



VILLAGE OF
PORT CHESTER

222 Grace Church Street, Port Chester, New York 10573

AGENDA MEMO

Department: Planning and Development Department

Department: Office of the Village Attorney

BOT Meeting Date: 4/4/2016

Item Type: Public Hearing

Sponsor's Name:	Anthony Cerreto, Village Attorney
Sponsor's Name:	Eric Zamft, Director of Planning & Economic Development

Description	Yes	No	Description	Yes	No
Fiscal Impact	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Public Hearing Required	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Funding Source:			BID #		
Account #:			Strategic Plan Priority Area		
	Yes	No	Transit Oriented Development		
Agreement	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Manager Priorities		
Strategic Plan Related	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Planning & Zoning		

Agenda Heading Title

(Will appear as indicated below on Agenda)

Port North Main Street Rezoning: Public Hearing

Summary

On October 6, 2015, Port North Main Street LLC (the "Applicant") filed site plan applications for 531 and 601 North Main Street to convert the existing buildings to retail use. Recognizing that retail is currently not a permitted use in the C4 General Commercial Zoning District in which the properties are located, the Applicant concurrently filed a petition on December 15, 2015 for a proposed zoning text amendment to Village Code Chapter 345, to allow retail as a special exception use within all or part of the C4 District, to provide a parking standard for retail use, and to provide specific special exception criteria (the "Original Petition"). The Original Petition also offered an alternative to create a new zoning district in the North Main Street area of the Village. The Applicant made a

[AM-V2015-04](#)

presentation to the Board of Trustees on the Original Petition at the January 19, 2016 Board meeting. At the January 19, 2016 Board meeting, the Board accepted the Original Petition for consideration and review, referred the matter to the Planning Commission and Waterfront Commission for their review and comments, and declared their intent to be Lead Agency under the New York State Environmental Quality Review Act ("SEQRA").

At its January 25, 2016 meeting, the Planning Commission held a public meeting on the zoning and provided comments, as encapsulated in the January 25, 2016 Planning Commission meeting minutes. The Planning Commission did not comment on the site plans, as the zoning change is necessary first for that review to occur. The Planning Commission's comments are attached.

Based upon the Planning Commission's comments and an initial review by the Department of Planning & Economic Development, the Applicant filed an Amended Petition to specifically request the four elements noted above in the introductory paragraph (the "Amended Petition"). As part of the Amended Petition, the Applicant has provided a Long Environmental Assessment Form (Long "EAF") for SEQRA purposes and a Coastal Assessment Form ("CAF") for Local Waterfront Revitalization Program ("LWRP") consistency purposes.

At the March 7, 2016 meeting, the Board of Trustees accepted the Amended Petition, declared itself as Lead Agency under SEQRA, and scheduled a public hearing for April 4, 2016.

The CAF was provided to the Waterfront Commission for their review. At the March 30, 2016 Waterfront Commission meeting, the Amended Petition was discussed and the Waterfront Commission issued a determination that the Amended Petition was consistent with the LWRP, adopted in 1992 and amended in 1999.

In a February 29, 2016 letter, Westchester County stated that they reviewed the rezoning petition under the provisions of Section 239 L, M and N of the General Municipal Law and Section 277.61 of the County Administrative Code and found the proposed zoning amendment to be a matter for local determination.

In a March 3, 2016 letter, the New York State Department of Transportation ("NYSDOT") did not object to the Board of Trustees acting as Lead Agency and stated that any proposed work within the NYSDOT Right-of-Way requires a Highway Work Permit (HWP).

In sum, the Board should open the public hearing on the Amended Petition at the April 4, 2016 Board of Trustees meeting. Future matters that the Board may wish to resolve, include the following, in order that they would need to be heard:

1. Close Public Hearing
2. SEQRA Determination
3. Zoning Determination

Attachments

- Amended Petition
- Environmental Assessment Form (EAF) Part 1
- Coastal Assessment Form (CAF)
- Planning Commission minutes from January 25, 2016
- Waterfront Commission LWRP Determination from March 30, 2016
- Department of Planning & Economic Development memorandum, including EAF Part 2
- Westchester County Letter
- NYSDOT Letter
- Proposed Local Law

BOARD OF TRUSTEES: VILLAGE OF PORT CHESTER
COUNTY OF WESTCHESTER: STATE OF NEW YORK
-----X

In the Matter of the Application of

PORT NORTH MAIN STREET LLC

AMENDED
PETITION

For amendments to §§ 345-14.C.(2), 345-50, 345-61 and 345
Attachment 3B of the Village of Port Chester Zoning Code.

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Port North Main Street LLC (the “Petitioner”), by its attorneys Tartaglia Law Group, LLC,
hereby petitions the Board of Trustees of the Village of Port Chester, as follows:

REQUESTED ZONING AMENDMENTS

1. To accommodate the Proposed Project, the Petitioner is requesting that a new Zoning District be created (“C4-R”) entitled “Gateway Retail,” and the C4-R be mapped to include the portions of the current C-4 District corridor along North Main Street that are from Terrace Avenue to the northern border of the District at or about Hillside Avenue and Riverside Avenue.

2. The following are the requested Zoning Amendments:

SECTION 1: The Code of the Village of Port Chester, Article IV, Section 345-14.C.(2), is hereby amended to read as follows:

Uses	Number of Spaces Required
Retail stores or personal service stores within the C4-R District floor area.	1 per 300 square feet of gross

SECTION 2: The Code of the Village of Port Chester, Article IX, is hereby amended to include § 345-50.3. C4-R Gateway Retail District to read as follows:

§ 345-50.3. C4-R Gateway Retail District

See the Schedule of Regulations for Nonresidence Districts (Attachments 3A and 3B)

SECTION 3: The Code of the Village of Port Chester, Article X, § 345-61 is hereby amended to include § 345-61.Y Retail store or personal service shop within the C4-R District to read as follows:

Y. Retail store or personal service shop within the C4-R District

- (1) In addition to the general standards, set forth in §§ 345-59 and 345-60, for the granting of a special exception use, the Planning Commission shall also consider the following criteria:
 - (a) On parcels adjacent to the Byram River, access shall be provided and/or the site plan and on-site landscaping shall be designed to provide a view scape of the river, to the extent practicable, via viewsheds through parking lots and other non-improved areas of the site.

SECTION 4: The Code of the Village of Port Chester, 345 Attachment 3A, is hereby amended to include:

Type of Use	C4-R Gateway Retail §345-50.3
Residential Uses	
1 Family Dwelling	X
2 Family Dwelling	X
Multifamily Dwelling	X
Multifamily Dwelling (floors above first floor)	X
Residential Community Facilities	
Church or other Place of Worship, Parish House, Rectory, Sunday School, Convent, Seminary	SE
General Community Facilities	
Assembly Hall	SE
Convalescent home or nursing home	X
Hospital	X
Medical and dental offices, not including operating room or community X-ray or therapy room	X
Membership club, fraternal organization or similar social institution not operated for a profit	SE
Nursery school, day camp or day care center	X
Public utility facility	SE
School, elementary or high, public, private, or parochial, having a curriculum equivalent to that ordinarily given in public schools.	X
Medical and dental offices including X-ray and therapy room	X
Business Uses	
Automobile repair garage	SE
Bank, excluding drive-in	P
Bar or Tavern	X
Bowling Alley	SE
Cabaret	X
Catering and Events Establishment	X
Commercial Indoor Athletic Training Facility	X
Drive-in establishments other than restaurant, or circus, carnival, or other outdoor amusements	SE
Drive-in and fast-food restaurant	SE

Food processing shop	SE
Funeral Home	SE
Gasoline Station	SE
Health Club, including racquetball facilities and indoor swimming pools	P
Heating, air conditioning, plumbing, electrical, and similar construction businesses, excluding open storage of materials	P
Hotel or Motel	X
Hotel, Motel (floors above first floor)	X
Hotel, limited service	X
Marina or yacht club	X
Theater	X
Motor Vehicle Sales lot, motor vehicle salesroom and accessory repair shop	SE
Office, Office Building	P
Office, Office Building (floors above first floor)	P
Off-street parking lot or garage for motor vehicles, but not including storage of used or new motor vehicles for sale or hire; minimum requirements shall be in accordance with § 345-14.	P
Pawnshops	X
Radio or television station studio, excluding transmission tower	P
Radio or television station studio excluding transmission tower (floors above first floor)	P
Shooting ranges with accessory sales of guns and equipment	X
Table-service restaurant, no drive-in, open front, fast food, or curb-service types	P
Tax Preparation Office	X
Retail store or personal service shop, services clearly incidental to retail sales on the premises or to personal services	SE
Veterinary hospital or board and care of small animals	SE
Wholesale business, storage building or warehouse	P
Industrial uses	
Cold storage plant, ice plant, bottling central distribution station, light or power plant, or garbage or sewage disposal facility	X
Creamery, ice cream plant or bakery plant	P
Laundry or dry-cleaning plant	X
Nonnuisance industry, provided that in nonindustrial districts equipment is used that has a rating of no more than 5 horsepower	P
Open storage of equipment or materials	X
Printing plant	P
Research laboratory, provided that is shall not be obnoxious by reason of dissemination of smoke, dust, fumes, noise or vibration, or hazardous from fire waste materials or the creation of excessive demands upon municipal services	SE
Accessory Uses	
CD Accessory garden center	X
Customary accessory structure or use, including cultural, recreational, or athletic facility, meeting room or similar accessory structure or use related to a school, church, or other place of worship	P
Ethical Pharmacy	X
Ground-floor office as accessory use to multifamily development	X

Private garage or private off-street parking area, in accordance with § 345-14	P
Sign, in accordance with § 345-15	P

Notes:

- P = permitted use
- SE = special exception use
- X = prohibited use

SECTION 5: The Code of the Village of Port Chester, 345 Attachment 3B, is hereby amended to include:

Type of Use	C4-R Gateway Retail §345-50.3
Maximum Floor Area Ratio (See definition, § 345-2)	2.0
Maximum Floor Area Ratio For 1 Story	0.5
Minimum Size of Lot:	
Area, nonresidential (square feet)	NR
Area per dwelling unit (square feet)	NR
Width (feet) (e)	40
Depth (feet)	NR
Minimum Yard Dimensions:	
Front (feet)	NR
Side	
One (feet)	NR(a)
Total of 2 on interior lot (feet)	NR(a)
Rear (feet)	NR
Maximum Height of Building:	
In stories	3
In feet	45
Minimum Usable Open Space on Lot:	
For each dwelling unit (square feet)	NR

NOTES:

- (a) If provided at least ten (10) feet per yard.
 - (b) One-half (½) the height of the building to which the yard is related, but not greater than twenty (20) feet.
 - (c) Each twenty-five (25) feet or one-half (½) the height of the building, whichever is greater.
 - (d) Twenty (20) square feet for each patient bed in a sanatorium, convalescent home or nursing home.
 - (e) Must be maintained from the minimum front yard depth to the rear lot line.
- 1 A floor area ratio (FAR) bonus of 0.8 is available in accordance with §345-16.
 - 2 A minimum of 575 sq. ft. of lot area per dwelling unit can be achieved through a Building Height and Floor Area Bonus Program in accordance with §345-16.
 - 3 A Floor Area Bonus of 0.5 available in accordance with §345-16.
 - 4 A minimum of 250 sq. ft. of lot area per dwelling unit can be achieved through a Building Height and Floor Area Bonus Program in accordance with §345-16.
 - 5 A minimum of 400 sq. ft. of lot area per dwelling unit can be achieved through a Building Height and Floor Area Bonus Program in accordance with §345-16.
 - 6 A building height bonus of 2 stories (30 feet) is available in accordance with §345-16.
 - 7 A building height bonus of 1 story (10 feet) is available in accordance with §345-16.

8 See §345-7.E.

9 A floor area bonus of 0.20 is available in accordance with §345-16. For any mixed use (commercial/residential) structure, a building height bonus of 2 stories (15 feet) is available in accordance with §345-16.

10 A Floor Area Bonus of 0.2 is available in accordance with §345-16.

11 A minimum of 500 sq. ft. of lot area per dwelling unit can be achieved through a Building Height and Floor Area Bonus Program in accordance with §345-16.

NR = none required

SECTION 6: The Official Zoning Map of the Village of Port Chester is hereby amended to include the C-4R Gateway Retail District, comprising Section 136.64, Block 1, Lots 30, 33, 34, 35, 36, 38, 39, 40, and 61 of the Town of Rye Official Tax Map.

WHEREFORE, the Petitioner respectfully requests that this Amended Petition be granted as set forth herein.

Respectfully submitted,
TARTAGLIA LAW GROUP, LLC
Attorneys for Petitioner
800 Westchester Avenue
Rye Brook, NY 10573
(914) 481-1880

Dated: Rye Brook, New York
February 25, 2016

Full Environmental Assessment Form
Part 1 - Project and Setting

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either “Yes” or “No”. If the answer to the initial question is “Yes”, complete the sub-questions that follow. If the answer to the initial question is “No”, proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the project sponsor to verify that the information contained in Part 1 is accurate and complete.

A. Project and Sponsor Information.

Name of Action or Project:		
Project Location (describe, and attach a general location map):		
Brief Description of Proposed Action (include purpose or need):		
Name of Applicant/Sponsor:		Telephone:
		E-Mail:
Address:		
City/PO:	State:	Zip Code:
Project Contact (if not same as sponsor; give name and title/role):		Telephone:
		E-Mail:
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor):		Telephone:
		E-Mail:
Address:		
City/PO:	State:	Zip Code:

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. (“Funding” includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Council, Town Board, or Village Board of Trustees <input type="checkbox"/> Yes <input type="checkbox"/> No		
b. City, Town or Village Planning Board or Commission <input type="checkbox"/> Yes <input type="checkbox"/> No		
c. City Council, Town or Village Zoning Board of Appeals <input type="checkbox"/> Yes <input type="checkbox"/> No		
d. Other local agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
e. County agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
f. Regional agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
g. State agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
h. Federal agencies <input type="checkbox"/> Yes <input type="checkbox"/> No		
i. Coastal Resources. <ul style="list-style-type: none"> <li data-bbox="121 829 1485 861">i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway? <input type="checkbox"/> Yes <input type="checkbox"/> No <li data-bbox="121 892 1485 924">ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program? <input type="checkbox"/> Yes <input type="checkbox"/> No <li data-bbox="121 924 1485 955">iii. Is the project site within a Coastal Erosion Hazard Area? <input type="checkbox"/> Yes <input type="checkbox"/> No 		

C. Planning and Zoning

C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? Yes No

- **If Yes**, complete sections C, F and G.
- **If No**, proceed to question C.2 and complete all remaining sections and questions in Part 1

C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? Yes No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? Yes No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) Yes No

If Yes, identify the plan(s):

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? Yes No

If Yes, identify the plan(s):

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. Yes No
If Yes, what is the zoning classification(s) including any applicable overlay district?

b. Is the use permitted or allowed by a special or conditional use permit? Yes No

c. Is a zoning change requested as part of the proposed action? Yes No

If Yes,

i. What is the proposed new zoning for the site? _____

C.4. Existing community services.

a. In what school district is the project site located? _____

b. What police or other public protection forces serve the project site?

c. Which fire protection and emergency medical services serve the project site?

d. What parks serve the project site?

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)?

b. a. Total acreage of the site of the proposed action? _____ acres
b. Total acreage to be physically disturbed? _____ acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres

c. Is the proposed action an expansion of an existing project or use? Yes No
i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____

d. Is the proposed action a subdivision, or does it include a subdivision? Yes No
If Yes,

i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)

ii. Is a cluster/conservation layout proposed? Yes No

iii. Number of lots proposed? _____

iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

e. Will proposed action be constructed in multiple phases? Yes No

i. If No, anticipated period of construction: _____ months

ii. If Yes:

- Total number of phases anticipated _____
- Anticipated commencement date of phase 1 (including demolition) _____ month _____ year
- Anticipated completion date of final phase _____ month _____ year

• Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____

f. Does the project include new residential uses? Yes No
 If Yes, show numbers of units proposed.

	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase	_____	_____	_____	_____
At completion	_____	_____	_____	_____
of all phases	_____	_____	_____	_____

g. Does the proposed action include new non-residential construction (including expansions)? Yes No
 If Yes,

i. Total number of structures _____

ii. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; and _____ length

iii. Approximate extent of building space to be heated or cooled: _____ square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? Yes No
 If Yes,

i. Purpose of the impoundment: _____

ii. If a water impoundment, the principal source of the water: Ground water Surface water streams Other specify: _____

iii. If other than water, identify the type of impounded/contained liquids and their source.

iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres

v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length

vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete):

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? Yes No
 (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite)
 If Yes:

i. What is the purpose of the excavation or dredging? _____

ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?

- Volume (specify tons or cubic yards): _____
- Over what duration of time? _____

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them.

iv. Will there be onsite dewatering or processing of excavated materials? Yes No
 If yes, describe. _____

v. What is the total area to be dredged or excavated? _____ acres

vi. What is the maximum area to be worked at any one time? _____ acres

vii. What would be the maximum depth of excavation or dredging? _____ feet

viii. Will the excavation require blasting? Yes No

ix. Summarize site reclamation goals and plan: _____

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? Yes No
 If Yes:

i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

iii. Will proposed action cause or result in disturbance to bottom sediments? Yes No

If Yes, describe: _____

iv. Will proposed action cause or result in the destruction or removal of aquatic vegetation? Yes No

If Yes:

- acres of aquatic vegetation proposed to be removed: _____
- expected acreage of aquatic vegetation remaining after project completion: _____
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____
- proposed method of plant removal: _____
- if chemical/herbicide treatment will be used, specify product(s): _____

v. Describe any proposed reclamation/mitigation following disturbance: _____

c. Will the proposed action use, or create a new demand for water? Yes No

If Yes:

i. Total anticipated water usage/demand per day: _____ gallons/day

ii. Will the proposed action obtain water from an existing public water supply? Yes No

If Yes:

- Name of district or service area: _____
- Does the existing public water supply have capacity to serve the proposal? Yes No
- Is the project site in the existing district? Yes No
- Is expansion of the district needed? Yes No
- Do existing lines serve the project site? Yes No

iii. Will line extension within an existing district be necessary to supply the project? Yes No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____
- Source(s) of supply for the district: _____

iv. Is a new water supply district or service area proposed to be formed to serve the project site? Yes No

If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- Proposed source(s) of supply for new district: _____

v. If a public water supply will not be used, describe plans to provide water supply for the project: _____

vi. If water supply will be from wells (public or private), maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes? Yes No

If Yes:

i. Total anticipated liquid waste generation per day: _____ gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): _____

iii. Will the proposed action use any existing public wastewater treatment facilities? Yes No

If Yes:

- Name of wastewater treatment plant to be used: _____
- Name of district: _____
- Does the existing wastewater treatment plant have capacity to serve the project? Yes No
- Is the project site in the existing district? Yes No
- Is expansion of the district needed? Yes No

• Do existing sewer lines serve the project site? Yes No
 • Will line extension within an existing district be necessary to serve the project? Yes No
 If Yes:
 • Describe extensions or capacity expansions proposed to serve this project: _____

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? Yes No
 If Yes:
 • Applicant/sponsor for new district: _____
 • Date application submitted or anticipated: _____
 • What is the receiving water for the wastewater discharge? _____

v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge, or describe subsurface disposal plans):

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? Yes No
 If Yes:
 i. How much impervious surface will the project create in relation to total size of project parcel?
 _____ Square feet or _____ acres (impervious surface)
 _____ Square feet or _____ acres (parcel size)
 ii. Describe types of new point sources. _____

iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?

 • If to surface waters, identify receiving water bodies or wetlands: _____

 • Will stormwater runoff flow to adjacent properties? Yes No

iv. Does proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? Yes No

f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? Yes No
 If Yes, identify:
 i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)

 ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)

 iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)

g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? Yes No
 If Yes:
 i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) Yes No
 ii. In addition to emissions as calculated in the application, the project will generate:
 • _____ Tons/year (short tons) of Carbon Dioxide (CO₂)
 • _____ Tons/year (short tons) of Nitrous Oxide (N₂O)
 • _____ Tons/year (short tons) of Perfluorocarbons (PFCs)
 • _____ Tons/year (short tons) of Sulfur Hexafluoride (SF₆)
 • _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydroflouorocarbons (HFCs)
 • _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? Yes No

If Yes:

i. Estimate methane generation in tons/year (metric): _____

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? Yes No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): _____

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? Yes No

If Yes:

i. When is the peak traffic expected (Check all that apply): Morning Evening Weekend
 Randomly between hours of _____ to _____.

ii. For commercial activities only, projected number of semi-trailer truck trips/day: _____

iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____

iv. Does the proposed action include any shared use parking? Yes No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: _____

vi. Are public/private transportation service(s) or facilities available within 1/2 mile of the proposed site? Yes No

vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? Yes No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? Yes No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? Yes No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: _____

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other): _____

iii. Will the proposed action require a new, or an upgrade to, an existing substation? Yes No

l. Hours of operation. Answer all items which apply.

<p><i>i.</i> During Construction:</p> <ul style="list-style-type: none"> • Monday - Friday: _____ • Saturday: _____ • Sunday: _____ • Holidays: _____ 	<p><i>ii.</i> During Operations:</p> <ul style="list-style-type: none"> • Monday - Friday: _____ • Saturday: _____ • Sunday: _____ • Holidays: _____
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m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? Yes No
 If yes:
 i. Provide details including sources, time of day and duration:

ii. Will proposed action remove existing natural barriers that could act as a noise barrier or screen? Yes No
 Describe: _____

n. Will the proposed action have outdoor lighting? Yes No
 If yes:
 i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? Yes No
 Describe: _____

o. Does the proposed action have the potential to produce odors for more than one hour per day? Yes No
 If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures: _____

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? Yes No
 If Yes:
 i. Product(s) to be stored _____
 ii. Volume(s) _____ per unit time _____ (e.g., month, year)
 iii. Generally describe proposed storage facilities: _____

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? Yes No
 If Yes:
 i. Describe proposed treatment(s):

ii. Will the proposed action use Integrated Pest Management Practices? Yes No

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? Yes No
 If Yes:
 i. Describe any solid waste(s) to be generated during construction or operation of the facility:
 • Construction: _____ tons per _____ (unit of time)
 • Operation : _____ tons per _____ (unit of time)
 ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:
 • Construction: _____

 • Operation: _____

 iii. Proposed disposal methods/facilities for solid waste generated on-site:
 • Construction: _____

 • Operation: _____

s. Does the proposed action include construction or modification of a solid waste management facility? Yes No
 If Yes:
 i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____
 ii. Anticipated rate of disposal/processing:
 • _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
 • _____ Tons/hour, if combustion or thermal treatment
 iii. If landfill, anticipated site life: _____ years

t. Will proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? Yes No
 If Yes:
 i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

 ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

 iii. Specify amount to be handled or generated _____ tons/month
 iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

 v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? Yes No
 If Yes: provide name and location of facility: _____

 If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility:

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.
 i. Check all uses that occur on, adjoining and near the project site.
 Urban Industrial Commercial Residential (suburban) Rural (non-farm)
 Forest Agriculture Aquatic Other (specify): _____
 ii. If mix of uses, generally describe:

b. Land uses and coverytypes on the project site.

Land use or Coverytype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces			
• Forested			
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)			
• Agricultural (includes active orchards, field, greenhouse etc.)			
• Surface water features (lakes, ponds, streams, rivers, etc.)			
• Wetlands (freshwater or tidal)			
• Non-vegetated (bare rock, earth or fill)			
• Other Describe: _____ _____			

c. Is the project site presently used by members of the community for public recreation? Yes No
i. If Yes: explain: _____

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? Yes No
If Yes,
i. Identify Facilities:

e. Does the project site contain an existing dam? Yes No
If Yes:
i. Dimensions of the dam and impoundment:

- Dam height: _____ feet
- Dam length: _____ feet
- Surface area: _____ acres
- Volume impounded: _____ gallons OR acre-feet

ii. Dam's existing hazard classification: _____
iii. Provide date and summarize results of last inspection:

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? Yes No
If Yes:
i. Has the facility been formally closed? Yes No

- If yes, cite sources/documentation: _____

ii. Describe the location of the project site relative to the boundaries of the solid waste management facility:

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? Yes No
If Yes:
i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred:

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? Yes No
If Yes:
i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: Yes No
 Yes – Spills Incidents database Provide DEC ID number(s): _____
 Yes – Environmental Site Remediation database Provide DEC ID number(s): _____
 Neither database
ii. If site has been subject of RCRA corrective activities, describe control measures: _____

iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? Yes No
If yes, provide DEC ID number(s): _____
iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):

v. Is the project site subject to an institutional control limiting property uses? Yes No

- If yes, DEC site ID number: _____
- Describe the type of institutional control (e.g., deed restriction or easement): _____
- Describe any use limitations: _____
- Describe any engineering controls: _____
- Will the project affect the institutional or engineering controls in place? Yes No
- Explain: _____

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? _____ feet

b. Are there bedrock outcroppings on the project site? Yes No
 If Yes, what proportion of the site is comprised of bedrock outcroppings? _____%

c. Predominant soil type(s) present on project site: _____ %
 _____ %
 _____ %

d. What is the average depth to the water table on the project site? Average: _____ feet

e. Drainage status of project site soils: Well Drained: _____ % of site
 Moderately Well Drained: _____ % of site
 Poorly Drained _____ % of site

f. Approximate proportion of proposed action site with slopes: 0-10%: _____ % of site
 10-15%: _____ % of site
 15% or greater: _____ % of site

g. Are there any unique geologic features on the project site? Yes No
 If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? Yes No

ii. Do any wetlands or other waterbodies adjoin the project site? Yes No
 If Yes to either *i* or *ii*, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? Yes No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name _____ Classification _____
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name _____ Approximate Size _____
- Wetland No. (if regulated by DEC) _____

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? Yes No
 If yes, name of impaired water body/bodies and basis for listing as impaired: _____

i. Is the project site in a designated Floodway? Yes No

j. Is the project site in the 100 year Floodplain? Yes No

k. Is the project site in the 500 year Floodplain? Yes No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? Yes No
 If Yes:
 i. Name of aquifer: _____

<p>m. Identify the predominant wildlife species that occupy or use the project site: _____ _____ _____</p>	
<p>n. Does the project site contain a designated significant natural community? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes: <i>i.</i> Describe the habitat/community (composition, function, and basis for designation): _____ _____ <i>ii.</i> Source(s) of description or evaluation: _____ <i>iii.</i> Extent of community/habitat: • Currently: _____ acres • Following completion of project as proposed: _____ acres • Gain or loss (indicate + or -): _____ acres</p>	
<p>o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, give a brief description of how the proposed action may affect that use: _____ _____</p>	
<p>E.3. Designated Public Resources On or Near Project Site</p>	
<p>a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, provide county plus district name/number: _____</p>	
<p>b. Are agricultural lands consisting of highly productive soils present? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>i.</i> If Yes: acreage(s) on project site? _____ <i>ii.</i> Source(s) of soil rating(s): _____</p>	
<p>c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes: <i>i.</i> Nature of the natural landmark: <input type="checkbox"/> Biological Community <input type="checkbox"/> Geological Feature <i>ii.</i> Provide brief description of landmark, including values behind designation and approximate size/extent: _____ _____ _____</p>	
<p>d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes: <i>i.</i> CEA name: _____ <i>ii.</i> Basis for designation: _____ <i>iii.</i> Designating agency and date: _____</p>	

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on, or has been nominated by the NYS Board of Historic Preservation for inclusion on, the State or National Register of Historic Places?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If Yes:	
<i>i.</i> Nature of historic/archaeological resource: <input type="checkbox"/> Archaeological Site <input type="checkbox"/> Historic Building or District	
<i>ii.</i> Name: _____	
<i>iii.</i> Brief description of attributes on which listing is based: _____	
f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input type="checkbox"/> Yes <input type="checkbox"/> No
g. Have additional archaeological or historic site(s) or resources been identified on the project site?	
If Yes:	
<i>i.</i> Describe possible resource(s): _____	
<i>ii.</i> Basis for identification: _____	
h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If Yes:	
<i>i.</i> Identify resource: _____	
<i>ii.</i> Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____	
<i>iii.</i> Distance between project and resource: _____ miles.	
i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If Yes:	
<i>i.</i> Identify the name of the river and its designation: _____	
<i>ii.</i> Is the activity consistent with development restrictions contained in 6NYCRR Part 666?	
	<input type="checkbox"/> Yes <input type="checkbox"/> No

F. Additional Information

Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name _____ Date _____

Signature _____ Title _____



Village of Port Chester Waterfront Commission

222 Grace Church Street
Port Chester, NY 10573
Phone 914-937-6780



LWRP COASTAL ASSESSMENT FORM

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SITE IDENTIFICATION INFORMATION		
Application Name: Port North Main Street LLC	Application #:	Date Submitted: 03/03/2016
Site Address: No. 531-601 Street: North Main Street		
Property Location: <i>(Identify landmarks, distance from intersections, etc.)</i> Northeasterly side of North Main Street, parallel to the Byram River, south of the Williams James Pump Station		
Village of Port Chester Tax Map Designation: Section 136.064 Block 64.1 Lot(s) 33 and 61	Zoning Designation of Site: C4	
OWNER/APPLICANT INFORMATION		
Property Owner: Port North Main Street LLC	Phone #: 914-481-1880 Fax #: 914-206-4858	Email: ddt@tartagliaalawgroup.com
Owner Address: No. 95-25 Street: Queens Boulevard Town: Rego Park State: NY Zip: 11374		
Applicant (If different than owner):	Phone #: Fax #:	Email:
Applicant Address (If different than owner): No. Street: Town: State: Zip:		
PROJECT DESCRIPTION		
Describe the project, proposed use and operation thereof: Amend the Zoning Code to create a C4-R Gateway Retail District for the area along North Main Street from Terrace Avenue to the northern border of the District at or about Hillside Avenue and Riverside Avenue. Impose a parking restriction for retail uses within the C4-R District at one space per 300 square feet.		

CONSISTANCY WITH LWRP POLICIES

Actions to be undertaken within the Village's coastal area shall be evaluated for consistency in accordance with the following LWRP policy standards and conditions, which are derived from and further explained and described in Section III of the Village of Port Chester LWRP, a copy of which is on file in the Village Clerk's office and available for inspection during normal business hours. Agencies that undertake direct actions shall also consult with Section IV of the LWRP in making their consistency determination.

*YES indicates that the proposed project/action is consistent with the applicable policy,
 NO indicates that the proposed project/action is inconsistent with the applicable policy,
 NOT APPLICABLE indicates that it does not apply.*

Restore, revitalize and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational, public access and other compatible uses (Policies 1, 1A, 1B, 1C, 1D and 1E). Yes No
 Not Applicable

Facilitate the siting of water dependent uses on or near coastal waters (Policy 2). Yes No
 Not Applicable

Encourage the development and enhancement of those traditional uses and activities which have provided the Village a unique maritime identity (Policy 4). Yes No
 Not Applicable

Ensure that development occurs where adequate public infrastructure is available (Policy 5). Yes No
 Not Applicable

Streamline development permit procedures (Policy 6). Yes No
 Not Applicable

Protect fish and wildlife resources from hazardous wastes and other contaminating pollutants (Policy 8). Yes No
 Not Applicable

Maintain and expand the recreational use of existing fish and wildlife resources while ensuring protection of renewable fish and wildlife resources (Policy 9). Yes No
 Not Applicable

Maintain and expand commercial fishing resources to promote commercial fishing opportunities (Policy 10). Yes No
 Not Applicable

<p>Minimize flooding and erosion hazards through proper siting of buildings and structures; construction of carefully selected, long-term structural measures; and the use of appropriate nonstructural means (Policies 11, 13, 14, 15 and 17).</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable
<p>Public funds shall be used for erosion protection structures only where necessary and in an appropriate manner (Policy 16).</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Not Applicable
<p>Safeguard vital economic, social and environmental interests in the coastal area when major actions are undertaken (Policy 18).</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable
<p>Protect, maintain, and improve public access to the shoreline and to water-related recreational resources, while protecting natural and historic resources and adjacent land uses and providing a continuous public walkway along the foreshore of the Byram River (Policies 19, 20 and 20A).</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Not Applicable
<p>Encourage, facilitate and prioritize water-dependent and water-enhanced recreational resources and facilities near coastal waters, with priority given to those near access to existing public transportation and areas where the use of the shore is severely restricted by existing development (Policy 21).</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Not Applicable
<p>Encourage the development of water-related recreational resources and facilities, as multiple uses, in appropriate locations within the shore zone (Policy 22).</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Not Applicable
<p>Protect, restore and enhance historic resources (Policy 23).</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Not Applicable
<p>Protect and enhance scenic and aesthetic resources (Policy 25).</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable
<p>Site and construct energy facilities in a manner which will be compatible with the environment and contingent upon the need for a shorefront location and in such a manner as to avoid adverse environmental impacts when in operation (Policies 27 and 29).</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable

Protect coastal waters from direct and indirect discharge of pollutants (Policies 30, 31, 33, 34, 35, 36 and 37).	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable
Ensure that dredging and dredge spoil disposal are undertaken in a manner protective of natural resources (Policies 15 and 35).	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable
Ensure that any transportation, handling or disposal of hazardous wastes and effluent is undertaken in a manner which will not adversely affect the environment (Policy 39).	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable
Protect air quality in accordance with state and federal air quality standards (Policies 41 and 42).	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable
Preserve and protect tidal and freshwater wetlands (Policy 44).	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Not Applicable

DETERMINATION OF CONSISTENCY

To be filled out by the Waterfront Commission

- This project/action is consistent with LWRP Policies and Conditions
- This project/action is NOT consistent with LWRP Policies and Conditions

The following changes to the project/action are recommended to ensure consistency with the LWRP:

Waterfront Commission Chairman

Date

Gregg Gregory, Chairman



Village of Port Chester Planning Commission

Anthony Baxter
Michael Brescio
Peter Coperine
Joseph Montesano
Christopher Summa
Michael Scarola
Constance Phillips, Secretary

Port North Main Street Zoning Petition

The Village of Port Chester's Planning Commission discussed Port North Main Street's zoning petition during the January 25, 2016 Planning Commission meeting. Below are the Commission's comments to the Board of Trustees regarding the proposed inclusion of retail and personal service uses by special exception, special exception criteria, amended dimensional regulations, and a retail parking requirement for the North Main C4 District.

- Consider traffic and circulation impacts of retail uses along this corridor. Retail uses generally generate trips on a fairly even basis throughout the day, in comparison to other land uses which generate a concentrated number of trips during particular times during the day.
- Retail should be context appropriate. Consider implementing special exception criteria to restrict the types of permitted retail based on desired character of the District.
- Utilize the waterfront and incorporate the Byram River, as stated in the Comprehensive Plan, where possible and practical. Also consider the sensitivities presented by the River and address environmental impacts to the waterfront wherever possible.
- Aesthetics, building orientations, and overall appearance should fit in with the "gateway" nature of the District.

Before making any decisions regarding the proposed zoning change, the Waterfront Commission must also provide comments to the Board of Trustees and evaluate the petition for waterfront consistency. Additional comments from Westchester County and the Town of Greenwich will be forthcoming once this petition moves to a public hearing.



Village of Port Chester Waterfront Commission

222 Grace Church Street
Port Chester, NY 10573
Phone 914-937-6780



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Property Location: <i>(Identify landmarks, distance from intersections, etc.)</i> Northeasterly side of North Main Street, parallel to the Byram River, south of the Williams James Pump Station		
Village of Port Chester Tax Map Designation: Section 136.064 Block 64.1 Lot(s) 33 and 61	Zoning Designation of Site: C4	
OWNER/APPLICANT INFORMATION		
Property Owner: Port North Main Street LLC	Phone #: 914-481-1880 Fax #: 914-206-4858	Email: ddt@tartagliaalawgroup.com
Owner Address: No. 95-25 Street: Queens Boulevard Town: Rego Park State: NY Zip: 11374		
Applicant (If different than owner):	Phone #: Fax #:	Email:
Applicant Address (If different than owner): No. Street: Town: State: Zip:		
PROJECT DESCRIPTION		
Describe the project, proposed use and operation thereof: Amend the Zoning Code to create a C4-R Gateway Retail District for the area along North Main Street from Terrace Avenue to the northern border of the District at or about Hillside Avenue and Riverside Avenue. Impose a parking restriction for retail uses within the C4-R District at one space per 300 square feet.		

CONSISTANCY WITH LWRP POLICIES

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*YES indicates that the proposed project/action is consistent with the applicable policy,
NO indicates that the proposed project/action is inconsistent with the applicable policy,
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Encourage the development and enhancement of those traditional uses and activities which have provided the Village a unique maritime identity (Policy 4). Yes No
 Not Applicable

Ensure that development occurs where adequate public infrastructure is available (Policy 5). Yes No
 Not Applicable

Streamline development permit procedures (Policy 6). Yes No
 Not Applicable

Protect fish and wildlife resources from hazardous wastes and other contaminating pollutants (Policy 8). Yes No
 Not Applicable

Maintain and expand the recreational use of existing fish and wildlife resources while ensuring protection of renewable fish and wildlife resources (Policy 9). Yes No
 Not Applicable

Maintain and expand commercial fishing resources to promote commercial fishing opportunities (Policy 10). Yes No
 Not Applicable

<p>Minimize flooding and erosion hazards through proper siting of buildings and structures; construction of carefully selected, long-term structural measures; and the use of appropriate nonstructural means (Policies 11, 13, 14, 15 and 17).</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable
<p>Public funds shall be used for erosion protection structures only where necessary and in an appropriate manner (Policy 16).</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Not Applicable
<p>Safeguard vital economic, social and environmental interests in the coastal area when major actions are undertaken (Policy 18).</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable
<p>Protect, maintain, and improve public access to the shoreline and to water-related recreational resources, while protecting natural and historic resources and adjacent land uses and providing a continuous public walkway along the foreshore of the Byram River (Policies 19, 20 and 20A).</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Not Applicable
<p>Encourage, facilitate and prioritize water-dependent and water-enhanced recreational resources and facilities near coastal waters, with priority given to those near access to existing public transportation and areas where the use of the shore is severely restricted by existing development (Policy 21).</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Not Applicable
<p>Encourage the development of water-related recreational resources and facilities, as multiple uses, in appropriate locations within the shore zone (Policy 22).</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Not Applicable
<p>Protect, restore and enhance historic resources (Policy 23).</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Not Applicable
<p>Protect and enhance scenic and aesthetic resources (Policy 25).</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable
<p>Site and construct energy facilities in a manner which will be compatible with the environment and contingent upon the need for a shorefront location and in such a manner as to avoid adverse environmental impacts when in operation (Policies 27 and 29).</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable

Protect coastal waters from direct and indirect discharge of pollutants (Policies 30, 31, 33, 34, 35, 36 and 37). Yes No
 Not Applicable

Ensure that dredging and dredge spoil disposal are undertaken in a manner protective of natural resources (Policies 15 and 35). Yes No
 Not Applicable

Ensure that any transportation, handling or disposal of hazardous wastes and effluent is undertaken in a manner which will not adversely affect the environment (Policy 39). Yes No
 Not Applicable

Protect air quality in accordance with state and federal air quality standards (Policies 41 and 42). Yes No
 Not Applicable

Preserve and protect tidal and freshwater wetlands (Policy 44). Yes No
 Not Applicable

DETERMINATION OF CONSISTENCY

To be filled out by the Waterfront Commission

- This project/action is consistent with LWRP Policies and Conditions
- This project/action is NOT consistent with LWRP Policies and Conditions

The following changes to the project/action are recommended to ensure consistency with the LWRP:


Waterfront Commission Chairman *CHAIRMAN*

3/30/16
Date



VILLAGE OF PORT CHESTER
DEPARTMENT OF PLANNING & ECONOMIC
DEVELOPMENT

222 Grace Church Street, Rm. 202
Port Chester, NY 10573
(P) 914.937.6780
(F) 914.939-2733

Eric Zamft, AICP, Director
Andrea Sherman, Planner
Constance Phillips, Planning Commission Secretary

To: Board of Trustees
From: Eric Zamft, AICP, Director of Planning & Economic Development
cc: Christopher Steers, Village Manager; Tony Cerreto, Village Attorney
Date: March 31, 2016
Re: Port North Main Street Rezoning Review

Members of the Board,

This memorandum provides a summary of the Department of Planning & Economic Development's review of the Port North Main Street Rezoning Amended Petition (the "Amended Petition"), submitted by Port North Main Street, LLC (the "Applicant").

Background:

On October 6, 2015, the "Applicant" filed site plan applications for 531 and 601 North Main Street to convert the existing buildings to retail use. Recognizing that retail is currently not a permitted use in the C4 General Commercial Zoning District in which the properties are located, the Applicant concurrently filed a petition on December 15, 2015 for a proposed zoning text amendment to Village Code Chapter 345, to allow retail as a special exception use within all or part of the C4 District, to provide a parking standard for retail use, and to provide specific special exception criteria (the "Original Petition"). The Original Petition also offered an alternative to create a new zoning district in the North Main Street area of the Village. The Applicant made a presentation to the Board of Trustees on the Original Petition at the January 19, 2016 Board meeting. At the January 19, 2016 Board meeting, the Board accepted the Original Petition for consideration and review, referred the matter to the Planning Commission and Waterfront Commission for their review and comments, and declared their intent to be Lead Agency under the New York State Environmental Quality Review Act ("SEQRA").

At its January 25, 2016 meeting, the Planning Commission held a public meeting on the zoning and provided comments, as encapsulated in the January 25, 2016 Planning Commission meeting minutes. The Planning Commission did not comment on the site plans, as the zoning change is necessary first for that review to occur. The Planning Commission's comments included:

- Consider traffic and circulation impacts of retail uses along this corridor. Retail uses generally generate trips on a fairly even basis throughout the day, in comparison to other land uses which generate a concentrated number of trips during particular times during the day.
- Retail should be context appropriate. Consider implementing special exception criteria to restrict the types of permitted retail based on desired character of the District.

