

TOWN BOARD OF THE TOWN OF YORKTOWN
WESTCHESTER COUNTY, STATE OF NEW YORK

----- X
In the Application of :
B & M MANAGEMENT COMPANY, INC.

For an Amendment to the Zoning Map of : **VERIFIED PETITION
FOR A ZONING
MAP AMENDMENT**
the Town of Yorktown Pursuant to Section 300-206

Petitioner **B & M MANAGEMENT COMPANY, INC.** (“Petitioner”), by its attorneys, Zarin & Steinmetz, 81 Main Street, Suite 415, White Plains, New York 10601, as and for its Verified Petition requesting an Amendment (the “Map Amendment,” Exhibit “A”) to the Town of Yorktown (the “Town”) Zoning Map (the “Zoning Map”), respectfully alleges as follows:

I. INTRODUCTION

1. The Petitioner is a company organized under the laws of the State of Connecticut, with offices at 199 Elm Street, New Canaan, Connecticut, and submits this Petition pursuant to Section 300-206 of the Town’s Zoning Ordinance.

2. The Petitioner is the owner of certain real property, comprised of ±62.33 acres, located east of the intersection of NYS Routes 134 and 100, designated on the Town tax maps as parcels 70.15-1-2 and 70.11-1-16 (collectively, “Property”). (A Vicinity Map is annexed hereto as Exhibit “B” and the applicable sections of the Town’s Tax Map are annexed hereto as Exhibit “C”).

3. The Property is presently zoned R1-160. (The applicable portion of the Town’s Existing Zoning Map is annexed hereto as Exhibit “D”).¹

¹ The Town’s Zoning Map shows that the Property is zoned RSP-1. However, that zoning designation lapsed in 2016. (See Point IV, *infra*).

4. Petitioner is seeking a Zoning Map change for the Property to an RSP-1 district, in order to facilitate its Project, as defined, *infra*, and to restore and re-issue a zoning designation previously granted by the Town Board.

II. THE PROPOSED USE

5. Petitioner intends to use the property for, *inter alia*, a 31 residential duplex buildings, for a total of 62 units for active adult housing, together with ±45 acres of deed-restricted open space to be owned by a Home Owners Association (“HOA”), or approximately 72% of the Property (the “Project”). (A Conceptual Site Plan, dated October 13, 2020, prepared by Lawrence J. Paggi, PE, PC, is annexed hereto as Exhibit “E”).

6. The ingress/egress points for the Project will be along Dell Avenue. The Project contemplates the realignment and improvement of Dell Avenue at its south and north connections with NYS Route 100, thereby improving existing road and drainage conditions.

7. The Project is not located in a water supply district. Petitioner contemplates obtaining the necessary water supply from the Town of New Castle, and will be requesting that the Town of Yorktown create a new Water Supply District.

8. Petitioner intends to provide a state-of-the-art wastewater treatment facility to serve the Project with a subsurface point of discharge, which will be coordinated with and approved by the appropriate outside agencies.

9. Petitioner’s Project is for active adults, with no “assisted” or “assistive” component.

10. Adequate on-site recreation shall be provided on the Property for residents of the Project.

11. The Project is not a permitted use in the R1-160 Zoning Districts.

III. PROPOSED MAP AMENDMENT AND CONSISTENCY WITH COMPREHENSIVE PLAN

12. Petitioner is proposing the Map Change to the Zoning Map, which would re-designate the Property from R1-160 to RSP-1, where the Project would then be a permitted use.

13. Petitioner submits that this modification to the Zoning Map will not alter the character of the surrounding neighborhood, and would be consistent with the planning strategies set forth in the Town's June 15, 2010 Comprehensive Plan ("Comprehensive Plan").

14. Significantly, the Project would also fulfill a recognized dearth of housing for seniors within the community. (See Comprehensive Plan at ES-10, 2-2, 5-1 (seeking to promote housing for "people in all stages of life," including seniors); see id. at 5-25 (recognizing an unmet demand for senior housing, as observed by realtors in the area)).

15. The Project would provide significant and important benefits to the Town, such as 45 acres of preserved open space which would, amongst other things, ensure that the nearby reservoir would be adequately protected from any potential impacts.

16. There will be no additional school children added as a result of the Project, yet it would result in the generation of significant gross tax revenue, as well as other important contributions to the Yorktown community.

17. The Project is designed in accordance with the stated policies of the RSP-1 District, in that it would "provide opportunities for senior citizens to find appropriately sized housing units for their years as empty nesters and young retirees." (Id. at 2-10).

IV. PRIOR APPROVALS

18. By Verified Petition for a Zoning Map Amendment, dated June 10, 2010, Petitioner's predecessor in title, Croton Overlook, sought a rezoning of the Property to RSP-1 (“2010 Petition”).²

19. The 2010 Petition contemplated a larger project (“Croton Overlook Project”), consisting of a 70-unit 55 and older active adult residential community, a ±46 acre deed-restricted open space parcel to be owned by an HOA, and a lot consisting of a wastewater treatment system, to be owned by a public transportation company.

20. The Town Board as Lead Agency, together with all Involved Agencies, including the Town Planning Board, conducted an exhaustive review over the course of a year and half of the Croton Overlook Project, which included the preparation of an Environmental Impact Statement (“EIS”) in accordance with the New York State Environmental Quality Review Act (“SEQRA”), resulting in a 61-page positive Findings Statement, as further discussed in Point V, *infra*.

21. By Resolution, dated December 6, 2011, the Town Board approved the 2010 Petition. A copy of the December 6, 2011 Resolution is annexed hereto as Exhibit “F.”

22. Subsequently, by Resolution, dated December 13, 2011, the Town Board adopted and reaffirmed the provisions of the December 6, 2011 Resolution, together with the local

² At the time the 2010 Petition was filed with the Town, Comprehensive Plan had not yet been adopted, and the Property was zoned R1-80. Just five days later, the Comprehensive Plan was adopted, and the Town subsequently rezoned the Property R1-160. Also at that time, Croton Overlook was the prospective contract vendee of an additional parcel, comprised of 1.65 acres, designated on the Town tax maps as Parcel 70.15-1-1 (“Yaskovic Property”). The instant Petition does not include the Yaskovic Property.

law annexed thereto. A copy of the December 13, 2011 Resolution is annexed hereto as Exhibit “G.”³

23. The approval of the 2010 Petition contained a unique “sunset” provision, which stated that Croton Overlook was required to seek and secure site plan and subdivision approval from the Planning Board within five years of the adoption of the Resolution. (See Exhibit “F” at 5).

