereby grants the Rezoning Petition subject to the following terms and conditions:

- a) The Yorktown Farms Subdivision is hereby rezoned from R1-80 and is now included in the R1-40 Zoning District and the Town's zoning map shall be so amended.
- b) The maximum number of single-family residential lots permitted within the Yorktown Farms Subdivision shall be no greater than 22.
- c) VS shall construct all of the sewer improvements including the sewer pump station to service the Yorktown Farms Subdivision and the Neighborhood Properties, as more particularly described in the Proposed Sewer District Plan proposed for Yorktown Farms, prepared by Ralph G. Mastromonaco, P.E., P.C., dated June 16, 2006 (the "Sewer Improvements"), irrespective of the number of lots ultimately approved by the Planning Board unless VS shall decide not to proceed with construction of any subdivision pursuant to this rezoning approval. If the Planning Board approves a subdivision with fewer than 22 lots, VS shall have the right to decide not to proceed with construction of any subdivision and will have no obligation to build the Sewer Improvements.
- d) Before the first certificate of occupancy is issued for any lot within the Yorktown Farms Subdivision: (i) all off-site Sewer Improvements must be constructed and completed (unless the completion of all construction cannot occur through no fault of the Applicant and despite its best efforts); (ii) VS shall pay a stipend of \$3,000 to the owners of each of the Neighborhood Properties to defray the cost of sewer lateral construction and hookup costs for each of the respective houses; (iii) for property owners who are required to give an easement to permit installation of sewer mains necessary to complete the Sewer Improvements VS shall bear all the cost of sewer lateral construction and hookup for each of the respective houses; and (iv) prior to the issuance of any building permits, VS shall post security in the form of a letter of credit in an amount sufficient to cover the cost of all off-site Sewer Improvements and related obligations as set forth in this sub-paragraph "d".
- e) Access to Route 6 shall be for emergency access only, and such emergency access shall be located near the easterly portion of the Property in the approximate location of the access shown in the DEIS for the proposed action.
- f) There shall be no soccer field or other similar on-site recreational facility constructed within the Yorktown Farms Subdivision. Instead, VS shall pay the

requisite recreation fee to enable the Town to construct an appropriate recreational amenity elsewhere in the Town.

- g) There shall be no "paper road" or right-of-way for a future street or road connecting the Yorktown Farms subdivision with lands to the south, as has been show on the drawing entitled "Figure No. 1, Proposed Plan prepared for Yorktown Farms, Town of Yorktown, Westchester Co., N.Y." dated August 1, 2006.
- h) Upon completion of construction of the Sewer Improvements, VS shall completely repave (not just patch) Gay Ridge Road.



Alice E. Roker, Town Clerk

Date: February 28, 2007

To: VS Construction Corp.

cc: Assessor Bob Killeen  
Building Inspector Bill Gregory  
Environmental Code Officer Bruce Barber  
Highway Superintendent Eric DiBartolo  
Parks and Recreation Superintendent Jennifer Fava  
Planning Director John Tegeder  
Receiver of Taxes Freida Schmid  
Water Superintendent Jeff Wynans and Brad Lewis  
Town Comptroller Joan Goldberg  
Town Supervisor Linda Cooper  
Conservation Board Chairs: Richard Fon and Roberta Van Etten  
Community Housing Board Chair Ken Belfer  
Planning Board  
Recreation Commission Chair Jim Hackett  
Lake Mohegan Fire Department  
Lakeland School District  
New York State Department of Transportation, Robert Dennison  
Town of Somers Supervisor Mary Beth Murphy  
Westchester County Planning Commissioner Jerry Mulligan  
File