- Utilize the waterfront and incorporate the Byram River, as stated in the Comprehensive Plan, where possible and practical. Also consider the sensitivities presented by the River and address environmental impacts to the waterfront wherever possible.
- Aesthetics, building orientations, and overall appearance should fit in with the “gateway” nature of the District.

Based upon the Planning Commission’s comments and an initial review by the Department of Planning & Economic Development, the Applicant filed the Amended Petition on February 26, 2016, which requests the creation of a new C4-R Gateway Retail District that is similar to the C4 District except that:

- Retail would be permitted as a special exception use, approved by the Planning Commission
- Such use would have specific lot and bulk controls
- Such use would abide by both the general Planning Commission special exception criteria and specific C4-R retail special exception criteria
- A parking standard of 1 space per 300 gross square feet of floor area would be provided for retail stores or personal service stores within the C4-R District

Analysis:

- **Consistency with 2012 Village Comprehensive Plan:** The area proposed for rezoning to the C4-R District is not within any Planning Intensity Zones identified in the Comprehensive Plan. The rezoning, however, is consistent with a number of the Comprehensive Plan’s recommendations, including:
 - *Economic Development Recommendation #1:* Strengthen and expand economic opportunity and the Village’s tax base by focusing efforts on retaining and expanding existing businesses and attracting new businesses.
 - *Economic Development Recommendation #2:* Improve the condition and appearance of Port Chester’s commercial areas, including the Downtown Business District, to encourage new investment and create more attractive locations for visitors and businesses.
 - *Economic Development Recommendation #3:* Increase Port Chester’s retail capture rate by improving the profitability of commercial businesses and recruiting new establishments based on market demand.
- **LWRP Consistency:** At the March 30, 2016 Waterfront Commission meeting, the Waterfront Commission voted that the Amended Petition is consistent with the currently adopted 1992 (with 1999 amendments) Local Waterfront Revitalization Program (“LWRP”).
- **SEQRA Review:** The Board of Trustees determined that the Amended Petition (the “Proposed Action” in SEQRA terms) is an Unlisted Action. Per 617 and the instructions to filling out the various Full Environmental Assessment Form (“EAF”) forms, the EAF Part 1 sets the project and setting is the responsibility of an applicant or project sponsor. The EAF Part 2 is designed to help the lead agency inventory all potential resources that could be affected by a proposed project or action and is the responsibility of the lead agency. Following that guidance, the

Applicant provided a Full EAF Part 1. As the Amended Petition is a zoning petition on its own, only certain questions within the EAF Part 1 are necessary to answer. The Applicant had previously provided an EAF Part 1 as part of its site plan application to the Planning Commission. That EAF Part 1 will be utilized by the Planning Commission, should the project move forward, to evaluate the site plan under SEQRA as part of the site plan approval process. To that end, the Department of Planning & Economic Development's suggests that the EAF Part 1 has been completed sufficiently by the Applicant. Attached please find a draft of a completed EAF Part 2, prepared by the Department of Planning & Economic Development. Similar to the EAF Part 1, as this is a zoning petition, most of the listed resources are not anticipated to be impacted as a result of the rezoning. The draft EAF Part 2 identifies the following resources that may be impacted by the Amended Petition:

- *Transportation* – As a new use will be introduced to the area, implementation of the proposed action may result in an increase of traffic and movements in the northern portion of North Main Street.
- *Community Plans* – As a new use will be introduced to the area, potentially making it a more desirable area, secondary growth impacts may result from implementation of the proposed action.
- *Community Character* – As a new use will be introduced to the area, potentially establishing the area as a gateway into the Village, demand for additional community services, may result from implementation of the proposed action.

It should be stressed that the limited number of resources evaluated as part of the rezoning SEQRA review in no way is indicative or should restrict the environmental evaluation of resources such as flooding, traffic, noise, air, and aesthetic resources that may be impacted by a site-specific application (as part of the site plan approval process), should the rezoning move forward.

Next Steps:

After the Board of Trustees opens and then closes the public hearing, the Department of Planning & Development will prepare a draft EAF Part 3 for the Board of Trustees' consideration, based upon the above analysis of the EAF Parts 1 and 2, as well as any comments or testimony received during the public hearing. The EAF Part 3 provides the reasons in support of the SEQRA determination of significance. Based on the analysis in EAF Part 3, the Board of Trustees would then decide whether to require an environmental impact statement to further assess the proposed action or whether available information is sufficient to conclude that the proposed action will not have a significant adverse environmental impact.

EAF Part 2

Full Environmental Assessment Form
Part 2 - Identification of Potential Project Impacts

Project :

Date :

Part 2 is to be completed by the lead agency. Part 2 is designed to help the lead agency inventory all potential resources that could be affected by a proposed project or action. We recognize that the lead agency’s reviewer(s) will not necessarily be environmental professionals. So, the questions are designed to walk a reviewer through the assessment process by providing a series of questions that can be answered using the information found in Part 1. To further assist the lead agency in completing Part 2, the form identifies the most relevant questions in Part 1 that will provide the information needed to answer the Part 2 question. When Part 2 is completed, the lead agency will have identified the relevant environmental areas that may be impacted by the proposed activity.

If the lead agency is a state agency **and** the action is in any Coastal Area, complete the Coastal Assessment Form before proceeding with this assessment.

Tips for completing Part 2:

- Review all of the information provided in Part 1.
- Review any application, maps, supporting materials and the Full EAF Workbook.
- Answer each of the 18 questions in Part 2.
- If you answer “**Yes**” to a numbered question, please complete all the questions that follow in that section.
- If you answer “**No**” to a numbered question, move on to the next numbered question.
- Check appropriate column to indicate the anticipated size of the impact.
- Proposed projects that would exceed a numeric threshold contained in a question should result in the reviewing agency checking the box “Moderate to large impact may occur.”
- The reviewer is not expected to be an expert in environmental analysis.
- If you are not sure or undecided about the size of an impact, it may help to review the sub-questions for the general question and consult the workbook.
- When answering a question consider all components of the proposed activity, that is, the “whole action”.
- Consider the possibility for long-term and cumulative impacts as well as direct impacts.
- Answer the question in a reasonable manner considering the scale and context of the project.

1. Impact on Land			
Proposed action may involve construction on, or physical alteration of, the land surface of the proposed site. (See Part 1. D.1)		<input type="checkbox"/> NO	<input type="checkbox"/> YES
<i>If “Yes”, answer questions a - j. If “No”, move on to Section 2.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may involve construction on land where depth to water table is less than 3 feet.	E2d	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may involve construction on slopes of 15% or greater.	E2f	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface.	E2a	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve the excavation and removal of more than 1,000 tons of natural material.	D2a	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may involve construction that continues for more than one year or in multiple phases.	D1e	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides).	D2e, D2q	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action is, or may be, located within a Coastal Erosion hazard area.	B1i	<input type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

2. Impact on Geological Features The proposed action may result in the modification or destruction of, or inhibit access to, any unique or unusual land forms on the site (e.g., cliffs, dunes, minerals, fossils, caves). (See Part 1. E.2.g) <input type="checkbox"/> NO <input type="checkbox"/> YES <i>If "Yes", answer questions a - c. If "No", move on to Section 3.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Identify the specific land form(s) attached: _____ _____	E2g	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may affect or is adjacent to a geological feature listed as a registered National Natural Landmark. Specific feature: _____	E3c	<input type="checkbox"/>	<input type="checkbox"/>
c. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

3. Impacts on Surface Water The proposed action may affect one or more wetlands or other surface water bodies (e.g., streams, rivers, ponds or lakes). (See Part 1. D.2, E.2.h) <input type="checkbox"/> NO <input type="checkbox"/> YES <i>If "Yes", answer questions a - l. If "No", move on to Section 4.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may create a new water body.	D2b, D1h	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water.	D2b	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body.	D2a	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body.	E2h	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments.	D2a, D2h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may include construction of one or more intake(s) for withdrawal of water from surface water.	D2c	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may include construction of one or more outfall(s) for discharge of wastewater to surface water(s).	D2d	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies.	D2e	<input type="checkbox"/>	<input type="checkbox"/>
i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action.	E2h	<input type="checkbox"/>	<input type="checkbox"/>
j. The proposed action may involve the application of pesticides or herbicides in or around any water body.	D2q, E2h	<input type="checkbox"/>	<input type="checkbox"/>
k. The proposed action may require the construction of new, or expansion of existing, wastewater treatment facilities.	D1a, D2d	<input type="checkbox"/>	<input type="checkbox"/>

I. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>
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4. Impact on groundwater The proposed action may result in new or additional use of ground water, or may have the potential to introduce contaminants to ground water or an aquifer. <input type="checkbox"/> NO <input type="checkbox"/> YES (See Part 1. D.2.a, D.2.c, D.2.d, D.2.p, D.2.q, D.2.t) <i>If "Yes", answer questions a - h. If "No", move on to Section 5.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may require new water supply wells, or create additional demand on supplies from existing water supply wells.	D2c	<input type="checkbox"/>	<input type="checkbox"/>
b. Water supply demand from the proposed action may exceed safe and sustainable withdrawal capacity rate of the local supply or aquifer. Cite Source: _____	D2c	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may allow or result in residential uses in areas without water and sewer services.	D1a, D2c	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may include or require wastewater discharged to groundwater.	D2d, E2l	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in the construction of water supply wells in locations where groundwater is, or is suspected to be, contaminated.	D2c, E1f, E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may require the bulk storage of petroleum or chemical products over ground water or an aquifer.	D2p, E2l	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may involve the commercial application of pesticides within 100 feet of potable drinking water or irrigation sources.	E2h, D2q, E2l, D2c	<input type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

5. Impact on Flooding The proposed action may result in development on lands subject to flooding. <input type="checkbox"/> NO <input type="checkbox"/> YES (See Part 1. E.2) <i>If "Yes", answer questions a - g. If "No", move on to Section 6.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in development in a designated floodway.	E2i	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in development within a 100 year floodplain.	E2j	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in development within a 500 year floodplain.	E2k	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in, or require, modification of existing drainage patterns.	D2b, D2e	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may change flood water flows that contribute to flooding.	D2b, E2i, E2j, E2k	<input type="checkbox"/>	<input type="checkbox"/>
f. If there is a dam located on the site of the proposed action, is the dam in need of repair, or upgrade?	E1e	<input type="checkbox"/>	<input type="checkbox"/>

g. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>
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6. Impacts on Air			
The proposed action may include a state regulated air emission source. (See Part 1. D.2.f., D.2.h, D.2.g) <i>If "Yes", answer questions a - f. If "No", move on to Section 7.</i>		<input type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. If the proposed action requires federal or state air emission permits, the action may also emit one or more greenhouse gases at or above the following levels: i. More than 1000 tons/year of carbon dioxide (CO ₂) ii. More than 3.5 tons/year of nitrous oxide (N ₂ O) iii. More than 1000 tons/year of carbon equivalent of perfluorocarbons (PFCs) iv. More than .045 tons/year of sulfur hexafluoride (SF ₆) v. More than 1000 tons/year of carbon dioxide equivalent of hydrochloroflourocarbons (HFCs) emissions vi. 43 tons/year or more of methane	D2g D2g D2g D2g D2g D2h	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
b. The proposed action may generate 10 tons/year or more of any one designated hazardous air pollutant, or 25 tons/year or more of any combination of such hazardous air pollutants.	D2g	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may require a state air registration, or may produce an emissions rate of total contaminants that may exceed 5 lbs. per hour, or may include a heat source capable of producing more than 10 million BTU's per hour.	D2f, D2g	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may reach 50% of any of the thresholds in "a" through "c", above.	D2g	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in the combustion or thermal treatment of more than 1 ton of refuse per hour.	D2s	<input type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

7. Impact on Plants and Animals			
The proposed action may result in a loss of flora or fauna. (See Part 1. E.2. m.-q.) <i>If "Yes", answer questions a - j. If "No", move on to Section 8.</i>		<input type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may cause reduction in population or loss of individuals of any threatened or endangered species, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2o	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in a reduction or degradation of any habitat used by any rare, threatened or endangered species, as listed by New York State or the federal government.	E2o	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may cause reduction in population, or loss of individuals, of any species of special concern or conservation need, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2p	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in a reduction or degradation of any habitat used by any species of special concern and conservation need, as listed by New York State or the Federal government.	E2p	<input type="checkbox"/>	<input type="checkbox"/>

e. The proposed action may diminish the capacity of a registered National Natural Landmark to support the biological community it was established to protect.	E3c	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result in the removal of, or ground disturbance in, any portion of a designated significant natural community. Source: _____	E2n	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may substantially interfere with nesting/breeding, foraging, or over-wintering habitat for the predominant species that occupy or use the project site.	E2m	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat. Habitat type & information source: _____	E1b	<input type="checkbox"/>	<input type="checkbox"/>
i. Proposed action (commercial, industrial or recreational projects, only) involves use of herbicides or pesticides.	D2q	<input type="checkbox"/>	<input type="checkbox"/>
j. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

8. Impact on Agricultural Resources			
The proposed action may impact agricultural resources. (See Part 1. E.3.a. and b.)		<input type="checkbox"/> NO	<input type="checkbox"/> YES
<i>If "Yes", answer questions a - h. If "No", move on to Section 9.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may impact soil classified within soil group 1 through 4 of the NYS Land Classification System.	E2c, E3b	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may sever, cross or otherwise limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc).	E1a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in the excavation or compaction of the soil profile of active agricultural land.	E3b	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may irreversibly convert agricultural land to non-agricultural uses, either more than 2.5 acres if located in an Agricultural District, or more than 10 acres if not within an Agricultural District.	E1b, E3a	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may disrupt or prevent installation of an agricultural land management system.	E1 a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result, directly or indirectly, in increased development potential or pressure on farmland.	C2c, C3, D2c, D2d	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed project is not consistent with the adopted municipal Farmland Protection Plan.	C2c	<input type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

9. Impact on Aesthetic Resources The land use of the proposed action are obviously different from, or are in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource. (Part 1. E.1.a, E.1.b, E.3.h.) <i>If "Yes", answer questions a - g. If "No", go to Section 10.</i>			
		<input type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Proposed action may be visible from any officially designated federal, state, or local scenic or aesthetic resource.	E3h	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the obstruction, elimination or significant screening of one or more officially designated scenic views.	E3h, C2b	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may be visible from publicly accessible vantage points: i. Seasonally (e.g., screened by summer foliage, but visible during other seasons) ii. Year round	E3h	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
d. The situation or activity in which viewers are engaged while viewing the proposed action is: i. Routine travel by residents, including travel to and from work ii. Recreational or tourism based activities	E3h E2q, E1c	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
e. The proposed action may cause a diminishment of the public enjoyment and appreciation of the designated aesthetic resource.	E3h	<input type="checkbox"/>	<input type="checkbox"/>
f. There are similar projects visible within the following distance of the proposed project: 0-1/2 mile 1/2 -3 mile 3-5 mile 5+ mile	D1a, E1a, D1f, D1g	<input type="checkbox"/>	<input type="checkbox"/>
g. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

10. Impact on Historic and Archeological Resources The proposed action may occur in or adjacent to a historic or archaeological resource. (Part 1. E.3.e, f. and g.) <i>If "Yes", answer questions a - e. If "No", go to Section 11.</i>			
		<input type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may occur wholly or partially within, or substantially contiguous to, any buildings, archaeological site or district which is listed on or has been nominated by the NYS Board of Historic Preservation for inclusion on the State or National Register of Historic Places.	E3e	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may occur wholly or partially within, or substantially contiguous to, an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory.	E3f	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may occur wholly or partially within, or substantially contiguous to, an archaeological site not included on the NY SHPO inventory. Source: _____	E3g	<input type="checkbox"/>	<input type="checkbox"/>

d. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>
e. If any of the above (a-d) are answered “Moderate to large impact may occur”, continue with the following questions to help support conclusions in Part 3:			
i. The proposed action may result in the destruction or alteration of all or part of the site or property.	E3e, E3g, E3f	<input type="checkbox"/>	<input type="checkbox"/>
ii. The proposed action may result in the alteration of the property’s setting or integrity.	E3e, E3f, E3g, E1a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
iii. The proposed action may result in the introduction of visual elements which are out of character with the site or property, or may alter its setting.	E3e, E3f, E3g, E3h, C2, C3	<input type="checkbox"/>	<input type="checkbox"/>

11. Impact on Open Space and Recreation			
The proposed action may result in a loss of recreational opportunities or a reduction of an open space resource as designated in any adopted municipal open space plan. (See Part 1. C.2.c, E.1.c., E.2.q.) <i>If “Yes”, answer questions a - e. If “No”, go to Section 12.</i>		<input type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in an impairment of natural functions, or “ecosystem services”, provided by an undeveloped area, including but not limited to stormwater storage, nutrient cycling, wildlife habitat.	D2e, E1b E2h, E2m, E2o, E2n, E2p	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the loss of a current or future recreational resource.	C2a, E1c, C2c, E2q	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may eliminate open space or recreational resource in an area with few such resources.	C2a, C2c E1c, E2q	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in loss of an area now used informally by the community as an open space resource.	C2c, E1c	<input type="checkbox"/>	<input type="checkbox"/>
e. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

12. Impact on Critical Environmental Areas			
The proposed action may be located within or adjacent to a critical environmental area (CEA). (See Part 1. E.3.d) <i>If “Yes”, answer questions a - c. If “No”, go to Section 13.</i>		<input type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in a reduction in the quantity of the resource or characteristic which was the basis for designation of the CEA.	E3d	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in a reduction in the quality of the resource or characteristic which was the basis for designation of the CEA.	E3d	<input type="checkbox"/>	<input type="checkbox"/>
c. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

13. Impact on Transportation The proposed action may result in a change to existing transportation systems. <input type="checkbox"/> NO <input type="checkbox"/> YES (See Part 1. D.2.j) <i>If "Yes", answer questions a - f. If "No", go to Section 14.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Projected traffic increase may exceed capacity of existing road network.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the construction of paved parking area for 500 or more vehicles.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action will degrade existing transit access.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action will degrade existing pedestrian or bicycle accommodations.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may alter the present pattern of movement of people or goods.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

14. Impact on Energy The proposed action may cause an increase in the use of any form of energy. <input type="checkbox"/> NO <input type="checkbox"/> YES (See Part 1. D.2.k) <i>If "Yes", answer questions a - e. If "No", go to Section 15.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action will require a new, or an upgrade to an existing, substation.	D2k	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two-family residences or to serve a commercial or industrial use.	D1f, D1q, D2k	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may utilize more than 2,500 MWhrs per year of electricity.	D2k	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve heating and/or cooling of more than 100,000 square feet of building area when completed.	D1g	<input type="checkbox"/>	<input type="checkbox"/>
e. Other Impacts: _____ _____			

15. Impact on Noise, Odor, and Light The proposed action may result in an increase in noise, odors, or outdoor lighting. <input type="checkbox"/> NO <input type="checkbox"/> YES (See Part 1. D.2.m., n., and o.) <i>If "Yes", answer questions a - f. If "No", go to Section 16.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may produce sound above noise levels established by local regulation.	D2m	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in blasting within 1,500 feet of any residence, hospital, school, licensed day care center, or nursing home.	D2m, E1d	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in routine odors for more than one hour per day.	D2o	<input type="checkbox"/>	<input type="checkbox"/>

d. The proposed action may result in light shining onto adjoining properties.	D2n	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in lighting creating sky-glow brighter than existing area conditions.	D2n, E1a	<input type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

16. Impact on Human Health			
The proposed action may have an impact on human health from exposure to new or existing sources of contaminants. (See Part 1.D.2.q., E.1. d. f. g. and h.) <i>If "Yes", answer questions a - m. If "No", go to Section 17.</i>		<input type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action is located within 1500 feet of a school, hospital, licensed day care center, group home, nursing home or retirement community.	E1d	<input type="checkbox"/>	<input type="checkbox"/>
b. The site of the proposed action is currently undergoing remediation.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
c. There is a completed emergency spill remediation, or a completed environmental site remediation on, or adjacent to, the site of the proposed action.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
d. The site of the action is subject to an institutional control limiting the use of the property (e.g., easement or deed restriction).	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may affect institutional control measures that were put in place to ensure that the site remains protective of the environment and human health.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action has adequate control measures in place to ensure that future generation, treatment and/or disposal of hazardous wastes will be protective of the environment and human health.	D2t	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action involves construction or modification of a solid waste management facility.	D2q, E1f	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may result in the unearthing of solid or hazardous waste.	D2q, E1f	<input type="checkbox"/>	<input type="checkbox"/>
i. The proposed action may result in an increase in the rate of disposal, or processing, of solid waste.	D2r, D2s	<input type="checkbox"/>	<input type="checkbox"/>
j. The proposed action may result in excavation or other disturbance within 2000 feet of a site used for the disposal of solid or hazardous waste.	E1f, E1g E1h	<input type="checkbox"/>	<input type="checkbox"/>
k. The proposed action may result in the migration of explosive gases from a landfill site to adjacent off site structures.	E1f, E1g	<input type="checkbox"/>	<input type="checkbox"/>
l. The proposed action may result in the release of contaminated leachate from the project site.	D2s, E1f, D2r	<input type="checkbox"/>	<input type="checkbox"/>
m. Other impacts: _____ _____			

17. Consistency with Community Plans			
The proposed action is not consistent with adopted land use plans. (See Part 1. C.1, C.2. and C.3.) <i>If “Yes”, answer questions a - h. If “No”, go to Section 18.</i>		<input type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action’s land use components may be different from, or in sharp contrast to, current surrounding land use pattern(s).	C2, C3, D1a E1a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action will cause the permanent population of the city, town or village in which the project is located to grow by more than 5%.	C2	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action is inconsistent with local land use plans or zoning regulations.	C2, C2, C3	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action is inconsistent with any County plans, or other regional land use plans.	C2, C2	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may cause a change in the density of development that is not supported by existing infrastructure or is distant from existing infrastructure.	C3, D1c, D1d, D1f, D1d, E1b	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action is located in an area characterized by low density development that will require new or expanded public infrastructure.	C4, D2c, D2d D2j	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may induce secondary development impacts (e.g., residential or commercial development not included in the proposed action)	C2a	<input type="checkbox"/>	<input type="checkbox"/>
h. Other: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

18. Consistency with Community Character			
The proposed project is inconsistent with the existing community character. (See Part 1. C.2, C.3, D.2, E.3) <i>If “Yes”, answer questions a - g. If “No”, proceed to Part 3.</i>		<input type="checkbox"/> NO	<input type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may replace or eliminate existing facilities, structures, or areas of historic importance to the community.	E3e, E3f, E3g	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may create a demand for additional community services (e.g. schools, police and fire)	C4	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may displace affordable or low-income housing in an area where there is a shortage of such housing.	C2, C3, D1f D1g, E1a	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may interfere with the use or enjoyment of officially recognized or designated public resources.	C2, E3	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action is inconsistent with the predominant architectural scale and character.	C2, C3	<input type="checkbox"/>	<input type="checkbox"/>
f. Proposed action is inconsistent with the character of the existing natural landscape.	C2, C3 E1a, E1b E2g, E2h	<input type="checkbox"/>	<input type="checkbox"/>
g. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>



Department of
Transportation

ANDREW M. CUOMO
Governor

MATTHEW J. DRISCOLL
Commissioner

TODD WESTHUIS, P.E.
Acting Regional Director

March 3, 2016

Eric Zamft
Director of Planning & Economic Development
222 Grace Church Street, Room 202
Port Chester, NY 10573

Re: **NYSDOT SEQR #: 16-051**
C-4R Gateway Retail; Route 1
Port Chester; Westchester County

Dear Mr. Zamft:

The New York State Department of Transportation is in receipt of the Full Environmental Assessment Form, along with Lead Agency Designation request, dated February 23, 2016. The Department consents to the Village Board of Trustees assuming the role of Lead Agency for review of the referenced proposal.

All proposed work within the NYSDOT Right-of-Way requires a Highway Work Permit (HWP). A detailed engineering review is necessary and required for issuance of a HWP. The HWP applicant should be directed to contact the local NYSDOT-HWP Engineer to initiate a review process. Please contact:

Christopher Lee P.E., Permit Engineer
NYS Department of Transportation
Saw Mill River Road (Rt. 9A & Dana Rd.)
Valhalla, NY 10595
Phone (914) 592-1589

The applicant should also be encouraged to review the permit process and all required HWP forms on the NYSDOT website (<https://www.dot.ny.gov/index>). In particular, please submit the PERM 33-COM as part of the submission.

Lead Agency approval under SEQR is required in advance of permitting.

Please submit subsequent plans and documents for this project as well as those for any future development proposals in digital (PDF.) – CD, DVD or Thumb drive.

Very truly yours,

Michael P. Manning
SEQRA Unit

cc: M. Sassi, P.E. Regional Highway Work Permit Coordinator
C. Lee, Permit Engineer, Residency 8-9
Westchester County Dept of Planning
Gary Gianfrancesco



Robert P. Astorino
County Executive

County Planning Board

February 29, 2016

Eric Zamft, AICP, Director
Department of Planning & Economic Development
Village of Port Chester
222 Grace Church Street
Port Chester, NY 10573

Subject: **Referral File No: PCH 16-002B — Zoning Text Amendment and Lead Agency:
Permit Retail Uses, Port North Main Street**

Dear Mr. Zamft:

The Westchester County Planning Board has received a notice of intent to be Lead Agency, pursuant to the NYS Environmental Quality Review Act (SEQR), for a petition for a proposed amendment to the text of the Port Chester zoning code so as to amend the C4 District to allow as a special exception use “retail store or personal service shop, services clearly incidental to retail sales on the premises or to personal services.” The proposed special exception use would only apply to lots north of Terrace Avenue in the existing C4 District. Alternatively, the petition requests creation of a new district that would have these provisions.

If the proposed zoning amendment is approved, the applicant intends to seek site plan approval to redevelop two lots located at 601 North Main Street and 531 North Main Street with retail store, office and parking.

We have no objection to the Port Chester Board of Trustees assuming Lead Agency status for this review.

We have reviewed the rezoning petition under the provisions of Section 239 L, M and N of the General Municipal Law and Section 277.61 of the County Administrative Code and we find the proposed zoning amendment to be a matter for local determination in accordance with Village’s planning and zoning policies. We will reserve comment on the proposal’s site plan until a later date if the zoning amendment is approved.

Thank you for calling this matter to our attention.

Respectfully,
WESTCHESTER COUNTY PLANNING BOARD

For:
By: 
Edward Buroughs, AICP
Commissioner

EEB/KE

LOCAL LAW NO. I-1 of 2016

A LOCAL LAW AMENDING THE CODE OF THE VILLAGE OF PORT CHESTER, CHAPTER 345, "ZONING", TO ESTABLISH A NEW GATEWAY RETAIL ("C4-R") ZONING DISTRICT AND TO CHANGE THE OFFICIAL ZONING MAP THEREFOR

Be it enacted by the Board of Trustees of the Village of Port Chester, New York as follows:

SECTION 1: Purpose and Intent

The current C4 General Commercial District designation for the northern portion of North Main Street presents a limitation on realizing the area as a gateway to the Village of Port Chester. The new C4-R Gateway Retail District will facilitate a greater mix of uses, including retail., and promote the continued economic revitalization of the Village. The C4-R District regulations are designed to provide better visual and/or physical access to the Byram River, which is one of the defining characteristics of the area and currently underutilized as a public asset.

SECTION 2: The Code of the Village of Port Chester, Chapter 345, Article IV, Section 345-14 is hereby amended as follows:

Section 345-14C Schedule of Off-Street Parking Space Requirements.

..

(2) For Nonresidential Uses

Uses	Number of Spaces Required
------	---------------------------

....

<u>Retail stores or personal service stores within the C4-R District</u>	1 per 300 square feet of gross floor area.
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SECTION 3: The Code of the Village of Port Chester, Chapter 345. Article IX, is hereby amended as follows::

Section 345-50.3. C4-R Gateway Retail District

See the Schedule of Regulations for Nonresidence Districts (Attachments 3A and 3B)

SECTION 4: The Code of the Village of Port Chester, Chapter 345, Article X, Section 345-59 is hereby amended

Section 345-59.D. Jurisdiction to hear specific applications is as follows:

....

(2) Planning Commission

...

(u) Retail store or personal service shop within the C4-R District

SECTION 5: The Code of the Village of Port Chester, Chapter 345, Article X, Section 345-61, is hereby amended as follows:

...

Y. Retail store or personal service shop within the C4-R District

In addition to the general standards, set forth in Sections 345-59 and 345-60, for the granting of a special exception use, the Planning Commission shall also consider the following: On parcels adjacent to the Byram River, access shall be provided and/or the site plan and on-site landscaping shall be designed to provide a view scape of the river, to the extent practicable, via viewsheds through parking lots and other non-improved areas of the site.

SECTION 6: The Code of the Village of Port Chester, Chapter 345, Attachment 3A, Schedule of Regulations for Nonresidence Districts, Part 1, Use Regulations and Attachment 3B Schedule of Regulations for Nonresidence Districts Part 2, Dimensional Regulations. is hereby amended as follows per the annexed:

ZONING

345 Attachment 3A

Village of Port Chester
 Schedule of Regulations for Nonresidence Districts
 Part 1, Use Regulations

Type of Use	Districts														
	C1 Neighborhood Retail §345-47	C2 Main Street Business §345-48	C3 Office and Commercial §345-49	C4 General Commercial §345-50	<u>C4-R</u> <u>Gateway</u> <u>Retail</u> <u>§345-50.3</u>	C5 Train Station Mixed Use §345-50.1	C5T Downtown Mixed Use Transitional §345-50.2	CD Design Shopping Center §345-51	CDS Special Designed Commercial §345-52	PD Design Professional Building §345-53	DW Design Waterfront §345-54	DW2 Downtown Design Waterfront §345-54.1	M1 Light Industrial §345-55	M2 General Industrial §345-561	PMU Planned Mixed Use §345-57
Residential Uses															
1 Family Dwelling	X	X	X	X	<u>X</u>	X	X	X	X	X	X	X	X	X	X
2 Family Dwelling	X	X	X	X	<u>X</u>	X	X	X	X	X	X	X	X	X	X
Multifamily Dwelling	X	SE	X	X	<u>X</u>	SE	SE	X	X	X	SE	SE	X	X	P
Multifamily Dwelling (floors above first floor)	X	SE	X	X	<u>X</u>	P	P	X	X	X	SE	SE	X	X	P
Residential Community Facilities															
Church or other Place of Worship, Parish House, Rectory, Sunday School, Convent, Seminary	SE	SE	SE	SE	<u>SE</u>	SE	SE	SE	X	X	SE	SE	SE	SE	SE
General Community Facilities															
Assembly Hall	X	SE	SE	SE	<u>SE</u>	SE	SE	X	X	X	X	X	X	X	P
Convalescent home or nursing home	X	X	SE	X	<u>X</u>	X	X	X	X	X	SE	SE	X	X	P
Hospital	X	SE	SE	X	<u>X</u>	SE	SE	X	X	X	X	X	X	X	SE
Medical and dental offices, not including operating room or community X-ray or therapy room	X	SE	P	X	<u>X</u>	SE	SE	P	P	P	X	X	X	X	SE
Membership club, fraternal organization or similar social institution not operated for a profit	X	P	SE	SE	<u>SE</u>	P	P	X	X	X	SE	SE	X	X	P
Nursery school, day camp or day care center	SE	SE	SE	X	<u>X</u>	SE	SE	X	X	X	X	X	X	X	SE
Public utility facility	X	SE	SE	SE	<u>SE</u>	SE	SE	X	X	X	SE	SE	P	P	SE
School, elementary or high, public, private, or parochial, having a curriculum equivalent to that ordinarily given in public schools.	X	SE	X	X	<u>X</u>	SE	SE	X	X	X	SE	SE	X	X	SE
Medical and dental offices including X-ray and therapy room	X	SE	X	X	<u>X</u>	SE	SE	X	X	X	X	X	X	X	SE
Business Uses															
Automobile repair garage	X	X	X	SE	<u>SE</u>	X	X	X	X	X	X	X	X	X	X
Bank, excluding drive-in	P	P	P	P	<u>P</u>	P	P	P	P	P	SE	SE	P	P	P
Bar or Tavern	X	P	X	X	<u>X</u>	P	P	X	X	X	X	X	X	X	P
Bowling Alley	X	SE	SE	SE	<u>SE</u>	SE	SE	P	P	X	X	X	X	X	P
Cabaret	X	P	X	X	<u>X</u>	P	P	X	X	X	X	X	X	X	P
Catering and Events Establishment	X	P	X	X	<u>X</u>	P	P	X	X	X	X	X	P	P	P
Commercial Indoor Athletic Training Facility	X	SE	X	X	<u>X</u>	SE	SE	X	X	X	X	X	X	P	P
Drive-in establishments other than restaurant, or circus, carnival, or other outdoor amusements	X	X	SE	SE	<u>SE</u>	X	X	SE	SE	X	X	X	X	X	X
Drive-in and fast-food restaurant	X	X	X	SE	<u>SE</u>	X	X	X	X	X	X	X	X	X	X
Food processing shop	X	X	X	SE	<u>SE</u>	X	X	X	X	X	X	X	X	X	X
Funeral Home	SE	SE	SE	SE	<u>SE</u>	SE	SE	X	X	X	X	X	X	X	SE
Gasoline Station	X	X	X	SE	<u>SE</u>	X	X	X	X	X	X	X	SE	SE	X
Health Club, including racquetball facilities and indoor swimming pools	X	P	P	P	<u>P</u>	P	P	P	P	X	X	X	X	X	P
Heating, air conditioning, plumbing, electrical, and similar construction businesses, excluding open storage of materials	X	X	X	P	<u>P</u>	X	X	X	X	X	SE	X	P	P	X

**Village of Port Chester
Schedule of Regulations for Nonresidence Districts
Part 1, Use Regulations (Cont'd)**

Type of Use	Districts														
	C1 Neighborhood Retail §345-47	C2 Main Street Business §345-48	C3 Office and Commercial §345-49	C4 General Commercial §345-50	C4-R Gateway Retail §345-50.3	C5 Train Station Mixed Use §345-50.1	C5T Downtown Mixed Use Transitional §345-50.2	CD Design Shopping Center §345-51	CDS Special Designed Commercial §345-52	PD Design Professional Building §345-53	DW Design Waterfront §345-54	DW2 Downtown Design Waterfront §345-54.1	M1 Light Industrial §345-55	M2 General Industrial §345-561	PMU Planned Mixed Use §345-57
Hotel or Motel	X	P	P	X	X	P	P	X	X	SE	SE	X	X	P	
Hotel, Motel (floors above first floor)	X	P	P	X	X	P	P	X	X	SE	SE	X	X	P	
Hotel, limited service	X	P	SE	X	X	P	P	SE	X	X	SE	SE	X	X	P
Marina or yacht club	X	X	X	X	X	X	X	X	X	SE	SE	X	X	X	
Theater	X	P	P	X	X	P	P	X	X	SE	SE	P	P	P	
Motor Vehicle Sales lot, motor vehicle salesroom and accessory repair shop	X	X	X	SE	SE	X	X	X	X	X	X	X	X	X	
Office, Office Building	P	SE	P	P	P	SE	SE	P	P	P	SE	SE	P	P	P
Office, Office Building (floors above first floor)	P	P	P	P	P	P	P	P	P	SE	SE	P	P	P	
Off-street parking lot or garage for motor vehicles, but not including storage of used or new motor vehicles for sale or hire; minimum requirements shall be in accordance with § 345-14.	X	P	P	P	P	P	P	X	X	X	SE	SE	X	X	P
Pawnshops	X	X	X	X	X	X	X	X	X	X	X	SE	SE	X	
Radio or television station studio, excluding transmission tower	X	SE	P	P	P	SE	SE	X	X	X	SE	SE	P	P	SE
Radio or television station studio excluding transmission tower (floors above first floor)	X	P	P	P	P	P	P	X	X	X	SE	SE	P	P	SE
Shooting ranges with accessory sales of guns and equipment	X	X	X	X	X	X	X	X	X	X	X	X	P	X	X
Table-service restaurant, no drive-in, open front, fast food, or curb-service types	P	P	P	P	P	P	P	P	P	X	SE	SE	X	X	P
Tax Preparation Office	X	P	X	X	X	P	P	X	X	X	SE	SE	X	X	P
Retail store or personal service shop, services clearly incidental to retail sales on the premises or to personal services	P	P	P	X	SE	P	P	P	SE	X	SE	SE	X	X	P
Veterinary hospital or board and care of small animals	X	SE	X	SE	SE	SE	SE	X	X	X	SE	SE	X	X	SE
Wholesale business, storage building or warehouse	P	X	X	P	P	X	X	X	X	X	SE	SE	P	P	X
Industrial uses															
Cold storage plant, ice plant, bottling central distribution station, light or power plant, or garbage or sewage disposal facility	X	X	X	X	X	X	X	X	X	X	X	X	X	P	X
Creamery, ice cream plant or bakery plant	X	X	X	P	P	X	X	X	X	SE	SE	P	P	X	
Laundry or dry-cleaning plant	X	X	X	X	X	X	X	X	X	SE	SE	P	P	X	
Nonnuisance industry, provided that in nonindustrial districts equipment is used that has a rating of no more than 5 horsepower	X	X	X	P	P	X	X	X	X	SE	SE	P	P	X	
Open storage of equipment or materials	X	X	X	X	X	X	X	X	X	X	X	X	SE	X	X
Printing plant	X	X	P	P	P	X	X	X	X	SE	SE	P	P	X	
Research laboratory, provided that is shall not be obnoxious by reason of dissemination of smoke, dust, fumes, noise or vibration, or hazardous from fire waste materials or the creation of excessive demands upon municipal services	X	X	SE	SE	SE	X	X	X	X	SE	SE	P	P	X	
Accessory Uses															
X	X	P	X	X	X	X	X	P	X	X	X	X	X	X	X
Customary accessory structure or use, including cultural, recreational, or athletic facility, meeting room or similar accessory structure or use related to a school, church, or other place of worship	P	P	P	P	P	P	P	P	P	SE	SE	P	P	SE	
Ethical Pharmacy	X	SE	X	X	X	SE	SE	P	X	P	X	X	X	SE	
Ground-floor office as accessory use to multifamily development	X	SE	X	X	X	SE	SE	X	X	X	SE	SE	X	X	P
Private garage or private off-street parking area, in accordance with § 345-14	P	P	P	P	P	P	P	P	SE	P	SE	SE	P	P	P
Sign, in accordance with § 345-15	P	P	P	P	P	P	P	P	P	SE	SE	P	P	P	

Notes:
P = permitted use
SE = special exception use
X = prohibited use

Village of Port Chester
 Schedule of Regulations for Nonresidence Districts
 Part 2, Dimensional Regulations

	Districts															
	C1 Neighborhood Retail § 345-47	C2 Main Street Business § 345-48	C3 Office & Commercial § 345-49	C4 General Commercial § 345-50	C4-R Gateway Retail § 345-50.3	C5 Train Station Mixed Use § 345-50.1	C5T Downtown Mixed Use Transitional District § 345-50.2	CD Design Shopping Center § 345-51	CDS Special Designed Commercial § 345-52	PD Design Professional Building § 345-53	DW Design Waterfront § 345-54	DW2 Downtown Design Waterfront § 345-54.1	M1 Light Industrial § 345-55	M2 General Industrial § 345-56	PMU Planned Mixed Use § 345-57	
Maximum Floor Area Ratio (See definition, § 345-2)	1.0	3.2 ¹	3.0	2.0	2.0	4.0 ³	4.0 ³	1.0	1.0	1.0	1.6	2.4 ¹⁰	1.0	2.0	0.8 ⁹	
Maximum Floor Area Ratio For 1 Story	0.35	NR	0.60	NR	0.50	NR	NR	0.35	NR	NR	0.40	NR	0.50	0.70	See §345-62	
Minimum Size of Lot:																
Area, nonresidential (square feet)	NR	NR	NR	NR	NR	NR	NR	21,780	65,340	21,780	10,000	NR	NR	NR		
Area per dwelling unit (square feet)	NR	750 ²	NR	NR	NR	400 ⁴	575 ⁵	NR	NR	NR	750	600 ¹¹	NR	NR		
Width (feet) (e)	40	40	40	40	40	40	40	40	NR	40	40	40	40	40		
Depth (feet)	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR	NR		
Minimum Yard Dimensions:																
Front (feet)	NR	NR	10	10	NR	NR	NR	30	60	10	20	5	25	10		
Side (feet)										-						
1	NR(a)	NR(a)	(b)	NR(a)	NR(a)	NR(a)	NR(a)	30	50	20	(c)	5	20	10		
Total of 2 on interior lot	NR(a)	NR(a)	(b)	NR(a)	NR(a)	NR(a)	NR(a)	60	100	40	(c)	10	40	20		
Rear (feet)	30	20	20	20	NR	20	20	30	50	30	30	25	20	20		
Maximum Height of Building:																
In stories	2½	5	5	3	3	8 ⁶	5 ⁷	3	3	5	4	4	2	8		
In feet	35	60	60	45	45	90 ⁶	60 ⁷	45	45	60	50	50	40	70		
Minimum Usable Open Space on Lot:																
For each dwelling unit (square feet)	1,200	50 ⁸	NR(d)	NR	NR	50 ⁸	50 ⁸	NR	NR	100(d)	50 ⁸	50 ⁸	NR	NR	100	

NOTES:

- (a) If provided at least 10 feet per yard.
- (b) One-half the height of the building to which the yard is related, but not greater than 20 feet.
- (c) Each 25 feet or ½ the height of the building, whichever is greater.
- (d) For each patient bed in a sanatorium, convalescent home or nursing home: 20 feet.
- (e) Must be maintained from the minimum front yard depth to the rear lot line.