24. Unfortunately, prior to securing said approvals, the principal of Croton Overlook passed away. The approvals ultimately lapsed on December 6, 2016.

25. As set forth, *supra*, the instant Project proposes a substantially similar use to that contemplated by the 2010 Petition, except that it reduces the proposed density from 70 units to 62 units.

V. SEQRA

26. In accordance with SEQRA, the proposed action is a Type I action. Accordingly, a Long Environmental Assessment Form is being submitted herewith.

27. Of utmost relevance, as set forth, *supra*, the Town Board as Lead Agency, together with all Involved Agencies, conducted an exhaustive review over the course of a year and half of the Croton Overlook Project in 2010, including the preparation of an EIS in accordance with SEQRA, resulting in a 61-page, carefully reasoned, positive Findings Statement. A copy of the December 6, 2011 Resolution approving and adopting the Findings Statement is annexed hereto as Exhibit “H.” A copy of the Findings Statement itself is being submitted herewith.

28. The Petitioner submits that any environmental impacts have been thoroughly analyzed, and where appropriate, mitigation measures have been incorporated. As

³ The Town Board adopted the December 13, 2011 Resolution to ministerially correct the omission of the local law from the December 6, 2011 Resolution.

Petitioner will demonstrate, there no changes in circumstances or new information not previously available to the Town Board have arisen that may result in significant adverse environmental impacts not previously studied in the EIS. Moreover, the scope of the Project has been reduced. Accordingly, no supplemental EIS should be required.

29. The Petitioner further submits that the net result will be a Project that the Town can be most proud of, and which will generate tangible benefits for Yorktown.

VI. REQUESTED RELIEF

30. In order to accommodate the Project, Petitioner respectfully requests that the Town Board, pursuant to Section 300-206 of the Zoning Ordinance:

- (i) Accept this Petition and refer this matter to the to the Town of Yorktown Planning Board for a report and recommendation pursuant to Section 300-206(C) of the Zoning Ordinance; and
- (ii) Schedule, notice and conduct a public hearing on the Petition at the earliest possible date; and
- (iii) Resolve to adopt the Map Amendment annexed hereto as Exhibit "A."

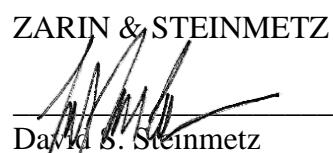
WHEREFORE, it is respectfully requested the instant matter be placed on the earliest possible agenda of the Town Board for referral to the Planning Board, and that the relief sought herein be, in all respects, granted.

Dated: January 21, 2021
White Plains, New York

Respectfully Submitted,

ZARIN & STEINMETZ

By:


David S. Steinmetz

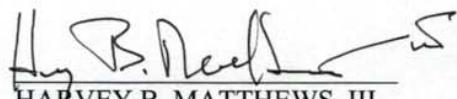
Jody T. Cross

Attorneys for Petitioner
81 Main Street, Suite 415
White Plains, New York 10601
(914) 682-7800

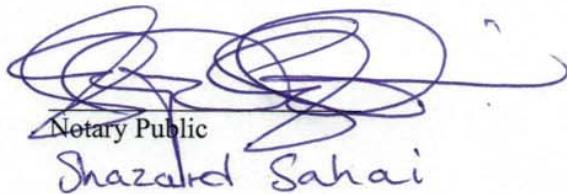
VERIFICATION

STATE OF NEW YORK)
)
COUNTY OF WESTCHESTER) S.S.:
)

Harvey B. Matthews, III, hereby deposes and says that he is the President of B&M Management Company, Inc., the Petitioner, and says that he has reviewed the foregoing Petition and authorizes Zarin & Steinmetz to submit the foregoing Petition to the Town of Yorktown Board on Petitioner's behalf.


HARVEY B. MATTHEWS, III

Sworn to before me this
21 day of January 2021.


Notary Public
Shazard Sahai

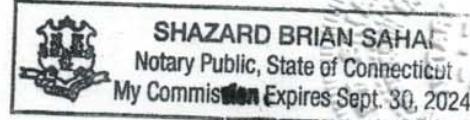


EXHIBIT A

EXHIBIT “A”