¹ A floor area ratio (FAR) bonus of 0.8 is available in accordance with §345-16.

² A minimum of 575 square feet of lot area per dwelling unit can be achieved through a building height and floor area bonus program in accordance with §345-16.

³ A floor area bonus of 0.5 is available in accordance with §345-16.

⁴ A minimum of 250 square feet of lot area per dwelling unit can be achieved through a building height and floor area bonus program in accordance with §345-16.

⁵ A minimum of 400 square feet of lot area per dwelling unit can be achieved through a building height and floor area bonus program in accordance with §345-16.

⁶ A building height bonus of two stories (30 feet) is available in accordance with §345-16.

⁷ A building height bonus of one story (10 feet) is available in accordance with §345-16.

⁸ See §345-7.E.

⁹ A floor area bonus of 0.20 is available in accordance with §345-16. For any mixed-use (commercial/residential) structure, a building height bonus of two stories (15 feet) is available in accordance with §345-16.

¹⁰ A floor area bonus of 0.2 is available in accordance with §345-16.

¹¹ A minimum of 500 square feet of lot area per dwelling unit can be achieved through a building height and floor area bonus program in accordance with §345-16.

NR = none required

SECTION 7: Official Zoning Map

The Official Zoning Map of the Village of Port Chester is hereby amended to permit the following properties to be changed from a C-4 Zoning District to a C-4R Gateway Retail District and be thereafter be subject to the requirements and regulations of such latter district as described in the Village Code, Chapter 345, and Zoning Regulation:

Section 136.64, Block 1, Lots 30, 33, 34, 35, 36, 38, 39, 40, and 61 of the Town of Rye Official Tax Map.

SECTION 8: Severability

If any provision of this local law is held to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision and all other provisions shall continue to be in full force and effect.

SECTION 9: Effective Date

This local law shall take effect immediately as provided by law upon due publication and filing with the Secretary of State.



VILLAGE OF
PORT CHESTER

222 Grace Church Street, Port Chester, New York 10573

RES - 01
BOT 4-4-2016

AGENDA MEMO

Department: Planning and Development Department
Department: Office of the Village Attorney

BOT Meeting Date: 4/4/2016

Item Type: Resolution

Sponsor's Name:	Anthony Cerreto, Village Attorney
Sponsor's Name:	Eric Zamft, Director of Planning & Economic Development

Description	Yes	No	Description	Yes	No
Fiscal Impact	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Public Hearing Required	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Funding Source:			BID #		
Account #:			Strategic Plan Priority Area		
			N/A		
	Yes	No			
Agreement	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Manager Priorities		
Strategic Plan Related	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A		

Agenda Heading Title
(Will appear as indicated below on Agenda)

Setting a Public Hearing to Accept the Offer of Dedication of Nella Way as a Village Street

Summary

Background

Graceland Terrace Housing Development Corp. has offered for dedication a road, known as Nella Way, as a village street.

This roadway is part of the now-completed Fox Commons affordable housing project which was facilitated through a public-private partnership with the developer, Westchester County, New York State and the Village.

Pursuant to an agreement between the developer and the Village, the developer is required to transfer ownership of the roadway, and infrastructure improvements which were funded by the County, to the Village.

All interested parties, including the homeowner's association for the development, have requested that the Village proceed to accept the street.

State Law requires a public hearing to accept a street. Following the public hearing, the Board will be in the position to take action to close out this matter.

Proposed Action
That the Board of Trustees adopt the Resolution

Attachments
<ul style="list-style-type: none">• Letter from Graceland Terrace Housing Development Corp.• Letter from Norma Drummond, Deputy Commissioner, County Planning Department• Negative declaration and resolution from Planning Commission granting final site plan approval• Inter-Municipal Agreement• Developer-Municipal Agreement

**GRACELAND TERRACE
HOUSING DEVELOPMENT CORP.**

211 South Ridge Street, Suite 3R
Rye Brook, NY 10573

Phone: 914-241-3550

Fax: 914-939-8973

February 24, 2015

Hon. Neil Pagano
Mayor, Village of Port Chester
222 Grace Church Street
Port Chester, NY 10573

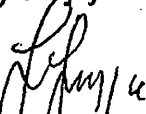
Re: Nella Way Road Dedication

Dear Mayor Pagano & Members of the Village Board of Trustees:
As part of the development of the Fox Commons Affordable Housing Development, the Village of Port Chester, County of Westchester and the developer entered into an Inter-Municipal Agreement and a Developer-Municipal Agreement establishing that the developer would transfer ownership of the infrastructure improvement property including the roadway known as Nella Way to the Village of Port Chester upon completion of the development. The developer hereby offers said road to be dedicated to the Village of Port Chester pursuant to the IMA and DMA.

We have instructed our attorney, John B. Colangelo, Esq., to prepare the necessary transfer documents and coordinate the road dedication with Village Attorney Anthony Cerreto.

If you require additional information in this regard, please contact Mr. Colangelo directly.

Very truly yours,



GRACELAND TERRACE HOUSING DEVELOPMENT FUND CORP.
As Nominee for FOX COMMONS LLC

Robert P. Astorino
County Executive

Department of Planning

Edward Buroughs, AICP
Commissioner

March 15, 2016

Hon. Dennis Pilla
Mayor, Village of Port Chester
333 Grace Church Street
Port Chester, New York 10573

SUBJECT: Village Acceptance of Nella Way

Dear Mayor Pilla:

The Village of Port Chester, Westchester County and Lazz Development completed the development of the Fox Commons affordable housing development back in 2010. As part of that development, the County provided funding to the Village for a new public road to be built (Nella Way) to give access to Village residents to the new soccer fields created on the lower level of Edgewood Park. The County's funding required that the road be publicly owned and the County have an ownership interest by easement over the property for the life of the bonds. In addition, the Inter-Municipal Agreement (IMA) between the County and the Village and the Developer-Municipal Agreement (DMA) between the Developer and the Village both established that the Developer would transfer ownership of the infrastructure improvements property, which includes the roadway, to the Village upon completion of the development.

I understand that the Village has never accepted the completed roadway. Once again, I remind you of the Village's obligation under the IMA to complete this transaction. If there is some basis for the Village to not accept the roadway, please let me know as soon as possible so we can resolve this issue.

If you have any questions, please feel free to contact me at (914) 995-2427.

Sincerely,



Norma V. Drummond
Deputy Commissioner

cc: Anthony Cerretto, Village Attorney
Lou Larizza, Lazz Development



617.21
Appendix F
State Environmental Quality Review
NEGATIVE DECLARATION
Notice of Determination of Non-Significance

Project Number _____

Date April 25, 2005

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

The Village of Port Chester Planning Commission as lead agency, has determined that the proposed action described below will not have a significant effect on the environmental and a Draft Environmental Impact Statement will not be prepared.

Name of Action:

Fox Island Road Affordable Housing Townhouse Project

SEQR Status:Type I Unlisted **Conditioned Negative Declaration:**Yes No **Description of Action:**

The project involves the development of a 33-unit townhouse "workforce" housing or moderate-income project. The site would be accessed from a new driveway onto Fox Island Road and an internal roadway network that will serve 7 building clusters. Off-street parking will be provided within a garage and driveway for each unit, as well as within a new parking area along the I-95 frontage of the site, that will also provide public parking for Edgewood Park. The project will be served by municipal water and sewage infrastructure.

Location: (Include street address and the name of the municipality/county. A location map of appropriate scale is also recommended.)

The site is located between Fox Island Road, Greenwood Avenue, Alto Avenue, I-95, Port Chester, Westchester County

REASONS SUPPORTING THIS DETERMINATION:

See attached.

If **Conditioned Negative Declaration**, provide on attachment the specific mitigation measures imposed.

For Further Information:

Contact Person: Richard A. Falanka, Village Manager

Address: 10 Pearl Street, Port Chester, NY 10573

Telephone Number: 914-939-2200

For Type I Actions and Conditioned Negative declarations, a Copy of the Notice sent to:

Commissioner, Dep't of Environmental Conservation, 50 Wolf Road, Albany, NY 12233-0001
NYSDEC Region 3, 21 South Putt Corners Road, New Paltz, NY 12561
Mayor, Village of Port Chester, 10 Pearl Street, Port Chester, NY 10573

REASONS SUPPORTING THIS DETERMINATION

1. The proposed construction of 33 new townhouses, roadways, parking areas and associated site improvements will not result in a measurable adverse change in existing air quality. The site lies adjacent to I-95, which is currently a significant contributor to the region's degraded air quality. Any long term, permanent air quality impacts created by the proposed project would be negligible compared to those currently generated by the interstate highway. Temporary short-term air quality impacts may result from construction related activities. These impacts will be mitigated through the implementation of Best Management Practices and through maintaining construction equipment in good working order.
2. No negative impacts to surface water features will result from the proposed project. Many years ago, the site supported a small pond fed by a stream. When I-95 was constructed the stream feeding the pond was disrupted, and the pond began to fill-in. Over the years, illegal filling of the site further encroached into the pond so that for several decades, the pond has been completely filled-in and no surface water features have been present on the site. The current plan proposes to further fill the site to create a level grade around elevations 95' - 100'. Given the significantly modified site topography, the project will not impact any existing surface water features.

The project will alter existing stormwater drainage patterns. A new stormwater management system has been developed that will collect surface runoff in catch basins, treat and detain it so that there will be no increase in the peak rate of runoff from the site. The project will comply with all applicable Phase II requirements, including the preparation of a Pollution Prevention Plan, as necessary. All stormwater management facilities shall be designed in accordance with the New York State Stormwater Management Design Manual, and Best Management Practices.

3. No direct discharges into the soil will result from this project. No impact on groundwater resources will occur as a result of the proposed action.
4. The site's soils are entirely composed of fill material defined by the Westchester/Putnam County Soil Survey as Urban Land. Charlton-Chatfirl complex soils are also present on the site. Due to the soils variability, soil sampling was conducted to investigate the presence of volatiles, semi-volatiles and metals. Results indicate that no volatile compounds are present on the site; and metals that were detected are below NYSDEC background levels. 8 common semi-volatile compounds were detected on the site, 5 of which were below NYSDEC background levels. 3 semi-volatile compounds were detected at levels above state guidance values (benzo (a) anthracene at 640 ug/L ppb, benzo (a) pyrene at 700 ug/L ppb, and chrysene at 720 ug/L ppb). These compounds are the result of incomplete combustion of hydrocarbons, and are common in urban soils adjacent to an interstate highway. The project involves the importation of approximately 4 feet of clean fill across the entire site to establish the finished grade. The placement of a minimum of 2 feet of clean fill would isolate any of the identified semi-volatile compounds from contact with

future residents. The project calls for doubling this amount. As a result, it can be concluded that the proposed project will fully mitigate any potential adverse impacts associated with the site's existing soil quality.

5. Long-term noise impacts are not anticipated from the proposed development of a new residential neighborhood. Existing noise impacts emanating from traffic volumes on I-95 on the existing homes along Alto and Greenwood Avenues and Fox Island Road will be somewhat mitigated by the construction of the project, which includes a new sound barrier along the I-95 property line. The construction of the sound barrier as well as the new structures in between the interstate and the existing neighborhoods will buffer and deflect noise that currently impacts the area without obstruction.

Short term noise impacts will occur as a result of the construction of the project, however, these impacts shall be mitigated by maintaining construction equipment in good working order and providing mufflers, and all construction activities shall be limited to normal business hours and shall not occur during the evenings or on weekends, except to address emergencies or with the prior approval of the Building Inspector.

6. The project will not create any flooding impacts. No flood plains are located in the vicinity of the site.
7. The proposed action will not result in any significant negative impacts on wetland resources. The National Wetland Inventory identifies the presence of a wetland on the site, classified as PUBHh, which refers to a pond with an unconsolidated bottom within a wooded area. Field investigation failed to reveal the presence of this wetland. This is due to the extensive filling that has taken place on this site for many years. Two small areas of mucky soils were identified, however, these areas do not meet the federal criteria for delineation as a wetland. Furthermore, the former pond and the two mucky areas are isolated, and not hydrologically connected to any downstream watercourses. As a result, the proposed project will not cause any adverse impacts to wetland resources.
8. The proposed action will not result in the removal of any significant existing vegetation. The site was once part of the manicured and landscaped Gould Estate. When I-95 was constructed in the early 1960's, the estate was bisected, and the portion of the property that is today the site became surplus property and was neglected. It became a convenient area to illegally dump debris and yard wastes, so over time it became overgrown with scrubby brush. Filling activities prevented any significant re-vegetation to take place. As a result, the proposed project will not create any adverse impacts to the site's existing vegetation.
9. There will be no impact on a significant habitat area as a result of this project. No threatened or endangered species of animals or the habitat of such species have been identified on the site according to the NYS Natural Heritage Inventory.
10. It is estimated that the project will generate approximately 22 vehicular trips in the AM peak hour, and 24 trips in the PM peak hour. This volume of traffic is not expected to overburden the existing roadway network. Likewise, intersection

**FINAL SITE PLAN APPROVAL
RESOLUTION OF THE VILLAGE OF PORT CHESTER
PLANNING COMMISSION**

SEP - 5 2006

August 28, 2006

**FOX ISLAND ROAD AFFORDABLE HOUSING TOWNHOUSE PROJECT
LAZZ DEVELOPMENT COMPANY
Section 2 Block 130 Lots 401, 402, 403 & 404**

WHEREAS, an application for Planning Commission approval of a final site plan for property located on Fox Island Road has been submitted by the Lazz Development Company, LLC; and

WHEREAS, the site is a parcel of land with frontage on Fox Island Road, Greenwood Avenue, Alto Avenue and is bounded to the east by the New England Thruway (I-95), and is more specifically known and designated as Section 2, Block 130 Lots 401, 402, 403 & 404; and

WHEREAS, the site is located within the R2F Two Family zoning district; and

WHEREAS, the applicant proposes to develop the site to support a 35 unit townhouse "workforce" housing or moderate income project. The site would be accessed from a new driveway onto Fox Island Road and an internal roadway network that will serve 8 building clusters. Off-street parking will be provided within a garage and driveway for each unit, as well as within a new parking area along the I-95 frontage of the site, that will also serve Edgewood Park. The project will be served by municipal water and sewage infrastructure.

WHEREAS, the proposal calls for the development of a cluster subdivision; and

WHEREAS, the final site plan was prepared by Ralph G. Mastro Monaco, P.E., P.C., Consulting Engineers, Croton-on-Hudson and consists of the following drawings:

- Grading Plan, dated August 23, 2006
- Utility Plan, dated August 23, 2006
- Erosion Control Plan, dated August 23, 2006
- Tree Preservation/Landscape Plan, dated August 23, 2006
- Road Profiles, dated August 17, 2006
- Water Main Profiles, dated August 17, 2006
- Drain Profiles, dated August 17, 2006
- Sewer Profiles, dated August 17, 2006
- Details I, dated August 17, 2006
- Details II, dated August 17, 2006

WHEREAS, on January 25, 2005 a public hearing was held as required by Village Law concerning the site plan application, at which time all persons wishing to speak on the application were given an opportunity to be heard; and

WHEREAS, on April 25, 2005, the Planning Commission, serving as Lead Agency for the SEQR review of this Unlisted Acton, adopted a Negative Declaration, indicating that the project will not result in any significant adverse environmental impacts; and

WHEREAS, on April 25, 2005, the Planning Commission granted Preliminary Site Plan approval, subject to a series of conditions set forth in the approval resolution; and

WHEREAS, the requirements for site plan approval contained in Section 345-23 of the Village of Port Chester Zoning Ordinance have been met by said site plan application.

NOW THEREFORE BE IT RESOLVED, that the application of approval of the final site plan submitted by the Lazz Development Company, as depicted on the plans identified above is hereby granted subject to the following conditions:

1. All comments of the Village Engineer shall be satisfactorily addressed prior to the issuance of a building permit.
2. A rock removal plan shall be submitted with the building permit.
3. This final site plan approval is conditioned upon compliance with all Phase II stormwater requirements.
4. All landscaping and buffering depicted on the Tree Preservation and Landscape Plan shall be maintained in perpetuity. Landscaping that is lost due to disease; lack of maintenance, storm damage or accident shall be replaced in-kind.
5. All easements, restrictions and covenants shall be reviewed and approved by the Village Attorney, prior to issuance of the certificate of occupancy.
6. A full construction management plan, including construction schedule, shall accompany the filing of the building permit.
7. Initial construction access into the site shall be provided through Alto Avenue. Once the roadway connection to Fox Island Road is created, the Alto Avenue construction entrance shall be removed, restored and it shall be permanently converted to an emergency accessway.
8. Architectural plans, including details of colors, materials, finishes, etc., shall be approved by the Architectural Review Board. Appropriate covenants shall be filed and managed by the HOA assuring the permanent maintenance and uniformity of these features.
9. A performance bond, or other suitable guarantee, shall be provided for all public improvements.

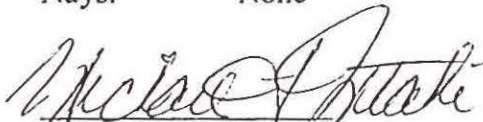
10. All private maintenance obligations shall be specifically itemized and made part of the Certificate of Occupancy.
11. The proposed structures shall conform to all applicable building and fire prevention code requirements.
12. The applicant shall request that the Village review the appropriate installation of traffic control signage and devices along Fox Island Road, particularly in the vicinity of the new site access roadway, and shall support the installation of said signage or devices, as found necessary.
16. The applicant shall obtain all other applicable permits and approvals and shall pay all other fees prior to the execution of the final site plan.

BE IT FINALLY RESOLVED, that this final site plan approval resolution shall have an effective date of August 28, 2006.

On the motion of Commissioner Antaki, seconded by Commissioner Gregory, it was adopted by the following vote:

Ayes: Antaki, Bauco, Coperine, Didden, Girardi, Gregory, Scarola

Nays: None


Michael Antaki, Chairman

This resolution was thereupon duly adopted



Andrew J. Spano
County Executive

Department of Planning

Gerard E. Mulligan, AICP
Commissioner

SEP 23 2008

September 22, 2008

Hon. Dennis Pilla, Mayor
Village of Port Chester
222 Grace Church Street
Port Chester, NY 10573

CONTRACT NUMBER:	C-HIF-07-39
CONTRACT TITLE:	Infrastructure Improvements Associated with Fox Island Homes Affordable Housing Development
AMOUNT:	\$1,032,400.00
TERM:	5/15/07 – 5/14/22

Dear Mayor Pilla:

I am pleased to provide you with a copy of the approved contract for the Westchester County Department of Planning funds to your agency. Please follow these steps to ensure your vouchers for this project can be quickly processed.

1. Please submit vouchers per the Schedule A in the contract.
2. No extensions or amendments will be made to agreements unless a written request is made by the chief executive officer, or chairman of your board of directors **60 days before the expiration of the contract**. The request for an extension should contain detailed information on the reason for the delay and the date by which all work will be finished. All requests should be made to:

Commissioner Gerard E. Mulligan
Westchester County Department of Planning
Room 432 Michaelian Office Building
148 Martine Avenue
White Plains, NY 10601



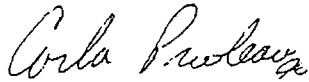
Hon. Dennis Pilla
September 22, 2008
Page 2

A "New Contract" informational packet has also been included with this letter. It includes vouchers with instructions for completion and guidelines for proper documentation with voucher submissions.

INSURANCE NOTE: The attached insurances expire June 1, 2009. Insurance covering the balance of the contract must be sent to us at that time in order to guarantee continued payments of claims.

We look forward to working with you. If you have any questions, please call the Project Manager listed below.

Sincerely,



Carla Prioleau
Contracts Manager

CP/dg
Enclosures

THE PROJECT MANAGER FOR THIS PROJECT IS:

Larry Kelly
914-995-4271

HOUSING IMPLEMENTATION FUND PROGRAM

THIS AGREEMENT made this 23rd day of July, 2008

by and between:

THE COUNTY OF WESTCHESTER, a municipal corporation of the State of New York, having an office and place of business in the Michaelian Office Building, 148 Martine Avenue, White Plains, New York 10601

(hereinafter referred to as the "County")

and

VILLAGE OF PORT CHESTER, a municipal corporation of the State of New York, having an office and place of business at 222 Grace Church Street, Port Chester, New York 10573

(hereinafter referred to as the "Municipality")

WHEREAS, the County has established a Housing Implementation Fund ("HIF" or "Fund") to provide water facilities, sewer facilities, road improvements, and other public improvements to encourage the development of affordable housing in Westchester County; and

WHEREAS, the County desires to enter into Intermunicipal Agreements with municipalities in the County of Westchester pursuant to which the municipalities on behalf of the County will construct said public improvements in conjunction with the development of affordable housing; and

WHEREAS, Graceland Terrace Housing Development Fund Corporation, a not-for-profit corporation, having an office and place of business at 211 South Ridge Street, Rye Brook, N.Y. 10573, (the "HDFC") as nominee for Fox Commons, LLC, a limited liability corporation, having an office and place of business at 505 Franklin Street, Rye Brook, N.Y.

10573 (the "Developer") is the owner of the property more particularly described on Schedule "A," attached hereto and made a part hereof (the "Affordable Housing Property"), pursuant to an agreement with the County executed on the 16th day of July, 2007 (the "NHLA Agreement") and incorporated herein by reference; and

WHEREAS, the County has recorded a Declaration of Restrictive Covenant on a portion of the Affordable Housing Property known as parcels "A", "B" and "D" with the Westchester County Clerk's office under control number; 71990651 ("County Declaration"); and

WHEREAS, the Developer has recorded a Declaration of Restrictive Covenant on a portion of the Affordable Housing Property known as parcel "E" with the Westchester County Clerk's office under control number; 71990687 ("Developer Declaration"); and

WHEREAS, Lazz Development has recorded a Declaration of Restrictive Covenant on a portion of the Affordable Housing Property known as parcel "C" with the Westchester County Clerk's office under control number; 71990696 ("Lazz Declaration"); and

WHEREAS, the County Declaration, the Developer Declaration and the Lazz Declaration place affordability restrictions on the Affordable Housing Property and are incorporated herein by reference (collectively the "Declaration of Restrictive Covenants"); and

WHEREAS, the Developer, pursuant to a developer /municipality agreement ("DMA") with the Municipality dated JULY 23, 2008 and the NHLA Agreement, agreed to construct a certain affordable housing development known as Fox Island Homes (the "Development") defined below on the Affordable Housing Property; and

WHEREAS, the Municipality shall construct infrastructure improvements in support of the Development more particularly described on Schedule "D" (the "Infrastructure Improvements") attached hereto and made a part hereof; and

WHEREAS, the Infrastructure Improvements shall be constructed on a portion of Affordable Housing Property owned by the Developer as more particularly described on Schedule "C-1" attached hereto and made a part hereof (the "Developer Infrastructure Improvements Property"); and

WHEREAS, the Village is the owner of a portion(s) of the property on which a portion of the Infrastructure Improvements will be constructed, as more particularly described on Schedule "C-2," attached hereto and made a part hereof (the "Municipal Infrastructure Improvements Property"); and

WHEREAS, the Municipal Infrastructure Improvements Property and the Developer Improvements Infrastructure Property collectively constitute the Infrastructure Improvements property, as more particularly described on Schedule "C," attached hereto and made a part hereto (the "Infrastructure Improvements Property") on which the Infrastructure Improvements will be constructed; and

WHEREAS, pursuant to the DMA, upon completion of the Development, the Developer will transfer ownership of the Infrastructure Improvements Property to the Municipality; and,

WHEREAS, pursuant to the provisions of Schedule "B" and Schedule "B-1" of the NHLA Agreement, which are attached hereto and made a part hereof, following construction of the Units (as defined in Schedule "B"), the sale and re-sale and/or the rental and re-rental, as the case may be, of the Units shall adhere to the provisions set forth in Schedule "B" and Schedule "B-1", including but not limited to the Affordability Requirements (as defined in Schedule "B") for the Period of Affordability, (as defined in Schedule "B"); and

WHEREAS, the County proposes to fund the cost of the construction of the Infrastructure Improvements and shall use the proceeds of tax exempt general obligation bonds issued by the County for such funding.

NOW THEREFORE, in consideration of the terms and conditions herein contained, the parties agree as follows:

1. **RECITALS**: The above recitals are hereby incorporated by reference into the body of this Inter-municipal agreement (the "Agreement" and/or "IMA").

2. **PERFORMANCE OF WORK**: The Municipality shall implement the construction of the Infrastructure Improvements on the Infrastructure Improvements Property on behalf of the County in accordance with the provisions as set forth in this Agreement, including but not limited to, Schedule "D," attached hereto and made a part hereof. The Infrastructure Improvements shall be constructed in accordance with the Plans (as defined in Schedule "D"). Any modification of the Plans or change orders, if any, shall require the prior written approval of the County.

The Municipality shall require the Developer to adhere to the provisions set forth in Schedule "B", including but not limited to meeting the Affordability Requirements for the Units in the Development for the Period of Affordability. The Municipality shall, and pursuant to the DMA the Municipality shall require the Developer, to comply with Chapter 298 of the Westchester County Administrative Code as applicable to the Units ("Chapter 298").

It is understood and agreed that the Municipality represents that the construction of the Infrastructure Improvements to be performed hereunder has been or will be (within thirty days of the date hereof) bid by public competitive bid pursuant to section 103 of the General Municipal Law. In no event shall the retention of a Contractor (the "Contractor") by the Municipality to perform work on the Infrastructure Improvements relieve or otherwise discharge the Municipality from its obligations under this Agreement or create a third party beneficiary relationship between the County and the Contractor and the parties hereto expressly disclaim any intention to create such a relationship.

The County shall not advance any HIF funds (as defined in Section "4" hereof) and the Municipality shall not be required to commence work on the Infrastructure Improvements (and, accordingly, receive or accept any advances of the County HIF Funds) until:

(i) evidence has been provided that the Developer owns the Affordable Housing Property (shown on Schedule "A"), and that portion of the Infrastructure Improvements Property shown on Schedule "C-1" free of liens, encumbrances, easements and agreements ;

(ii) INTENTIONALLY OMITTED

(iii) the Municipality has awarded a bid for construction of the Infrastructure Improvements provided, however, that in the event the lowest acceptable bid exceeds the amount of the County HIF Funds, at its option the Developer may elect to contribute said excess and, upon the posting (in cash) by the Developer with the Municipality, in escrow, prior to the awarding of the bid, of the amount of said excess, this condition "(iii)" shall be deemed satisfied;

(iv) the Municipality has received a bond covering one hundred percent (100%) of the work to be performed by the winning bidder, in form and content and issued by a surety reasonably satisfactory to the Municipality or some other instrument of guarantee acceptable to the Municipality ;

(v) INTENTIONALLY OMITTED

(vi) the Developer has obtained a firm, unconditional commitment for construction financing for the Development all as more fully set forth in Schedule "B";

(vii) an Indenture from the Developer to the County granting an easement in the Developer Infrastructure Improvements Property and an Indenture from the Municipality to the County granting an easement in the Municipal Infrastructure Improvements Property have been executed in substantially the forms attached hereto and forming a part hereof as Schedule "G" and "G1" (the "Easements") and such required Easements has been submitted for recording all as more fully set forth below;

(viii) the County has been provided a title policy covering the Infrastructure Improvements Property acceptable to the County and the County has received title insurance acceptable to the County naming the County as an insured in an equal 25% of the HIF Funds amount of \$258,100; and

(ix) any necessary approvals from the Municipality's governing body has been obtained.

The requirements contained in clauses (i), (vi), (vii), (viii) and (ix) above must be satisfied prior to or concurrent with execution of this Agreement. Moreover, construction shall

not commence and the County may terminate this Agreement if the conditions described in clauses (iii) and (iv) above are not satisfied within ninety (90) days from the date of execution of this Agreement.

The Municipality shall submit the Required Easement for recording, at its sole cost and expense, prior to commencement of any construction of the Infrastructure Improvements and shall provide the County with proof of recording within ten (10) business days of said recording. Moreover, within five (5) business days of execution and submission of the foregoing, the Municipality shall provide the County with time stamped receipts establishing receipt of the aforementioned documents by the Office of the Westchester County Clerk. No payments shall be made to the Municipality until proof of receipt of said document for recording by the Westchester County Clerk has been provided to the County. The Municipality further agrees that the copies such recorded Documents containing the County Clerk's control number shall be sent to the Westchester County Department of Planning.

If the above conditions have not been fully satisfied within the time limit set forth above, the Municipality may request in writing that the time for the above conditions to be satisfied be extended and provided that the County consents in writing to new dates for satisfaction of the conditions and commencement of the construction of the Infrastructure Improvements (and completion of the construction of the Infrastructure Improvements, if necessary), the time to satisfy the above conditions shall be extended and upon the subsequent satisfaction of said conditions within the new time period specified by the County in response to a request for said extension the construction of the Infrastructure Improvements shall proceed in accordance with the terms of this Agreement.

All of the terms of this Section "2" shall survive the expiration or other termination of this Agreement.

3. DEVELOPER FINANCING: The Municipality shall assure that the Contractor(s) or subcontractor(s) shall not enter into any mortgage or other financing documents that place a lien on the Infrastructure Improvements (which will not be owned by the Contractor(s) or

subcontractor(s)). In addition, as required by the terms of the DMA, the Municipality shall require that the Developer shall not enter into any mortgage or other financing documents that place a lien on the Infrastructure Improvements (which will not be owned by the Developer) or conflict with or diminish the terms of the Declaration of Restrictive Covenants recorded against the Affordable Housing Property.

4. PAYMENT: The County will pay the Municipality an amount not to exceed ONE MILLION THIRTY TWO THOUSAND FOUR HUNDRED (\$1,032,400.00) DOLLARS (the "County HIF Funds") to fund the construction of the Infrastructure Improvements pursuant to the terms hereof. The County HIF Funds shall be paid with the proceeds of tax exempt general obligation bonds issued by the County in accordance with the payment provisions of Schedule "D", after submission by the Municipality to the County of all requested documentation concerning construction of the Infrastructure Improvements and after audit and approval by the County for expenses properly incurred in the performance of this Agreement. The County shall not be liable for any costs or expenses in excess of such amount incurred by the Contractor in the performance of its obligations pursuant to this Agreement. The Municipality shall promptly pay the Contractor for work done.

Prior to the making of any payments hereunder, the County, may, at its option, audit such books and records of the Municipality as are reasonably pertinent to this Agreement to substantiate the basis for payment. The County shall not be restricted from withholding payment for cause found in the course of such audit or because of failure of the Municipality to cooperate with such audit. The County shall, in addition, have the right to audit such books and records subsequent to payment.

County HIF Funds shall be expended solely and exclusively for the purchase of materials and performance of labor used in the construction of the Infrastructure Improvements in accordance with this Agreement.

Payments hereunder by the County shall operate as a release to the County from any and all obligations or liabilities to the Municipality, its Contractor(s) or subcontractor(s) hereunder.

The Municipality shall furnish the County whenever requested to do so, satisfactory evidence showing that all monies theretofore advanced here have been paid for and applied toward the Infrastructure Improvements by the Municipality. Until such evidence is produced, at the option of the County, no other or further advances need be made by it hereunder.

Notwithstanding anything herein contained to the contrary, should the Infrastructure Improvements and the Units in the Development fail to be fully constructed within two (2) years from execution of this Agreement then the County shall have the right, at its option, to require repayment from the Municipality of all County HIF Funds paid hereunder.

All of the terms of the Section "4" shall survive the expiration or other termination of this Agreement.

5. TAX RESTRICTIONS: a) The Bonds. The Municipality acknowledges and understands that the funds available for the Infrastructure Improvements hereunder are expected to be made available from bonds of the County (the "Bonds"), which have been, or shall be, issued for the construction of the Infrastructure Improvements. The Municipality further acknowledges and understands that in connection with the issuance of the Bonds, the Commissioner of Finance of the County of Westchester has or will execute an "Arbitrage and Use of Proceeds Certificate", in compliance with the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (the "Code"). The Municipality agrees that it will do all acts and things, or refrain from taking action, as necessary in order to assure that interest paid on the Bonds shall not be included in gross income of the owners of the Bonds for the purpose of Federal income taxation.

b) Commencement of Construction. The Municipality expects that the construction of the Infrastructure Improvements will commence within ninety (90) days from execution of this Agreement and that the County HIF Funds made available hereunder will be expended for costs of the Infrastructure Improvements in accordance with the budget contained in Schedule "D" and the construction of the Infrastructure Improvements will proceed in accordance with said Schedule. The Municipality agrees to notify the County in the event of changes in the expected schedule for completion of the Infrastructure Improvements.

c) Failure to Complete. The Municipality agrees that should the Infrastructure Improvements not be completed in accordance with Schedule "D", the County, without limiting any other right or remedy to which it may be entitled, shall have the right to terminate this Agreement upon thirty (30) days prior written notice and/or to deduct from any remaining payments due hereunder an amount equal to the penalties required by the Code for failure to expend the bond proceeds allocable to the Infrastructure Improvements in a timely manner.

d) Termination. Should the County terminate this Agreement pursuant to this Section "5" or should the remaining payments due the Municipality be insufficient to cover the amount of the aforementioned penalty, the Municipality shall be obligated to immediately pay the County the full amount of any such penalty.

e) Extensions. Notwithstanding anything to the contrary contained in this Agreement, the Municipality shall use best efforts and good faith to meet any and all time periods provided for in this Agreement and in any schedule annexed hereto in connection with any obligation of the Municipality. If, despite the use of best efforts and good faith, the Municipality is unable to meet any stated time period, then the Municipality can request an extension of such time period and all subsequent time periods affected thereby, subject to the consent of the County which consent shall not be unreasonably withheld.

All of the provisions of this Section "5" shall survive the expiration or other termination of this Agreement.

6. OWNERSHIP OF INFRASTRUCTURE IMPROVEMENTS: The Municipality acknowledges and, pursuant to the DMA, shall require the Developer to acknowledge that the Infrastructure Improvements shall be owned by the County for so long as the Bonds are outstanding. The Municipality agrees and, pursuant to the DMA, shall require the Developer to agree to execute or cause to be executed any and all such documents as are necessary and appropriate to effectuate County ownership. Upon maturity or redemption of the Bonds, title to the Infrastructure Improvements, and related easement rights, will vest in the Municipality and the Municipality and County agree to execute or cause to be executed any and all documents as are necessary and appropriate to effectuate that transfer.

All of the provisions of this Section "6" shall survive the expiration or other termination of this Agreement.

7. MAINTENANCE AND REPAIRS: The Infrastructure Improvements shall be kept in good order and repair by the Municipality at the Municipality's sole cost and expense, and the Municipality shall make all repairs and replacements, ordinary as well as extraordinary, foreseen and unforeseen, structural or otherwise, that may be necessary or required so that at all times the Infrastructure Improvements shall be in thorough good order, condition and repair.

This Section "7" shall be in effect for as long as the County owns the Infrastructure Improvements notwithstanding any other term set forth herein.

8. REPORTS: The Municipality shall furnish the County with annual progress reports detailing the progress of the construction of the Infrastructure Improvements. The Municipality shall prepare a final report describing the work performed by the Municipality in implementing the construction of the Infrastructure Improvements together with such supporting information and documentation in such form and at such times as the County may reasonably require.

9. MAINTENANCE OF RECORDS: The Municipality shall keep, maintain, and preserve at its principal office throughout its term of this Agreement, full and detailed books, accounts, and records pertaining to performance pursuant to this Agreement including, without limitation, all bills, invoices, payrolls and other data evidencing, or in any material way relating to, the direct and indirect costs and expenses incurred by the Municipality in the course of such performance. The County shall have the right to inspect and audit any and all such books, accounts and records at the office or offices of the Municipality where they are then being kept, maintained and preserved pursuant to this Agreement.

10. COUNTY'S RIGHT TO WITHHOLD PAYMENTS: If at any time the Municipality shall neglect or fail to perform properly any of its obligations under this Agreement, then the County shall have the right to withhold, in whole or in part, any payments otherwise due or to become due to the Municipality hereunder until such neglect or failure shall have been remedied to the satisfaction of the County.

11. WARRANTIES AND GUARANTEES: The Municipality expressly represents, warrants and guarantees to the County that:

(a) it is a municipal corporation duly organized, validly existing and in good standing under the laws of the State of New York. The execution and performance of this Agreement by the Municipality have been duly authorized by its governing body; this Agreement constitutes, and any other documents required to be delivered by the Municipality, including without limitation, the Easement, when so delivered will constitute, the legal, valid and binding obligations of the Municipality enforceable against the Municipality in accordance with their respective terms; and the Municipality will deliver to the County at the time of execution of this Agreement a resolution adopted by its governing body authorizing the execution of this Agreement, and any other documents required to be delivered by the Municipality, including without limitation the Easement;

(b) the person signing this Agreement on behalf of the Municipality has full authority to bind the Municipality to all of the terms and conditions of this Agreement pursuant to the authority granted by the Municipality's governing body, as noted above;

(c) it is financially and technically qualified to perform its obligations hereunder, including construction of the Infrastructure Improvements;

(d) it has received no information or documentation indicating that the Developer is not otherwise financially capable of completing the Development;

(e) it is familiar with and will comply with all general and special Federal, State, municipal and local laws, ordinances and regulations, if any, that may in any way affect the performance of this Agreement;

(f) the design, supervision and workmanship furnished with respect to the construction of the Infrastructure Improvements shall be in accordance with sound and currently accepted scientific standards and best engineering practices;

(g) it will use its best efforts to assure and shall require in any contract documents with its Contractors and subcontractors that all materials, equipment and workmanship furnished by contractors and subcontractors of the Municipality in performance of the work or any portion thereof shall be free of defects in design, material and workmanship, and all such materials and equipment shall be of first-class quality, shall conform with all applicable codes, specifications, standards and ordinances and shall have service lives and maintenance characteristics suitable for their intended purposes in accordance with sound and currently accepted scientific standards and best engineering practices;

(h) to the best of the Municipality's current knowledge and information that the budget proposal attached in Schedule "D" lists the anticipated true and correct costs for the Program to be implemented by the Municipality pursuant to this Agreement; and

(i) that construction of the Infrastructure Improvements and the Development shall be carried on continuously, diligently and with dispatch to final completion and that said construction shall be completed on or before two (2) years from the date of execution of this Agreement; and

(j) The consummation of the transactions contemplated by this IMA and the performance of the Municipality's obligations hereunder will not result in any breach of or constitute a default under other instruments or documents to which the Municipality is a party or by which it may be bound or affected.

All of the provisions of this Section "11" shall survive shall survive the expiration or other termination of this Agreement.

12. INSURANCE; INDEMNIFICATION: In addition to, and not in limitation of the insurance requirements contained in Schedule "F" entitled "Standard Insurance Provisions, Municipality", attached hereto and made a part hereof, the Municipality agrees:

(a) that except for the amount, if any, of damage contributed to, caused by or resulting from the negligence of the County, the Municipality shall indemnify and hold harmless the County, its officers, employees and agents from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorneys' fees or loss arising directly or indirectly out of the acts or omissions hereunder by the Municipality, the Developer, contractors or third parties under the direction or control of the Municipality or the Developer; and

(b) to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this Agreement and to bear all other costs and expenses related thereto.

13. ENVIRONMENTAL INDEMNIFICATION: The Municipality represents and warrants and guarantees to the County as follows:

(a) The Municipality has no knowledge of nor has it received any notice of any condition at, on, under or related to the Infrastructure Improvements Property (or ground or surface waters associated therewith) or migrating or threatening to migrate to or from the Infrastructure Improvements Property which may have a material effect on the value of the Infrastructure Improvements Property or subject the owner thereof to potential liabilities in accordance with the Environmental Requirements as defined in subsection (c) of this Section "13.B"; and

(b) The Municipality has no knowledge nor has received any notice of any condition at, on, under or related to the Infrastructure Improvements Property (or ground or surface waters associated therewith) or migrating or threatening to migrate to or from the Infrastructure Improvements Property presently or potentially posing a significant hazard to human health or the environment; such conditions being defined as "Hazardous Materials" in subsection (c) of this Section "13.B "; and

(c) Definitions. For the purposes of this Agreement and this Section "13.B", the following definitions shall apply:

(1.) "Hazardous Materials" or "Hazardous Waste" shall mean any substance:

(i) the presence of which requires investigation or remediation under any federal, state, or local statute, regulation, ordinance, order, action, policy or common law; or

(ii) which is or becomes defined as a hazardous waste, hazardous substance, pollutant or contaminant under any federal, state or local statute, regulation, rule, or ordinance or amendments thereto including, without limitation, the United States Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 USC §9601 (14) 42 USC §9602 and any "hazardous waste" as defined in or listed under the United States Solid Waste Disposal Act, as amended, 42 USC §6901(5), 42 USC §6921; or

(iii) which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board or instrumentality of the United States, the State of New York or any political subdivision thereof; or

(iv) the presence of which, on the Infrastructure Improvements Property, causes or threatens to cause a nuisance on the Infrastructure Improvements Property or to nearby properties or poses or threatens to pose a hazard to the health and

safety of persons on, about or nearby the Infrastructure Improvements Property;
or

(v) the presence of which on nearby properties would constitute a trespass by the owner of the Infrastructure Improvements Property; or

(vi) without limitation which contains gasoline, diesel fuel, or other petroleum hydrocarbons; or

(vii) without limitation which contains polychlorinated biphenols (PCBs), asbestos, or urea formaldehyde foam insulation.

(2.) "Environmental Requirements" shall mean all applicable present and future statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, concessions, franchises, and similar items, of all government agencies, departments, commissions, boards, bureaus, or instrumentalities of the United States, the State of New York and the political subdivisions thereof; and all applicable judicial, administrative, and regulatory decrees, judgments, and orders relating to the protection of human health or the environment.

(d) The Municipality hereby acknowledges and agrees that it shall defend and indemnify the County for any "Environmental Damages" to the Infrastructure Improvements Property. "Environmental Damages" shall mean all claims, damages, losses, penalties, fines, liabilities (including strict liability), encumbrances, liens, costs and expenses of investigation and defense of any, whether or not such claim is ultimately defeated, and of any good faith settlement or judgment, of whatever kind or nature, contingent or otherwise, matured or unmatured, foreseeable or unforeseeable, including without limitation reasonable attorneys' fees and disbursements and consultants' fees, any of which are incurred as the result of the existence of "Hazardous Material" or "Hazardous Waste" at, on, under or related to the Infrastructure Improvements Property (or ground or surface water associated therewith) or migrating or threatening to migrate to or from the Infrastructure Improvements Property, or the existence of a violation of "Environmental Requirements" pertaining to the Infrastructure Improvements Property, regardless of whether the existence of such "Hazardous Materials" or "Hazardous Waste" or the violation of "Environmental Requirements" arose prior to the Municipality's present ownership of the Infrastructure Improvements Property, including without limitation:

(i) damages for personal injury, or injury to property or natural resources occurring upon or off the Infrastructure Improvements Property, foreseeable or unforeseeable, including without limitation, lost profits, consequential damages, the cost of demolition or rebuilding of any improvements of real property, interest and penalties;

(ii) fees incurred for the service of attorneys, consultants, contractors or experts, laboratories and all other costs incurred in connection with the investigation or remediation of such "Hazardous Materials" or "Hazardous

Waste" or violation of "Environmental Requirements" including, but not limited to, the preparation of any feasibility studies or reports or the performance of any cleanup, remediation, removal, response, abatement, containment, closure, restoration or monitoring work required by any federal, state or local governmental agency or political subdivision, or reasonably necessary to make the full use of the Infrastructure Improvements Property or any other property or otherwise expended in connection with such conditions;

(iii) liability to any third person or governmental agency to indemnify such person or agency for the costs expended in connection with the items referenced in subsection (ii) herein; and

(iv) diminution in the value of the Infrastructure Improvements Property and damages for loss of business and restriction on the use of the Infrastructure Improvements Property or any part thereof.

All of the provisions of this Section "13" shall survive shall survive the expiration or other termination of this Agreement.

14. ASSIGNMENT OF RIGHTS: Any purported delegation of duties or assignment of rights under this Agreement without the prior express written consent of the County is void. The Municipality shall not subcontract any part of the work to be performed hereunder without the written consent of the County, provided, however, that the foregoing shall not be deemed to apply to architectural and construction contracts entered into by the Municipality. All subcontracts shall provide that subcontractors are subject to all terms and conditions set forth in this Agreement. All work performed by a subcontractor shall be deemed work performed by the Municipality.

Notwithstanding anything to the contrary contained in this Agreement, the Municipality will have the right to retain, employ and hire contractors and subcontractors, subject to competitive bidding when required, to implement construction of the Infrastructure Improvements, including the performance of all work related thereto, including, but not limited to, the construction and installation of the Infrastructure Improvements. The Municipality shall remain liable to the County for the performance of all obligations under this Agreement.

15. ENTIRE AGREEMENT; AMENDMENT: This Agreement and its attachments constitute the entire Agreement between the parties with respect to the subject matter hereof

and shall supersede all previous negotiations, commitments and writings. It shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.

16. INDEPENDENT CONTRACTOR: The status of the Municipality under this Agreement shall be that of an independent contractor and not that of an agent, and in accordance with such status, the Municipality, the subcontractors, and their respective officers, agents, employees, representatives and servants shall at all times during the term of this Agreement conduct themselves in a manner consistent with such status and by reason of this Agreement shall neither hold themselves out as, nor claim to be acting in the capacity of, officers, employees, agents, representatives or servants of the County nor make any claim, demand or application for any right or privilege applicable to the County, including without limitation, rights or privileges derived from workers' compensation coverage, unemployment insurance benefits, social security coverage and retirement membership or credit.

17. COMPLIANCE WITH LAW: The Municipality shall perform the work hereunder in good workmanlike manner and shall obtain, at its sole cost and expense, all permits, approvals and consents necessary for the proper conduct of its activities in connection with this Agreement. In addition to, and not in limitation of the foregoing, the Municipality shall comply at its sole cost and expense with all applicable federal, state and local laws, rules and regulations, ordinances and requirements affecting the conduct of Municipality's activities in connection with this Agreement.

All of the provisions of this Section "17" shall survive Closing.

18. NOTICES: All notices of any nature, requests, approvals and other communications which may be given by either party to the other under this Agreement shall be in writing and sent by registered or certified mail postage pre-paid, or sent by hand or overnight courier or sent by facsimile (with acknowledgement received and a copy of the notice sent by overnight courier) to the respective addresses set forth below or to such other addresses as the respective parties hereto may designate in writing. Notice shall be effective on the date of receipt:

To the County

Commissioner of Planning
148 Martine Avenue
White Plains, New York 10601

with a copy to:

County Attorney
Michaelian Office Building, Room 600
148 Martine Avenue
White Plains, New York 10601

To the Municipality:

Village Manager
Village of Port Chester
222 Grace Church Street
Port Chester, N.Y. 10573

with a copy to:

Village Attorney
Village of Port Chester
222 Grace Church Street
Port Chester, N.Y. 10573

19. TERM OF AGREEMENT: The term of this Agreement shall commence [upon execution], and shall continue for 15 years, unless terminated sooner in accordance with the terms of this Agreement.

20. INTENTIONALLY OMITTED.

21. NON-DISCRIMINATION: The Municipality expressly agrees that neither it nor any contractor, subcontractor, employee, or any other person acting on its behalf shall discriminate against or intimidate any employee or other individual on the basis of race, creed, religion, color, gender, age, national origin, ethnicity, alienage or citizenship status, disability, marital status, sexual orientation, familial status, genetic predisposition or carrier status during the term of or in connection with this Agreement, as those terms may be

defined in Chapter 700 of the Laws of Westchester County. The Municipality acknowledges and understands that the County maintains a zero tolerance policy prohibiting all forms of harassment or discrimination against its employees by co-workers, supervisors, vendors, contractors, or others.

Pursuant to Section 308.01 of the Laws of Westchester County, it is the goal of the County to use its best efforts to encourage, promote and increase the participation of business enterprises owned and controlled by persons of color or women in contracts and projects funded by all departments of the County. Under this IMA it is recognized and understood that the County encourages the Municipality to do similarly.

22. VALIDITY: If any term or provision of this Agreement is held by a court of competent jurisdiction to be invalid or void or unenforceable, the remainder of the terms and provisions of this Agreement will in no way be affected, impaired, or invalidated, and to the extent permitted by applicable law, any such term, or provision will be restricted in applicability or reformed to the minimum extent required for such to be enforceable. This provision will be interpreted and enforced to give effect to the original written intent of the parties prior to determination of such invalidity or unenforceability.

23. MATERIAL BREACH: In the event the County determines that there has been a material breach by the Municipality of any of the terms of this Agreement and such breach remains uncured for forty-eight (48) hours after service on the Municipality of written notice thereof, the County, in addition to any other right or remedy it might have, including without limitation to require repayment of the HIF Funds, may terminate this Agreement. Notice shall be effective on the date of receipt. Without limiting the foregoing, upon written notice to the Municipality, repeated breaches by the Municipality of any particular duty or obligation under this Agreement shall be deemed a material breach of this Agreement justifying termination for cause hereunder without requirement for further opportunity to cure. Notice shall be effective on the date of receipt.

24. REQUEST FOR MODIFICATION: The parties hereby acknowledge and agree that any request by the Municipality for an extension or other modification of the terms hereof shall be subject to receipt by the County of any necessary approvals. In no event, however, shall any delay or failure of the Westchester County Board of Legislators and/or Westchester County Board of Acquisition and Contract to appoint or approve any action be deemed to be unreasonable.

25. EXECUTION: This Agreement may be executed simultaneously in several identical copies, each of which shall be an original and all of which shall constitute but one and the same Agreement. This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

26. NO WAIVER: Failure of the County to insist, in any one or more instances, upon strict performance of any term or condition herein contained shall not be deemed a waiver or relinquishment for the future of such term or condition, but the same shall remain in full force and effect.

27. THIRD PARTIES: Nothing herein is intended or shall be construed to confer upon or give to any third party or its successors and assigns any rights, remedies or basis for reliance upon, under or by reason of this Agreement, except in the event that specific third party rights are expressly granted herein.

28. REQUIRED DISCLOSURE OF RELATIONSHIPS TO COUNTY: Attached hereto and forming a part hereof as Schedule "H" is a questionnaire entitled "Required Disclosure of Relationships to County." The Municipality agrees to complete said questionnaire as part of this Agreement. In the event that any information provided in the completed questionnaire changes during the term of this Agreement, Municipality agrees to notify County in writing within ten (10) business days of such event.

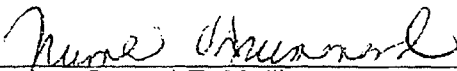
29. DMA: The County's consent shall be required for amendment or assignment of the DMA. In the event of any conflict between this Agreement and the DMA, the terms and conditions of this Agreement shall control and in the event the requirements of this

Agreement are more restrictive than the terms of the DMA, the terms of the DMA shall not diminish the terms of this Agreement.


29. **ENFORCEMENT:** This Agreement shall not be enforceable until signed by all parties and approved by the Office of the County Attorney.

IN WITNESS WHEREOF, the County of Westchester and the Municipality have caused this Agreement to be executed.

THE COUNTY OF WESTCHESTER

By: 
Name: Gerard E. Mulligan
for Title: Commissioner of Planning

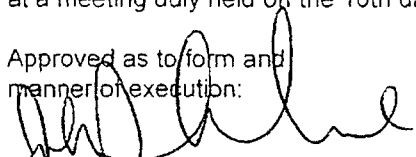
THE VILLAGE OF PORT CHESTER

By: 
Name: William F. Williams
Title: Village manager

Approved by the Board of Legislators by Act No. 59-2007

Approved by the Westchester County Board of Acquisition & Contract
at a meeting duly held on the 10th day of May 2007

Approved as to form and
manner of execution:

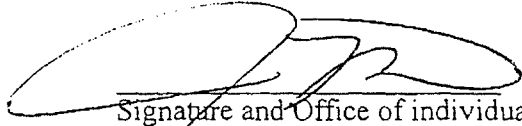

Assistant County Attorney
The County of Westchester

kramos:pln:Fox Island:Fox Island draft IMA 1-12-07 for leg package.doc

MUNICIPALITY'S ACKNOWLEDGMENT

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

On the 23rd day of July in the year 2008 before me, the undersigned, a Notary Public in and for said State, personally appeared William F. Williams, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument; and, acknowledged if operating under any trade name, that the certificate required by the New York State General Business Law Section 130 has been filed as required therein.


Signature and Office of individual
taking acknowledgment

SCHEDULE "A"

The Affordable Housing Property

Parcel A

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being the same property, as conveyed by the "Socres Corporation" to the "Village of Port Chester" per deed, dated; December 17, 1958 as duly recorded in the Westchester County Clerk's Office, Division of Land Records in Liber 5874 at Page 217 of Deeds.

Said parcel, being bounded and described as follows:

Beginning at a point on the northerly side of Alto Avenue at the southeasterly corner of Lot 14 as shown on County Clerk Map Volume 8 at Page 29 of "Lots on Grace Church Street – William Ryan"; running then along the easterly boundary of said lot, North 27°36'40" East, 134.58 feet to the northerly boundary of said lot; running then along said boundary and along lot 15, North 62°14'20" West, 90.41 feet to the easterly boundary of Lot 12, as shown on County Clerk Map Volume 59 Page 78 of "The Maples"; running then along said easterly boundary and across a portion of Greenwood Avenue, North 23°30'40" East, 127.80 feet; running then across the remaining portion of the easterly end of Greenwood Avenue as shown on County Clerk Map Volume 59 Page 78 and along the Easterly boundary of lot 7 on County Clerk Map Volume 59 Page 78, North 35°08'40" East, 207.87 feet to the northerly boundary of now or formerly lands of Socres Corporation; running then along said boundary, the following courses and distances; South 77°46'34" East 56.24 feet; South 67°09'35" East, 29.62 feet; South 43°21'30" East, 41.21 feet; South 22°59'24" East, 59.74 feet; South 37°28'00" East, 90.28 feet; South 61°50'44" East, 25.17 feet; and South 70°22'04" East, 44.14 feet to the northwesterly side of the New York State Thruway-New England Section, Parcel 1688, filed as County Clerk Map 10736; running along said northwesterly side of the New York State Thruway-New England Section, parcel 1688, South 47°06'15" West, 429.24 feet to the southeasterly corner of the parcel herein and the extended northerly side of Alto Avenue; running then along said extended northerly side of Alto Avenue, North 61°04'20" West, 104.12 feet to the point or place of beginning.

Said parcel being a portion of land known and/or designated on the tax maps for the town of Rye, Village of Port Chester as Section 142.054, Block 2, Lot 53

Said parcel containing an area of 108,578 sq. ft. or 2.492 Acres

Subject to a 15' wide perpetual easement granted to the Village of Port Chester per Liber 2953, page 234 of Deeds for Sewers and Drains.

Parcel B

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being the same property designated as the; "Excluded Parcel" per deed, dated; December 17, 1958 as recorded in the Westchester County Clerk's Office, Division of Land Records in Liber 5874 at Page 217 of Deeds.

Said parcel, being bounded and described as follows:

Beginning at a point on the northerly side of Alto Avenue at the southeasterly corner of Lot 14 as shown on County Clerk Map Volume 8 at Page 29 of "Lots on Grace Church Street – William Ryan"; running then along the extended northerly side of Alto Avenue, South 61°04'20" East, 104.12 feet to the northwesterly side of the New York State Thruway – New England Section, Parcel 1688 as filed in County Clerk Map 10736; running along said northwesterly side of the New York State Thruway – New England Section, parcel 1688, South 47°06'15" West, 135.60 feet to the southeasterly corner of the parcel herein; and North 69°05'30" West, 26.26 feet to the lands now or formerly Anthony P. Saline, per Liber 10408 page 038; running then along said lands of now or formerly Anthony P. Saline, North 69°00'50" West, 32.98 feet to Lot 13,

County Clerk Volume 8 page 29, aforesaid; running then along said lot 13 and across the easterly end of Alto Avenue, North 27°36'40" East, 137.09 feet to the point or place of beginning.

Said parcel being a portion of land known and/or designated on the tax maps for the town of Rye, Village of Port Chester as Section 142.054, Block 2, Lot 53

Said parcel containing an area of 10,741 sq. ft. or 0.247 Acres

Subject to a 15' wide perpetual easement granted to the Village of Port Chester per Liber 2953, page 234 of Deeds for Sewers and Drains.

Parcel D

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being the same property designated as; Portion of Lot No. 15, as shown on a certain map entitled; "Map of Lots on Fox Island Road belonging to John O. Merritt", surveyed by J.A. Kirby, Surveyors, September 1902, as filed in the Office of the Register of Westchester County, now County Clerk's Office, Division of Land Records, on February 5, 1903, in Volume 15 of Maps at Page 43.

Said parcel, being bounded and described as follows:

Beginning at a point on the southerly side of Fox Island Road at the division line between lot 15 and Road, per County Clerk Map Volume 15 page 43; said point being distant, South 59°22'55" East, 20.26 feet along the southerly side of Fox Island Road with the intersection of the southeasterly line of lot 7 per "Subdivision of Lots of Samuel Glock", County Clerk Map Volume 14 page 43; running then from said Point of Beginning along said southerly side of Fox Island Road, South 59°22'55" East, 32.38 feet to the northwesterly side of lands of the New York State Thruway-New England Section, Parcel 1693; running then along said northwesterly side of lands of the New York State Thruway – New England Section, Parcels 1693 and 1517 the following courses and distances, South 30°37'05" West, 70.00 feet; and South 62°30'29" West, 35.33 feet to the aforesaid division line between lot 15 and Road; running then along said division line between lot 15 and Road, North 59°22'55" West, 30.00 feet; and North 39°52'05" East, 101.32 feet to aforesaid southerly side of Fox Island Road and point or place of beginning.

Said parcel being known and/or designated on the tax maps for the town of Rye, Village of Port Chester as Section 142.055, Block 1, Lot 5

Said parcel containing an area of 3,772 sq. ft. or 0.086 Acres

Parcel E

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being a portion of the same property designated as; Road, as shown on a certain map entitled; "Map of Lots on Fox Island Road belonging to John O. Merritt", surveyed by J.A. Kirby, Surveyors, September 1902, as filed in the Office of the Register of Westchester County, now County Clerk's Office, Division of Land Records, on February 5, 1903, in Volume 15 of Maps at Page 43.

Said parcel, being bounded and described as follows:

Beginning at a point on the southerly side of Fox Island Road at the southeasterly line of lot 7 per "Subdivision Map of Lots of Samuel Glock" per County Clerk Map Volume 14 page 43; running then along said southerly side of Fox Island Road, South 59°22'55" East, 20.26 feet to the division line between lot 15 and Road per said County Clerk Map Volume 15 page 43; running then along said division line between lot 15 and Road, South 39°52'05" West 101.32 feet; and South 59°22'55" East, 30.00 feet to the northwesterly side of lands of the New York State Thruway-New England Section, Parcel 1698; running then along said lands of the New York State Thruway – New England Section, Parcel 1698, South 62°30'29" West, 35.33 feet to the division line between said Road and lot 7 per aforesaid County Clerk Map Volume 15 page 43; running then along said division line between lot 7 and Road, North 59°22'55" West, 30.00 feet; and North 50°07'55" West, 20.00 feet to the aforesaid southeasterly line of lot 7 per County Clerk Map Volume 14 page 43; running then along said southeasterly line of

aforesaid lot 7 per County Clerk Map Volume 14, page 43, North 39°52'05" East, 118.32 feet to aforesaid southerly side of Fox Island Road and point or place of beginning.

Said parcel containing an area of 2,999 sq. ft. or 0.069 Acres

Parcel C

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being the same property designated as; Lot No. 7, as shown on a certain map entitled; "Map of Lots on Fox Island Road belonging to John O. Merritt", surveyed by J.A. Kirby, Surveyors, September 1902, as filed in the Office of the Register of Westchester County, now County Clerk's Office, Division of Land Records, on February 5, 1903, in Volume 15 of Maps at Page 43.

Said parcel, being bounded and described as follows:

Beginning at a point on the southeasterly line of Lot 7 as shown on a certain map entitled, "Subdivision map of Lots of Samuel Glock" as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 14 page 43 of Maps at the division line between lot 7 and Road as shown on aforesaid "Map of Lots on Fox Island Road belonging to John O. Merritt", said point distant, South 39°52'05" West, 118.32 feet along said southeasterly side of lot 7 with the southerly side of Fox Island Road; running then along the division line between lot 7 and Road, South 50°07'55" East, 20.00 feet; and South 59°22'55" East, 30.00 feet to the lands of the New York State Thruway-New England Section, Parcel 1692; running then along said lands of the New York State Thruway – New England Section, Parcel 1692, South 39°52'05" West, 132.31 feet to the northerly boundary of now or formerly lands of Socres Corporation; running then along said boundary, North 70°22'04" West, 7.73 feet; and North 61°50'44" West, 25.17 feet; and North 37°28'00" West, 18.15 feet to the aforesaid southeasterly line of lot 7, per Conuty Clerk Map Volume 14 page 43; running then along said southeasterly line of lot 7 per County Clerk Map Volume 14 page 43, North 39°52'05" East, 131.30 feet to the point or place of beginning.

Being the same plot, piece or parcel of land as conveyed by "Geraldine T. Gamble" to "Robin Terrance Gamble and Adam Milo Gamble" per deed, dated October 29, 2002 as duly recorded in the Westchester County Clerk's Office, Division of Land Records in Control No. 423310226

Said parcel containing an area of 6,637 sq. ft. or 0.152 Acres

SCHEDULE "B"

WESTCHESTER COUNTY AFFORDABLE HOUSING HOME OWNERSHIP POLICY PROVISIONS

A. PURPOSE

Fox Commons, LLC, a corporation, organized and existing under the laws of the State of New York, having an office and place of business at 505 Franklin Street, Rye Brook, N.Y. 10573, (the "Developer"), shall construct affordable housing to be known as Fox Island Homes, including a total of Thirty-five (35) units and related facilities (the "Project") on the real property located at the south side of Fox Island Road and the east side of Alto Avenue in the Village of Port Chester (the "Village"), County of Westchester and State of New York, identified on the tax map as Section 142.54, Block 2, (a portion of) Lot 53 and Section 142.55, Block 1, Lots 5 and 6 and Parcel D, which real property is more particularly described in Schedule "A" annexed hereto and made a part hereof, (the "Affordable Housing Property"). The Developer is the beneficial user of the Affordable Housing Property.

During the construction of the Project, the Developer shall carry out site work including, but not limited to, the following: the construction of thirty-five (35) affordable new single-family, 2 and ½ story ownership residential units (the "Work"), as more fully described in Section B below. Construction of the Project, including without limitation the Units, on the Affordable Housing Property shall be in accordance with the following plans: Fox Island Townhouses, Village of Port Chester, Town of Rye prepared by Ralph G. Mastro Monaco, P.E., P.C., revised 2/21/07, which are incorporated herein by reference (the "Plans") and made a part hereof.

Construction shall commence in accordance with the Plans on or before the date set forth for construction commencement ("Construction Commencement") as set forth in Attachment 3 hereto. Construction shall be completed on or before the date set forth for construction completion ("Construction Completion") as set forth in Attachment 3 hereto. In order to be deemed completed, the Developer shall provide to the County of Westchester (the "County") valid appropriate certificates of occupancy for all of the Units ("Certificate(s) of Occupancy") or such other evidence of completion of the Project as may be acceptable to the County. The Developer shall report to the County on its progress towards completion of the work as the County Commissioner of Planning or his duly authorized designee (the "Commissioner") may request.

Any defined terms used herein and not defined herein shall have the meaning ascribed to them in the agreement between the County and the Developer of even date herewith pursuant to which the County agreed to sell and the Developer agreed to buy the Property, as described therein and to construct the Project on the Affordable Housing Property (the "Agreement").

Affordability Requirements

During the Period of Affordability defined below, the Units will be sold and re-sold to households with incomes at or below 80% of the area median income ("AMI") for Westchester County ("Affordability Requirements") as published by the United States Department of Housing and Urban Development ("HUD") and described in Section C set forth below. These income limits and sale price limits are subject to change based on the median income levels at the time of initial occupancy, and subsequent occupancies, as established by HUD.

The Affordability Requirements must remain in effect for a period of 40 years (the "Period of Affordability") commencing from the date of the initial sale of each Unit.

The Developer will ensure that any successor in interest to it will comply with all the provisions of this Schedule "B."

B. BUDGET

Sources and Uses of funds for the aforementioned project ("Project") are set forth below:

Construction

Sources of Funds	Estimated Amount of Funds
New Homes Land Acquisition Funds	\$415,000
Housing Implementation Funds	\$1,032,400
HOME	\$2,200,000
Construction Loan	\$6,798,187
Deferred Developer fee	\$912,126
Total Sources	\$11,357,713
Uses	
Acquisition Costs	\$415,000
Infrastructure/site work	\$2,017,898
Construction	\$6,911,425
Soft Costs	\$682,705
Contingency	\$418,559
Deferred Developer fee	\$912,126
Total Uses	\$11,357,713

Take Out/Permanent

Sources of Funds	Estimated Amount of Funds
New Homes Land Acquisition funds	\$415,000
HOME	\$2,200,000
Housing Implementation Funds	\$1,032,400
NYS Affordable Housing Corp.	\$875,000
Sales Proceeds	\$6,835,325
Total Sources	\$11,357,725
Uses	
Construction Loan	\$6,798,187
Counseling and Soft Costs (Village)	\$45,000
Acquisition	\$370,000
Modulars (HOME portion)	\$2,200,000
Infrastructure (HIF portion)	\$1,032,400
Developer Fee	\$912,126
Total Uses	\$11,357,723

It should be noted that the foregoing total sources of funds is equivalent to the total development cost which is noted within the development budget included within Attachment "1" of this Schedule "B."

It is also understood and agreed that the County of Westchester (the "County") will be provided with plans, drawings and specifications by the Developer prior to construction, and that the County may visit the site during construction and may inspect the Project for substantial completion. The Developer agrees to make any changes necessary promptly to comply with this Schedule "B" if required as a result of the County's inspection.

The Developer is required to submit a final development budget cost certification and waiver of lien releases to the County upon completion of the proposed construction.

C. INITIAL SALE REQUIREMENTS

Allocation of Affordable Units for Sale*:

Unit Number	Bedroom size	Est. Number of Persons per Household ¹	Income Limit @ 80% AMI	Estimated Initial Sale Price
1	3	4	\$81,300	\$196,581
2	3	4	\$81,300	\$196,581
3	3	4	\$81,300	\$196,581
4	3	4	\$81,300	\$196,581
5	3	4	\$81,300	\$196,581
6	3	4	\$81,300	\$196,581
7	3	4	\$81,300	\$196,581
8	3	4	\$81,300	\$196,581
9	3	4	\$81,300	\$196,581
10	3	4	\$81,300	\$196,581
11	3	4	\$81,300	\$196,581
12	3	4	\$81,300	\$196,581
13	3	4	\$81,300	\$196,581
14	3	4	\$81,300	\$196,581
15	3	4	\$81,300	\$196,581
16	3	4	\$81,300	\$196,581
17	3	4	\$81,300	\$196,581
18	3	4	\$81,300	\$196,581
19	3	4	\$81,300	\$196,581
20	3	4	\$81,300	\$196,581
21	3	4	\$81,300	\$196,581
22	3	4	\$81,300	\$196,581
23	3	4	\$81,300	\$196,581
24	3	4	\$81,300	\$196,581
25	3	4	\$81,300	\$196,581

¹ Number of persons per household may be adjusted accordingly as described in Section E below. Income limits may also be adjusted according to household size, but must remain affordable to those eligible households at or below 80% of the AMI. The stated income levels are the 2006 levels as published by HUD.

Allocation of Affordable Units for Sale*: (cont'd)

Unit Number	Bedroom size	Est. Number of Persons per Household¹	2008 Income Limit @ 80% AMI	Estimated Initial Sale Price
26	3	4	\$81,300	\$196,581
27	3	4	\$81,300	\$196,581
28	3	4	\$81,300	\$196,581
29	3	4	\$81,300	\$196,581
30	3	4	\$81,300	\$196,581
31	3	4	\$81,300	\$196,581
32	3	4	\$81,300	\$196,581
33	3	4	\$81,300	\$196,581
34	3	4	\$81,300	\$196,581
35	3	4	\$81,300	\$196,581

1. Estimate is based on a family of 4. Occupancy standards are explained below

***During the Period of Affordability:**

Requirements of the HOME Investment Partnerships Act of 1990, Public Law 101-625, 42 U.S.C. 12701 et seq. (the "HOME Program" or "HOME"), and its implementing regulations, 24 CFR 92 (the "HOME Program Regulations") shall be deemed to apply to the Units. Income limits may increase or decrease year-to-year, as determined by HUD.

Prior to the initial sale of each of the Units the Developer shall obtain the written approval of the County with respect to the initial purchasers of the Units. In connection therewith the Developer shall provide documentation, acceptable to the County, verifying that the initial purchasers of the Units meet the Affordability Requirements. In addition, the County's written approval must be obtained for any initial sale in excess of the above "Estimated Initial Sale Price" (refer to Section E - Developer & Subsequent Owner Restrictions (below) and Schedule B-1, attached hereto and made a part hereof, for additional requirements). In furtherance of the foregoing, the Developer shall provide a notice to the County at least forty-five (45) days prior to the proposed closing date for any such Unit in writing to the Westchester County Commissioner of Planning, Michaelian Office Building, Room 432, 148 Martine Avenue, White Plains, New York, 10601. Said notice shall provide a date of closing for each initial proposed sale of a Unit, and provide a name, address and telephone number of an individual to contact concerning the notice which shall enumerate the purchase price and the income of each of the proposed initial purchasers of the Units. The Developer shall provide any additional documentation requested to substantiate any of the above sums, including but not limited to, income tax returns and employment verification letters for the proposed initial purchasers. It should be noted that the County shall have the right to appoint a designee ("Designee") to make any of the approvals required in this Schedule "B". Approval of any such Designee shall be deemed approval of the County.

D. SUCCESSOR PROGRAM

In the event that the HOME program ("HOME") or its successor program, is no longer in existence during the Period of Affordability, the County reserves the right to designate the housing program to be applied that corresponds to affordable housing sales prices to be paid by the respective households falling within 80% of the AMI and to enforce the Period of Affordability.

E. DEVELOPER & SUBSEQUENT UNIT OWNER REQUIREMENTS AND RESTRICTIONS

Project Record Keeping and Monitoring

In order to carry out the federally-mandated project recordkeeping and monitoring responsibilities, the County of Westchester requires that the following activity be carried out by the Developer and that adequate records be kept to document the implementation of said activities.

- The Developer will assist the County in filling out the appropriate HUD form(s), including without limitation, the Homebuyer/Homeowner Completion Report upon sale of the Units, which shall include number of units, family size, race, ethnicity and income.
- The Developer will provide documentation satisfactory to the County that all HOME assisted units comply with all applicable local building codes and have been inspected by a qualified inspector.

The following project records will be kept by the Developer and given to Westchester County Department of Planning at the time of occupancy on all HOME units:

- Documentation of compliance with Housing Quality Standards ("HQS") and applicable local property standards.
- Documentation of household incomes and composition for households benefiting from the use of HOME funds. The project completion report may be used to satisfy this requirement.
- Documentation of the per Unit use of HOME funds.
- Documentation of compliance with all federal requirements, including without limitation, the following:
 - * Affirmative marketing procedures;
 - * Compliance with Lead-Based Paint and Davis-Bacon Requirements, as applicable;
 - * Compliance with relocation requirements, if applicable;
 - * Evidence of flood insurance, if applicable;
 - * Environmental review compliance; and

- * Compliance with conflict of interest rule.
- Records for each family assisted through initial sales of Units, the appraised value of the property, the purchase price, and the rehabilitation costs, if any.

The County retains the right, upon reasonable notice to the Developer, to review all of Recipient's records for the purposes of establishing the Recipient's compliance with the provisions of the Agreement; and the Developer must permit the County, or the County's authorized representative, access to such records for such purposes.

The Developer has the further obligation to diligently prepare, complete and/or file any reports, forms, questionnaires or other documents which the County may request the Developer to prepare, complete and/or file for or with the County or a third party.

Developer Marketing, Homebuyer Selection, Eligibility and Education

The Developer will contract with a housing counseling agency approved by Westchester County to provide the following services:

- Conduct marketing of the homes, including affirmative fair marketing of the development;
- Homebuyer selection pursuant to the project's approved marketing plan;
- Homebuyer income eligibility and certification that the homebuyer household is eligible and qualified; and
- Homebuyer counseling and education in preparation for homeownership and mortgage readiness.

Deed Restriction

In the event of the sale or other transfer of the Affordable Housing Property or the Units prior to the expiration of the Period of Affordability, the Developer or subsequent purchaser(s) of the Affordable Housing Property or the Units shall cause or require a covenant running with the land to be inserted in the deed for each transfer in substantially the following form:

This conveyance is made subject to the obligations and the restrictions set forth in that certain Declaration of Restrictive Covenants dated ____, 200__ (the "Declaration") recorded in the Westchester County Clerk's Office. The Declaration runs with the land and binds the property, and is enforceable against the property's owner, any subsequent purchasers and all of their respective legal representatives, executors, administrators, heirs, successors and assigns and every holder of any interest in said property, and each grantee will execute his/her deed of conveyance containing such restrictions in order to evidence his/her agreement to be bound. The Declaration shall inure to the benefit of and be enforceable by the County of Westchester until the expiration of the 40 year Period of Affordability, all as more fully set forth in said Declaration, and may not be altered or removed prior to the expiration of the Period of Affordability without the written permission of the County.

Offering Plan (If A Condominium)

The Developer shall include information with respect to the below listed items in the Project offering plan (the "Offering Plan") under the heading "County of Westchester Restrictions":

- Declaration of Restrictive Covenants, including but not limited to, the Affordability Requirements and Period of Affordability contained therein;
- Resale Requirements / Restrictions;
- Refinance Requirements / Restrictions;
- Principal Place of Residence Requirement; and
- Deed Restriction.

Unit Owners - Resale Refinancing and Recapture

In order to insure that the Units remain affordable during the Period of Affordability, owners of the Units must comply with the Westchester County Resale, Refinancing and Recapture Policy Provisions, as more fully set forth in Schedule B-1 hereto until the expiration of the Period of Affordability.

Unit Owners - Principal Place of Residence Requirement

A purchaser of a Unit (the "Owner") must occupy said Unit as their principal place of residence until sale of said Unit in compliance herewith or expiration of the Period of Affordability, whichever comes first. The County, or its Designee, shall verify this on an annual basis. Owners of the Units during the Period of Affordability shall provide the County with proof satisfactory to make this verification.

Occupancy Standards for Homeownership and Rental Units

In accordance with the definition of family promulgated by the New York State Division of Housing and Community Renewal ("DHCR"), as may be amended from time to time, a family selected to purchase or rent a Unit, as the case may be, whether by the Developer or subsequent Unit Owner, may include an individual with or without children. Such a family is defined as a group of people related by blood, marriage, adoption or affinity that lives together in a stable family relationship. (See DHCR statewide Section 8 Voucher Program, Section 8 Administrative Plan dated April 1, 2006, § 4.01). This definition should be used when determining the occupants of a Unit. Additionally, the County has adopted the below occupancy standards based on Unit size.

<u>Number of Bedrooms</u>	<u>Minimum Number of Persons Per Household</u>	<u>Maximum Number Persons Per Household</u>
0 BR	1	1
1BR	1	3
2BR	2	5
3BR	3	7

The above standards must be used to determine the family size for each unit based on the number of bedrooms. If the family receives a Section 8 subsidy, the more restrictive standard established by DHCR will be applied. These standards are also subject to local occupancy and building codes.

F. NON-DISCRIMINATION (including Deed Restriction Requirement)

The Units and their respective operations are subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352 42 USC 2000d-2000d4 Non discrimination in Federally Assisted Programs) and all applicable HUD regulations including, without limitation, the regulations under 24 CFR Part 1. In the event of the sale or other transfer of the Affordable Housing Property or the Units prior to the expiration of the Period of Affordability, the Developer or subsequent purchaser of the Affordable Housing Property or the Units shall cause or require a covenant running with the land to be inserted in the deed for each transfer prohibiting discrimination upon the basis of race, color, religion, sex, national origin, or any other basis prohibited by law in the sale or in the use or occupancy of such land or any improvements erected thereon, and providing that the Developer and the United States are beneficiaries of and entitled to enforce such covenant.

It is understood and acknowledged that the County maintains a zero tolerance policy prohibiting all forms of harassment or discrimination.

G. PROPERTY STANDARDS

At the time of initial occupancy and continuing throughout the Period of Affordability, all Units must meet all applicable federal, state and local laws, rules, regulations, codes, rehabilitation standards, ordinances and zoning ordinances etc. including without limitation the Housing Quality Standards ("HQS") set forth in 24 CFR Part 92.251, 92.209(i), 200.925, 200.926, 982.401, and 3280 and all lead-based paint requirements as set forth in 24 CFR Part 35. The Developer shall ensure that, at the time of initial occupancy, all Units are in compliance with the applicable standards set forth above. Following initial sale of the Unit(s), the Owner of such Unit becomes and remains responsible for such compliance.

H. FAIR HOUSING AND AFFIRMATIVE MARKETING PLAN

The Developer must develop an Affirmative Fair Housing Marketing Plan (the "Marketing Plan") as part of their Management Plan, and submit the Marketing Plan for approval by the Westchester County Department of Planning. The Marketing Plan must promote fair housing by ensuring outreach to all potentially eligible households, especially those least likely to apply for assistance and must comply with all applicable federal, state, and local fair housing laws, rules, guidelines, regulations, etc., including but not limited to the Fair Housing Act 42 USC 360. The affirmative marketing components of the Marketing Plan must consist of actions that provide information and otherwise attract eligible persons to the project without regard to race, color, national origin, sex, religion, familial status (persons with children under 18 years of age, including pregnant women), or disability. Upon approval by the County, the Developer shall implement the Marketing Plan. The Marketing Plan may include, but is not be limited to:

- A description of the racial/ethnic make-up of the market area and identification of the segments of the eligible population, which are least likely to apply for housing without special outreach efforts.
- An outline of an outreach program, which describes special measures designed to attract those groups identified as least likely to apply and other efforts designed to attract persons from the total eligible populations. The outreach program should:
 - Specify that all marketing of the affordable housing be County-wide and that all advertising be placed in sources of wide circulation;
 - Specify that all marketing of assisted housing which includes HOME funds be targeted to Westchester County Urban Consortium communities and that advertising be placed in sources of circulation in consortium communities;
 - Specifically state whether preferences will be used noting that preferences may be used within limits and must be approved by the County;
 - Utilize media outlets and sources that serve protected classes;
 - Provide and require the use of specific mailing lists of organizations whose membership or clientele consists primarily of protected class members;
 - Ensure that all printed material such as brochures and flyers as well as signs must include the Fair Housing, Equal Opportunity Housing and Accessibility logos; and
 - Ensure HUD's Fair Housing Poster is conspicuously displayed wherever sales/rentals and showings take place.
- A description of the indicators to be used to measure the success of the marketing program and steps to be taken if the indicators are not met.

- A statement that staff members engaged have had previous experience in marketing housing to groups identified as least likely to apply for the housing and/or describe the instructions and training provided to staff regarding Federal, State and local fair housing laws.

I. HOMEOWNER SELECTION POLICIES AND CRITERIA

Developers must adopt written homeowner selection policies and criteria and must provide the County with a copy. The homeowner selection policies should comply with all applicable federal, state and local laws, rules, regulations etc. and provide for the following:

- A clear statement of the income eligibility criteria for occupancy of the Units, including with respect to household size occupancy standard;
- A description of how income eligibility will be determined;
- selection of homeowners from a written waiting list in chronological order of their application;
- In the event initial occupancy will be determined by lottery, the procedure for selection must be in writing and approved by Westchester County Department of Planning; and
- Prompt written notification to any rejected applicant and state the grounds for the rejection.

Subsequent owners who choose to sell their unit during the Period of Affordability, shall be encouraged to comply with the above referenced policies and criteria whenever possible and are required to comply with the standards set for in this Schedule "B," including without limitation to sell to purchasers who meet the Affordability Requirements.

J. SURVIVAL

The provisions of this Schedule B shall survive expiration or other termination of the Agreement and shall remain in effect until the expiration of the Period of Affordability.

K. ATTACHMENTS

Attachments 1 through 3, which are attached hereto and made a part hereof, as follows:

The Development Budget for the construction of the proposed development is shown in Attachment 1.

The Survey/ Site Plan for the proposed development is shown in Attachment 2.