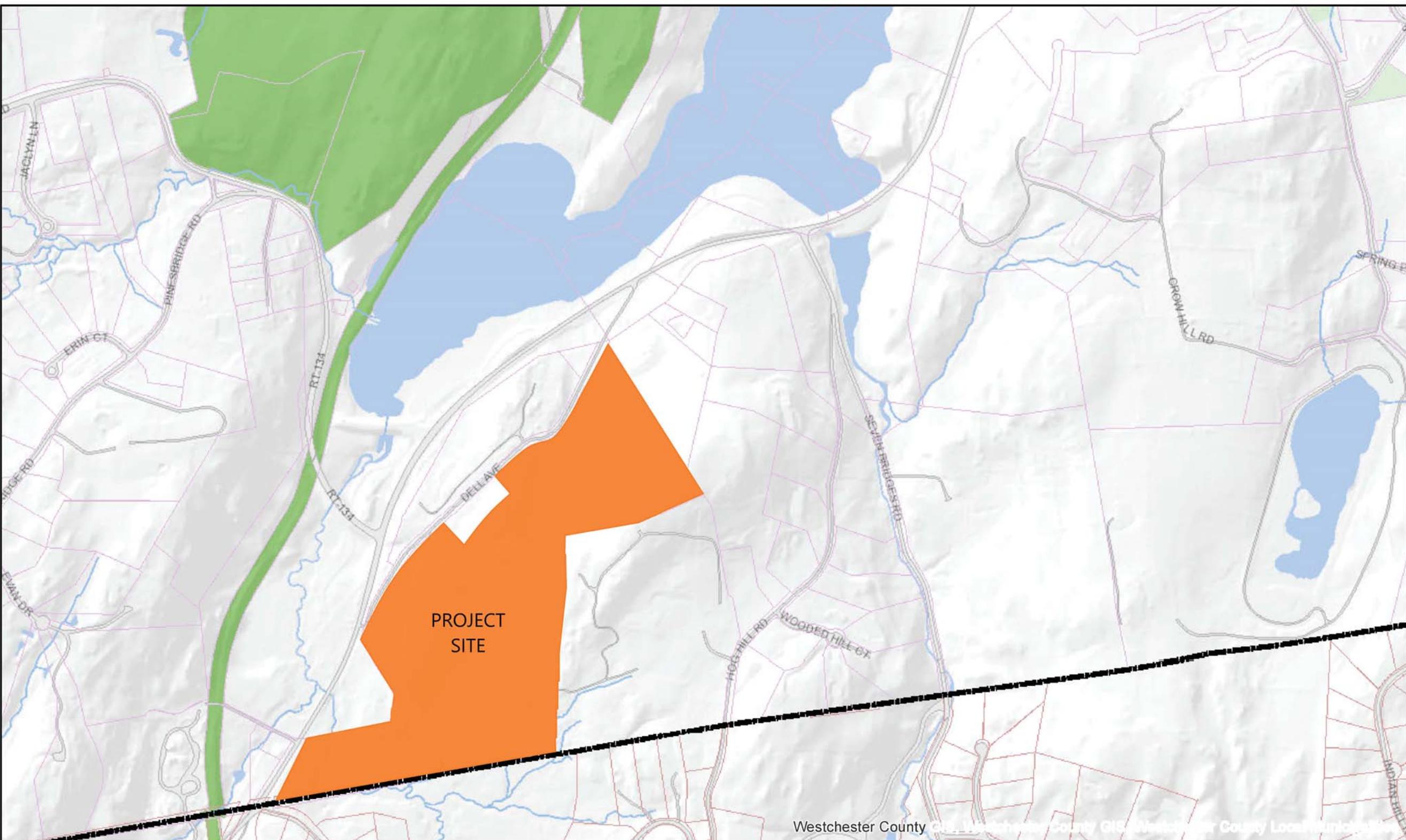
PROPOSED ZONING MAP CHANGE

Proposed Action: The Zoning Map of the Town of Yorktown shall be amended as follows:

The property shown on the Town of Yorktown Tax Assessment Map, as parcels 70.11-1-16 and 70.15-1-2, which are currently situated in the R1-160 One-Family Residential Zoning District, shall be re-zoned and included in the RSP-1 Age-Oriented Community District.

EXHIBIT B

Westchester County Municipal Tax Parcel Map (Yorktown)