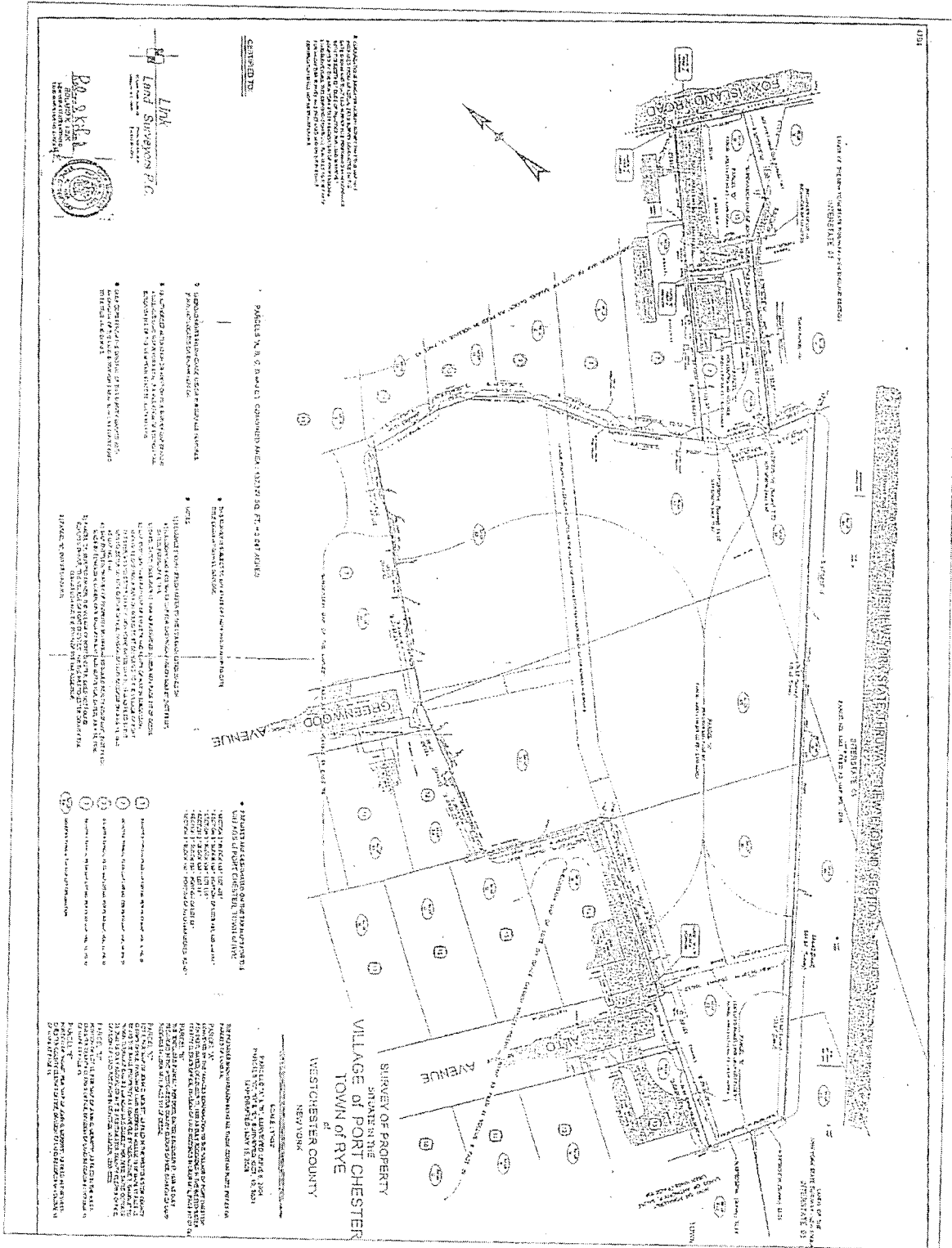
The proposed Construction Schedule for the new construction is shown in Attachment 3

Attachment 1 to Schedule B

FOX ISLAND Development Budget				
number of units	35			
SF per unit	1660			
GBA per unit	2160			
		per unit	per SF	Total
Modular Homes		\$105,910	\$63.80	\$3,706,850
Excavation, Backfill		\$5,500	\$3.31	\$192,500
Footings & Foundation		\$14,400	\$8.67	\$504,000
Roofing, siding, exterior finish, garage doors		\$10,800	\$6.51	\$378,000
Interior – finish all carpentry, sheet rock, interior			\$0.00	\$0
Stairs		\$7,400	\$4.46	\$259,000
Plumbing, washer/dryer hook-ups		\$7,500	\$4.52	\$262,500
Electrical		\$6,200	\$3.73	\$217,000
HVAC		\$9,600	\$5.78	\$336,000
Appliances, Range/Refrigerator/Dishwasher		\$2,400	\$1.45	\$84,000
Interior/Exterior painting		\$5,200	\$3.13	\$182,000
Crane Service		\$3,400	\$2.05	\$119,000
Steel Beams		\$2,800	\$1.69	\$98,000
Install Carpet, padding, tile flooring		\$5,000	\$3.01	\$175,000
Rear Deck, railings, footing, all P/T lumber		\$4,200	\$2.53	\$147,000
Garbage Container		\$1,400	\$0.84	\$49,000
Stucco Foundation		\$3,600	\$2.17	\$126,000
Footing Drains		\$1,400	\$0.84	\$49,000
Leater & Gutters		\$1,350	\$0.81	\$47,250
Insulation in basement and garage		\$855	\$0.52	\$29,925
Finish Garage and utility room		\$8,700	\$5.24	\$304,500
Exterior Front Door (Non-modular)		\$800	\$0.48	\$28,000
Site Super and General Laborers		\$7,200	\$4.34	\$252,000
Sil Plate, sil seal		\$850	\$0.51	\$29,750
Foundation Windows		\$900	\$0.54	\$31,500
Total cost:		\$217,365	\$130.94	\$7,607,775
Non-HIF site work		\$8,257	\$4.97	\$289,000
Contingency		\$11,963	\$7.21	\$418,709
Soft Cost		\$19,506	\$11.75	\$682,705

Developer Fee		\$26,061	\$15.70	\$912,126
Sub Total		\$65,787	\$39.63	\$2,302,540
Acquisition:		\$11,857	\$7.14	\$415,000
Total Non HIF Costs		\$295,009	\$177.72	\$10,325,315
HIF Costs		quantity/units	unit price	
Silt fence: 1700LF @ \$5/LF		1700	\$4.00	\$6,800
Clearing 1 acres @ \$7,500/acre		1	\$7,500.00	\$7,500
Fill Road Area 50' X 600'		30,000	\$2.13	\$63,900
Asphalt Roads & Parking 41,440@ \$4/SF		41,500	\$4.00	\$166,000
Concrete curbing 2511 LF @ \$18/LF		2,511	\$18.00	\$45,198
Sound Barrier: 570 LF @ \$200/LF		570	\$200.00	\$114,000
Sanitary Sewer 1400 @ \$45/LF		1400	\$45.00	\$63,000
Manholes 14 @ \$3,500		14	\$3,500.00	\$49,000
Drain Pipe 15" 1400 @ \$30/each		1400	\$30.00	\$42,000
Catch Basins 20 @ \$2,800/each		20	\$2,800.00	\$56,000
Road rock removal 100' x 45' x 20' deep		3500	\$40.00	\$140,000
Load/Truck rock 7000 CY @ \$5/CY		7000	\$5.00	\$35,000
Spread/compact 7000 CY @ \$5/CY		7000	\$5.00	\$35,000
Street connection				\$4,500
Street opening				\$4,500
Trench rock 310 CY @ \$75/CY		310	\$75.00	\$23,250
Road Retaining Walls 2,750 SF/\$37		2750	\$37.00	\$101,750
Related Engineering and soft costs				75,000
Total HIF Costs:		\$29,497	\$18	\$1,032,398
TOTAL DEVELOPMENT COSTS		\$324,506	\$195	\$11,357,713

Attachment 2 to Schedule B
Survey/Site Plan
 (Original in File)



LHM
 LAND SURVEYOR P.C.
 100 WEST 100th STREET
 PORT CHESTER, NY 10573
 (914) 931-1111

LEGEND

1. EXISTING BUILDINGS

2. PROPOSED BUILDINGS

3. EASEMENTS

4. PROPERTY BOUNDARIES

5. CURB CUTS

6. DRIVEWAYS

7. DRIVEWAYS WITH CURB CUTS

8. DRIVEWAYS WITH CURB CUTS AND SIDEWALKS

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22. PROPOSED DRIVEWAYS AND SIDEWALKS

Attachment 3 to Schedule B
Construction Schedule

Submission of Plans	February 23, 2007
Construction Start	May 1, 2008
Construction Completion	March 31, 2010

SCHEDULE "B 1"

WESTCHESTER COUNTY RESALE, REFINANCING AND RECAPTURE POLICY PROVISIONS APPLICABLE TO UNIT OWNERS

HOME Program Restrictions

Unit owners must comply with the requirements of the HOME program and the Declarations of Restrictive Covenants placed upon the Units by: 1) the County, pursuant to a Declaration of Restrictive Covenants which has been submitted for recording in the Office of the County Clerk, Division of Land Records, County of Westchester, State of New York; 2) the Graceland Terrace Housing Development Fund Corp., pursuant to a Declaration of Restrictive Covenants which has been submitted for recording in the Office of the County Clerk, Division of Land Records, County of Westchester, State of New York (collectively the "Declaration"), including without limitation, Schedule "B" thereto. Such responsibilities shall include, but are not limited to, the requirement that the purchaser of a Unit must occupy said Unit as their principal place of residence until the earlier of the sale of said Unit in compliance herewith or the expiration of the Period of Affordability.

Should the Unit owner fail to comply with the above-referenced requirements the County has the right, pursuant to 24 CFR 92.254 (a) (5) and the County's Consolidated Plan as filed with HUD, to compel the resale of the Unit (see Declaration § 4 – Legal and Equitable Relief).

Any defined terms used herein and not defined herein shall have the meaning ascribed to them in the Agreement.

Resale

In the event that an owner of a Unit desires to sell such Unit at any time prior to the expiration of the Period of Affordability, such owner must make the Unit available for purchase to purchasers meeting the Affordability Requirements, as more fully set forth in Schedule "B" to the Declaration. The owner must obtain the written approval of the County with respect to the proposed purchaser, noting, that the occupancy standards set forth in Schedule "B" must be used to determine the family size for each unit based on its bedroom size.

The County's approval shall also be required for the maximum resale price of the Units until the expiration of the Period of Affordability ("Maximum Resale Price"). The Maximum Resale Price will equal the sum of the following: (i) the net purchase price (i.e. gross sales prices minus subsidies) paid for the Unit by the selling owner, increased by the percentage increase, if any, in the Consumer Price Index for Urban Wage Earners and Clerical Workers in the New York-Northern New Jersey Area, as published by the United States Bureau of Labor Statistics (the "Index"), between (a) the month that was two months earlier than the date on which the seller acquired the Unit; and (b) the month that is two months earlier than the month in which the seller contracts to sell the Unit. If the bureau stops publishing this index, and fails to designate a successor index, the County will designate a substitute index; and (ii) the cost of major capital improvements made by the seller of the Unit while said seller

of the Unit owned the Unit as evidenced by paid receipts depreciated on a straight line basis over a fifteen (15) year period from the date of completion and such approval shall be requested for said major capital improvement no later than the time the seller of the Unit desires to include it in the resale price. In the event of a foreclosure of a Unit, the Maximum Resale Price for a sale by the foreclosing bank/lending institution shall be calculated as above, except that the net purchase price on which the calculation shall be made shall be the net purchase price paid by the owner of the Unit against which the bank/lending institution foreclosed. Notwithstanding the foregoing, in no event shall the resale price exceed an amount affordable to a household at 80% of AMI at the time of the re-sale. Such amount shall be determined in the sole discretion of the Westchester County Department of Planning and shall be in accordance with such guidelines or rules as may be promulgated by the Housing Opportunity Commission ("HOC") the calculation of such a maximum price shall assume that the down payment is 20% of the resale price and that the sum of principle, interest, taxes and insurance ("PITI") plus applicable home owner association fees shall not exceed 30% of household income.

In the event that an owner desires to sell their Unit, the owner shall notify the County at least forty-five (45) days prior to the date of the proposed closing, in writing to the Westchester County Commissioner of Planning, Michaelian Office Building, Room 432, 148 Martine Avenue, or to the Designee's address, if provided by the County. The owner may sell, convey or transfer the Unit provided the County has given written approval in a release letter ("Release Letter") that the proposed purchaser meets the Affordability Requirements, the purchase price is less than or equal to the Maximum Resale Price for such Unit. The above notice shall provide a name, address and telephone number of an individual to contact concerning the proposed sale. The notice shall enumerate the proposed purchase price and the income of the proposed purchaser. The owner or proposed purchaser shall provide any additional documentation requested to substantiate any of the above sums, including but not limited to, income tax returns and employment verification letters for proposed purchasers. The County shall provide the Release Letter to the owner at the closing provided that a determination is made in the County's sole judgment that the owner has complied with its obligations hereunder. The Release Letter shall specify the approval of the prospective purchaser and approval of the sales price.

Refinancing

In the event that an owner of a Unit desires to refinance such Unit, including without limitation, a mortgage, home equity loan or line of credit, at any time prior to the expiration of the Period of Affordability, such owner must first obtain the written consent of the County, following review of the terms of said transaction in accordance herewith.

In the event that an owner desires to refinance their Unit, the owner shall notify the County at least forty-five (45) days prior to the date of the proposed refinancing, in writing to the Westchester County Commissioner of Planning, Michaelian Office Building, Room 432, 148 Martine Avenue, or to the Designee's address, if provided by the County. Said notice shall include the name, address and telephone number of an individual to contact concerning the proposed refinancing. The notice shall include the pertinent transaction details. The owner shall provide any additional documentation requested as may be requested by the County. The County shall have sole discretion to approve or disapprove of any such request, noting that the following criteria may be considered:

- The amount refinanced must be limited to outstanding principal on the mortgage plus reasonable closing costs and the resulting payments must increase affordability (i.e., the interest rate should be lower than the rate on the existing mortgage).
- The amount refinanced may increase above the outstanding principal amount only if: (i) the additional funds are being used to make capital improvements to the home, as permitted under local building code, and having received any necessary approvals, including without limitation by the condominium or coop board, if any and by Westchester County; or (ii) funds are needed for good cause shown, such as education costs for the primary owner to gain improved employment opportunities.
- In no case may the refinancing total amount exceed the restricted resale price, calculated at the time of application.
- The total amount should not exceed the Loan to Value ratio required by the lender, but in no case can it exceed 100% of the appraised value of the affordable Unit if this value is less than the restricted resale price.

In no case may the refinancing total amount exceed the Maximum Resale Price, calculated at the time of application.

Westchester County HIF Recapture Provisions²

Check Box if Applicable

Units having received an HIF subsidy must comply with the provisions of Chapter 298 of the Westchester County Administrative Code. Pursuant to Chapter 298, in the event that an affordable Unit is sold by the initial owner ("Initial Owner") within five (5) years of purchase by the Initial Owner such Initial Owner shall pay an HIF recapture amount (the "HIF Recapture Amount") to the County in the amount of the pro rata share of the cost of the County's HIF improvement related to such Unit plus fifteen (15%) percent of the appreciated value of the Unit based on the initial purchase price and the sale price. The pro rata share for any particular Unit is available upon written request to the Westchester County Department of Planning. In the event that a Unit is sold by the Initial Owner during the succeeding five (5) years after the end of the five (5) year period, the Initial Owner shall pay to the County an amount which constitutes the pro rata share of the cost of the County improvement related to such Unit reduced by twenty (20%) percent for each year the Unit is owned during such period. Such payment in such subsequent five (5) year period shall not include any of the appreciated value of the Unit. In the event that a Unit is sold prior to the expiration of the above ten (10) year period ("HIF Recapture Period"), and upon application to and approval in the County sole discretion, an Initial Owner shall not be assessed the HIF Recapture Amount if the County so determines that such payment would result in undue hardship ("HIF Waiver").

In the event that an Initial Owner of an HIF financed Unit desires to sell their Unit prior to the expiration of the HIF Recapture Period, in addition to such owner's obligation to notify the County pursuant to the above Resale section, such notice shall include a request that the County calculate the

² This section applies only to Units subsidized with Westchester County Housing Implementation Funds ("HIF").

HIF Recapture Amount due. The Initial Owner may request an HIF Waiver in writing, which request shall set forth any additional information necessary or advisable for County consideration. If an HIF Waiver has not been granted the Initial Owner shall be responsible to provide the County with a bank or certified check payable to the County of Westchester County at or prior to the closing in such amount. The County will not issue the Release Letter until such HIF Recapture Amount has been paid. In the event that in the County's judgment, the Initial Owner has satisfied his, her or their obligation under Chapter 298, the County shall specify such compliance in the Release Letter.

SCHEDULE "C"

Infrastructure Improvement Property Description

Proposed Emergency Access Road Easement (Alto Ave)

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being known and/or designated on the tax maps for the Town of Rye, Village of Port Chester as portion of Section 142.054, Block 2, Lot 53.

Said easement, being bounded and described as follows:

Beginning at a point on the northerly side of Alto Avenue at the southeasterly corner of Lot 14 as shown on a certain map entitled; "Lots on Grace Church Street – William Ryan" as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 8 of Maps at Page 29. Thence along the easterly side and terminus of said Alto Avenue; South 27°36'40" West, 16.66 feet to the point of beginning of the herein described; thence through the lands of "Fox Commons, LLC", South 61°09'08" East, 41.98 feet to a point of intersection with the westerly line of a proposed R.O.W./Utility/Access Easement; thence along said westerly line of a proposed R.O.W./Utility/Access Easement; South 47°06'15" West, 28.43 feet; thence continuing through the lands of "Fox Commons, LLC"; North 61°09'08" West, 32.49 feet to a point of intersection with the aforesaid easterly side and terminus of Alto Avenue; thence along said easterly side and terminus of Alto Avenue, North 27°36'40" East, 27.01 feet to the place or point of beginning.

Said easement containing an area of 1,005 sq. ft. more or less.

Proposed R.O.W./Utility/Access/Easement (Driveway and parking area)

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being known and/or designated on the tax maps for the Town of Rye, Village of Port Chester as; Section 142.055, Block 1, Lot 6; Portion of Section 142.055, Block 1, Lot 5; and Portion of Section 142.054, Block 2, Lot 53.

Said Easement, being bounded and described as follows:

Beginning at a point, being the intersection of the southerly side of Fox Island Road with the southeasterly line of lot 7 per a certain map entitled, "Subdivision Map of Lots of Samuel Glock", as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 14 of Maps, at Page 43. Thence from said point of beginning, along the southerly side of Fox Island Road, South 59°22'55" East, 52.64 feet to a point of intersection with the northwesterly line of lands of a certain map entitled, "The New York State Thruway-New England Section, Parcel 1693" as filed in the Westchester County Clerk's Office, Division of Land Records; thence along said northwesterly line of lands of "The New York State Thruway – New England Section, Parcel 1693", South 30°37'05" West, 70.00 feet to a point of intersection with the northerly line of lands of a certain map entitled, "The New York State Thruway-New England Section, Parcel 1517" as filed in the Westchester County Clerk's Office, Division of Land Records as Map 11832; thence along said northerly line of lands of "The New York State Thruway – New England Section, Parcel 1517", South 62°30'29" West, 35.33 feet to a point of intersection with the northwesterly line of lands of a certain map entitled, "The New York State Thruway-New England Section, Parcel 1698" as filed in the Westchester County Clerk's Office, Division of Land Records as Map 10743; thence along said northwesterly line of lands of "The New York State Thruway – New England Section, Parcel 1698" and continuing along the northwesterly and northerly lines of land of a

certain map entitled, "The New York State Thruway-New England Section, Parcel 1692" as filed in the Westchester County Clerk's Office, Division of Land Records as Map 10688 the following courses and distances, South 39°52'05" West, 152.57 feet; and South 70°22'04" East, 36.41 feet to a point of intersection with the northwesterly line of lands of a certain map entitled, "The New York State Thruway-New England Section, Parcel 1688", as filed in the Westchester County Clerk's Office, Division of Land Records as Map 10736; thence along the northwesterly and northerly lines of said "New York State Thruway-New England Section, parcel 1688", South 47°06'15" West, 564.84 feet; and North 69°05'30" West, 26.26 feet to the lands of now or formerly "Village of Port Chester", as conveyed by "Joseph P. Saline" per deed dated, April 30, 1956 and duly recorded in the Westchester County Clerk's Office, Division of Land Records in Liber 5578, Page 275 of Deeds; thence along the lands of now or formerly "Village of Port Chester", North 69°00'50" West, 32.98 feet to a point of intersection with the easterly line of lot 13 per a certain map entitled, "Lots on Grace Church Street – William Ryan" as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 8 of Maps, at Page 29; thence along said easterly line of lot 13, North 27°36'40" East, 0.96 feet; thence through the lands of "Fox Commons, LLC" the following courses and distances, North 47°06'15" East, 503.45 feet to a point of curvature; thence on a curve to the left, radius of 82.00 feet, central angle of 21°03'46" and length of 30.14 feet to a point of tangency; thence North 26°02'29" East, 5.24 feet to a point of curvature; thence on a curve to the right, radius of 218.00 feet, central angle of 03°35'10" and length of 13.65 feet to a point of reverse curvature; thence on a curve to the left, radius of 18.00 feet, central angle of 67°05'39" and length of 21.08 feet to a point of tangency; thence North 37°28'00" West, 0.21 feet to a point of intersection with the aforesaid southeasterly line of Lot 7 per map entitled, "Subdivision Map of Lots of Samuel Glock"; thence along said southeasterly line of lot 7, North 39°52'05" East, 249.62 feet to a point of intersection with the southerly side of Fox Island Road and point and place of beginning.

Said easement containing an area of 44,003 sq. ft. more or less.

**Proposed Utility Easement
(interior roads)**

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being known and/or designated on the tax maps for the Town of Rye, Village of Port Chester as portion of Section 142.054, Block 2, Lot 53.

Said easement, being bounded and described as follows:

Beginning at a point on the northeasterly side of Greenwood Avenue at the southerly corner of Lot 7, as shown on a certain map entitled, "The Maples" as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 59 of Maps at Page 78; thence through the lands of "Fox Commons, LLC" the following courses and distances, South 20°46'50" East, 32.38 feet; South 42°53'45" East, 46.77 feet; North 47°06'15" East, 113.37 feet; and North 42°53'45" West, 98.20 feet to a point of intersection with the aforesaid Lot 7; thence along said Lot 7, North 35°08'40" East, 40.89 feet; thence continuing through the lands of "Fox Commons, LLC" the following courses and distances, South 42°53'45" East, 113.06 feet; South 09°51'03" East, 58.72 feet to an angle point, thence south 42°53'45" East, 100.31 feet to a point of intersection with the westerly line of a proposed R.O.W./Utility/Access Easement; thence along westerly line of said R.O.W./Utility/Access Easement, South 47°06'15" West, 49.39 feet; thence continuing through the lands of "Fox Commons, LLC" the following courses and distances, North 02°08'15" East, 13.28 feet; north 42°53'45" West, 106.52 feet; South 47°06'15" West, 74.75 feet; and South 42°53'45" East, 115.91 feet to a point of intersection with westerly line of the aforesaid proposed R.O.W./Utility/Access Easement; thence along the westerly line of said R.O.W./Utility/Access Easement, South 47°06'15" west, 40.00 feet; thence continuing through the lands of "Fox Commons, LLC" the following courses and distances, North 42°53'45" West, 155.91 feet; South 47°06'15" West, 6.61 feet; North 42°53'45" west, 51.38 feet; and North 20°46'50" West, 11.61 feet to a point of intersection with the southeasterly side and terminus of aforesaid Greenwood Ave, being the northeasterly corner of Lot 12 per said map entitled, "The Maples"; thence running along the southeasterly side and terminus of Greenwood Avenue, North 23°30'40" East, 21.85 feet to an angle point; and North 35°08'40" East, a distance of 28.42 feet to the point or place of beginning.

Said easement containing an area of 23,475 sq. ft. more or less.

**Proposed, Fox Island Road
Off-site Infrastructure Area Easement**

All that certain Municipal Infrastructure Area Easement as described herein, being situated in the Village of Port Chester, Town of Rye, County of Westchester, State of New York, more particularly; lying within Fox Island Road and other lands of the Village of Port Chester.

Said easement, being bounded and described as follows:

Beginning at a point, being the intersection of the southwesterly side of Fox Island Road with the southeasterly line of lot 7 per a certain map entitled, "Subdivision Map of Lots of Samuel Glock", as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 14 of Maps, at Page 43. Thence from said beginning point, southeasterly along the southwesterly side of Fox Island Road, South 59°22'55" East, a distance of 40.33 feet to the place or point of beginning of the herein described parcel; thence from said point of beginning thru Fox Island Road and other Lands of the Village of Port Chester, the following courses and distances,

North 54°42'00" East, 29.66 feet to an angle point;
South 59°21'28" East, 51.44 feet to an angle point;
South 55°12'14" East, 62.06 feet to an angle point;
South 65°19'37" East, 45.67 feet to an angle point;
South 32°29'06" East, 74.27 feet to an angle point;
South 42°34'16" East, 66.04 feet to an angle point;
South 47°25'44" West, 12.00 feet to an angle point;
North 42°34'16" West, 67.10 feet to an angle point;
North 32°29'06" West, 71.79 feet to an angle point;
North 65°19'37" West, 43.19 feet to an angle point;
North 55°12'14" West, 62.69 feet to an angle point;
North 59°21'28" West, 22.20 feet to an angle point;
and South 30°38'32" West, 15.07 feet to a point of intersection with said southwesterly side of Fox Island Road; Thence northwesterly along said southwesterly side of Fox Island Road, North 59°22'55" West a distance of 12.31 feet to the point or place of beginning.

Said easement containing an area of 4,169 sq. ft. more or less.

**Proposed, Greenwood Avenue
Off-site Infrastructure Area Easement**

All that certain Municipal Infrastructure Area Easement as described herein, being situated in the Village of Port Chester, Town of Rye, County of Westchester, State of New York, more particularly: lying within Greenwood Avenue.

Said easement, being bounded and described as follows:

Beginning at a point on the northeasterly side of Greenwood Avenue at the southerly corner of Lot 7, as shown on a certain map entitled, "The Maples" as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 59 of Maps at Page 78; thence along the southeasterly side and terminus of aforesaid Greenwood Ave, South 35°08'40" West a distance of 28.42 feet to an angle point; and South 23°30'40" West a distance of 21.85 feet to a point of intersection with the southwesterly side of Greenwood Ave; thence along the southwesterly side of Greenwood Avenue, North 58°42'20" West a distance of 50.00 feet to an angle point; thence through the lands of Greenwood Avenue, North 31°17'40" East a distance of 50.00 feet to a point of intersection with the aforementioned northeasterly side of Greenwood Avenue; thence along the northeasterly side of Greenwood Avenue, South 58°42'20" East a distance of 48.95 feet to the point or place of beginning.

Said easement containing an area of 2,411 sq. ft. more or less.

SCHEDULE "C-1"

Developer Infrastructure Improvement Property Description

Proposed Emergency Access Road Easement (Alto Ave)

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being known and/or designated on the tax maps for the Town of Rye, Village of Port Chester as portion of Section 142.054, Block 2, Lot 53.

Said easement, being bounded and described as follows:

Beginning at a point on the northerly side of Alto Avenue at the southeasterly corner of Lot 14 as shown on a certain map entitled; "Lots on Grace Church Street – William Ryan" as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 8 of Maps at Page 29. Thence along the easterly side and terminus of said Alto Avenue; South 27°36'40" West, 16.66 feet to the point of beginning of the herein described; thence through the lands of "Fox Commons, LLC", South 61°09'08" East, 41.98 feet to a point of intersection with the westerly line of a proposed R.O.W./Utility/Access Easement; thence along said westerly line of a proposed R.O.W./Utility/Access Easement; South 47°06'15" West, 28.43 feet; thence continuing through the lands of "Fox Commons, LLC"; North 61°09'08" West, 32.49 feet to a point of intersection with the aforesaid easterly side and terminus of Alto Avenue; thence along said easterly side and terminus of Alto Avenue, North 27°36'40" East, 27.01 feet to the place or point of beginning.

Said easement containing an area of 1,005 sq. ft. more or less.

Proposed R.O.W./Utility/Access/Easement (Driveway and parking area)

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being known and/or designated on the tax maps for the Town of Rye, Village of Port Chester as; Section 142.055, Block 1, Lot 6; Portion of Section 142.055, Block 1, Lot 5; and Portion of Section 142.054, Block 2, Lot 53.

Said Easement, being bounded and described as follows:

Beginning at a point, being the intersection of the southerly side of Fox Island Road with the southeasterly line of lot 7 per a certain map entitled, "Subdivision Map of Lots of Samuel Glock", as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 14 of Maps, at Page 43. Thence from said point of beginning, along the southerly side of Fox Island Road, South 59°22'55" East, 52.64 feet to a point of intersection with the northwesterly line of lands of a certain map entitled, "The New York State Thruway-New England Section, Parcel 1693" as filed in the Westchester County Clerk's Office, Division of Land Records; thence along said northwesterly line of lands of "The New York State Thruway – New England Section, Parcel 1693", South 30°37'05" West, 70.00 feet to a point of intersection with the northerly line of lands of a certain map entitled, "The New York State Thruway-New England Section, Parcel 1517" as filed in the Westchester County Clerk's Office, Division of Land Records as Map 11832; thence along said northerly line of lands of "The New York State Thruway – New England Section, Parcel 1517", South 62°30'29" West, 35.33 feet to a point of intersection with the northwesterly line of lands of a certain map entitled, "The New York State Thruway-New England Section, Parcel 1698" as filed in the Westchester County Clerk's Office, Division of Land Records as Map 10743; thence along said northwesterly line of lands of "The New York State Thruway – New England Section, Parcel 1698" and continuing along the northwesterly and northerly lines of land of a certain map entitled, "The New York State Thruway-New England Section, Parcel 1692" as filed in the Westchester

County Clerk's Office, Division of Land Records as Map 10688 the following courses and distances, South 39°52'05" West, 152.57 feet; and South 70°22'04" East, 36.41 feet to a point of intersection with the northwesterly line of lands of a certain map entitled, "The New York State Thruway-New England Section, Parcel 1688", as filed in the Westchester County Clerk's Office, Division of Land Records as Map 10736; thence along the northwesterly and northerly lines of said "New York State Thruway-New England Section, parcel 1688", South 47°06'15" West, 564.84 feet; and North 69°05'30" West, 26.26 feet to the lands of now or formerly "Village of Port Chester", as conveyed by "Joseph P. Saline" per deed dated, April 30, 1956 and duly recorded in the Westchester County Clerk's Office, Division of Land Records in Liber 5578, Page 275 of Deeds; thence along the lands of now or formerly "Village of Port Chester", North 69°00'50" West, 32.98 feet to a point of intersection with the easterly line of lot 13 per a certain map entitled, "Lots on Grace Church Street – William Ryan" as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 8 of Maps, at Page 29; thence along said easterly line of lot 13, North 27°36'40" East, 0.96 feet; thence through the lands of "Fox Commons, LLC" the following courses and distances, North 47°06'15" East, 503.45 feet to a point of curvature; thence on a curve to the left, radius of 82.00 feet, central angle of 21°03'46" and length of 30.14 feet to a point of tangency; thence North 26°02'29" East, 5.24 feet to a point of curvature; thence on a curve to the right, radius of 218.00 feet, central angle of 03°35'10" and length of 13.65 feet to a point of reverse curvature; thence on a curve to the left, radius of 18.00 feet, central angle of 67°05'39" and length of 21.08 feet to a point of tangency; thence North 37°28'00" West, 0.21 feet to a point of intersection with the aforesaid southeasterly line of Lot 7 per map entitled, "Subdivision Map of Lots of Samuel Glock"; thence along said southeasterly line of lot 7, North 39°52'05" East, 249.62 feet to a point of intersection with the southerly side of Fox Island Road and point and place of beginning.

Said easement containing an area of 44,003 sq. ft. more or less.

Proposed Utility Easement (interior roads)

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being known and/or designated on the tax maps for the Town of Rye, Village of Port Chester as portion of Section 142.054, Block 2, Lot 53.

Said easement, being bounded and described as follows:

Beginning at a point on the northeasterly side of Greenwood Avenue at the southerly corner of Lot 7, as shown on a certain map entitled, "The Maples" as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 59 of Maps at Page 78; thence through the lands of "Fox Commons, LLC" the following courses and distances, South 20°46'50" East, 32.38 feet; South 42°53'45" East, 46.77 feet; North 47°06'15" East, 113.37 feet; and North 42°53'45" West, 98.20 feet to a point of intersection with the aforesaid Lot 7; thence along said Lot 7, North 35°08'40" East, 40.89 feet; thence continuing through the lands of "Fox Commons, LLC" the following courses and distances, South 42°53'45" East, 113.06 feet; South 09°51'03" East, 58.72 feet to an angle point, thence south 42°53'45" East, 100.31 feet to a point of intersection with the westerly line of a proposed R.O.W./Utility/Access Easement; thence along westerly line of said R.O.W./Utility/Access Easement, South 47°06'15" West, 49.39 feet; thence continuing through the lands of "Fox Commons, LLC" the following courses and distances, North 02°08'15" East, 13.28 feet; north 42°53'45" West, 106.52 feet; South 47°06'15" West, 74.75 feet; and South 42°53'45" East, 115.91 feet to a point of intersection with westerly line of the aforesaid proposed R.O.W./Utility/Access Easement; thence along the westerly line of said R.O.W./Utility/Access Easement, South 47°06'15" west, 40.00 feet; thence continuing through the lands of "Fox Commons, LLC" the following courses and distances, North 42°53'45" West, 155.91 feet; South 47°06'15" West, 6.61 feet; North 42°53'45" west, 51.38 feet; and North 20°46'50" West, 11.61 feet to a point of intersection with the southeasterly side and terminus of aforesaid Greenwood Ave, being the northeasterly corner of Lot 12 per said map entitled, "The Maples"; thence running along the southeasterly side and terminus of Greenwood Avenue, North 23°30'40" East, 21.85 feet to an angle point; and North 35°08'40" East, a distance of 28.42 feet to the point or place of beginning.

Said easement containing an area of 23,475 sq. ft. more or less.

SCHEDULE "C-2"

Municipal Infrastructure Improvement Property Description

Fox Island Road Municipal Infrastructure Area Easement

All that certain Municipal Infrastructure Area Easement as described herein, being situated in the Village of Port Chester, Town of Rye, County of Westchester, State of New York, more particularly; lying within Fox Island Road and other lands of the Village of Port Chester.

Said easement, being bounded and described as follows:

Beginning at a point, being the intersection of the southwesterly side of Fox Island Road with the southeasterly line of lot 7 per a certain map entitled, "Subdivision Map of Lots of Samuel Glock", as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 14 of Maps, at Page 43. Thence from said beginning point, southeasterly along the southwesterly side of Fox Island Road, South 59°22'55" East, a distance of 40.33 feet to the place or point of beginning of the herein described parcel; thence from said point of beginning thru Fox Island Road and other Lands of the Village of Port Chester, the following courses and distances,

North 54°42'00" East, 29.66 feet to an angle point;
South 59°21'28" East, 51.44 feet to an angle point;
South 55°12'14" East, 62.06 feet to an angle point;
South 65°19'37" East, 45.67 feet to an angle point;
South 32°29'06" East, 74.27 feet to an angle point;
South 42°34'16" East, 66.04 feet to an angle point;
South 47°25'44" West, 12.00 feet to an angle point;
North 42°34'16" West, 67.10 feet to an angle point;
North 32°29'06" West, 71.79 feet to an angle point;
North 65°19'37" West, 43.19 feet to an angle point;
North 55°12'14" West, 62.69 feet to an angle point;
North 59°21'28" West, 22.20 feet to an angle point;
and South 30°38'32" West, 15.07 feet to a point of intersection with said southwesterly side of Fox Island Road; Thence northwesterly along said southwesterly side of Fox Island Road, North 59°22'55" West a distance of 12.31 feet to the point or place of beginning.

Said easement containing an area of 4,169 sq. ft. more or less.

Greenwood Avenue Municipal Infrastructure Area Easement

All that certain Municipal Infrastructure Area Easement as described herein, being situated in the Village of Port Chester, Town of Rye, County of Westchester, State of New York, more particularly; lying within Greenwood Avenue.

Said easement, being bounded and described as follows:

Beginning at a point on the northeasterly side of Greenwood Avenue at the southerly corner of Lot 7, as shown on a certain map entitled, "The Maples" as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 59 of Maps at Page 78; thence along the southeasterly side and terminus of aforesaid Greenwood Ave, South 35°08'40" West a distance of 28.42 feet to an angle point; and South 23°30'40" West a distance of 21.85 feet to a point of intersection with the southwesterly side of Greenwood Ave; thence along the southwesterly side of Greenwood Avenue, North 58°42'20" West a distance of 50.00 feet to an angle point; thence through the lands of Greenwood Avenue, North 31°17'40" East a distance of 50.00 feet to a point of intersection with the aforementioned northeasterly side of Greenwood Avenue; thence along the northeasterly side of Greenwood Avenue, South 58°42'20" East a distance of 48.95 feet to the point or place of beginning.

Said easement containing an area of 2,411 sq. ft. more or less.

SCHEDULE "D"
INFRASTRUCTURE IMPROVEMENTS PROJECT

A. SCOPE OF SERVICES

The infrastructure improvements include, but are not limited to the construction of a retaining wall, access road, sound barrier, sewer, water and storm drainage, curbs, paving, lighting, grading, engineering and related costs (the "Infrastructure Improvements"). The Infrastructure Improvements shall be constructed in accordance with the following plans: Fox Island Townhouses, Village of Port Chester, Town of Rye prepared by Ralph G. Mastromonaco, P.E., P.C., revised 2/21/07 (the "Plans").

B. PAYMENT

The County of Westchester will make progress payments to the Village of Port Chester for expenses incurred in constructing the Infrastructure Improvements associated with the construction of 35 units of affordable housing in the Village of Port Chester, in an amount not to exceed \$1,032,400, as set forth pursuant to the below Budget. All quantities are approximate, and the total amount shall not be exceeded.

Any and all requests for payments to be made, including any partial payment made in proportion to the work completed, shall be submitted on properly executed payment vouchers of the County and paid within 30 days after approval by the Commissioner of Planning of the County of Westchester or his or her duly authorized designee (hereinafter the "Commissioner"), which approval shall not be unreasonably withheld and subject to the terms of the IMA. All payment vouchers must be accompanied by a numbered invoice and must contain the invoice number where indicated. All invoices submitted during each calendar year shall utilize sequential numbering and be non-repeating.

It is also understood that the County's Division of Housing and Community Development may visit the site during construction and will inspect and approve the project for substantial completion and that the County shall be permitted such access.

BUDGET (County HIF Funds):

All quantities are approximate, and the total amount shall not be exceeded).

HIF Costs	quantity/units	unit price		
Silt fence: 1700LF @ \$5/LF	1700	\$4.00		\$6,800
Clearing 1 acres @ \$7,500/acre	1	\$7,500.00		\$7,500
Fill Road Area 50' X 600'	30,000	\$2.13		\$63,900

Asphalt Roads & Parking 41,440 @ \$4/SF	41,500	\$4.00		\$166,000
Concrete curbing 2511 LF @ \$18/LF	2,511	\$18.00		\$45,198
Sound Barrier: 570 LF @ \$200/LF	570	\$200.00		\$114,000
Sanitary Sewer 1400 @ \$45/LF	1400	\$45.00		\$63,000
Manholes 14 @ \$3,500	14	\$3,500.00		\$49,000
Drain Pipe 15" 1400 @ \$30/each	1400	\$30.00		\$42,000
Catch Basins 20 @ \$2,800/each	20	\$2,800.00		\$56,000
Road rock removal 100' x 45' x 20' deep	3500	\$40.00		\$140,000
Load/Truck rock 7000 CY @ \$5/CY	7000	\$5.00		\$35,000
Spread/compact 7000 CY @ \$5/CY	7000	\$5.00		\$35,000
Street connection				\$4,500
Street opening				\$4,500
Trench rock 310 CY @ \$75/CY	310	\$75.00		\$23,250
Road Retaining Walls 2,750 SF/\$37	2750	\$37.00		\$101,750
Related Engineering and soft costs				75,000
Total HIF amount not to be exceeded:	\$29,497	\$18	\$14	\$1,032,400

The Developer is responsible for funding the costs of construction of the Infrastructure Improvements not funded through the County HIF Funds.

D. CONSTRUCTION SCHEDULE FOR INFRASTRUCTURE IMPROVEMENTS

Date for Submission of Plans	02/23/07
Commencement Date for Construction of Infrastructure Improvements	8/1/08
Completion Date for Infrastructure Improvements	3/31/10

SCHEDULE "E"

DECLARATION OF RESTRICTIVE COVENANTS

INTENTIONALLY OMITTED

SCHEDULE "F"

STANDARD INSURANCE PROVISIONS
(Municipality)

1. Prior to commencing work, the Municipality shall obtain at its own cost and expense the required insurance from insurance companies licensed in the State of New York, carrying a Best's financial rating of A or better, and shall provide evidence of such insurance to the County of Westchester, as may be required and approved by the Director of Risk Management of the County. The policies or certificates thereof shall provide that thirty days prior to cancellation or material change in the policy, notices of same shall be given to the Director of Risk Management of the County of Westchester by registered mail, return receipt requested, for all of the following stated insurance policies. All notices shall name the Municipality and identify the Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the County, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the County, the Municipality shall upon notice to that effect from the County, promptly obtain a new policy, submit the same to the Department of Risk Management of the County of Westchester for approval and submit a certificate thereof. Upon failure of the Municipality to furnish, deliver and maintain such insurance, the Agreement, at the election of the County, may be declared suspended, discontinued or terminated. Failure of the Municipality to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Municipality from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Municipality concerning indemnification. All property losses shall be made payable to and adjusted with the County.

In the event that claims, for which the County may be liable, in excess of the insured amounts provided herein are filed by reason of any operations under the Agreement, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Municipality until such time as the Municipality shall furnish such additional security covering such claims in form satisfactory to the County of Westchester.

2. The Municipality shall provide proof of the following coverage (if additional coverage is required for a specific agreement, those requirements will be described in the "Special Conditions" of the contract specifications):

(a) Workers' Compensation. Certificate form C-105.2 (9/07) or State Fund Insurance Company form U-26.3 is required for proof of compliance with the New York State Workers' Compensation Law. State Workers' Compensation Board form DB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be "All locations in Westchester County, New York."

Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits' Policy, or both, the employer must complete affidavit form WC/DB-100 (revised 9/07), sign and notarize the form, and send to the NYS Workers' Compensation Board for (stamped) approval. The stamped approval (valid for 1 year) should then be provided to the County of Westchester with all other insurance documentation.

If the employer is self-insured for Worker's Compensation, he/she should present a certificate from the New York State Worker's Compensation Board evidencing that fact (Either SI-12, Certificate of

Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance).

(b) Employer's Liability with minimum limit of \$100,000.

(c) Commercial General Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and \$100,000 for property damage or a combined single limit of \$1,000,000 (c.s.1), naming the County of Westchester as an additional insured. This insurance shall include the following coverages:

- (i) Premises - Operations.
- (ii) Broad Form Contractual.
- (iii) Independent Contractor and Sub-Contractor.
- (iv) Products and Completed Operations.

All Contracts involving the use of explosives and demolition shall provide the above coverage with elimination of the XCU exclusion from the policy, or proof that XCU is covered.

(d) Automobile Liability Insurance with a minimum limit of liability per occurrence of for bodily injury and a minimum limit of \$100,000 per occurrence for property damage or a combined single limit of \$1,000,000 unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage the following coverages:

- (i) Owned automobiles.
- (ii) Hired automobiles.
- (iii) Non-owned automobiles.

As per the attached written agreement, and where indicated with a check mark below, the following insurance(s) will also be required:

	<i>(e) Environmental Liability with a minimum limit of liability per occurrence of \$1,000,000.00. Policy shall be kept in full force and effect for three (3) years from the date of Closing and the County shall be provided with the endorsement naming the County of Westchester as an additional insured.</i>
	<i>(f) Property Insurance – Replacement Cost basis with County of Westchester named as loss payee as its interest may appear</i>
	<i>(g) Builder's Risk – Municipality at their own cost and expense shall provide and maintain a Builder's Risk Form, All Risk Insurance Contract. The coverage shall be written for 100% of the completed value, with the County of Westchester named as loss payee as its interest may appear.</i>

3. All policies of the Municipality shall be endorsed to contain the following clauses:

(a) Insurers shall have no right to recovery or subrogation against the County of Westchester (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the above-described insurance.

(b) The clause "other insurance provisions" in a policy in which the County of Westchester is named as an insured, shall not apply to the County of Westchester.

(c) The insurance companies issuing the policy or policies shall have no recourse against the County of Westchester (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

(d) Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of, the Municipality.

SCHEDULE "G-1"

Developer Easement

THIS INDENTURE, made the ^{25th} day of July, 2008, by and to

Graceland Terrace Housing Development Fund Corporation, a not-for-profit corporation, having an office and place of business at 211 South Ridge Street, Rye Brook, N.Y. 10573, **(the "HDFC") as nominee for Fox Commons, LLC**, a limited liability corporation, having an office and place of business at 505 Franklin Street, Rye Brook, N.Y. 10573.

(hereinafter designated the "Grantor")

and

THE COUNTY OF WESTCHESTER, a municipal corporation of the State of New York, having an office and place of business in the Michaelian Office Building, 148 Martine Avenue, White Plains, New York 10601

(hereinafter referred to as the "Grantee" or the "County")

WITNESSETH:

WHEREAS, Grantor is the owner of the fee title of that certain parcel of real property located at Fox Island Road, in the Village of Port Chester, County of Westchester, State of New York, as more particularly described on Exhibit "A," attached hereto and made a part hereof (the "Infrastructure Improvements Property"):

That the Grantor in consideration of the sum of One (\$1.00) Dollar lawful money of the United States, paid by the Grantee, receipt of which is hereby acknowledged, does hereby grant and release unto the Grantee, its successors and assigns forever, an easement (the "Easement") in, on, over, under and through the Infrastructure Improvements Property for the purpose of operating and accessing certain County owned public improvements, including, but not be limited to, sewer facilities (storm and sanitary), water facilities, public street improvements, off-street parking, sidewalks, lighting, appurtenant landscaping and engineering (the "Infrastructure Improvements").

The Easement granted herein is subject to the following restrictions:

The Grantor Covenants, for itself, its successors and assigns forever that no building, structure or impediment will be built or placed in, on, over, under or through the Easement.

The Grantor further covenants that neither it, nor its successors or assigns shall do anything, or allow anything to be done, which in the reasonable opinion of the Grantee would

injure, endanger or impair the Infrastructure Improvements contained within the Easement or the operation thereof.

This Easement is granted on the following terms and conditions:

The Grantee, its employees, agents and contractors, shall have the right at any time of access, ingress, egress and regress into and from the Easement for the purpose of excavating, grading, constructing, reconstructing, enlarging, repairing, monitoring and maintaining the Infrastructure Improvements without becoming or being held liable for trespass.

The Grantor acknowledges that the Infrastructure Improvements constructed in, on, over, under or through the Easement shall be owned by the County for so long as the bonds of the County (the "Bonds"), which made funds available for said Infrastructure Improvements are outstanding, pursuant to the terms of the certain inter-municipal agreement of even date herewith by and between the Grantor and the County. Upon maturity or full redemption of the aforesaid Bonds, title to the Infrastructure Improvements will vest in the Village of Port Chester, and this Indenture and the Easement granted herein shall terminate.

The Easement shall run with the land and the provisions contained herein shall be binding upon and inure to the benefit of and be enforceable by the County, its successors and assigns.

TO HAVE AND TO HOLD the Easement granted herein unto the Grantee, its successors and assigns until such time as the Bonds have matured or have been fully redeemed.

IN WITNESS WHEREOF, the Grantor has executed this instrument the day and year first above written.

**Graceland Terrace Housing
Development Fund Corporation**

By: *Brian M. Mahoney*
Name: *Brian M. Mahoney*
Title: *Pres.*

Fox Commons. LLC.

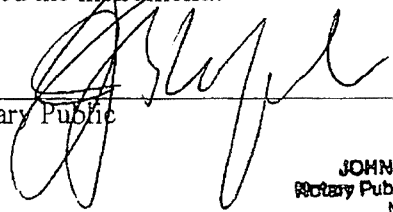
By: *Joe J. Coyne*
Name: *Joe J. Coyne*
Title: *Joe J. Coyne*

Record and Return to:
Larry Kelly Westchester County Department of Planning
148 Martine Avenue - Room 407
White Plains, NY 10601

UNIFORM ACKNOWLEDGMENT (Developer)

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

On the 25 day of July in the year 2008, before me the undersigned personally appeared Kevin Hainey personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument..



Notary Public

JOHN B. COLANGELO
Notary Public, State of New York
No. 4708504
Qualified in Westchester County
Commission Expires July 31, 192011

UNIFORM ACKNOWLEDGMENT

STATE OF NEW YORK)

ss.:

COUNTY OF WESTCHESTER)

On the 11 day of July in the year 2008, before me the undersigned personally appeared Paula Mactraher personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

JOHN B. COLANGELL
Notary Public, State of New York
No. 4708504
Qualified in Westchester County
Commission Expires 7/31/2011

EXHIBIT A

Metes and Bounds of the Developer Infrastructure Improvement Property

Proposed Emergency Access Road Easement (Alto Ave)

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being known and/or designated on the tax maps for the Town of Rye, Village of Port Chester as portion of Section 142.054, Block 2, Lot 53.

Said easement, being bounded and described as follows:

Beginning at a point on the northerly side of Alto Avenue at the southeasterly corner of Lot 14 as shown on a certain map entitled; "Lots on Grace Church Street – William Ryan" as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 8 of Maps at Page 29. Thence along the easterly side and terminus of said Alto Avenue; South 27°36'40" West, 16.66 feet to the point of beginning of the herein described; thence through the lands of "Fox Commons, LLC", South 61°09'08" East, 41.98 feet to a point of intersection with the westerly line of a proposed R.O.W./Utility/Access Easement; thence along said westerly line of a proposed R.O.W./Utility/Access Easement; South 47°06'15" West, 28.43 feet; thence continuing through the lands of "Fox Commons, LLC"; North 61°09'08" West, 32.49 feet to a point of intersection with the aforesaid easterly side and terminus of Alto Avenue; thence along said easterly side and terminus of Alto Avenue, North 27°36'40" East, 27.01 feet to the place or point of beginning.

Said easement containing an area of 1,005 sq. ft. more or less.

Proposed R.O.W./Utility/Access/Easement (Driveway and parking area)

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being known and/or designated on the tax maps for the Town of Rye, Village of Port Chester as; Section 142.055, Block 1, Lot 6; Portion of Section 142.055, Block 1, Lot 5; and Portion of Section 142.054, Block 2, Lot 53.

Said Easement, being bounded and described as follows:

Beginning at a point, being the intersection of the southerly side of Fox Island Road with the southeasterly line of lot 7 per a certain map entitled, "Subdivision Map of Lots of Samuel Glock", as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 14 of Maps, at Page 43. Thence from said point of beginning, along the southerly side of Fox Island Road, South 59°22'55" East, 52.64 feet to a point of intersection with the northwesterly line of lands of a certain map entitled, "The New York State Thruway-New England Section, Parcel 1693" as filed in the Westchester County Clerk's Office, Division of Land Records; thence along said northwesterly line of lands of "The New York State Thruway – New England Section, Parcel 1693", South 30°37'05" West, 70.00 feet to a point of intersection with the northerly line of lands of a certain map entitled, "The New York State Thruway-New England Section, Parcel 1517" as filed in the Westchester County Clerk's Office, Division of Land Records as Map 11832; thence along said northerly line of lands of "The New York State Thruway – New England Section, Parcel 1517", South 62°30'29" West, 35.33 feet to a point of intersection with the northwesterly line of lands of a certain map entitled, "The New York State Thruway-New England Section, Parcel 1698" as filed in the Westchester County Clerk's Office, Division of Land Records as Map 10743; thence along said northwesterly line of lands of "The New York State Thruway – New England Section, Parcel 1698" and continuing along the northwesterly and northerly lines of land of a certain map entitled, "The New York State Thruway-New England Section, Parcel 1692" as filed in the Westchester County Clerk's Office, Division of Land Records as Map 10688 the following courses and distances, South 39°52'05" West, 152.57 feet; and South 70°22'04" East, 36.41 feet to a point of intersection

with the northwesterly line of lands of a certain map entitled, "The New York State Thruway-New England Section, Parcel 1688", as filed in the Westchester County Clerk's Office, Division of Land Records as Map 10736; thence along the northwesterly and northerly lines of said "New York State Thruway-New England Section, parcel 1688", South 47°06'15" West, 564.84 feet; and North 69°05'30" West, 26.26 feet to the lands of now or formerly "Village of Port Chester", as conveyed by "Joseph P. Saline" per deed dated, April 30, 1956 and duly recorded in the Westchester County Clerk's Office, Division of Land Records in Liber 5578, Page 275 of Deeds; thence along the lands of now or formerly "Village of Port Chester", North 69°00'50" West, 32.98 feet to a point of intersection with the easterly line of lot 13 per a certain map entitled, "Lots on Grace Church Street – William Ryan" as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 8 of Maps, at Page 29; thence along said easterly line of lot 13, North 27°36'40" East, 0.96 feet; thence through the lands of "Fox Commons, LLC" the following courses and distances, North 47°06'15" East, 503.45 feet to a point of curvature; thence on a curve to the left, radius of 82.00 feet, central angle of 21°03'46" and length of 30.14 feet to a point of tangency; thence North 26°02'29" East, 5.24 feet to a point of curvature; thence on a curve to the right, radius of 218.00 feet, central angle of 03°35'10" and length of 13.65 feet to a point of reverse curvature; thence on a curve to the left, radius of 18.00 feet, central angle of 67°05'39" and length of 21.08 feet to a point of tangency; thence North 37°28'00" West, 0.21 feet to a point of intersection with the aforesaid southeasterly line of Lot 7 per map entitled, "Subdivision Map of Lots of Samuel Glock"; thence along said southeasterly line of lot 7, North 39°52'05" East, 249.62 feet to a point of intersection with the southerly side of Fox Island Road and point and place of beginning.

Said easement containing an area of 44,003 sq. ft. more or less.

**Proposed Utility Easement
(interior roads)**

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being known and/or designated on the tax maps for the Town of Rye, Village of Port Chester as portion of Section 142.054, Block 2, Lot 53.

Said easement, being bounded and described as follows:

Beginning at a point on the northeasterly side of Greenwood Avenue at the southerly corner of Lot 7, as shown on a certain map entitled, "The Maples" as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 59 of Maps at Page 78; thence through the lands of "Fox Commons, LLC" the following courses and distances, South 20°46'50" East, 32.38 feet; South 42°53'45" East, 46.77 feet; North 47°06'15" East, 113.37 feet; and North 42°53'45" West, 98.20 feet to a point of intersection with the aforesaid Lot 7; thence along said Lot 7, North 35°08'40" East, 40.89 feet; thence continuing through the lands of "Fox Commons, LLC" the following courses and distances, South 42°53'45" East, 113.06 feet; South 09°51'03" East, 58.72 feet to an angle point, thence south 42°53'45" East, 100.31 feet to a point of intersection with the westerly line of a proposed R.O.W./Utility/Access Easement; thence along westerly line of said R.O.W./Utility/Access Easement, South 47°06'15" West, 49.39 feet; thence continuing through the lands of "Fox Commons, LLC" the following courses and distances, North 02°08'15" East, 13.28 feet; north 42°53'45" West, 106.52 feet; South 47°06'15" West, 74.75 feet; and South 42°53'45" East, 115.91 feet to a point of intersection with westerly line of the aforesaid proposed R.O.W./Utility/Access Easement; thence along the westerly line of said R.O.W./Utility/Access Easement, South 47°06'15" west, 40.00 feet; thence continuing through the lands of "Fox Commons, LLC" the following courses and distances, North 42°53'45" West, 155.91 feet; South 47°06'15" West, 6.61 feet; North 42°53'45" west, 51.38 feet; and North 20°46'50" West, 11.61 feet to a point of intersection with the southeasterly side and terminus of aforesaid Greenwood Ave, being the northeasterly corner of Lot 12 per said map entitled, "The Maples"; thence running along the southeasterly side and terminus of Greenwood Avenue, North 23°30'40" East, 21.85 feet to an angle point; and North 35°08'40" East, a distance of 28.42 feet to the point or place of beginning.

Said easement containing an area of 23,475 sq. ft. more or less.

SCHEDULE "G-2"

THIS INDENTURE, made the 23rd day of July, 2008, by and to

VILLAGE OF PORT CHESTER, a municipal corporation of the State of New York, having an office and place of business at 222 Grace Church Street, Port Chester, New York 10573 (hereinafter designated the "Municipality" or "Grantor")

and

THE COUNTY OF WESTCHESTER, a municipal corporation of the State of New York, having an office and place of business in the Michaelian Office Building, 148 Martine Avenue, White Plains, New York 10601 (hereinafter referred to as the "Grantee" or the "County")

WITNESSETH:

WHEREAS, Grantor is the owner of the fee title of that certain parcel of real property located at Fox Island Road in the Village of Port Chester, County of Westchester, State of New York, as more particularly described on Exhibit "A," attached hereto and made a part hereof (the "Property" or "Easement Area"):

That the Grantor in consideration of the sum of One (\$1.00) Dollar lawful money of the United States, paid by the Grantee, receipt of which is hereby acknowledged, does hereby grant and release unto the Grantee, its successors and assigns forever, an easement (the "Easement") in, on, over, under and through the Property for the purpose of excavating, grading, constructing, reconstructing, enlarging, repairing, monitoring and maintaining certain public improvements (the "Infrastructure Improvements").

The Easement granted herein is subject to the following restrictions:

The Grantor covenants, for itself, its successors and assigns forever that no building, structure or impediment will be built or placed in, on, over, under or through the Easement Area. Notwithstanding the foregoing the Grantor may place smaller, non-structural] items such as landscaping improvements and benches within the easement area so long as such items do not impede use of Easement Area, including without limitation the work being performed therein.

The Grantor further covenants that neither it, nor its successors or assigns shall do anything, or allow anything to be done, which in the reasonable opinion of the Grantee would injure, endanger or impair the Improvements contained within the Easement or the operation thereof.

This Easement is granted on the following terms and conditions:

The Grantee, its employees, agents and contractors, shall have the right at any time of access, ingress, egress and regress into and from the Easement for the purpose of excavating, grading, constructing, reconstructing, enlarging, repairing, monitoring and maintaining the Improvements without becoming or being held liable for trespass.

The Grantor acknowledges that the Improvements constructed in, on, over, under or through the Easement Area shall be owned by the County for so long as the bonds of the County (the "Bonds"), which made funds available for said Infrastructure Improvements are outstanding and agrees to execute or cause to be executed any and all such documents as are necessary and appropriate to effectuate County ownership. Upon maturity or redemption of the aforesaid Bonds of the County, title to the Infrastructure Improvements, including, but not limited to Easement rights, will vest in the Grantor, and this Indenture and the Easement granted herein shall terminate.

The Easement shall run with the land and the provisions contained herein shall be binding upon and inure to the benefit of and be enforceable by the County, its successors and assigns.

TO HAVE AND TO HOLD the Easement granted herein unto the Grantee, its successors and assigns until such time as the Bonds have matured or have been fully redeemed.

IN WITNESS WHEREOF, the Grantor has executed this instrument the day and year first above written.

VILLAGE OF PORT CHESTER

By William F. Williams

Name:

Title: VILLAGE MANAGER

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

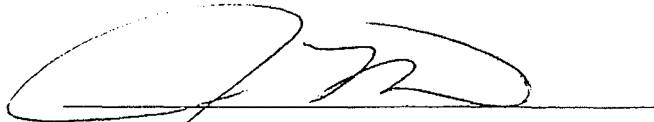
Larry Kelly
Westchester County Department of Planning
148 Martine Avenue - Room 414
White Plains, New York 10601

ACKNOWLEDGMENT (MUNICIPALITY)

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

On the 23rd day of July in the year 2008 before me, the undersigned, personally appeared William F. Williams, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Date: 7-23-08



Notary Public

JOAN M. MARINO
Notary Public, State of New York
No. 01MA5086967
Qualified in Westchester County
Commission Expires October 27, 2009

EXHIBIT "A"

Fox Island Road Municipal Infrastructure Area Easement

All that certain Municipal Infrastructure Area Easement as described herein, being situated in the Village of Port Chester, Town of Rye, County of Westchester, State of New York, more particularly; lying within Fox Island Road and other lands of the Village of Port Chester.

Said easement, being bounded and described as follows:

Beginning at a point, being the intersection of the southwesterly side of Fox Island Road with the southeasterly line of lot 7 per a certain map entitled, "Subdivision Map of Lots of Samuel Glock", as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 14 of Maps, at Page 43. Thence from said beginning point, southeasterly along the southwesterly side of Fox Island Road, South 59°22'55" East, a distance of 40.33 feet to the place or point of beginning of the herein described parcel; thence from said point of beginning thru Fox Island Road and other Lands of the Village of Port Chester, the following courses and distances,

North 54°42'00" East, 29.66 feet to an angle point;
South 59°21'28" East, 51.44 feet to an angle point;
South 55°12'14" East, 62.06 feet to an angle point;
South 65°19'37" East, 45.67 feet to an angle point;
South 32°29'06" East, 74.27 feet to an angle point;
South 42°34'16" East, 66.04 feet to an angle point;
South 47°25'44" West, 12.00 feet to an angle point;
North 42°34'16" West, 67.10 feet to an angle point;
North 32°29'06" West, 71.79 feet to an angle point;
North 65°19'37" West, 43.19 feet to an angle point;
North 55°12'14" West, 62.69 feet to an angle point;
North 59°21'28" West, 22.20 feet to an angle point;
and South 30°38'32" West, 15.07 feet to a point of intersection with said southwesterly side of Fox Island Road; Thence northwesterly along said southwesterly side of Fox Island Road, North 59°22'55" West a distance of 12.31 feet to the point or place of beginning.

Said easement containing an area of 4,169 sq. ft. more or less.

Greenwood Avenue Municipal Infrastructure Area Easement

All that certain Municipal Infrastructure Area Easement as described herein, being situated in the Village of Port Chester, Town of Rye, County of Westchester, State of New York, more particularly: lying within Greenwood Avenue.

Said easement, being bounded and described as follows:

Beginning at a point on the northeasterly side of Greenwood Avenue at the southerly corner of Lot 7, as shown on a certain map entitled, "The Maples" as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 59 of Maps at Page 78; thence along the southeasterly side and terminus of aforesaid Greenwood Ave, South 35°08'40" West a distance of 28.42 feet to an angle point; and South 23°30'40" West a distance of 21.85 feet to a point of intersection with the southwesterly side of Greenwood Ave; thence along the southwesterly side of Greenwood Avenue, North 58°42'20" West a distance of 50.00 feet to an angle point; thence through the lands of Greenwood Avenue, North 31°17'40" East a distance of 50.00 feet to a point of intersection with the aforementioned northeasterly side of Greenwood Avenue; thence along the northeasterly side of Greenwood Avenue, South 58°42'20" East a distance of 48.95 feet to the point or place of beginning.

Said easement containing an area of 2,411 sq. ft. more or less.

SCHEDULE "H"

REQUIRED DISCLOSURE OF RELATIONSHIPS TO COUNTY

(Prior to execution of a contract by the County, a potential County contractee must complete, sign and return this form to the County)

Contract Name and/or ID No.: _____
(To be filled in by County)

Name of Municipality: _____
(To be filled in by Municipality)

A.) Related Employees:

1. Are any of the employees that you will use to carry out this contract with Westchester County also an officer or employee of the County, or the spouse, or the child or dependent of such County officer or employee?

Yes _____ No

If yes, please provide details: _____

B.) Related Owners:

1. If you are the owner of the Contractor, are you or your spouse, an officer or employee of the County?

Yes _____ No _____ *N/A*

If yes, please provide details: _____

To answer the following question, the following definition of the word "interest" shall be used:

Interest means a direct or indirect pecuniary or material benefit accruing to a county officer or employee, his or her spouse, child or dependent, whether as the result of a contract with the county or otherwise. For the purpose of this chapter, a county officer or employee shall be deemed to have an "interest" in the contract of:

- i. His/her spouse, children and dependents, except a contract of employment with the county;

- ii. A firm, partnership or association of which such officer or employee is a member or employee;
- iii. A corporation of which such officer or employee is an officer, director or employee; and
- iv. A corporation of which more than five (5) percent of the outstanding capital stock is owned by any of the aforesaid parties.

2. Do any officers or employees of the County have an **interest** in the Contractor or in any subcontractor that will be used for this contract?

Yes _____ No

If yes, please provide details: _____

Authorized Official of the Municipality shall sign below and type or print information below the signature line:

William F. Williams
Name: William F. Williams
Title: VILLAGE MANAGER
Date: July 22, 2003

ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID AB
PORTC-1

DATE (MM/DD/YYYY)
07/30/08

PRODUCER Spain Agency, Inc. 625 Route 6 Mahopac NY 10541 Phone: 845-628-1700 Fax: 845-628-1804	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
	INSURERS AFFORDING COVERAGE	NAIC #
INSURED Village of Port Chester Mr. Bill Williams, Village Mgr 222 Grace Church St Port Chester NY 10573	INSURER A: NY Municipal Ins Reciprocal	
	INSURER B: Safety National Casualty Corp.	
	INSURER C:	
	INSURER D:	
	INSURER E:	


COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A		GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	MPLVPOC001	06/01/08	06/01/09	EACH OCCURRENCE	\$ 1000000
						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$
						MED EXP (Any one person)	\$
						PERSONAL & ADV INJURY	\$ 1000000
						GENERAL AGGREGATE	\$ 2000000
						PRODUCTS - COMP/OP AGG	\$ 2000000
A		AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	MPLVPOC001	06/01/08	06/01/09	COMBINED SINGLE LIMIT (Ea accident)	\$ 1000000
						BODILY INJURY (Per person)	\$
						BODILY INJURY (Per accident)	\$ 50000 DED
						PROPERTY DAMAGE (Per accident)	\$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT	\$
						OTHER THAN AUTO ONLY: EA ACC	\$
						AGG	\$
A		EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$	MPLVPOC001	06/01/08	06/01/09	EACH OCCURRENCE	\$
						AGGREGATE	\$ 1000000
							\$
							\$
							\$
B		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER	SP1D36NY	06/01/08	06/01/09	WC STATUTORY LIMITS	OTH-ER
						E.L. EACH ACCIDENT	\$
						E.L. DISEASE - EA EMPLOYEE	\$
						E.L. DISEASE - POLICY LIMIT	\$
A		Property Section	MPLVPOC001	06/01/08	06/01/09		
A		Equipment Floate	MPLVPOC001	06/01/08	06/01/09		

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Waiver of subro applies and insurance is primary per contract. Other insurna provisions does not apply as pwer contract. Ded in all policies will be assu by the muni and will not be part of this policy. Re: Fox Island

CERTIFICATE HOLDER WESTC-7 Westchester County Michaelian Office Bldg 148 Martine Avenue White Plains NY 10601	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. 
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IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

STATE OF NEW YORK
 WORKERS' COMPENSATION BOARD

CERTIFICATE OF PARTICIPATION IN WORKERS' COMPENSATION GROUP
 SELF-INSURANCE

1a. Legal Name and Address of Business Participating in Group Self-Insurance (Use Street Address Only) Village of Port Chester 222 Grace Church Street Port Chester, NY 10573	1d. Corporate Contact Name of Business referenced in box "1a" Business Telephone Number of Business referenced in box "1a" William Williams, Village Manager (914) 939 - 5200
	1e. NY8 Unemployment Insurance Employer Registration Number of Business referenced in box "1a"
	1f. Federal Employer Identification Number of Business referenced in Box "1a". 136007322
1b. Effective Date of Membership in the Group 9/1/2006	
1c. The Proprietor, Partners, or Executive Officers are <input checked="" type="checkbox"/> included (only check box if all partners/officers included) <input type="checkbox"/> all excluded or certain partners/officers excluded	
2. Name and Address of the Entity Requesting Proof of Coverage (Entity Being Listed as Certificate Holder) Westchester County 148 Martins Avenue White Plains, NY 10601 RE: Proof of Workers' Compensation Coverage, Pox Island Affordable Housing Project	3. Name and Address of Group Self-Insurer Public Employer Risk Management Association PO Box 12250 Albany, NY 12212-2250

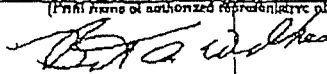
This certifies that the business referenced above in box "1a" is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law as a participating member of the Group Self-Insurer listed above in box "3" and participation in such group self-insurance is still in force. The Group Self-Insurer's Administrator will send this Certificate of Participation to the entity listed above as the certificate holder in "box 2".

The Group Self-Insurer's Administrator will notify the above certificate holder within 10 days IF the membership of the participant listed in box "1a" is terminated. (these notices may be sent by regular mail.) Otherwise, this Certificate is valid for a maximum of one year from the date certified by the group self-insurer.

If this certificate is no longer valid according to the above guidelines and the business referenced in box "1a" continues to be named on a permit, license or contract issued by the certificate holder, the business must provide the certificate holder either with a new certificate or other authorized proof of the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative of the Group Self-Insurer referenced above and that the business referenced in box "1a" has the coverage as depicted on this form.

Certified by: Brent Wilkes, President
(Print Name of authorized representative of the Group Self-Insurer)

Certified by:  7/30/2008
(Signature) (Date)

Title: President

Telephone Number: 1-888-737-6269

DEVELOPER-MUNICIPAL AGREEMENT
HOUSING IMPLEMENTATION FUND PROGRAM

THIS AGREEMENT made this 27 day of July, 2008,
by and between:

VILLAGE OF PORT CHESTER, a municipal corporation of the State of New York, having an office and place of business at 222 Grace Church St., Port Chester, New York 10573

(the "Municipality")

and

GRACELAND TERRACE HOUSING DEVELOPMENT FUND CORPORATION, a not-for-profit corporation, having an office and place of business at 211 South Ridge Street, Rye Brook, NY 10573 (the "HDFC") as nominee for **FOX COMMONS, LLC**, a limited liability corporation, having an office and place of business at 8 Hilltop Drive, Port Chester, NY 10573

(the "Developer")

WHEREAS, the County has established a Housing Implementation Fund ("HIF" or "Fund") to provide water facilities, sewer facilities, road improvements, and other public improvements (the "Infrastructure Improvements") to encourage the development of affordable housing in Westchester County (the "County"); and

WHEREAS, the Developer has committed to construct the affordable housing project (the "Development") as more fully set forth in Schedule "B," which is attached hereto and forms a part hereof, on the Affordable Housing Property, as more fully set forth in Schedule "A," which is attached hereto and forms a part hereof; and

WHEREAS, the Developer is the fee title owner of the Affordable Housing Property; and

WHEREAS, the Municipality desires construction of the Development; and

WHEREAS, the Developer is the fee title owner of the Infrastructure Improvements Property (as more fully set forth in Schedule "C," which is attached hereto and forms a part hereof); and

WHEREAS, the Municipality proposes to enter into an Intermunicipal Agreement (the "IMA") with the County, pursuant to which the Municipality will, on behalf of the County, construct the Infrastructure Improvements (as more full set forth in Schedule "D," which is attached hereto and forms a part hereof) in support of the aforementioned Development, on the Infrastructure Improvements Property; and

WHEREAS, the Developer desires construction of the Infrastructure Improvements in support of the Development, by the Municipality pursuant to the terms of the IMA; and

WHEREAS, upon completion of the Development, the Developer will transfer ownership of the Infrastructure Improvement Property to the Municipality; and,

WHEREAS, the Municipality proposes to fund the cost of the construction of the Infrastructure Improvements (as defined in Schedule "D") using the proceeds of tax exempt general obligation bonds issued by the County pursuant to the IMA; and

WHEREAS, the Developer shall grant the County an easement in the Infrastructure Improvements Property for the life of the aforementioned bonds at or prior to the execution of the IMA; and

WHEREAS, the Developer have reviewed a copy of the IMA; and

NOW THEREFORE, in consideration of the terms and conditions herein contained, the parties agree as follows:

1. **RECITALS**: The above recitals are hereby incorporated by reference into the body of this Developer-Municipal agreement (the "Agreement" and/or "DMA").

2. **INFRASTRUCTURE IMPROVEMENTS**: The Municipality agrees to construct the Infrastructure Improvements, all as more fully set forth in the IMA, which is incorporated herein by reference. Pursuant to the IMA, the Municipality shall, within thirty (30) days of the date thereof award a bid for construction of the Infrastructure Improvements. The Municipality shall require a bond covering one hundred percent (100%) of the work to be performed by the winning bidder, in form and content and issued by a surety reasonably satisfactory to the Municipality or some other instrument of guarantee acceptable to the Municipality. In no event shall the retention of a Contractor (the "Contractor") by the Municipality to perform work on the Infrastructure Improvements relieve or otherwise discharge the Municipality from its obligations under this Agreement.

In the event the lowest acceptable bid exceeds the amount of the County HIF Funds as defined in the IMA, at its option the Developer may elect to contribute said excess and, post (in cash) by the Developer with the Municipality, in escrow, prior to the awarding of the bid, the amount of said excess.

3. **AFFORDABLE HOUSING DEVELOPMENT**: The Developer agrees to construct the Development and related facilities, all as more fully set forth in Schedule "B," and to fully comply with all the conditions set forth in Schedule "B". Construction of the Project, including without limitation the Units (defined in Schedule "B"), shall be in accordance with Plans (defined in Schedule "B"), which are incorporated herein by

reference. The Developer shall report to the Municipality on its progress toward completing the Project.

The Developer shall sell and/or rent the Units as the case may be, in accordance with the Affordability Requirements (as defined in Schedule "B" and Schedule "B-1") for the 40 year Period of Affordability (as defined in Schedule "B") and pursuant to the Declaration of Restrictive Covenants (defined below).

The Developer shall comply with Chapter 298 of the Westchester County Administrative Code as applicable to the Units ("Chapter 298").

Notwithstanding anything herein contained to the contrary, should the Infrastructure Improvements and the Development, including without limitation, the Units, fail to be fully constructed within two (2) years from execution of this Agreement then the Municipality shall have the right to require repayment from the Developer of all County HIF Funds paid hereunder.

All of the terms of this Section "3" shall survive the expiration or other termination of this Agreement.

4. Declaration of Restrictive Covenants: The Developer has recorded a Declaration of Restrictive Covenant on a portion of the Affordable Housing Property known as parcel "E" with the Westchester County Clerk's office under control number 71990687. In addition, the Developer acknowledges that the County has recorded a Declaration of Restrictive Covenant on a portion of the Affordable Housing Property known as parcels "A", "B" and "D" with the Westchester County Clerk's office under control number 71990651 and that the Developer has recorded a Declaration of Restrictive Covenant on a portion of the Affordable Housing Property known as parcel "C" with the Westchester County Clerk's office under control number 71990696. The Developer further acknowledges that the combined aforementioned declarations (the

"Declaration of Restrictive Covenants") place affordability restrictions on the Affordable Housing Property and are incorporated herein by reference.

5. LIENS: The Municipality shall require that the Contractor(s) or subcontractor(s) shall not enter into any mortgage or other financing documents that place a lien on the Infrastructure Improvements (which will not be owned by the Contractor(s) or subcontractor(s)). The Municipality shall promptly pay the Contractor for work done pursuant to the terms of the IMA. County HIF Funds shall be expended solely and exclusively for the purchase of materials and performance of labor used in the construction of the Infrastructure Improvements in accordance with the IMA.

The Developer shall not enter into any mortgage or financing documents that place a lien on the Infrastructure Improvements (which will not be owned by the Developer) or conflict with or diminish the terms of the Declaration of Restrictive Covenants to be recorded against the Affordable Housing Property.

6. TAX RESTRICTIONS: a) The Bonds. The Developer acknowledges and understands that the funds available for the Infrastructure Improvements hereunder are expected to be made available from bonds of the County (the "Bonds"), which have been, or shall be, issued for the construction of the Infrastructure Improvements. The Developer further acknowledges and understands that in connection with the issuance of the Bonds, the Commissioner of Finance of the County of Westchester has or will execute an "Arbitrage and Use of Proceeds Certificate", in compliance with the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (the "Code"). The Developer agrees that it will do all acts and things, or refrain from taking action, as necessary in order to assure that interest paid on the Bonds shall not be included in gross income of the owners of the Bonds for the purpose of Federal income taxation.

b) Commencement of Construction. The Municipality expects that the construction of the Infrastructure Improvements will commence within ninety (90) days from execution of this Agreement and that the County HIF Funds made available hereunder will be expended for costs of the Infrastructure Improvements in accordance with the budget contained in Schedule "D" and the construction of the Infrastructure Improvements will proceed in accordance with said Schedule. The Municipality agrees to notify the Developer in the event of changes in the expected schedule for completion of the Infrastructure Improvements.

c) Extensions. Notwithstanding anything to the contrary contained in this Agreement, the Municipality and the Developer shall use best efforts and good faith to meet any and all time periods provided for in this Agreement and in any schedule annexed hereto in connection with any obligation of the Municipality and of the Developer. If, despite the use of best efforts and good faith, the Municipality and/or the Developer is unable to meet any stated time period, then the Municipality shall request an extension of such time period and all subsequent time periods affected thereby, subject to the consent of the County.

All of the provisions of this Section "6" shall survive the expiration or other termination of this Agreement.

7. OWNERSHIP OF INFRASTRUCTURE IMPROVEMENTS: The Developer acknowledges that the Infrastructure Improvements shall be owned by the County for so long as the Bonds are outstanding. The Developer agrees to execute or cause to be executed any and all such documents as are necessary and appropriate to effectuate County ownership. Upon maturity or redemption of the Bonds, title to the Infrastructure Improvements, and related easement rights, will vest in the Municipality.

All of the provisions of this Section "7" shall survive the expiration or other termination of this Agreement.

8. MAINTENANCE AND REPAIRS: Pursuant to the IMA, the Infrastructure Improvements shall be kept in good order and repair by the Municipality at the Municipality's sole cost and expense, and the Municipality shall make all repairs and replacements, ordinary as well as extraordinary, foreseen and unforeseen, structural or otherwise, that may be necessary or required so that at all times the Infrastructure Improvements shall be in thorough good order, condition and repair. However, notwithstanding the foregoing, the Developer, its successors and assigns, agrees, at its sole cost and expense, to adhere to the above referenced requirements as more fully set forth in Schedule "E" attached hereto.

This Section "8" shall be in effect for as long as the County owns the Infrastructure Improvements notwithstanding any other term set forth herein.

9. WARRANTIES AND GUARANTEES: The Developer expressly represents, warrants and guarantees to the Municipality that:

(a) It is duly organized and validly existing under the laws of the State of New York. The execution, delivery and performance of this Agreement are within the Developer's corporate powers, have been duly authorized by a resolution of the Developer's governing bodies and are not in contravention of the Developer's charter, bylaws or any agreement by which they are bound;

(b) the person signing this Agreement on behalf of the Developer has full authority to bind the Developer to all of the terms and conditions of this Agreement pursuant to the authority granted by the Developer's governing bodies, as noted above;

(c) the Developer is financially and technically qualified to perform its obligations hereunder, including construction of the Development;

(d) the Developer is financially capable of completing the Development;

(e) it is familiar with and will comply with all general and special Federal, State, municipal and local laws, ordinances and regulations, if any, that may in any way affect the Development;

(f) the design, supervision and workmanship furnished with respect to the construction of the Development shall be in accordance with sound and currently accepted scientific standards and best engineering practices;

(g) the developer will use its best efforts to assure and shall require in any contract documents with its Contractors and subcontractors that all materials, equipment and workmanship furnished by contractors and subcontractors of the Development in performance of the work or any portion thereof shall be free of defects in design, material and workmanship, and all such materials and equipment shall be of first-class quality, shall conform with all applicable codes, specifications, standards and ordinances and shall have service lives and maintenance characteristics suitable for their intended purposes in accordance with sound and currently accepted scientific standards and best engineering practices; and

(h) that construction of the Development shall be carried on continuously, diligently and with dispatch to final completion and that said construction shall be completed on or before two (2) years from the date of execution of this Agreement; and

(i) that is the Developer is the fee title owner of the Affordable Housing Property.

All of the provisions of this Section "9" shall survive the expiration or other termination of this Agreement.

10. INSURANCE; INDEMNIFICATION: The Developer agrees:

(a) that except for the amount, if any, of damage contributed to, caused by or resulting from the negligence of the Municipality, the Developer shall indemnify and hold harmless the Municipality, its officers, employees, agents and elected officials from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorneys' fees or loss arising directly or indirectly out of the acts or omissions hereunder by the Developer, contractors or third parties under the direction or control of the Municipality or the Developer; and

(b) to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this Agreement and to bear all other costs and expenses related thereto.

11. ENVIRONMENTAL INDEMNIFICATION: The Developer represents and warrants and guarantees to the Municipality as follows:

(a) The Developer has no knowledge of nor has it received any notice of any condition at, on, under or related to the Infrastructure Improvements Property (or ground or surface waters associated therewith) or migrating or threatening to migrate to or from the Infrastructure Improvements Property which may have a material effect on the value of the Infrastructure Improvements Property or subject the owner thereof to potential liabilities in accordance with the Environmental Requirements as defined in subsection (c) of this Section "11"; and

(b) The Developer has no knowledge nor has received any notice of any condition at, on, under or related to the Infrastructure Improvements Property (or ground or surface waters associated therewith) or migrating or threatening to migrate to or from the Infrastructure Improvements Property presently or potentially posing a significant hazard to human health or the environment; such conditions being defined as "Hazardous Materials" in subsection (c) of this Section "11"; and

(c) Definitions. For the purposes of this Agreement and this Section "11", the following definitions shall apply:

(1.) "Hazardous Materials" or "Hazardous Waste" shall mean any substance:

(i) the presence of which requires investigation or remediation under any federal, state, or local statute, regulation, ordinance, order, action, policy or common law; or

(ii) which is or becomes defined as a hazardous waste, hazardous substance, pollutant or contaminant under any federal, state or local statute, regulation, rule, or ordinance or amendments thereto including, without limitation, the United States Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 USC §9601 (14) 42 USC §9602 and any "hazardous waste" as defined in or listed under the United States Solid Waste Disposal Act, as amended, 42 USC §6901(5), 42 USC §6921; or

(iii) which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board or instrumentality of the United States, the State of New York or any political subdivision thereof; or

(iv) the presence of which, on the Infrastructure Improvements Property, causes or threatens to cause a nuisance on the Infrastructure Improvements Property or to nearby properties or poses or threatens to pose a hazard to the health and safety of persons on, about or nearby the Infrastructure Improvements Property; or

(v) the presence of which on nearby properties would constitute a trespass by the owner of the Infrastructure Improvements Property; or

(vi) without limitation which contains gasoline, diesel fuel, or other petroleum hydrocarbons; or

(vii) without limitation which contains polychlorinated biphenols (PCBs), asbestos, or urea formaldehyde foam insulation.

(2.) "Environmental Requirements" shall mean all applicable present and future statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, concessions, franchises, and similar items, of all government agencies, departments, commissions, boards, bureaus, or instrumentalities of the United States, the State of New York and the political subdivisions thereof; and all applicable judicial, administrative, and regulatory decrees, judgments, and orders relating to the protection of human health or the environment.

(d) The Developer hereby acknowledges and agrees that it shall defend and indemnify the Municipality for any "Environmental Damages" arising out of or in anyway connected with the Infrastructure Improvements Property. "Environmental Damages" shall mean all claims, damages, losses, penalties, fines, liabilities (including strict liability), encumbrances, liens, costs and expenses of investigation and defense of any, whether or not such claim is ultimately defeated, and of any good faith settlement or judgment, of whatever kind or nature, contingent or otherwise, matured or unmatured, foreseeable or unforeseeable, including without limitation reasonable attorneys' fees and disbursements and consultants' fees, any of which are incurred as the result of the existence of "Hazardous Material" or "Hazardous Waste" at, on, under or related to the Infrastructure Improvements Property (or ground or surface water associated therewith) or migrating or threatening to migrate to or from the Infrastructure Improvements Property, or the existence of a violation of "Environmental Requirements" pertaining to the Infrastructure Improvements Property, regardless of whether the existence of such "Hazardous Materials" or "Hazardous Waste" or the violation of "Environmental Requirements" arose prior to the Municipality's present ownership of the Infrastructure Improvements Property, including without limitation:

(i) damages for personal injury, or injury to property or natural resources occurring upon or off the Infrastructure Improvements Property, foreseeable or unforeseeable, including without limitation, lost profits, consequential damages, the cost of demolition or rebuilding of any improvements of real property, interest and penalties;

(ii) fees incurred for the service of attorneys, consultants, contractors or experts, laboratories and all other costs incurred in connection with the investigation or remediation of such "Hazardous Materials" or "Hazardous Waste" or violation of "Environmental Requirements" including, but not limited to, the preparation of any feasibility studies or reports or the performance of any cleanup, remediation, removal, response, abatement, containment, closure, restoration or monitoring work required by any federal, state or local governmental agency or political subdivision, or reasonably necessary to make the full use of the Infrastructure Improvements Property or any other property or otherwise expended in connection with such conditions;

(iii) liability to any third person or governmental agency to indemnify such person or agency for the costs expended in connection with the items referenced in subsection (ii) herein; and

(iv) diminution in the value of the Infrastructure Improvements Property and damages for loss of business and restriction on the use of the Infrastructure Improvements Property or any part thereof.