January 21, 2021

1:10,000

0 475 950 1,900 ft



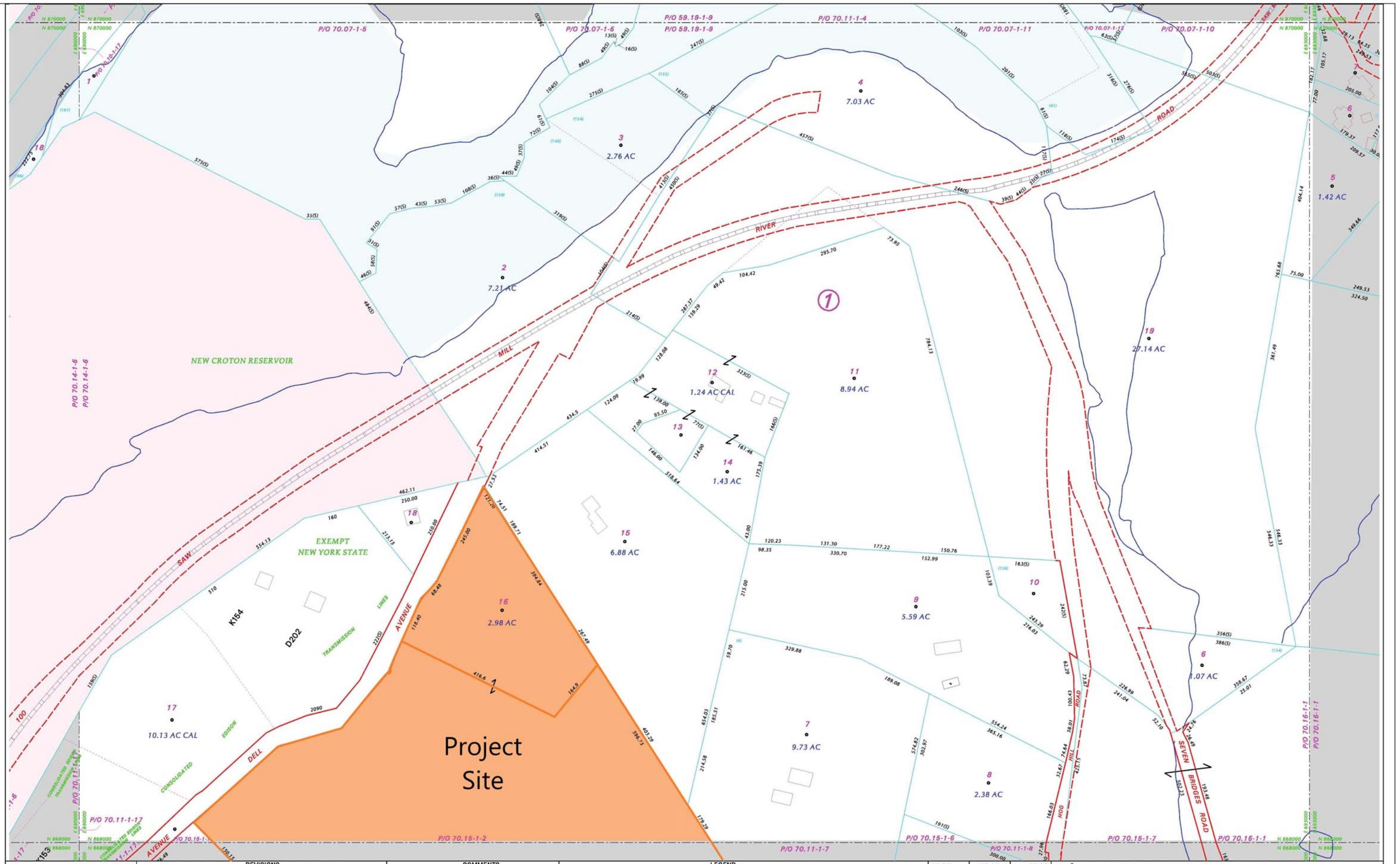
Westchester County GIS

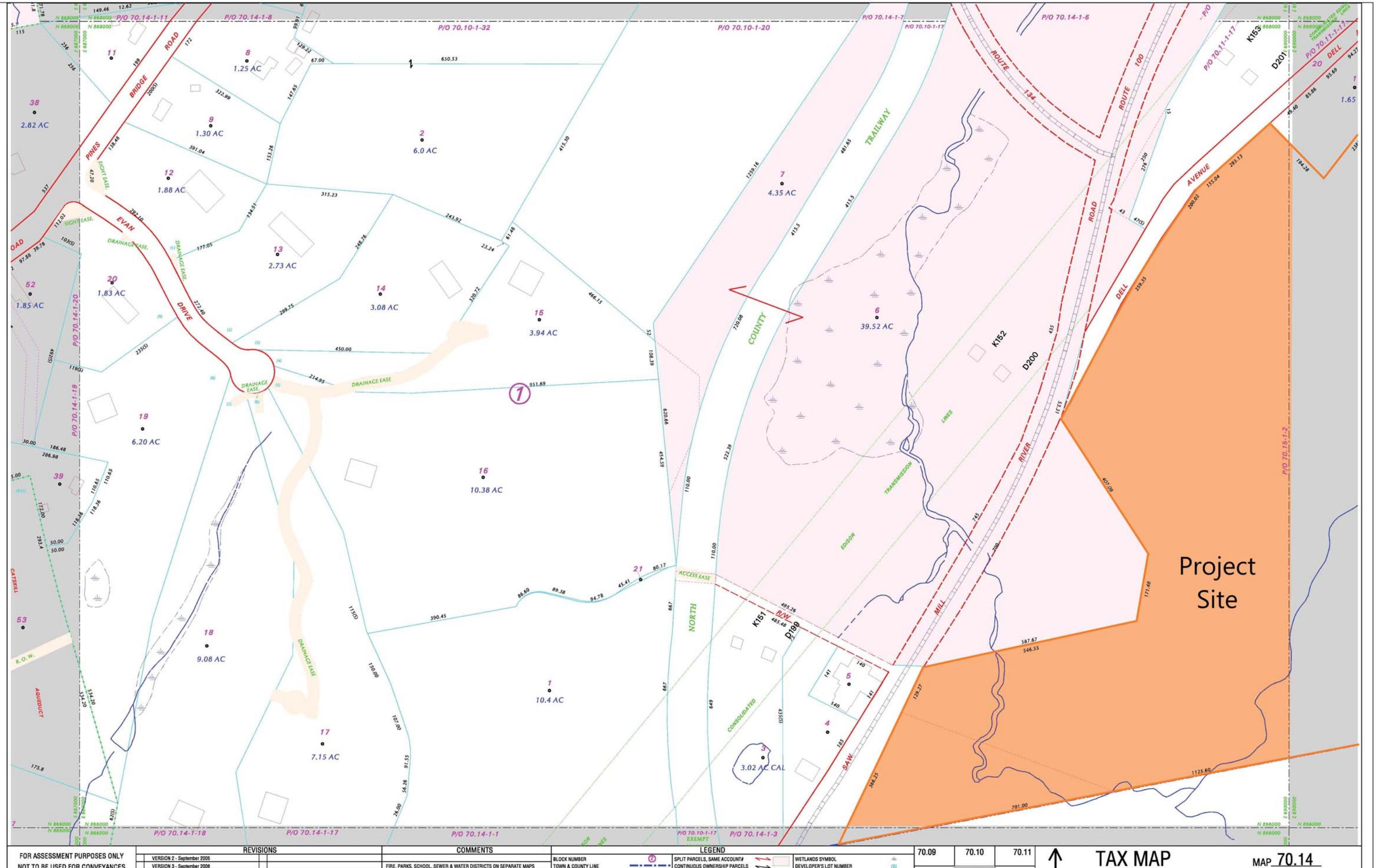
GIS GEOGRAPHIC INFORMATION SYSTEMS
<http://giswww.westchestergov.com>

Michaelian Office Building
148 Martine Avenue Rm 214
White Plains, New York 10601

Tax parcel data was provided by local municipality. This map is generated as a public service to Westchester County residents for general information and planning purposes only, and should not be relied upon as a sole informational source. The County of Westchester hereby disclaims any liability from the use of this GIS mapping system by any person or entity. Tax parcel boundaries represent approximate property line location and should NOT be interpreted as or used in lieu of a survey or property boundary description. Property descriptions must be obtained from surveys or deeds. For more information please contact local municipality assessor's office.

EXHIBIT C





FOR ASSESSMENT PURPOSES ONLY
NOT TO BE USED FOR CONVEYANCES
PREPARED BY
JAMES W. SEWALL COMPANY
UPDATED by TOWN OF YORKTOWN

REVISIONS

VERSION 2 - September 2005	
VERSION 3 - September 2006	
VERSION 4 - November 2007	
VERSION 5 - December 2008	
VERSION 7 - September 2010	
VERSION 8 - January 2012	

COMMENTS

FIRE, PARKS, SCHOOL, SEWER & WATER DISTRICTS ON SEP.

FROM AERIAL PHOTOGRAPHY "P"-POOL, Bldg. Footprints-B

DIMENSIONS: DIM = 100.00 DEED = 100.0000 SCALED = 100.0000

	BLOCK NUMBER	(2)
ATE MAPS	TOWN & COUNTY LINE	-----
	TOWN LINE	-----
	ORIGINAL LOT LINE	-----
n, Dams=Orange	BLOCK LIMIT LINE	-----
	PROPERTY LINE	-----
	EASEMENT	-----

The legend is located at the top left of the map. It contains eight entries, each with a colored line segment followed by a label and a small red arrow pointing to a corresponding colored box.