All of the provisions of this Section "11" shall survive the expiration or other termination of this Agreement.

12. ASSIGNMENT OF RIGHTS: Any purported delegation of duties or assignment of rights under this Agreement without the prior express written consent of the Municipality is void.

13. ENTIRE AGREEMENT; AMENDMENT: This Agreement and its attachments constitute the entire Agreement between the parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings. It shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.

14. INDEPENDENT CONTRACTOR: The status of the Developer under this Agreement shall be that of an independent contractor and not that of an agent, and in accordance with such status, the Developer, the subcontractors, and their respective officers, agents, employees, representatives and servants shall at all times during the term of this Agreement conduct themselves in a manner consistent with such status and by reason of this Agreement shall neither hold themselves out as, nor claim to be acting in the capacity of, officers, employees, agents, representatives or servants of the Municipality nor make any claim, demand or application for any right or privilege applicable to the Municipality, including without limitation, rights or privileges derived from workers' compensation coverage, unemployment insurance benefits, social security coverage and retirement membership or credit.

15. COMPLIANCE WITH APPLICABLE LAWS: The Developer shall, at its own expense, obtain all permits, approvals and consents necessary for the proper conduct of its activities in connection with this Agreement, and shall comply at its sole cost and expense with all federal, state and municipal laws, rules and regulations, ordinances and requirements affecting the conduct of Developer's activities in connection with this Agreement.



16. NOTICES: All notices of any nature, requests, approvals and other communications which may be given by either party to the other under this Agreement shall be in writing and sent by registered or certified mail postage pre-paid, or sent by hand or overnight courier or sent by facsimile (with acknowledgement received and a copy of the notice sent by overnight courier) to the respective addresses set forth below or to such other addresses as the respective parties hereto may designate in writing. Notice shall be effective on the date of receipt:

To the Municipality:

Village of Port Chester
222 Grace Church Street
Port Chester, NY 10573
Attn: Village Manager

To the Developer:

Graceland Terrace Housing Development Fund Corporation as nominee for Fox Commons, LLC
211 South Ridge Street
Rye Brook, NY 10573

17. TERM OF AGREEMENT: The term of this Agreement shall commence upon execution of this Agreement, and shall continue until ~~June~~^{July} 23, 2010, unless terminated sooner in accordance with the terms of this Agreement. 


18. NON-DISCRIMINATION: The parties agree that neither they nor any contractor, subcontractor, employee, or any other person acting on their behalf shall discriminate against or intimidate any employee or other individual on the basis of race, creed, religion, color, gender, age, national origin, ethnicity, alienage or citizenship status, disability, marital status, sexual orientation, familial status, genetic predisposition or carrier status during the term of or in connection with this Agreement, as those terms may be defined in Chapter 700 of the Laws of Westchester County.

Moreover, the IMA is subject to Section 308.01 of the Laws of Westchester County, wherein it is the goal of the County to use its best efforts to encourage, promote and increase the participation of business enterprises owned and controlled by persons of color or women in contracts and projects funded by all departments of the County. Under this DMA it is recognized and understood that this Agreement encourages the Developer to do similarly.

19. VALIDITY: If any term or provision of this Agreement is held by a court of competent jurisdiction to be invalid or void or unenforceable, the remainder of the terms and provisions of this Agreement will in no way be affected, impaired, or invalidated, and to the extent permitted by applicable law, any such term, or provision will be restricted in applicability or reformed to the minimum extent required for such to be enforceable. This provision will be interpreted and enforced to give effect to the original written intent of the parties prior to determination of such invalidity or unenforceability.

20. MATERIAL BREACH: In the event the Municipality determines that there has been a material breach by the Developer of any of the terms of this Agreement and such breach remains uncured for forty-eight (48) hours after service on the Developer of written notice thereof, the Municipality, in addition to any other right or remedy it might have, including without limitation pursuant to Section "3" to require repayment of the HIF Funds, may terminate this Agreement. Notice shall be effective on the date of receipt. Without limiting the foregoing, upon written notice to the Developer, repeated breaches by the Developer of any particular duty or obligation under this Agreement shall be

deemed a material breach of this Agreement justifying termination for cause hereunder without requirement for further opportunity to cure. Notice shall be effective on the date of receipt.

21. REQUEST FOR MODIFICATION: The parties hereby acknowledge and agree that any request by the Municipality or Developer for an extension or other modification of the terms hereof shall also be subject to approval by the County.

It is understood and acknowledged that the County's consent shall be required for amendment or assignment of this agreement. In the event of any conflict between this Agreement and the IMA, the terms and conditions of the IMA shall control and in the event the requirements of this Agreement are more restrictive than the terms of the IMA, the terms of the IMA shall not diminish the terms of this Agreement.

22. EXECUTION: This Agreement may be executed simultaneously in several identical copies, each of which shall be an original and all of which shall constitute but one and the same Agreement. This Agreement shall be construed and enforced in accordance with the laws of the State of New York.


23. NO WAIVER: Failure of the Municipality to insist, in any one or more instances, upon strict performance of any term or condition herein contained shall not be deemed a waiver or relinquishment for the future of such term or condition, but the same shall remain in full force and effect.

24. CAPTIONS. The captions are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement nor the intent of any provision thereof.


[NO FURTHER TEXT THIS PAGE]

IN WITNESS WHEREOF, the Municipality and the Developer have caused this Agreement to be executed.

Village of Port Chester

By: 
Name: William F. Williams
Title: Village manager

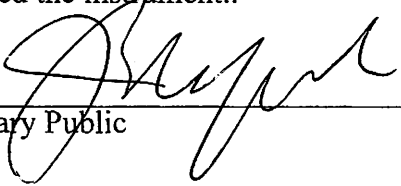
**Graceland Terrace Housing
Development Fund Corporation as
nominee for Fox Commons, LLC**

By: 
Name: Brian McWhorter
Title: Pres.

UNIFORM ACKNOWLEDGMENT (Developer)

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

On the 11 day of July in the year 2008, before me the undersigned personally appeared Brian McMahon personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument..



Notary Public

JOHN B. COLANGELO
Notary Public, State of New York
No. 4708504
Qualified in Westchester County
Commission Expires July 31, 192009

SCHEDULE "A"

The Affordable Housing Property

Parcel A

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being the same property, as conveyed by the "Socres Corporation" to the "Village of Port Chester" per deed, dated; December 17, 1958 as duly recorded in the Westchester County Clerk's Office, Division of Land Records in Liber 5874 at Page 217 of Deeds.
Said parcel, being bounded and described as follows:

Beginning at a point on the northerly side of Alto Avenue at the southeasterly corner of Lot 14 as shown on County Clerk Map Volume 8 at Page 29 of "Lots on Grace Church Street – William Ryan"; running then along the easterly boundary of said lot, North 27°36'40" East, 134.58 feet to the northerly boundary of said lot; running then along said boundary and along lot 15, North 62°14'20" West, 90.41 feet to the easterly boundary of Lot 12, as shown on County Clerk Map Volume 59 Page 78 of "The Maples"; running then along said easterly boundary and across a portion of Greenwood Avenue, North 23°30'40" East, 127.80 feet; running then across the remaining portion of the easterly end of Greenwood Avenue as shown on County Clerk Map Volume 59 Page 78 and along the Easterly boundary of lot 7 on County Clerk Map Volume 59 Page 78, North 35°08'40" East, 207.87 feet to the northerly boundary of now or formerly lands of Socres Corporation; running then along said boundary, the following courses and distances; South 77°46'34" East 56.24 feet; South 67°09'35" East, 29.62 feet; South 43°21'30" East, 41.21 feet; South 22°59'24" East, 59.74 feet; South 37°28'00" East, 90.28 feet; South 61°50'44" East, 25.17 feet; and South 70°22'04" East, 44.14 feet to the northwesterly side of the New York State Thruway-New England Section, Parcel 1688, filed as County Clerk Map 10736; running along said northwesterly side of the New York State Thruway-New England Section, parcel 1688, South 47°06'15" West, 429.24 feet to the southeasterly corner of the parcel herein and the extended northerly side of Alto Avenue; running then along said extended northerly side of Alto Avenue, North 61°04'20" West, 104.12 feet to the point or place of beginning.

Said parcel being a portion of land known and/or designated on the tax maps for the town of Rye, Village of Port Chester as Section 142.054, Block 2, Lot 53

Said parcel containing an area of 108,578 sq. ft. or 2.492 Acres

Subject to a 15' wide perpetual easement granted to the Village of Port Chester per Liber 2953, page 234 of Deeds for Sewers and Drains.

Parcel B

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being the same property designated as the; "Excluded Parcel" per deed, dated; December 17, 1958 as recorded in the Westchester County Clerk's Office, Division of Land Records in Liber 5874 at Page 217 of Deeds.

Said parcel, being bounded and described as follows:

Beginning at a point on the northerly side of Alto Avenue at the southeasterly corner of Lot 14 as shown on County Clerk Map Volume 8 at Page 29 of "Lots on Grace Church Street – William Ryan"; running then along the extended northerly side of Alto Avenue, South 61°04'20" East, 104.12 feet to the northwesterly side of the New York State Thruway – New England Section, Parcel 1688 as filed in County Clerk Map 10736; running along said northwesterly side of the New York State Thruway – New England Section, parcel 1688, South 47°06'15" West, 135.60 feet to the southeasterly corner of the parcel herein; and North 69°05'30" West, 26.26 feet to the lands now or formerly Anthony P. Saline, per Liber 10408 page 038; running then along said lands of now or formerly

Anthony P. Saline, North 69°00'50" West, 32.98 feet to Lot 13, County Clerk Volume 8 page 29, aforesaid; running then along said lot 13 and across the easterly end of Alto Avenue, North 27°36'40" East, 137.09 feet to the point or place of beginning.

Said parcel being a portion of land known and/or designated on the tax maps for the town of Rye, Village of Port Chester as Section 142.054, Block 2, Lot 53

Said parcel containing an area of 10,741 sq. ft. or 0.247 Acres

Subject to a 15' wide perpetual easement granted to the Village of Port Chester per Liber 2953, page 234 of Deeds for Sewers and Drains.

Parcel D

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being the same property designated as; Portion of Lot No. 15, as shown on a certain map entitled; "Map of Lots on Fox Island Road belonging to John O. Merritt", surveyed by J.A. Kirby, Surveyors, September 1902, as filed in the Office of the Register of Westchester County, now County Clerk's Office, Division of Land Records, on February 5, 1903, in Volume 15 of Maps at Page 43.

Said parcel, being bounded and described as follows:

Beginning at a point on the southerly side of Fox Island Road at the division line between lot 15 and Road, per County Clerk Map Volume 15 page 43; said point being distant, South 59°22'55" East, 20.26 feet along the southerly side of Fox Island Road with the intersection of the southeasterly line of lot 7 per "Subdivision of Lots of Samuel Glock", County Clerk Map Volume 14 page 43; running then from said Point of Beginning along said southerly side of Fox Island Road, South 59°22'55" East, 32.38 feet to the northwesterly side of lands of the New York State Thruway-New England Section, Parcel 1693; running then along said northwesterly side of lands of the New York State Thruway – New England Section, Parcels 1693 and 1517 the following courses and distances, South 30°37'05" West, 70.00 feet; and South 62°30'29" West, 35.33 feet to the aforesaid division line between lot 15 and Road; running then along said division line between lot 15 and Road, North 59°22'55" West, 30.00 feet; and North 39°52'05" East, 101.32 feet to aforesaid southerly side of Fox Island Road and point or place of beginning.

Said parcel being known and/or designated on the tax maps for the town of Rye, Village of Port Chester as Section 142.055, Block 1, Lot 5

Said parcel containing an area of 3,772 sq. ft. or 0.086 Acres

Parcel E

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being a portion of the same property designated as; Road, as shown on a certain map entitled; "Map of Lots on Fox Island Road belonging to John O. Merritt", surveyed by J.A. Kirby, Surveyors, September 1902, as filed in the Office of the Register of Westchester County, now County Clerk's Office, Division of Land Records, on February 5, 1903, in Volume 15 of Maps at Page 43.
Said parcel, being bounded and described as follows:

Beginning at a point on the southerly side of Fox Island Road at the southeasterly line of lot 7 per "Subdivision Map of Lots of Samuel Glock" per County Clerk Map Volume 14 page 43; running then along said southerly side of Fox Island Road, South 59°22'55" East, 20.26 feet to the division line between lot 15 and Road per said County Clerk Map Volume 15 page 43; running then along said division line between lot 15 and Road, South 39°52'05" West 101.32 feet; and South 59°22'55" East, 30.00 feet to the northwesterly side of lands of the New York State Thruway-New England Section, Parcel 1698; running then along said lands of the New York State Thruway – New England Section, Parcel 1698, South 62°30'29" West, 35.33 feet to the division line between said Road and lot 7 per aforesaid County Clerk Map Volume 15 page 43; running then along said division line between lot 7 and Road, North 59°22'55" West, 30.00

feet; and North 50°07'55" West, 20.00 feet to the aforesaid southeasterly line of lot 7 per County Clerk Map Volume 14 page 43; running then along said southeasterly line of aforesaid lot 7 per County Clerk Map Volume 14, page 43, North 39°52'05" East, 118.32 feet to aforesaid southerly side of Fox Island Road and point or place of beginning.

Said parcel containing an area of 2,999 sq. ft. or 0.069 Acres

Parcel C

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being the same property designated as; Lot No. 7, as shown on a certain map entitled; "Map of Lots on Fox Island Road belonging to John O. Merritt", surveyed by J.A. Kirby, Surveyors, September 1902, as filed in the Office of the Register of Westchester County, now County Clerk's Office, Division of Land Records, on February 5, 1903, in Volume 15 of Maps at Page 43.

Said parcel, being bounded and described as follows:

Beginning at a point on the southeasterly line of Lot 7 as shown on a certain map entitled, "Subdivision map of Lots of Samuel Glock" as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 14 page 43 of Maps at the division line between lot 7 and Road as shown on aforesaid "Map of Lots on Fox Island Road belonging to John O. Merritt", said point distant, South 39°52'05" West, 118.32 feet along said southeasterly side of lot 7 with the southerly side of Fox Island Road; running then along the division line between lot 7 and Road, South 50°07'55" East, 20.00 feet; and South 59°22'55" East, 30.00 feet to the lands of the New York State Thruway-New England Section, Parcel 1692; running then along said lands of the New York State Thruway – New England Section, Parcel 1692, South 39°52'05" West, 132.31 feet to the northerly boundary of now or formerly lands of Socres Corporation; running then along said boundary, North 70°22'04" West, 7.73 feet; and North 61°50'44" West, 25.17 feet; and North 37°28'00" West, 18.15 feet to the aforesaid southeasterly line of lot 7, per County Clerk Map Volume 14 page 43; running then along said southeasterly line of lot 7 per County Clerk Map Volume 14 page 43, North 39°52'05" East, 131.30 feet to the point or place of beginning.

Being the same plot, piece or parcel of land as conveyed by "Geraldine T. Gamble" to "Robin Terrance Gamble and Adam Milo Gamble" per deed, dated October 29, 2002 as duly recorded in the Westchester County Clerk's Office, Division of Land Records in Control No. 423310226

Said parcel containing an area of 6,637 sq. ft. or 0.152 Acres

SCHEDULE "B"

AFFORDABLE HOUSING PROJECT

A. PURPOSE

Fox Commons, LLC, a limited liability company, organized and existing under the laws of the State of New York, having an office and place of business at 505 Franklin Street, Rye Brook, N.Y. 10573 (the "Owner") and Lazz Development Co. LLC (the "Developer"), shall construct affordable housing to be known as Fox Island Homes, including a total of Thirty-five (35) units and related facilities (the "Project") on the real property located at the south side of Fox Island Road and the east side of Alto Avenue in the Village of Port Chester (the "Village"), County of Westchester and State of New York, identified on the tax map as Section 142.54, Block 2, Lot 53 and Section 142.55, Block 1, Lot 5 and 6 and Parcel E, which real property is more particularly described in Schedule "A" annexed hereto and made a part hereof, (the "Affordable Housing Property"). The Developer is the beneficial user of the Affordable Housing Property.

During the construction of the Project, the Developer shall carry out site work including, but not limited to, the following: the construction of thirty-five (35) affordable new single-family, 2 and ½ story ownership residential units (the "Work"), as more fully described in Section B below. Construction of the Project, including without limitation the Units, on the Affordable Housing Property shall be in accordance with the following plans: *Fox Island Townhouses, Village of Port Chester, Town of Rye* prepared by Ralph G. Mastromonaco, P.E., P.C., revised 2/21/07, which are incorporated herein by reference (the "Plans") and made a part hereof.

Construction shall commence in accordance with the Plans on or before the date set forth for construction commencement ("Construction Commencement") as set forth in Attachment 3 hereto. Construction shall be completed on or before the date set forth for construction completion ("Construction Completion") as set forth in Attachment 3 hereto. In order to be deemed completed, the Developer shall provide to the County of Westchester (the "County") valid appropriate certificates of occupancy for all of the Units ("Certificate(s) of Occupancy") or such other evidence of completion of the Project as may be acceptable to the County. The Developer shall report to the County on its progress towards completion of the work as the County Commissioner of Planning or his duly authorized designee (the "Commissioner") may request.

Any defined terms used herein and not defined herein shall have the meaning ascribed to them in the agreement between the County and the Developer of even date herewith pursuant to which the County agreed to sell and the Owner agreed to buy the Property, as described therein and to construct the Project on the Affordable Housing Property (the "Agreement").

Affordability Requirements

During the Period of Affordability defined below, the Units will be sold and re-sold to households with incomes at or below 80% of the area median income ("AMI") for Westchester County ("Affordability Requirements") as published by the United States Department of Housing and Urban Development ("HUD") and described in Section C set forth below. These income limits and sale price limits are subject to change based on the median income levels at the time of initial occupancy, and subsequent occupancies, as established by HUD.

The Affordability Requirements must remain in effect for a period of 40 years (the "Period of Affordability") commencing from the date of the initial sale of each Unit.

The Developer will ensure that any successor in interest to it will comply with all the provisions of this Schedule "B."

B. BUDGET

Sources and Uses of funds for the aforementioned project ("Project") are set forth below:

Construction	
Sources of Funds	Estimated Amount of Funds
New Homes Land Acquisition Funds	\$415,000
Housing Implementation Funds	\$1,032,400
HOME	\$2,200,000
Construction Loan	\$6,798,187
Deferred Developer fee	\$912,126
Total Sources	\$11,357,713
Uses	
Acquisition Costs	\$415,000
Infrastructure/site work	\$2,017,898
Construction	\$6,911,425
Soft Costs	\$682,705
Contingency	\$418,559
Deferred Developer fee	\$912,126
Total Uses	\$11,357,713

Take Out/Permanent

Sources of Funds	Estimated Amount of Funds
New Homes Land Acquisition funds	\$415,000
HOME	\$2,200,000
Housing Implementation Funds	\$1,032,400
NYS Affordable Housing Corp.	\$875,000
Sales Proceeds	\$6,835,325
Total Sources	\$11,357,725
Uses	
Construction Loan	\$6,798,187
Counseling and Soft Costs (Village) Acquisition	\$45,000
Modulars (HOME portion)	\$370,000
Infrastructure (HIF portion)	\$2,200,000
Developer Fee	\$1,032,400
	\$912,126
Total Uses	\$11,357,723

It should be noted that the foregoing total sources of funds is equivalent to the total development cost which is noted within the development budget included within Attachment "I" of this Schedule "B."

It is also understood and agreed that the County of Westchester (the "County") will be provided with plans, drawings and specifications by the Developer prior to construction, and that the County may visit the site during construction and may inspect the Project for substantial completion. The Developer agrees to make any changes necessary promptly to comply with this Schedule "B" if required as a result of the County's inspection.

The Developer is required to submit a final development budget cost certification and waiver of lien releases to the County upon completion of the proposed construction.

C. INITIAL SALE REQUIREMENTS

Allocation of Affordable Units for Sale*:

Unit Number	Bedroom size	Est. Number of Persons per Household ¹	2007 2008 Income Limit @ 80% AMI	Estimated Initial Sale Price
1	3	4	\$81,300	\$196,581
2	3	4	\$81,300	\$196,581
3	3	4	\$81,300	\$196,581
4	3	4	\$81,300	\$196,581
5	3	4	\$81,300	\$196,581
6	3	4	\$81,300	\$196,581
7	3	4	\$81,300	\$196,581
8	3	4	\$81,300	\$196,581
9	3	4	\$81,300	\$196,581
10	3	4	\$81,300	\$196,581
11	3	4	\$81,300	\$196,581
12	3	4	\$81,300	\$196,581
13	3	4	\$81,300	\$196,581
14	3	4	\$81,300	\$196,581
15	3	4	\$81,300	\$196,581
16	3	4	\$81,300	\$196,581
17	3	4	\$81,300	\$196,581
18	3	4	\$81,300	\$196,581
19	3	4	\$81,300	\$196,581
20	3	4	\$81,300	\$196,581
21	3	4	\$81,300	\$196,581
22	3	4	\$81,300	\$196,581
23	3	4	\$81,300	\$196,581
24	3	4	\$81,300	\$196,581
25	3	4	\$81,300	\$196,581

¹ Number of persons per household may be adjusted accordingly as described in Section E below. Income limits may also be adjusted according to household size, but must remain affordable to those eligible households at or below 80% of the AMI. The stated income levels are the 2006 levels as published by HUD.

Allocation of Affordable Units for Sale*: (cont'd)

Unit Number	Bedroom size	Est. Number of Persons per Household¹	2007 Income Limit @ 80% AMI	Estimated Initial Sale Price
26	3	4	\$81,300	\$196,581
27	3	4	\$81,300	\$196,581
28	3	4	\$81,300	\$196,581
29	3	4	\$81,300	\$196,581
30	3	4	\$81,300	\$196,581
31	3	4	\$81,300	\$196,581
32	3	4	\$81,300	\$196,581
33	3	4	\$81,300	\$196,581
34	3	4	\$81,300	\$196,581
35	3	4	\$81,300	\$196,581

1. Estimate is based on a family of 4. Occupancy standards are explained below

***During the Period of Affordability:**

Requirements of the HOME Investment Partnerships Act of 1990, Public Law 101-625, 42 U.S.C. 12701 et seq. (the "HOME Program" or "HOME"), and its implementing regulations, 24 CFR 92 (the "HOME Program Regulations") shall be deemed to apply to the Units. Income limits may increase or decrease year-to-year, as determined by HUD.

Prior to the initial sale of each of the Units the Developer shall obtain the written approval of the County with respect to the initial purchasers of the Units. In connection therewith the Developer shall provide documentation, acceptable to the County, verifying that the initial purchasers of the Units meet the Affordability Requirements. In addition, the County's written approval must be obtained for any initial sale in excess of the above "Estimated Initial Sale Price" (refer to Section E - Developer & Subsequent Owner Restrictions (below) and Schedule B-1, attached hereto and made a part hereof, for additional requirements). In furtherance of the foregoing, the Developer shall provide a notice to the County at least forty-five (45) days prior to the proposed closing date for any such Unit in writing to the Westchester County Commissioner of Planning, Michaelian Office Building, Room 432, 148 Martine Avenue, White Plains, New York, 10601. Said notice shall provide a date of closing for each initial proposed sale of a Unit, and provide a name, address and telephone number of an individual to contact concerning the notice which shall enumerate the purchase price and the income of each of the proposed initial purchasers of the Units. The Developer shall provide any additional documentation requested to substantiate any of the above sums, including but not limited to, income tax returns and employment verification letters for the proposed initial purchasers. It should be noted that the County shall have the right to appoint a designee ("Designee") to make any of the approvals required in this Schedule "B". Approval of any such Designee shall be deemed approval of the County.

D. SUCCESSOR PROGRAM

In the event that the HOME program ("HOME") or its successor program, is no longer in existence during the Period of Affordability, the County reserves the right to designate the housing program to be applied that corresponds to affordable housing sales prices to be paid by

the respective households falling within 80% of the AMI and to enforce the Period of Affordability.

E. DEVELOPER & SUBSEQUENT UNIT OWNER REQUIREMENTS AND RESTRICTIONS

Project Record Keeping and Monitoring

In order to carry out the federally-mandated project recordkeeping and monitoring responsibilities, the County of Westchester requires that the following activity be carried out by the Developer and that adequate records be kept to document the implementation of said activities.

- The Developer will assist the County in filling out the appropriate HUD form(s), including without limitation, the Homebuyer/Homeowner Completion Report upon sale of the Units, which shall include number of units, family size, race, ethnicity and income.
- The Developer will provide documentation satisfactory to the County that all HOME assisted units comply with all applicable local building codes and have been inspected by a qualified inspector.

The following project records will be kept by the Developer and given to Westchester County Department of Planning at the time of occupancy on all HOME units:

- Documentation of compliance with Housing Quality Standards ("HQS") and applicable local property standards.
- Documentation of household incomes and composition for households benefiting from the use of HOME funds. The project completion report may be used to satisfy this requirement.
- Documentation of the per Unit use of HOME funds.
- Documentation of compliance with all federal requirements, including without limitation, the following:
 - * Affirmative marketing procedures;
 - * Compliance with Lead-Based Paint and Davis-Bacon Requirements, as applicable;
 - * Compliance with relocation requirements, if applicable;
 - * Evidence of flood insurance, if applicable;
 - * Environmental review compliance; and
 - * Compliance with conflict of interest rule.
- Records for each family assisted through initial sales of Units, the appraised value of the property, the purchase price, and the rehabilitation costs, if any.

The County retains the right, upon reasonable notice to the Developer, to review all of Recipient's records for the purposes of establishing the Recipient's compliance with the provisions of the Agreement; and the Developer must permit the County, or the County's authorized representative, access to such records for such purposes.

The Developer has the further obligation to diligently prepare, complete and/or file any reports, forms, questionnaires or other documents which the County may request the Developer to prepare, complete and/or file for or with the County or a third party.

Developer Marketing, Homebuyer Selection, Eligibility and Education

The Developer will contract with a housing counseling agency approved by Westchester County to provide the following services:

- Conduct marketing of the homes, including affirmative fair marketing of the development;
- Homebuyer selection pursuant to the project's approved marketing plan;
- Homebuyer income eligibility and certification that the homebuyer household is eligible and qualified; and
- Homebuyer counseling and education in preparation for homeownership and mortgage readiness.

It is understood that the Village has contracted with the Housing Action Council for these services and that the Housing Action Council will provide the documentation required to comply with this requirement.

Deed Restriction

In the event of the sale or other transfer of the Affordable Housing Property or the Units prior to the expiration of the Period of Affordability, the Developer or subsequent purchaser(s) of the Affordable Housing Property or the Units shall cause or require a covenant running with the land to be inserted in the deed for each transfer in substantially the following form:

This conveyance is made subject to the obligations and the restrictions set forth in that certain Declaration of Restrictive Covenants dated July 16, 2007 (the "Declaration") recorded in the Westchester County Clerk's Office. The Declaration runs with the land and binds the property, and is enforceable against the property's owner, any subsequent purchasers and all of their respective legal representatives, executors, administrators, heirs, successors and assigns and every holder of any interest in said property, and each grantee will execute his/her deed of conveyance containing such restrictions in order to evidence his/her agreement to be bound. The Declaration shall inure to the benefit of and be enforceable by the County of Westchester until the expiration of the 40 year Period of Affordability, all as more fully set forth in said Declaration, and may not be altered or removed prior to the expiration of the Period of Affordability without the written permission of the County.

Offering Plan (If A Condominium)

The Developer shall include information with respect to the below listed items in the Project offering plan (the "Offering Plan") under the heading "County of Westchester Restrictions":

- Declaration of Restrictive Covenants, including but not limited to, the Affordability Requirements and Period of Affordability contained therein;

- Resale Requirements / Restrictions;
- Refinance Requirements / Restrictions;
- Principal Place of Residence Requirement; and
- Deed Restriction.

Unit Owners - Resale Refinancing and Recapture

In order to insure that the Units remain affordable during the Period of Affordability, owners of the Units must comply with the Westchester County Resale, Refinancing and Recapture Policy Provisions, as more fully set forth in Schedule B-1 hereto until the expiration of the Period of Affordability.

Unit Owners - Principal Place of Residence Requirement

A purchaser of a Unit (the "Owner") must occupy said Unit as their principal place of residence until sale of said Unit in compliance herewith or expiration of the Period of Affordability, whichever comes first. The County, or its Designee, shall verify this on an annual basis. Owners of the Units during the Period of Affordability shall provide the County with proof satisfactory to make this verification.

Occupancy Standards for Homeownership and Rental Units

In accordance with the definition of family promulgated by the New York State Division of Housing and Community Renewal ("DHCR"), as may be amended from time to time, a family selected to purchase or rent a Unit, as the case may be, whether by the Developer or subsequent Unit Owner, may include an individual with or without children. Such a family is defined as a group of people related by blood, marriage, adoption or affinity that lives together in a stable family relationship. (See DHCR statewide Section 8 Voucher Program, Section 8 Administrative Plan dated April 1, 2006, § 4.01). This definition should be used when determining the occupants of a Unit. Additionally, the County has adopted the below occupancy standards based on Unit size.

<u>Number of Bedrooms</u>	<u>Minimum Number of Persons Per Household</u>	<u>Maximum Number Persons Per Household</u>
0 BR	1	1
1BR	1	3
2BR	2	5
3BR	3	7

The above standards must be used to determine the family size for each unit based on the number of bedrooms. If the family receives a Section 8 subsidy, the more restrictive standard established by DHCR will be applied. These standards are also subject to local occupancy and building codes.

F. **NON-DISCRIMINATION (including Deed Restriction Requirement)**

The Units and their respective operations are subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352 42 USC 2000d-2000d4 Non discrimination in Federally Assisted Programs) and all applicable HUD regulations including, without limitation, the regulations under 24 CFR Part 1. In the event of the sale or other transfer of the Affordable Housing Property or the

Units prior to the expiration of the Period of Affordability, the Developer or subsequent purchaser of the Affordable Housing Property or the Units shall cause or require a covenant running with the land to be inserted in the deed for each transfer prohibiting discrimination upon the basis of race, color, religion, sex, national origin, or any other basis prohibited by law in the sale or in the use or occupancy of such land or any improvements erected thereon, and providing that the Developer and the United States are beneficiaries of and entitled to enforce such covenant.

It is understood and acknowledged that the County maintains a zero tolerance policy prohibiting all forms of harassment or discrimination.

G. PROPERTY STANDARDS

At the time of initial occupancy and continuing throughout the Period of Affordability, all Units must meet all applicable federal, state and local laws, rules, regulations, codes, rehabilitation standards, ordinances and zoning ordinances etc. including without limitation the Housing Quality Standards ("HQS") set forth in 24 CFR Part 92.251, 92.209(i), 200.925, 200.926, 982.401, and 3280 and all lead-based paint requirements as set forth in 24 CFR Part 35. The Developer shall ensure that, at the time of initial occupancy, all Units are in compliance with the applicable standards set forth above. Following initial sale of the Unit(s), the Owner of such Unit becomes and remains responsible for such compliance.

H. FAIR HOUSING AND AFFIRMATIVE MARKETING PLAN

The Developer must develop an Affirmative Fair Housing Marketing Plan (the "Marketing Plan") as part of their Management Plan, and submit the Marketing Plan for approval by the Westchester County Department of Planning. The Marketing Plan must promote fair housing by ensuring outreach to all potentially eligible households, especially those least likely to apply for assistance and must comply with all applicable federal, state, and local fair housing laws, rules, guidelines, regulations, etc., including but not limited to the Fair Housing Act 42 USC 360. The affirmative marketing components of the Marketing Plan must consist of actions that provide information and otherwise attract eligible persons to the project without regard to race, color, national origin, sex, religion, familial status (persons with children under 18 years of age, including pregnant women), or disability. Upon approval by the County, the Developer shall implement the Marketing Plan. The Marketing Plan may include, but is not be limited to:

- A description of the racial/ethnic make-up of the market area and identification of the segments of the eligible population, which are least likely to apply for housing without special outreach efforts.
- An outline of an outreach program, which describes special measures designed to attract those groups identified as least likely to apply and other efforts designed to attract persons from the total eligible populations. The outreach program should:

- Specify that all marketing of the affordable housing be County-wide and that all advertising be placed in sources of wide circulation;
- Specify that all marketing of assisted housing which includes HOME funds be targeted to Westchester County Urban Consortium communities and that advertising be placed in sources of circulation in consortium communities;
- Specifically state whether preferences will be used noting that preferences may be used within limits and must be approved by the County;
- Utilize media outlets and sources that serve protected classes;
- Provide and require the use of specific mailing lists of organizations whose membership or clientele consists primarily of protected class members;
- Ensure that all printed material such as brochures and flyers as well as signs must include the Fair Housing, Equal Opportunity Housing and Accessibility logos; and
- Ensure HUD's Fair Housing Poster is conspicuously displayed wherever sales/rentals and showings take place.
- A description of the indicators to be used to measure the success of the marketing program and steps to be taken if the indicators are not met.
- A statement that staff members engaged have had previous experience in marketing housing to groups identified as least likely to apply for the housing and/or describe the instructions and training provided to staff regarding Federal, State and local fair housing laws.

I. HOMEOWNER SELECTION POLICIES AND CRITERIA

Developers must adopt written homeowner selection policies and criteria and must provide the County with a copy. The homeowner selection policies should comply with all applicable federal, state and local laws, rules, regulations etc. and provide for the following:

- A clear statement of the income eligibility criteria for occupancy of the Units, including with respect to household size occupancy standard;
- A description of how income eligibility will be determined;
- Selection of homeowners from a written waiting list in chronological order of their application if applicable;
- In the event initial occupancy will be determined by lottery, the procedure for selection must be in writing and approved by Westchester County Department of Planning; and
- Prompt written notification to any rejected applicant and state the grounds for the rejection.

Subsequent owners who choose to sell their unit during the Period of Affordability, shall be encouraged to comply with the above referenced policies and criteria whenever possible and are required to comply with the standards set for in this Schedule "B," including without limitation to sell to purchasers who meet the Affordability Requirements.

J. SURVIVAL

The provisions of this Schedule B shall survive expiration or other termination of the Agreement and shall remain in effect until the expiration of the Period of Affordability.

K. ATTACHMENTS

Attachments 1 through 5, which are attached hereto and made a part hereof, as follows:

The Development Budget for the construction of the proposed development is shown in Attachment 1.

The Survey/ Site Plan for the proposed development is shown in Attachment 2.

The proposed Construction Schedule for the new construction is shown in Attachment 3

Attachment 1 to Schedule B

FOX ISLAND Development Budget				
number of units	35			
SF per unit	1660			
GBA per unit	2160			
		per unit	per SF	Total
Modular Homes		\$105,910	\$63.80	\$3,706,850
Excavation, Backfill		\$5,500	\$3.31	\$192,500
Footings & Foundation		\$14,400	\$8.67	\$504,000
Roofing, siding, exterior finish, garage doors		\$10,800	\$6.51	\$378,000
Interior – finish all carpentry, sheet rock, interior			\$0.00	\$0
Stairs		\$7,400	\$4.46	\$259,000
Plumbing, washer/dryer hook-ups		\$7,500	\$4.52	\$262,500
Electrical		\$6,200	\$3.73	\$217,000
HVAC		\$9,600	\$5.78	\$336,000
Appliances, Range/Refrigerator/Dishwasher		\$2,400	\$1.45	\$84,000
Interior/Exterior painting		\$5,200	\$3.13	\$182,000
Crane Service		\$3,400	\$2.05	\$119,000
Steel Beams		\$2,800	\$1.69	\$98,000
Install Carpet, padding, tile flooring		\$5,000	\$3.01	\$175,000
Rear Deck, railings, footing, all P/T lumber		\$4,200	\$2.53	\$147,000
Garbage Container		\$1,400	\$0.84	\$49,000
Stucco Foundation		\$3,600	\$2.17	\$126,000
Footing Drains		\$1,400	\$0.84	\$49,000
Leater & Gutters		\$1,350	\$0.81	\$47,250
Insulation in basement and garage		\$855	\$0.52	\$29,925
Finish Garage and utility room		\$8,700	\$5.24	\$304,500
Exterior Front Door (Non-modular)		\$800	\$0.48	\$28,000
Site Super and General Laborers		\$7,200	\$4.34	\$252,000
Sil Plate, sil seal		\$850	\$0.51	\$29,750
Foundation Windows		\$900	\$0.54	\$31,500
Total cost:		\$217,365	\$130.94	\$7,607,775
Non-HIF site work		\$8,257	\$4.97	\$289,000
Contingency		\$11,963	\$7.21	\$418,709
Soft Cost		\$19,506	\$11.75	\$682,705

Developer Fee		\$26,061	\$15.70	\$912,126
Sub Total		\$65,787	\$39.63	\$2,302,540
Acquisition:		\$11,857	\$7.14	\$415,000
Total Non HIF Costs		\$295,009	\$177.72	\$10,325,315
HIF Costs		quantity/units	unit price	
Silt fence: 1700LF @ \$5/LF		1700	\$4.00	\$6,800
Clearing 1 acres @ \$7,500/acre		1	\$7,500.00	\$7,500
Fill Road Area 50' X 600'		30,000	\$2.13	\$63,900
Asphalt Roads & Parking 41.440 @ \$4/SF		41,500	\$4.00	\$166,000
Concrete curbing 2511 LF @ \$18/LF		2,511	\$18.00	\$45,198
Sound Barrier: 570 LF @ \$200/LF		570	\$200.00	\$114,000
Sanitary Sewer 1400 @ \$45/LF		1400	\$45.00	\$63,000
Manholes 14 @ \$3,500		14	\$3,500.00	\$49,000
Drain Pipe 15" 1400 @ \$30/each		1400	\$30.00	\$42,000
Catch Basins 20 @ \$2,800/each		20	\$2,800.00	\$56,000
Road rock removal 100' x 45' x 20' deep		3500	\$40.00	\$140,000
Load/Truck rock 7000 CY @ \$5/CY		7000	\$5.00	\$35,000
Spread/compact 7000 CY @ \$5/CY		7000	\$5.00	\$35,000
Street connection				\$4,500
Street opening				\$4,500
Trench rock 310 CY @ \$75/CY		310	\$75.00	\$23,250
Road Retaining Walls 2,750 SF/\$37		2750	\$37.00	\$101,750
Related Engineering and soft costs				75,000
Total HIF Costs:		\$29,497	\$18	\$1,032,398
TOTAL DEVELOPMENT COSTS		\$324,506	\$195	\$11,357,713

Attachment 3 to Schedule B
Construction Schedule

Submission of Plans	February 23, 2007
Construction Start	May 1, 2008
Construction Completion	March 31, 2008

SCHEDULE "B-1"
WESTCHESTER COUNTY
RESALE, REFINANCING AND RECAPTURE
POLICY PROVISIONS APPLICABLE TO
UNIT OWNERS

HOME Program Restrictions

Unit owners must comply with the requirements of the HOME program and the Declarations of Restrictive Covenants placed upon the Units by: 1) the County, pursuant to a Declaration of Restrictive Covenants which has been recorded in the Office of the County Clerk, Division of Land Records, County of Westchester, State of New York; 2) the Graceland Terrace Housing Development Fund Corp., pursuant to a Declaration of Restrictive Covenants which has been recorded in the Office of the County Clerk, Division of Land Records, County of Westchester, State of New York; and 3) Lazz Development pursuant to a Declaration of Restrictive Covenants which has been recorded in the Office of the County Clerk, Division of Land Records, County of Westchester, State of New York, including without limitation, Schedule "B" thereto (collectively the "Declaration"). Such responsibilities shall include, but are not limited to, the requirement that the purchaser of a Unit must occupy said Unit as their principal place of residence until the earlier of the sale of said Unit in compliance herewith or the expiration of the Period of Affordability.

Should the Unit owner fail to comply with the above-referenced requirements the County has the right, pursuant to 24 CFR 92.254 (a) (5) and the County's Consolidated Plan as filed with HUD, to compel the resale of the Unit (see Declaration § 4 – Legal and Equitable Relief).

Any defined terms used herein and not defined herein shall have the meaning ascribed to them in the Agreement.

Resale

In the event that an owner of a Unit desires to sell such Unit at any time prior to the expiration of the Period of Affordability, such owner must make the Unit available for purchase to purchasers meeting the Affordability Requirements, as more fully set forth in Schedule "B" to the Declaration. The owner must obtain the written approval of the County with respect to the proposed purchaser, noting, that the occupancy standards set forth in Schedule "B" must be used to determine the family size for each unit based on its bedroom size.

The County's approval shall also be required for the maximum resale price of the Units until the expiration of the Period of Affordability ("Maximum Resale Price"). The Maximum Resale Price will equal the sum of the following: (i) the net purchase price (i.e. gross sales prices minus subsidies) paid for the Unit by the selling owner, increased by the percentage increase, if any, in the Consumer Price Index for Urban Wage Earners and Clerical Workers in the New York-Northern New Jersey Area, as published by the United States Bureau of Labor Statistics

(the "Index"), between (a) the month that was two months earlier than the date on which the seller acquired the Unit; and (b) the month that is two months earlier than the month in which the seller contracts to sell the Unit. If the bureau stops publishing this index, and fails to designate a successor index, the County will designate a substitute index; and (ii) the cost of major capital improvements made by the seller of the Unit while said seller of the Unit owned the Unit as evidenced by paid receipts depreciated on a straight line basis over a fifteen (15) year period from the date of completion and such approval shall be requested for said major capital improvement no later than the time the seller of the Unit desires to include it in the resale price. In the event of a foreclosure of a Unit, the Maximum Resale Price for a sale by the foreclosing bank/lending institution shall be calculated as above, except that the net purchase price on which the calculation shall be made shall be the net purchase price paid by the owner of the Unit against which the bank/lending institution foreclosed. Notwithstanding the foregoing, in no event shall the resale price exceed an amount affordable to a household at 80% of AMI at the time of the re-sale. Such amount shall be determined in the sole discretion of the Westchester County Department of Planning and shall be in accordance with such guidelines or rules as may be promulgated by the Housing Opportunity Commission ("HOC") the calculation of such a maximum price shall assume that the down payment is 20% of the resale price and that the sum of principle, interest, taxes and insurance ("PITI") plus applicable home owner association fees shall not exceed 30% of household income.