- SPLIT PARCELS, SAME ACCOUNT# (red line)
- CONTINUOUS OWNERSHIP PARCELS (blue line)
- ROADS - R.O.W. (dark blue line)
- STREAM/WATER LINE (green line)
- ROAD - LIMITED ACCESS (light blue line)
- ROAD PRIVATE/MAPPED ROW (orange line)
- MAD (SECTION) BOUNDARY (black line)
- WETLANDS STATE (pink box)
- DEVELOPER'S STATE (yellow box)
- ROADS - STATE (dark grey line)
- AQUEDUCTS (purple line)
- PARCEL AREA (grey box)
- VISUAL CENTER (light grey line)
- PARCELINE (thin black line)

BOL IT NUMBER PLANES		70.09	70.10	70.11	
		70.13	70.14	70.15	
		70.17	70.18		
					TAX TOWN C WESTCHESTER LAND NORTH ↑

X MAP

**TOWN OF YORKTOWN
WESTCHESTER COUNTY, NEW YORK**

MAP 70.14

SCALE 1" = 100' 
0 100
AERIAL PHOTOGRAPHY 3-31-88 DATE OF MAP 07/29/13
NY STATE PLANE COORDINATES ARE NAD83 IN FEET

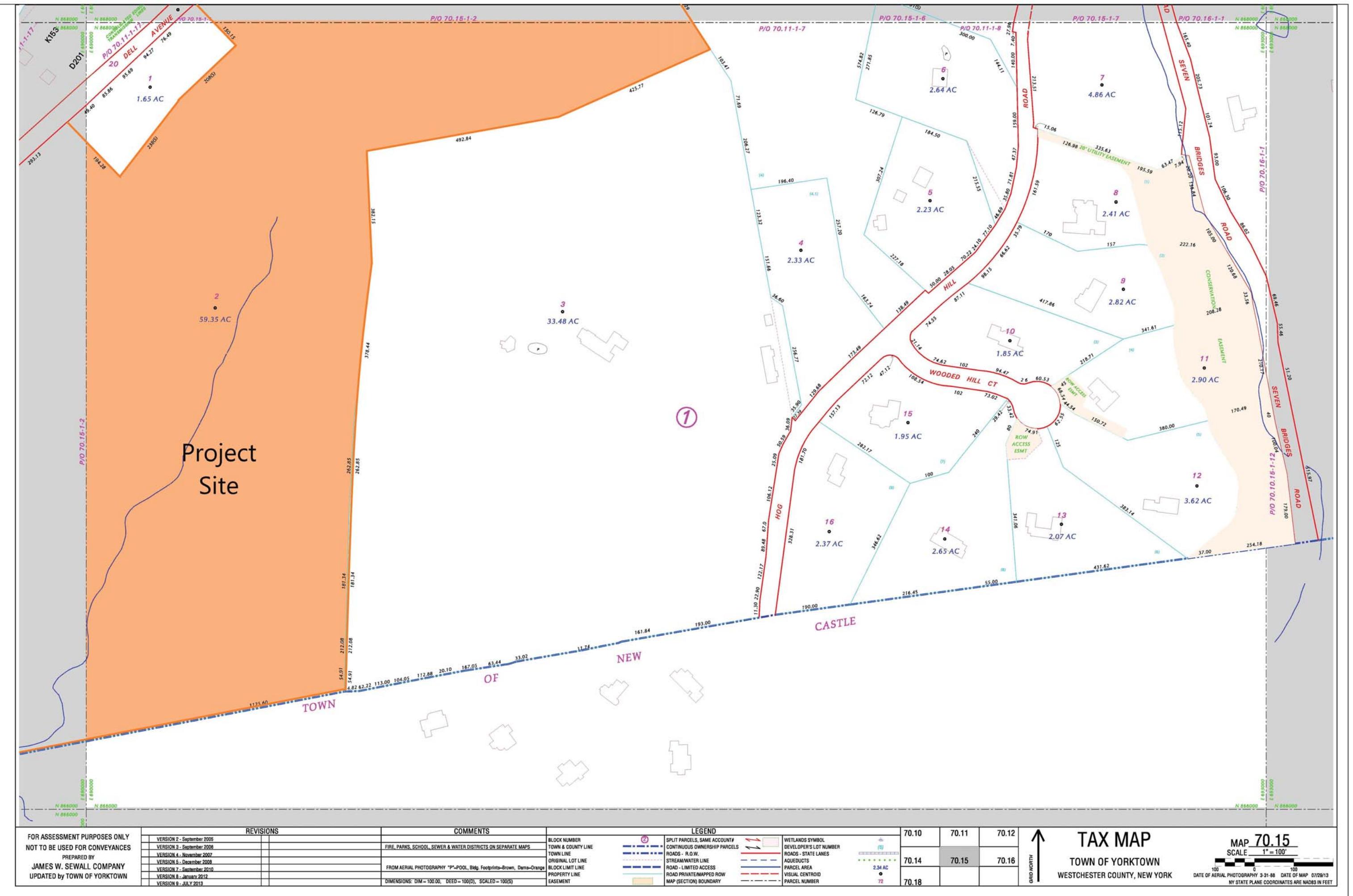


EXHIBIT D

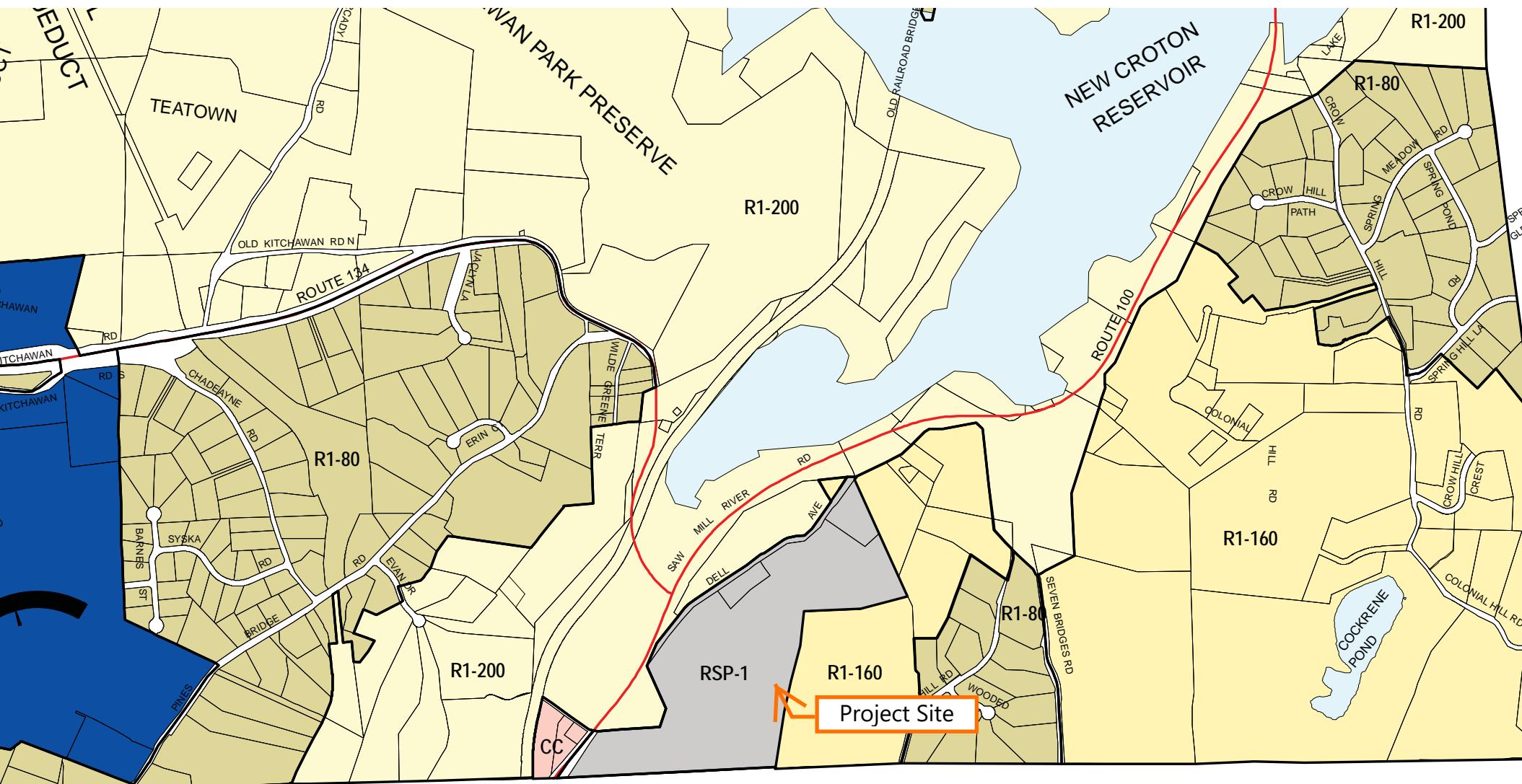


EXHIBIT E



— 2 —

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<p>LAWRENCE J. PAGGI, PE,PC CONSULTING ENGINEERING 43 BROAD STREET FISHKILL, NEW YORK 12524</p> <p><small>Civil, Sanitary & Site Engineering Site Planning Environmental Assessment</small></p>			<p>CROTON OVERLOOK SAW MILL RIVER ROAD & DELL AVENUE TOWN OF YORKTOWN, WESTCHESTER COUNTY, NEW YORK</p> <p>CONCEPTUAL PLAN</p>		Revisions:	<p>JOB NUMBER: 09-1111-15</p> <p>DATE: OCTOBER 13, 2020</p> <p>SCALE: 1" = 50'</p>	SHEET # S1
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EXHIBIT F

TOWN BOARD - TOWN OF YORKTOWN

**RESOLUTION APPROVING ZONING PETITION
OFFICIAL ZONING MAP AMENDMENT WITH AN RSP-1 ZONING DESIGNATION
PETITION OF CROTON OVERLOOK CORPORATION**

ADOPTED: December 6, 2011

WHEREAS, as the Town Board of the Town of Yorktown ("Town Board") received a Verified Petition dated June 10, 2010, from Croton Overlook Corporation ("Petitioner"), as owner of a parcel identified as certain real property located east of the intersection of NYS Routes 134 and 100, designated on the Town Tax Map as parcels 70.15-1-2 and 70.11-1-16 and as prospective contract vendee of certain real property designated on the Town Tax Map as parcel 70.15-1-1, consisting of approximately 65 acres ("Property"), seeking to change the zoning of the Property from R1-80 (now R1-160) to RSP-1 ("Petition"); and

WHEREAS, Petitioner proposes to construct 35 duplex structures on the Property yielding 70 age restricted units offered on individual fee simple lots. The developed portion of the Property will be on approximately 19 acres with the remaining approximately 46 acres dedicated as open space ("Project"); and

WHEREAS, the Town Board has completed environmental review for the Project and has adopted a comprehensive Findings Statement dated December 6, 2011, as Lead Agency pursuant to the New York State Environmental Quality Review Act ("SEQRA") which Findings Statement is incorporated herein and annexed hereto as Exhibit A; and

WHEREAS, the Findings Statement sets forth the Town Board's reasoned elaboration as to the facts and conclusions as developed in the Draft and Final Environmental Impact Statements for the Project and in response to public and agency comments collected as part of the SEQRA review process relating to potential environmental impacts of the Project; and

WHEREAS, the notice and hearing requirements for this Petition as provided for in the Code of the Town of Yorktown and New York State law have been satisfied; and

WHEREAS, the Petition was presented to the Town Board at a duly noticed public hearing conducted on December 6, 2011, that was completed and closed on that same date; and

WHEREAS, the Town Board has fully considered the Petition and adopts the following findings of fact:

1. The proposed Zoning Map Amendment is consistent with the Town of Yorktown's Comprehensive Plan ("Comprehensive Plan"). Goal 2-F of the Comprehensive Plan is "to promote housing for people in all stages of life, from young adults and couples, to families with children, to seniors." The RSP-1 zoning district accomplishes this, as set forth in the Comprehensive Plan by providing "opportunities for senior citizens to find appropriately sized housing units for their years as empty nesters and young retirees" and by helping to meet "the growing demand among retirees and seniors for age-restricted housing, where they can live in greater tranquility with other people of the same age and in an environment more tailored to their needs."
2. The Comprehensive Plan and the Town of Yorktown Zoning Code ("Zoning Code") contemplate that, where appropriate, the RSP-1 zoning district can be placed within residential areas. Since this "floating zone" does not apply to any site until an application is made, by definition, the "floating zone" must always differ from the underlying zoning of a site; and
3. The Town Board also finds the Project consistent with the goals of the Town to remain primarily a residential community of diverse housing options and ample open space preserves; and
4. This Zoning Map Amendment is consistent with the requirements of other applicable Zoning Code provisions. RSP-1 zoning district requirements contemplate flexibility in project design and layout "with a plan of development as approved by the Planning Board" and with "a maximum density of 12 units per acre." (RSP-1 Residence Zone Standards, 300:A1; Zoning Code §§ 300-123 through 300-151). Also each site used for an RSP-1 development must have a total area of not less than 15 acres. (Zoning Code § 300-126 (B)). The Petitioner has demonstrated it can satisfy these and other requirements; and
5. Accordingly the Project is not only consistent with the Comprehensive Plan and Zoning Code it is also in harmony with the Town's overall planning strategy to address the need for age-restricted housing throughout the Town.

6. Pursuant to Zoning Code §300-141 all buildings must be served by a common water supply and common sanitary sewer system.

NOW, THEREFORE BE IT resolved by the Town Board that the Petition for a Zoning Map Amendment rezoning from the R1-160 zoning district to the RSP-1 zoning district is hereby approved for the Property and the map shall be changed accordingly; and

BE IT FURTHER RESOLVED that pursuant to Zoning Code Section 300-22, and consistent with the aforesaid Findings Statement, the Town Board hereby authorizes the Planning Board to vary the required setbacks to locate the Project's homes on their respective lots; and

BE IT FURTHER RESOLVED that the rezoning approved herein is expressly subject to all conditions set forth in the aforesaid and annexed Findings Statement, including, but not limited to the following:

1. All SEQRA review fees shall be paid.
2. The Project is subject to site plan and subdivision approval by the Planning Board; however no reviews of such applications shall commence until payment of all outstanding SEQRA review fees. This resolution does not in any way constrain or limit the Planning Board's authority to exercise flexibility in implementing RSP-1 Zoning District standards and requirements, consistent with explicit authority set forth in Zoning Code Section 300-22 and the Town's Subdivision Regulations with respect to and limited to the standards that govern front, rear and side yard setbacks.
3. A source of municipal water supply shall be obtained for the Project; any other community water source shall be subject to further review as necessary under SEQRA.
4. The Project's wastewater treatment system must be approved by the New York City Department of Environmental Protection. Petitioner shall establish a New York State Transportations Corporation Law corporation to operate the wastewater treatment system consistent with State and local law. The Petitioner shall also make application for creation of a Town sewer district consistent with the Property's boundaries.

5. The Project is an age-restricted housing development and therefore Petitioner shall require that 100 % of its homes be occupied by at least one person 55 years of age or older and Petitioner must comply with additional requirements for age-restricted housing consistent with local, State and Federal law. Petitioner shall memorialize these requirements with covenants and restrictions in its Master Deed, By-Laws and Homeowner's Association Declaration, as well as restrictions in the deeds of each individual lot, with such deed restrictions applying to each residence sold, the form and substance of which shall be subject to the review and approval of the Town Board. Further, to ensure compliance, the Town will be a third-party beneficiary to said provisions of the declaration and deed restriction. The Town will have the right but not the obligation, to enforce these restrictions, conditions and covenants in the event that the Homeowner's Association fails to do so.
6. A conservation easement or other covenant and restriction in form and substance satisfactory to the Town shall be recorded against the Property limiting the use and development of the approximately 44 acre open space parcel as referenced in the Findings Statement.
7. All supporting agreements and covenants shall be provided by Petitioner in accordance with RSP-1 Zoning District requirements (Zoning Code Section 300-147).
8. Petitioner agrees to prohibit accessory uses of a commercial nature otherwise permitted in the RSP-1 Zoning District, including small retail shops for the sale of goods but excluding customary home occupations which shall be permitted subject to all local and state codes and regulations. Petitioner shall memorialize these requirements with covenants and restrictions in its Master Deed, By-Laws and Homeowner's Association Declaration, as well as restrictions in the deeds of each individual lot, with such deed restrictions applying to each residence sold, the form and substance of which shall be subject to the review and approval of the Town Board. Further, to ensure compliance, the Town will be a third-party beneficiary to said provisions of the declaration and deed restriction. The Town

- will have the right but not the obligation, to enforce these restrictions, conditions and covenants in the event that the Homeowner's Association fails to do so.
9. This rezoning shall expire and be null and void if site plan and subdivision approvals as referenced in 2. above are not secured within five (5) years of the date of the adoption of this Resolution, subject to extension at the discretion of the Town Board.

Supervisor Siegel moved for approval of the Resolution.

The motion was seconded by Council Member Murphy and upon being put to a vote, the vote was as follows:

Supervisor Siegel	Aye
Council Member Murphy	Aye
Council Member Patel	Aye
Council Member Martorano	Nay
Council Member Bianco	Absent

EXHIBIT G

ALICE E. ROKER
TOWN CLERK

REGISTRAR OF VITAL STATISTICS
TELEPHONE 914 962-5722 EXT. 209
FAX 914 962-6591
alice@yorktownny.org

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 Tuesday, December 13, 2011.

**RESOLUTION ADOPTING LOCAL LAW TO AMEND THE
OFFICIAL ZONING MAP OF THE TOWN YORKTOWN
TO MAP AN RSP-1 AGE-ORIENTED COMMUNITY**

ADOPTED: December 13, 2011

WHEREAS, on December 6, 2011, the Town Board of the Town of Yorktown ("Town Board") held a duly noticed public hearing to consider the Verified Petition dated June 10, 2010, from Croton Overlook Corporation as owner of property identified on the Town of Yorktown Tax Map as parcels 70.15-1-2 and 70.11-1-16 and as prospective contract vendee of certain real property designated on the Town Tax Map as parcel 70.15-1-1, consisting of approximately 65 acres (the "Property"), seeking to change the zoning of the Property from R1-80 (now R1-160) to RSP-1 ("Petition"); and

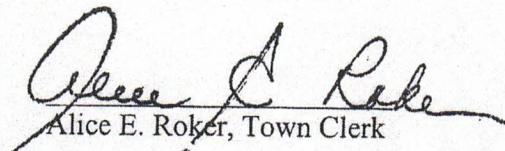
WHEREAS, the Town Board duly adopted a Resolution approving said Petition on December 6, 2011, (the "Rezoning Resolution"); and

WHEREAS, the Town Board wishes to adopt and reaffirm the provisions of the Rezoning Resolution in the format of the local law annexed hereto and made a part hereof for filing with the New York State Secretary of State.

NOW, THEREFORE BE IT RESOLVED, that subject to all of the terms and conditions of the Rezoning Resolution, the Town Board hereby adopts the annexed Local

Law to amend the Town of Yorktown Zoning Map to rezone the Property from R1-160 to RSP-1.

BE IT FURTHER RESOLVED, that except as otherwise specifically set forth herein, all terms, conditions and provisions of the Rezoning Resolution shall continue in full force and effect.



Alice E. Roker, Town Clerk

Date: December 14, 2011

To: Director of Planning John Tegeder

cc: Supervisor Susan Siegel
Town Attorney Jeannette Koster
Town Comptroller, Joan Goldberg
David Steinmetz, Esq. Attorney for applicant
Croton Overlook, Corp.
File

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one:)

of Yorktown

Local Law No. 20 of the year 2011

A local law To Amend the Zoning Map of the Town of Yorktown to Map an RSP-1 Age

(Insert Title)
Oriented Community

Be it enacted by the Town Board of the _____
(Name of Legislative Body)

County City Town Village
(Select one:)

of Yorktown

as follows:

Section 1. The Zoning Map of the Town of Yorktown, New York as established under Chapter 300 of the Code of the Town of Yorktown is hereby amended as follows:

The following lots on the Tax Map of the Town of Yorktown are rezoned from R1-160 to RSP-1:

70.15-1-2
70.11-1-16
70.15-1-1

Section 2. Supersession of Conflicting Law. Where the requirements of this local law impose a different restriction or requirement than imposed by other section of the Code of the Town Yorktown, the Town Law of the State of New York or other applicable rules or regulations, the requirements of this Local Law shall prevail.

Section 3. Severability. The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law that can be given effect without such invalid part or parts.

Section 4. Effective Date. This local law shall take effect immediately upon filing in the office of the Secretary of State of New York in accordance with the provisions of the Municipal Home Rule Law.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

EXHIBIT H

TOWN BOARD - TOWN OF YORKTOWN

**RESOLUTION APPROVING ADOPTING
SEQRA FINDINGS FOR THE REZONING PETITION
AND PROPOSAL
FOR THE CROTON OVERLOOK PROPERTY
AND DEVELOPMENT**

ADOPTED: December 6, 2011

WHEREAS, the Town Board of the Town of Yorktown ("Town Board") received a Verified Petition dated June 10, 2010, from Croton Overlook Corporation ("Petitioner"), as owner of a parcel identified as certain real property, located east of the intersection of NYS Routes 134 and 100, designated on the Town Tax Map as parcels 70.15-1-2 and 70.11-1-16 and as prospective contract vendee of certain real property designated on the Town Tax Map as parcel 70.15-1-1 ("Property"), said Property consisting of approximately 65 acres, seeking to change the zoning of the Property from R1-80 to RSP-1 in order to construct age-restricted fee simple housing units; and

WHEREAS, on June 15, 2010 the Town Board declared its intent to act as the lead agency in connection with all processing procedures, determinations, and findings to be made or conducted with respect to the petition for rezone of Croton Overlook Corporation under Section 8-0101, et. seq., of the Environmental Conservation Law ("SEQRA") and the regulations promulgated by the New York State Department of Environmental Conservation there under, which appear at 6 N.Y.C.R.R. Part 617 ("SEQRA Regulations"); and

WHEREAS, the Town Board thereafter: (i) declared lead agency status in connection with the SEQRA review of the Project, and commenced review of the proposed Project in accordance with 6 N.Y.C.R.R. 617.6(b)(3); (ii) determined that the proposed action may have a significant adverse effect on the environment and required that a Draft Environmental Impact Statement ("DEIS") be prepared; (iii) directed that a public scoping session be held at its February 15, 2011 regular meeting, in accordance with 6 N.Y.C.R.R. 617.8; and (iv) directed that a written notice of its determination of significance and notice of the public scoping session,

together with a draft DEIS Scoping Outline, be sent to all involved and interested agencies as well as made available to all known individuals and organizations which had expressed an interest to the Town Board concerning the Project; and

WHEREAS, a DEIS Scoping Outline was prepared in accordance with 6 N.Y.C.R.R. 617.8 and accepted by the Town Board by resolution at its regular meeting of April 12, 2011; and

WHEREAS, Croton Overlook Corporation prepared and submitted a preliminary DEIS for the Town Board's review to determine its completeness as required by the accepted final written scope and its adequacy for public review in accordance with 6 N.Y.C.R.R. 617.9 (a) (2); and

WHEREAS, on July 12, 2011 the Town Board determined the DEIS for Croton Overlook Corporation was complete with respect to the scope, content, and adequacy necessary to afford the public and involved and interested agencies the opportunity to consider the DEIS for the purpose of commencing public review of the proposed project, pursuant to SEQRA and the regulations promulgated by the New York State Department of Environmental Conservation there under, which appear at 6 N.Y.C.R.R. Part 617 ("SEQRA Regulations"); and

WHEREAS, as Lead Agency, the Town Board held a public hearing on the DEIS on August 2, 2011 at Shrub Oak Memorial Park, located at 3800 Sunnyside Street, Shrub Oak, NY, 10588, at which time public comment on the DEIS was received by the Town Board and thereafter, the Town Board continued to accept written comments from the public and involved and interested agencies until August 30, 2011; and

WHEREAS, a FEIS was prepared to respond to the substantive oral and written comments to the DEIS; and

WHEREAS, the Town Board has found that the FEIS adequately addresses the oral and written comments on the DEIS; and

WHEREAS, the Town Board has prepared a SEQRA Findings Statement; and

WHEREAS, the SEQRA Findings Statement sets forth the Town Board's reasoned elaboration as to the facts and conclusions as developed in the DEIS, FEIS, and in response to public and agency comments collected as part of the review process relating to potential environmental impacts of the Proposed Action; and

WHEREAS, on November 22, 2011, the Town Board met in Work Session and on December 6, 2011, at a regular Town Board meeting to review the SEQRA Findings and the Proposed Actions, and held substantive discussion on the conclusions of the Findings,

NOW THEREFORE, BE IT RESOLVED, the Town Board, as Lead Agency for the SEQRA review of the Project, hereby affirms that all procedural steps of the State Environmental Quality Review Act have been met in full in connection with the Proposed Actions; and be it further

RESOLVED, the Town Board hereby adopts the annexed SEQRA Findings Statement for the Proposed Action.

Council Member Murphy moved for approval of the Resolution.

The motion was seconded by Council Member Martorano and upon being put to a vote, the vote was as follows:

Supervisor Siegel	Aye
Council Member Murphy	Aye
Council Member Patel	Aye
Council Member Martorano	Aye
Council Member Bianco	Absent