In the event that an owner desires to sell their Unit, the owner shall notify the County at least forty-five (45) days prior to the date of the proposed closing, in writing to the Westchester County Commissioner of Planning, Michaelian Office Building, Room 432, 148 Martine Avenue, or to the Designee's address, if provided by the County. The owner may sell, convey or transfer the Unit provided the County has given written approval in a release letter ("Release Letter") that the proposed purchaser meets the Affordability Requirements, the purchase price is less than or equal to the Maximum Resale Price for such Unit. The above notice shall provide a name, address and telephone number of an individual to contact concerning the proposed sale. The notice shall enumerate the proposed purchase price and the income of the proposed purchaser. The owner or proposed purchaser shall provide any additional documentation requested to substantiate any of the above sums, including but not limited to, income tax returns and employment verification letters for proposed purchasers. The County shall provide the Release Letter to the owner at the closing provided that a determination is made in the County's sole judgment that the owner has complied with its obligations hereunder. The Release Letter shall specify the approval of the prospective purchaser and approval of the sales price.

Refinancing

In the event that an owner of a Unit desires to refinance such Unit, including without limitation, a mortgage, home equity loan or line of credit, at any time prior to the expiration of the Period of Affordability, such owner must first obtain the written consent of the County, following review of the terms of said transaction in accordance herewith.

In the event that an owner desires to refinance their Unit, the owner shall notify the County at least forty-five (45) days prior to the date of the proposed refinancing, in writing to the Westchester County Commissioner of Planning, Michaelian Office Building, Room 432, 148 Martine Avenue, or to the Designee's address, if provided by the County. Said notice shall

include the name, address and telephone number of an individual to contact concerning the proposed refinancing. The notice shall include the pertinent transaction details. The owner shall provide any additional documentation requested as may be requested by the County. The County shall have sole discretion to approve or disapprove of any such request, noting that the following criteria may be considered:

- The amount refinanced must be limited to outstanding principal on the mortgage plus reasonable closing costs and the resulting payments must increase affordability (i.e., the interest rate should be lower than the rate on the existing mortgage).
- The amount refinanced may increase above the outstanding principal amount only if: (i) the additional funds are being used to make capital improvements to the home, as permitted under local building code, and having received any necessary approvals, including without limitation by the condominium or coop board, if any and by Westchester County; or (ii) funds are needed for good cause shown, such as education costs for the primary owner to gain improved employment opportunities.
- In no case may the refinancing total amount exceed the restricted resale price, calculated at the time of application.
- The total amount should not exceed the Loan to Value ratio required by the lender, but in no case can it exceed 100% of the appraised value of the affordable Unit if this value is less than the restricted resale price.

In no case may the refinancing total amount exceed the Maximum Resale Price, calculated at the time of application.

Westchester County HIF Recapture Provisions²
Applicable

Check Box if

X

Units having received an HIF subsidy must comply with the provisions of Chapter 298 of the Westchester County Administrative Code. Pursuant to Chapter 298, in the event that an affordable Unit is sold by the initial owner ("Initial Owner") within five (5) years of purchase by the Initial Owner such Initial Owner shall pay an HIF recapture amount (the "HIF Recapture Amount") to the County in the amount of the pro rata share of the cost of the County's HIF improvement related to such Unit plus fifteen (15%) percent of the appreciated value of the Unit based on the initial purchase price and the sale price. The pro rata share for any particular Unit is available upon written request to the Westchester County Department of Planning. In the event that a Unit is sold by the Initial Owner during the succeeding five (5) years after the end of the five (5) year period, the Initial Owner shall pay to the County an amount which constitutes the pro rata share of the cost of the County improvement related to such Unit reduced by twenty (20%) percent for each year the Unit is owned during such period. Such payment in such

² This section applies only to Units subsidized with Westchester County Housing Implementation Funds ("HIF").

subsequent five (5) year period shall not include any of the appreciated value of the Unit. In the event that a Unit is sold prior to the expiration of the above ten (10) year period ("HIF Recapture Period"), and upon application to and approval in the County sole discretion, an Initial Owner shall not be assessed the HIF Recapture Amount if the County so determines that such payment would result in undue hardship ("HIF Waiver").

In the event that an Initial Owner of an HIF financed Unit desires to sell their Unit prior to the expiration of the HIF Recapture Period, in addition to such owner's obligation to notify the County pursuant to the above Resale section, such notice shall include a request that the County calculate the HIF Recapture Amount due. The Initial Owner may request an HIF Waiver in writing, which request shall set forth any additional information necessary or advisable for County consideration. If an HIF Waiver has not been granted the Initial Owner shall be responsible to provide the County with a bank or certified check payable to the County of Westchester County at or prior to the closing in such amount. The County will not issue the Release Letter until such HIF Recapture Amount has been paid. In the event that in the County's judgment, the Initial Owner has satisfied his, her or their obligation under Chapter 298, the County shall specify such compliance in the Release Letter.

SCHEDULE "C"

Infrastructure Improvement Property Description

Proposed Emergency Access Road Easement (Alto Ave)

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being known and/or designated on the tax maps for the Town of Rye, Village of Port Chester as portion of Section 142.054, Block 2, Lot 53.

Said easement, being bounded and described as follows:

Beginning at a point on the northerly side of Alto Avenue at the southeasterly corner of Lot 14 as shown on a certain map entitled; "Lots on Grace Church Street – William Ryan" as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 8 of Maps at Page 29. Thence along the easterly side and terminus of said Alto Avenue; South 27°36'40" West, 16.66 feet to the point of beginning of the herein described; thence through the lands of "Fox Commons, LLC", South 61°09'08" East, 41.98 feet to a point of intersection with the westerly line of a proposed R.O.W./Utility/Access Easement; thence along said westerly line of a proposed R.O.W./Utility/Access Easement; South 47°06'15" West, 28.43 feet; thence continuing through the lands of "Fox Commons, LLC"; North 61°09'08" West, 32.49 feet to a point of intersection with the aforesaid easterly side and terminus of Alto Avenue; thence along said easterly side and terminus of Alto Avenue, North 27°36'40" East, 27.01 feet to the place or point of beginning.

Said easement containing an area of 1,005 sq. ft. more or less.

Proposed R.O.W./Utility/Access/Easement (Driveway and parking area)

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being known and/or designated on the tax maps for the Town of Rye, Village of Port Chester as; Section 142.055, Block 1, Lot 6; Portion of Section 142.055, Block 1, Lot 5; and Portion of Section 142.054, Block 2, Lot 53.

Said Easement, being bounded and described as follows:

Beginning at a point, being the intersection of the southerly side of Fox Island Road with the southeasterly line of lot 7 per a certain map entitled, "Subdivision Map of Lots of Samuel Glock", as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 14 of Maps, at Page 43. Thence from said point of beginning, along the southerly side of Fox Island Road, South 59°22'55" East, 52.64 feet to a point of intersection with the northwesterly line of lands of a certain map entitled, "The New York State Thruway-New England Section, Parcel 1693" as filed in the Westchester County Clerk's Office, Division of Land Records; thence along said northwesterly line of lands of "The New York State Thruway – New England Section, Parcel 1693", South 30°37'05" West, 70.00 feet to a point of intersection with the northerly line of lands of a certain map entitled, "The New York State Thruway-New England Section, Parcel 1517" as filed in the Westchester County Clerk's Office, Division of Land Records as Map 11832; thence along said northerly line of lands of "The New York State Thruway – New England Section, Parcel 1517", South 62°30'29" West, 35.33 feet to a point of intersection with the northwesterly line of lands of a certain map entitled, "The New York State Thruway-New England Section, Parcel 1698" as filed in the Westchester County Clerk's Office, Division of Land Records as Map 10743; thence along said northwesterly line of lands of "The New York State Thruway –

New England Section, Parcel 1698” and continuing along the northwesterly and northerly lines of land of a certain map entitled, “The New York State Thruway-New England Section, Parcel 1692” as filed in the Westchester County Clerk’s Office, Division of Land Records as Map 10688 the following courses and distances, South 39°52’05” West, 152.57 feet; and South 70°22’04” East, 36.41 feet to a point of intersection with the northwesterly line of lands of a certain map entitled, “The New York State Thruway-New England Section, Parcel 1688”, as filed in the Westchester County Clerk’s Office, Division of Land Records as Map 10736; thence along the northwesterly and northerly lines of said “New York State Thruway-New England Section, parcel 1688”, South 47°06’15” West, 564.84 feet; and North 69°05’30” West, 26.26 feet to the lands of now or formerly “Village of Port Chester”, as conveyed by “Joseph P. Saline” per deed dated, April 30, 1956 and duly recorded in the Westchester County Clerk’s Office, Division of Land Records in Liber 5578, Page 275 of Deeds; thence along the lands of now or formerly “Village of Port Chester”, North 69°00’50” West, 32.98 feet to a point of intersection with the easterly line of lot 13 per a certain map entitled, “Lots on Grace Church Street – William Ryan” as filed in the Westchester County Clerk’s Office, Division of Land Records in Volume 8 of Maps, at Page 29; thence along said easterly line of lot 13, North 27°36’40” East, 0.96 feet; thence through the lands of “Fox Commons, LLC” the following courses and distances, North 47°06’15” East, 503.45 feet to a point of curvature; thence on a curve to the left, radius of 82.00 feet, central angle of 21°03’46” and length of 30.14 feet to a point of tangency; thence North 26°02’29” East, 5.24 feet to a point of curvature; thence on a curve to the right, radius of 218.00 feet, central angle of 03°35’10” and length of 13.65 feet to a point of reverse curvature; thence on a curve to the left, radius of 18.00 feet, central angle of 67°05’39” and length of 21.08 feet to a point of tangency; thence North 37°28’00” West, 0.21 feet to a point of intersection with the aforesaid southeasterly line of Lot 7 per map entitled, “Subdivision Map of Lots of Samuel Glock”; thence along said southeasterly line of lot 7, North 39°52’05” East, 249.62 feet to a point of intersection with the southerly side of Fox Island Road and point and place of beginning.

Said easement containing an area of 44,003 sq. ft. more or less.

**Proposed Utility Easement
(interior roads)**

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being known and/or designated on the tax maps for the Town of Rye, Village of Port Chester as portion of Section 142.054, Block 2, Lot 53.

Said easement, being bounded and described as follows:

Beginning at a point on the northeasterly side of Greenwood Avenue at the southerly corner of Lot 7, as shown on a certain map entitled, “The Maples” as filed in the Westchester County Clerk’s Office, Division of Land Records in Volume 59 of Maps at Page 78; thence through the lands of “Fox Commons, LLC” the following courses and distances, South 20°46’50” East, 32.38 feet; South 42°53’45” East, 46.77 feet; North 47°06’15” East, 113.37 feet; and North 42°53’45” West, 98.20 feet to a point of intersection with the aforesaid Lot 7; thence along said Lot 7, North 35°08’40” East, 40.89 feet; thence continuing through the lands of “Fox Commons, LLC” the following courses and distances, South 42°53’45” East, 113.06 feet; South 09°51’03” East, 58.72 feet to an angle point, thence south 42°53’45” East, 100.31 feet to a point of intersection with the westerly line of a proposed R.O.W./Utility/Access Easement; thence along westerly line of said R.O.W./Utility/Access Easement, South 47°06’15” West, 49.39 feet; thence continuing through the lands of “Fox Commons, LLC” the following courses and distances, North 02°08’15” East, 13.28 feet; north 42°53’45” West, 106.52 feet; South 47°06’15” West, 74.75 feet; and South 42°53’45” East, 115.91 feet to a point of intersection with westerly line of the aforesaid proposed R.O.W./Utility/Access Easement; thence along the westerly line of said R.O.W./Utility/Access Easement, South 47°06’15” west, 40.00 feet; thence continuing through the lands of “Fox Commons, LLC” the following courses and distances, North 42°53’45” West, 155.91 feet; South 47°06’15” West, 6.61 feet; North 42°53’45” west, 51.38 feet; and North 20°46’50” West, 11.61 feet to a point of intersection with the southeasterly side and terminus of aforesaid Greenwood Ave, being the northeasterly corner of Lot 12 per said map entitled, “The Maples”; thence running along the southeasterly side and terminus of Greenwood Avenue, North 23°30’40” East, 21.85 feet to an angle point; and North 35°08’40” East, a distance of 28.42 feet to the point or place of beginning.

Said easement containing an area of 23,475 sq. ft. more or less.

Proposed, Fox Island Road Offsite Easement

All that certain Municipal Infrastructure Area Easement as described herein, being situated in the Village of Port Chester, Town of Rye, County of Westchester, State of New York, more particularly; lying within Fox Island Road and other lands of the Village of Port Chester.

Said easement, being bounded and described as follows:

Beginning at a point, being the intersection of the southwesterly side of Fox Island Road with the southeasterly line of lot 7 per a certain map entitled, "Subdivision Map of Lots of Samuel Glock", as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 14 of Maps, at Page 43. Thence from said beginning point, southeasterly along the southwesterly side of Fox Island Road, South 59°22'55" East, a distance of 40.33 feet to the place or point of beginning of the herein described parcel; thence from said point of beginning thru Fox Island Road and other Lands of the Village of Port Chester, the following courses and distances,

- North 54°42'00" East, 29.66 feet to an angle point;
- South 59°21'28" East, 51.44 feet to an angle point;
- South 55°12'14" East, 62.06 feet to an angle point;
- South 65°19'37" East, 45.67 feet to an angle point;
- South 32°29'06" East, 74.27 feet to an angle point;
- South 42°34'16" East, 66.04 feet to an angle point;
- South 47°25'44" West, 12.00 feet to an angle point;
- North 42°34'16" West, 67.10 feet to an angle point;
- North 32°29'06" West, 71.79 feet to an angle point;
- North 65°19'37" West, 43.19 feet to an angle point;
- North 55°12'14" West, 62.69 feet to and angle point;
- North 59°21'28" West, 22.20 feet to an angle point;
- and South 30°38'32" West, 15.07 feet to a point of intersection with said

southwesterly side of Fox Island Road; Thence northwesterly along said southwesterly side of Fox Island Road, North 59°22'55" West a distance of 12.31 feet to the point or place of beginning.

Said easement containing an area of 4,169 sq. ft. more or less.

**Proposed, Greenwood Avenue
Offsite Easement**

All that certain Municipal Infrastructure Area Easement as described herein, being situated in the Village of Port Chester, Town of Rye, County of Westchester, State of New York, more particularly: lying within Greenwood Avenue.

Said easement, being bounded and described as follows:

Beginning at a point on the northeasterly side of Greenwood Avenue at the southerly corner of Lot 7, as shown on a certain map entitled, "The Maples" as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 59 of Maps at Page 78; thence along the southeasterly side and terminus of aforesaid Greenwood Ave, South 35°08'40" West a distance of 28.42 feet to an angle point; and South 23°30'40" West a distance of 21.85 feet to a point of intersection with the southwesterly side of Greenwood Ave; thence along the southwesterly side of Greenwood Avenue, North 58°42'20" West a distance of 50.00 feet to an angle point; thence through the lands of Greenwood Avenue, North 31°17'40" East a distance of 50.00 feet to a point of intersection with the aforementioned northeasterly side of Greenwood Avenue; thence along the northeasterly side of Greenwood Avenue, South 58°42'20" East a distance of 48.95 feet to the point or place of beginning.

Said easement containing an area of 2,411 sq. ft. more or less.

SCHEDULE "C-1"

Developer Infrastructure Improvement Property Description

Proposed Emergency Access Road Easement (Alto Ave)

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being known and/or designated on the tax maps for the Town of Rye, Village of Port Chester as portion of Section 142.054, Block 2, Lot 53.

Said easement, being bounded and described as follows:

Beginning at a point on the northerly side of Alto Avenue at the southeasterly corner of Lot 14 as shown on a certain map entitled; "Lots on Grace Church Street – William Ryan" as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 8 of Maps at Page 29. Thence along the easterly side and terminus of said Alto Avenue; South 27°36'40" West, 16.66 feet to the point of beginning of the herein described; thence through the lands of "Fox Commons, LLC", South 61°09'08" East, 41.98 feet to a point of intersection with the westerly line of a proposed R.O.W./Utility/Access Easement; thence along said westerly line of a proposed R.O.W./Utility/Access Easement; South 47°06'15" West, 28.43 feet; thence continuing through the lands of "Fox Commons, LLC"; North 61°09'08" West, 32.49 feet to a point of intersection with the aforesaid easterly side and terminus of Alto Avenue; thence along said easterly side and terminus of Alto Avenue, North 27°36'40" East, 27.01 feet to the place or point of beginning.

Said easement containing an area of 1,005 sq. ft. more or less.

Proposed R.O.W./Utility/Access/Easement (Driveway and parking area)

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being known and/or designated on the tax maps for the Town of Rye, Village of Port Chester as; Section 142.055, Block 1, Lot 6; Portion of Section 142.055, Block 1, Lot 5; and Portion of Section 142.054, Block 2, Lot 53.

Said Easement, being bounded and described as follows:

Beginning at a point, being the intersection of the southerly side of Fox Island Road with the southeasterly line of lot 7 per a certain map entitled, "Subdivision Map of Lots of Samuel Glock", as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 14 of Maps, at Page 43. Thence from said point of beginning, along the southerly side of Fox Island Road, South 59°22'55" East, 52.64 feet to a point of intersection with the northwesterly line of lands of a certain map entitled, "The New York State Thruway-New England Section, Parcel 1693" as filed in the Westchester County Clerk's Office, Division of Land Records; thence along said northwesterly line of lands of "The New York State Thruway – New England Section, Parcel 1693", South 30°37'05" West, 70.00 feet to a point of intersection with the northerly line of lands of a certain map entitled, "The New York State Thruway-New England Section, Parcel 1517" as filed in the Westchester County Clerk's Office, Division of Land Records as Map 11832; thence along said northerly line of lands of "The New York State Thruway – New England Section, Parcel 1517", South 62°30'29" West, 35.33 feet to a point of intersection with the northwesterly line of lands of a certain map entitled, "The New York State Thruway-New England Section, Parcel 1698" as filed in the Westchester County Clerk's Office, Division of Land Records as Map 10743; thence along said northwesterly line of lands of "The New York State Thruway – New England Section, Parcel 1698" and continuing along the northwesterly and northerly lines of land of a

certain map entitled, "The New York State Thruway-New England Section, Parcel 1692" as filed in the Westchester County Clerk's Office, Division of Land Records as Map 10688 the following courses and distances, South 39°52'05" West, 152.57 feet; and South 70°22'04" East, 36.41 feet to a point of intersection with the northwesterly line of lands of a certain map entitled, "The New York State Thruway-New England Section, Parcel 1688", as filed in the Westchester County Clerk's Office, Division of Land Records as Map 10736; thence along the northwesterly and northerly lines of said "New York State Thruway-New England Section, parcel 1688", South 47°06'15" West, 564.84 feet; and North 69°05'30" West, 26.26 feet to the lands of now or formerly "Village of Port Chester", as conveyed by "Joseph P. Saline" per deed dated, April 30, 1956 and duly recorded in the Westchester County Clerk's Office, Division of Land Records in Liber 5578, Page 275 of Deeds; thence along the lands of now or formerly "Village of Port Chester", North 69°00'50" West, 32.98 feet to a point of intersection with the easterly line of lot 13 per a certain map entitled, "Lots on Grace Church Street – William Ryan" as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 8 of Maps, at Page 29; thence along said easterly line of lot 13, North 27°36'40" East, 0.96 feet; thence through the lands of "Fox Commons, LLC" the following courses and distances, North 47°06'15" East, 503.45 feet to a point of curvature; thence on a curve to the left, radius of 82.00 feet, central angle of 21°03'46" and length of 30.14 feet to a point of tangency; thence North 26°02'29" East, 5.24 feet to a point of curvature; thence on a curve to the right, radius of 218.00 feet, central angle of 03°35'10" and length of 13.65 feet to a point of reverse curvature; thence on a curve to the left, radius of 18.00 feet, central angle of 67°05'39" and length of 21.08 feet to a point of tangency; thence North 37°28'00" West, 0.21 feet to a point of intersection with the aforesaid southeasterly line of Lot 7 per map entitled, "Subdivision Map of Lots of Samuel Glock"; thence along said southeasterly line of lot 7, North 39°52'05" East, 249.62 feet to a point of intersection with the southerly side of Fox Island Road and point and place of beginning.

Said easement containing an area of 44,003 sq. ft. more or less.

Proposed Utility Easement
(interior roads)

All that certain plot, piece or parcel of land, situate, lying and being in the Village of Port Chester, Town of Rye, County of Westchester and State of New York, being known and/or designated on the tax maps for the Town of Rye, Village of Port Chester as portion of Section 142.054, Block 2, Lot 53.

Said easement, being bounded and described as follows:

Beginning at a point on the northeasterly side of Greenwood Avenue at the southerly corner of Lot 7, as shown on a certain map entitled, "The Maples" as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 59 of Maps at Page 78; thence through the lands of "Fox Commons, LLC" the following courses and distances, South 20°46'50" East, 32.38 feet; South 42°53'45" East, 46.77 feet; North 47°06'15" East, 113.37 feet; and North 42°53'45" West, 98.20 feet to a point of intersection with the aforesaid Lot 7; thence along said Lot 7, North 35°08'40" East, 40.89 feet; thence continuing through the lands of "Fox Commons, LLC" the following courses and distances, South 42°53'45" East, 113.06 feet; South 09°51'03" East, 58.72 feet to an angle point, thence south 42°53'45" East, 100.31 feet to a point of intersection with the westerly line of a proposed R.O.W./Utility/Access Easement; thence along westerly line of said R.O.W./Utility/Access Easement, South 47°06'15" West, 49.39 feet; thence continuing through the lands of "Fox Commons, LLC" the following courses and distances, North 02°08'15" East, 13.28 feet; north 42°53'45" West, 106.52 feet; South 47°06'15" West, 74.75 feet; and South 42°53'45" East, 115.91 feet to a point of intersection with westerly line of the aforesaid proposed R.O.W./Utility/Access Easement; thence along the westerly line of said R.O.W./Utility/Access Easement, South 47°06'15" west, 40.00 feet; thence continuing through the lands of "Fox Commons, LLC" the following courses and distances, North 42°53'45" West, 155.91 feet; South 47°06'15" West, 6.61 feet; North 42°53'45" west, 51.38 feet; and North 20°46'50" West, 11.61 feet to a point of intersection with the southeasterly side and terminus of aforesaid Greenwood Ave, being the northeasterly corner of Lot 12 per said map entitled, "The Maples"; thence running along the southeasterly side and terminus of Greenwood Avenue, North 23°30'40" East, 21.85 feet to an angle point; and North 35°08'40" East, a distance of 28.42 feet to the point or place of beginning.

Said easement containing an area of 23,475 sq. ft. more or less.

SCHEDULE "C-2"

Municipal Infrastructure Improvement Property Description

Fox Island Road Municipal Infrastructure Area Easement

All that certain Municipal Infrastructure Area Easement as described herein, being situated in the Village of Port Chester, Town of Rye, County of Westchester, State of New York, more particularly; lying within Fox Island Road and other lands of the Village of Port Chester.

Said easement, being bounded and described as follows:

Beginning at a point, being the intersection of the southwesterly side of Fox Island Road with the southeasterly line of lot 7 per a certain map entitled, "Subdivision Map of Lots of Samuel Glock", as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 14 of Maps, at Page 43. Thence from said beginning point, southeasterly along the southwesterly side of Fox Island Road, South 59°22'55" East, a distance of 40.33 feet to the place or point of beginning of the herein described parcel; thence from said point of beginning thru Fox Island Road and other Lands of the Village of Port Chester, the following courses and distances,

North 54°42'00" East, 29.66 feet to an angle point;

South 59°21'28" East, 51.44 feet to an angle point;

South 55°12'14" East, 62.06 feet to an angle point;

South 65°19'37" East, 45.67 feet to an angle point;

South 32°29'06" East, 74.27 feet to an angle point;

South 42°34'16" East, 66.04 feet to an angle point;

South 47°25'44" West, 12.00 feet to an angle point;

North 42°34'16" West, 67.10 feet to an angle point;

North 32°29'06" West, 71.79 feet to an angle point;

North 65°19'37" West, 43.19 feet to an angle point;

North 55°12'14" West, 62.69 feet to an angle point;

North 59°21'28" West, 22.20 feet to an angle point;

and South 30°38'32" West, 15.07 feet to a point of intersection with said southwesterly side of Fox Island Road; Thence northwesterly along said southwesterly side of Fox Island Road, North 59°22'55" West a distance of 12.31 feet to the point or place of beginning.

Said easement containing an area of 4,169 sq. ft. more or less.

Greenwood Avenue Municipal Infrastructure Area Easement

All that certain Municipal Infrastructure Area Easement as described herein, being situated in the Village of Port Chester, Town of Rye, County of Westchester, State of New York, more particularly: lying within Greenwood Avenue.

Said easement, being bounded and described as follows:

Beginning at a point on the northeasterly side of Greenwood Avenue at the southerly corner of Lot 7, as shown on a certain map entitled, "The Maples" as filed in the Westchester County Clerk's Office, Division of Land Records in Volume 59 of Maps at Page 78; thence along the southeasterly side and terminus of aforesaid Greenwood Ave, South 35°08'40" West a distance of 28.42 feet to an angle point; and South 23°30'40" West a distance of 21.85 feet to a point of intersection with the southwesterly side of Greenwood Ave; thence along the southwesterly side of Greenwood Avenue, North 58°42'20" West a distance of 50.00 feet to an angle point; thence through the lands of Greenwood Avenue, North 31°17'40" East a distance of 50.00 feet to a point of intersection with the aforementioned northeasterly side of Greenwood Avenue; thence along the northeasterly side of Greenwood Avenue, South 58°42'20" East a distance of 48.95 feet to the point or place of beginning.

Said easement containing an area of 2,411 sq. ft. more or less.

Description

SCHEDULE "D"

INFRASTRUCTURE IMPROVEMENTS PROJECT

A. SCOPE OF SERVICES

The infrastructure improvements include, but are not limited to, the construction of a retaining wall, access road, sound barrier, sewer, water and storm drainage, curbs, paving, lighting, grading, engineering and related costs (the "Infrastructure Improvements"). The Infrastructure Improvements shall be constructed in accordance with the following plans: Fox Island Townhouses, Village of Port Chester, Town of Rye prepared by Ralph G. Mastromonaco, P.E., P.C., revised 2/21/07 (the "Plans").

B. PAYMENT

The Municipality shall apply to the County of Westchester for progress payments for expenses incurred in constructing the Infrastructure Improvements associated with the construction of 35 units of affordable housing in the Village of Port Chester, in an amount not to exceed \$1,032,400, as set forth pursuant to the below Budget. All quantities are approximate, and the total amount shall not be exceeded.

It is understood that the County's Division of Housing and Community Development may visit the site during construction and will inspect and approve the project for substantial completion and that the County shall be permitted such access.

C. BUDGET (County HIF Funds):

All quantities are approximate, and the total amount shall not be exceeded).

HIF Costs	quantity/units	unit price		
Silt fence: 1700LF @ \$5/LF	1700	\$4.00		\$6,800
Clearing 1 acres @ \$7,500/acre	1	\$7,500.00		\$7,500
Fill Road Area 50' X 600'	30,000	\$2.13		\$63,900
Asphalt Roads & Parking 41,440 @ \$4/SF	41,500	\$4.00		\$166,000
Concrete curbing 2511 LF @ \$18/LF	2,511	\$18.00		\$45,198
Sound Barrier: 570 LF @ \$200/LF	570	\$200.00		\$114,000
Sanitary Sewer 1400 @ \$45/LF	1400	\$45.00		\$63,000
Manholes 14 @ \$3,500	14	\$3,500.00		\$49,000
Drain Pipe 15" 1400 @ \$30/each	1400	\$30.00		\$42,000
Catch Basins 20 @ \$2,800/each	20	\$2,800.00		\$56,000
Road rock removal 100' x 45' x 20' deep	3500	\$40.00		\$140,000

Load/Truck rock 7000 CY @ \$5/CY	7000	\$5.00		\$35,000
Spread/compact 7000 CY @ \$5/CY	7000	\$5.00		\$35,000
Street connection				\$4,500
Street opening				\$4,500
Trench rock 310 CY @ \$75/CY	310	\$75.00		\$23,250
Road Retaining Walls 2,750 SF/\$37	2750	\$37.00		\$101,750
Related Engineering and soft costs				75,000
Total HIF amount not to be exceeded:	\$29,497	\$18	\$14	\$1,032,400

The Developer is responsible for funding the costs of construction of the Infrastructure Improvements not funded through the County HIF Funds.

D. CONSTRUCTION SCHEDULE FOR INFRASTRUCTURE IMPROVEMENTS

Date for Submission of Plans	5/08
Commencement Date for Construction of Infrastructure Improvements	8/08
Completion Date for Infrastructure Improvements	3/10

SCHEDULE "E"

ADDITIONAL DEVELOPER PROJECT RESPONSIBILITIES

Insurance

1. Prior to commencing work, the Developer shall obtain at its own cost and expense the required insurance from insurance companies licensed in the State of New York, carrying a Best's financial rating of A or better, and shall provide evidence of such insurance to the Village of Port Chester. The policies or certificates thereof shall provide that thirty days prior to cancellation or material change in the policy, notices of same shall be given to the Village of Port Chester by registered mail, return receipt requested, for all of the following stated insurance policies. All notices shall name the Developer and identify the Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the Village, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Village, the Developer shall upon notice to that effect from the Village, promptly obtain a new policy, submit the same to the Village for approval and submit a certificate thereof. Upon failure of the Developer to furnish, deliver and maintain such insurance, the Agreement, at the election of the Village, may be declared suspended, discontinued or terminated. Failure of the Developer to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Developer from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Developer concerning indemnification. All property losses shall be made payable to and adjusted with the Village.

In the event that claims, for which the Village may be liable, in excess of the insured amounts provided herein are filed by reason of any operations under the Agreement, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Developer until such time as the Developer shall furnish such additional security covering such claims in form satisfactory to the County of Westchester.

2. The Developer shall provide proof of the following coverage:
 - (a) Workers' Compensation. Certificate form C-105.2 (9/07) or State Fund Insurance Company form U-26.3 is required for proof of compliance with the New York State Workers' Compensation Law. State Workers' Compensation Board form DB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be "All locations in Westchester County, New York".

If the Developer claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits' Policy, or both, the Developer must complete affidavit form WC/DB-100 (revised 9/07), sign and notarize the form, and send to the NYS Workers' Compensation Board for (stamped) approval. The stamped approval (valid for 1 year) should then be provided to the Village with all other insurance documentation.

If the Develop is self-insured for Worker's Compensation, he/she should present a certificate from the New York State Worker's Compensation Board evidencing that fact (Either S1-12, Certificate of Workers' Compensation Self-Insurance, or GSI -105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance).

- (b) Employer's Liability with minimum limit of \$100,000.
- (c) Commercial General Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and \$100,000 for property damage or a combined single limit of \$1,000,000, naming the Village of Port Chester as an additional insured. This insurance shall include the following coverages:
 - (i) Premises – Operations
 - (ii) Broad Form Contractual
 - (iii) Independent Contractor and Sub-Contractor
 - (iv) Products and Completed Operations

All Contracts involving the use of explosive and demolition shall provide the above coverage with elimination of the XCU exclusion from the policy, or proof that XCU is covered.

- (d) Automobile Liability Insurance with a minimum limit of liability per occurrence of \$500,000 for bodily injury and a minimum limit of \$100,000 per occurrence for property damage or a combined single limit of \$1,000,000 unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage the following coverages:
 - (i) Owned automobiles
 - (ii) Hired automobiles
 - (iii) Non-owned automobiles

~~(e) Environmental Liability with a minimum limit of liability per occurrence of \$1,000,000. Policy shall be kept in full force and effect for three (3) years from the date of this Agreement and the Village shall be provided with the endorsement naming the Village of Port Chester as an additional insured.~~

(f) (e) Builder's Risk – The Developer at its own cost and expense shall provide and maintain a Builder's Risk Form, All Risk Insurance Contract. The coverage shall be written for 100% of the completed value, with the Village named as loss payee as its interest may appear.

3. All policies of the Village shall be endorsed to contain the following clauses:

(a) Insurers shall have no right to recovery or subrogation against the Village of Port Chester (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the above-described insurance.

(b) The clause "other insurance provisions" in a policy in the Village of Port Chester is named as an insured, shall not apply to the Village.

(c) The insurance companies issuing the policy or policies shall have no recourse against the Village (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

(d) Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of, the Developer.

Project Recordkeeping

The Developer acknowledges that he has read the IMA and the Grant Agreement dated October 16, 2007 as amended between the Village and the New York State Affordable Housing Corp. ("Grant Agreement") and is familiar with the Project Recordkeeping Requirements of the IMA and the Grant Agreement. The Developer accepts responsibilities for those requirements that are specifically delegated to the Developer that are not otherwise to be performed by the Housing Action Council, Inc. pursuant to an Agreement between the Village and the Housing Action Council, and agrees to cooperate fully in providing documents and information to enable the Village to fulfill its recordkeeping obligations.

The Village retains the right, upon reasonable notice to the Developer, to review all of Developer's records for the purposes of establishing the Developer's compliance with the provisions of this Agreement; and the Developer must permit the Village, or the Village's authorized representative, access to such records for such purposes.

RESOLUTION

SETTING A PUBLIC HEARING TO ACCEPT THE OFFER OF DEDICATION OF NELLA WAY AS A VILLAGE STREET

On motion of Trustee _____, seconded by Trustee _____,

the following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, by correspondence dated February 24, 2015, Graceland Terrace Housing Development Corp. (the “Developer”) offered for dedication, infrastructure improvements property and the roadway thereon known as Nella Way as a village street which is part of the now-completed Fox Commons Affordable Housing Project (“Project”); and

WHEREAS, the County provided funding to the Village for a new public road to be built (Nella Way) to provide public access to the new soccer fields created on the lower level of Edgewood Park; and

WHEREAS, agreements between the County and the Village and the Developer and the Village for the Project establish that the Developer would transfer ownership of the infrastructure improvements property, which includes the roadway, to the Village; and

WHEREAS, the Developer, Westchester County, and the homeowner’s association for the Project, have requested that the Village proceed to accept the roadway as a Village street and bring this matter to a conclusion; and

WHEREAS, pursuant to State Law, the Board is required to hold a public hearing before taking such action. Now, therefore, be it

RESOLVED, that the Board of Trustees hereby sets a public hearing for April 18, 2016 at 7:00 p.m. or as soon thereafter, at the Police Headquarters, Justice Court Courtroom, 350 North Main Street, Port Chester, with regard to the acceptance of Nella Way as a Village street.

Approved as to Form:

Village Attorney, Anthony Cerreto



VILLAGE OF
PORT CHESTER

222 Grace Church Street, Port Chester, New York 10573

RES -02
BOT 4-4-2016

AGENDA MEMO

Department: Office of the Village Attorney

BOT Meeting Date: 4/4/2016

Item Type: Resolution

Sponsor's Name:	Anthony Cerreto, Village Attorney

Description	Yes	No	Description	Yes	No
Fiscal Impact	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Public Hearing Required	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Funding Source:			BID #		
Account #:			Strategic Plan Priority Area		
			N/A		
	Yes	No			
Agreement	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Manager Priorities		
Strategic Plan Related	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A		

Agenda Heading Title
(Will appear as indicated below on Agenda)

Authorize Payment for Monitoring 2016 Village Election in United States of America vs. Village of Port Chester

Summary

Background

This resolution would authorize payment to the Plaintiff/Intervenor's counsel representing attorneys' fees for his monitoring of the 2016 Village Election so as to implement the Consent Decree and addenda.

Such work included participating in regular weekly telephone conferences with all parties led by the Village Clerk, meeting with DOJ and Village Counsel to discuss logistics for Election Day, and, as required by the Consent Decree, accompanying counsels to rove

all polling places in the Village on Election Day to ensure compliance and resolve any issues.

The amount of payment was the result of negotiations with counsel. I would note that even though counsel incurred more time and his rates have increased, he nevertheless agreed to my request that he maintain the same amount as that agreed to and authorized by the Board for the 2013 Village Election.

The action of the Board will close out this aspect of the matter.

Proposed Action

That the Board of Trustees adopt the Resolution

Attachments

- | |
|---|
| <ul style="list-style-type: none">• Letter from Randolph M. McLaughlin, Esq. dated March 16, 2016• E-mail from Randolph M. McLaughlin, Esq. dated March 17, 2016 |
|---|



VILLAGE OF
PORT CHESTER

222 Grace Church Street, Port Chester, New York 10573

RES - 02
BOT 4-4-2016

AGENDA MEMO

Department: Office of the Village Attorney

BOT Meeting Date: 3/21/2016

Item Type: Resolution

Sponsor's Name:	Anthony Cerreto, Village Attorney

Description	Yes	No	Description	Yes	No
Fiscal Impact	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Public Hearing Required	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Funding Source:			BID #		
Account #:			Strategic Plan Priority Area		
			N/A		
	Yes	No			
Agreement	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Manager Priorities		
Strategic Plan Related	<input type="checkbox"/>	<input checked="" type="checkbox"/>	N/A		

Agenda Heading Title
(Will appear as indicated below on Agenda)

Authorize Payment for Monitoring 2016 Village Election in United States of America vs. Village of Port Chester

Summary

Background

This resolution would authorize payment to the Plaintiff/Intervenor's counsel representing attorneys' fees for his monitoring of the 2016 Village Election so as to implement the Consent Decree and addenda.

Such payment is the same amount as that authorized for the 2013 Village Election notwithstanding the additional proceedings and consultations among the Village, U.S. Department of Justice and the Plaintiff/Intervenor than the previous.

The action of the Board will close out this aspect of the matter.

Proposed Action

That the Board of Trustees adopt the Resolution

Attachments

- | |
|---|
| <ul style="list-style-type: none">• Letter from Randolph M. McLaughlin, Esq. dated March 16, 2016 |
|---|

New York, New York 10001, attorney for the Intervenor, Cesar Ruiz, with regard to the Village's payment of attorney fees in the amount of \$6,000.00 for the 2016 Village Election.

Approved as to Form:

Village Attorney, Anthony Cerreto

Thomas, David

From: Cerreto, Tony
Sent: Friday, April 1, 2016 12:38 PM
To: Thomas, David
Cc: Kenny, David
Subject: FW: 2016 Village Election

Importance: High

Additional back up to the resolution.

From: Cerreto, Tony
Sent: Thursday, March 31, 2016 5:37 PM
To: Cerreto, Tony
Subject: FW: 2016 Village Election

From: Randy McLaughlin [mailto:rmclaughlin@nflp.com]
Sent: Thursday, March 17, 2016 11:02 AM
To: Cerreto, Tony <TonyC@PortChesterNY.com>
Subject: Re: 2016 Village Election

Minimum 14 hours. Rate 650.

Randy McLaughlin
Sent from my iPhone

On Mar 17, 2016, at 10:48 AM, Cerreto, Tony <TonyC@PortChesterNY.com> wrote:

How many hours do you estimate you put in for 2016 and what is your hourly rate?

This will not be in the resolution, but for my information if the question is posed.

Anthony M. Cerreto
Village Attorney
Village of Port Chester
222 Grace Church Street
Port Chester, N.Y. 10573
(914) 939-2200
(914) 937-3169 (Fax)

NOTICE: This e-mail is a confidential and privileged communication. If you are not the intended recipient, disregard and immediately notify the sender.



VILLAGE OF
PORT CHESTER

222 Grace Church Street, Port Chester, New York 10573

RES - 03
 BOT 4-4-2016

AGENDA MEMO

Village BOT Meeting Date: April 4, 2016

Item Type: Resolution

Description	Yes	No	Description	Yes	No
Fiscal Impact	x		Public Hearing Required		x
Funding Source:			x		
Account #:			Strategic Plan Priority Area		
			Business & Economic Development		
Agreement		x	Manager Priorities		
Strategic Plan Related		x	Choose a Manager Priority		

Sponsor's Name:

Heading Title
(Will appear as indicated below on Agenda)

AUTHORIZING THE SUBMISSION OF A HOME RULE REQUEST TO IMPOSE A HOTEL OCCUPANCY TAX IN THE VILLAGE OF PORT CHESTER

Summary

The Village of Rye Brook secured special state legislation so as to have the authority to impose a hotel occupancy tax of three percent. The cities of Rye, New Rochelle and White Plains each of whom have a similar hotel occupancy tax.

With the potential of a hotel as part of the Starwood Project, the Village Board had earlier made request on State Senator Latimer and State Assemblyman Otis to introduce bills in this 2016 legislative session so that the Village of Port Chester could also have this opportunity.

Bills have been introduced in both chambers and are in committee.

Upon adoption of the resolution, the Clerk and Mayor are authorized to complete the Home Rule Request on behalf of the Board for submission to the State Legislature to advance this legislation for hopeful enactment.

Proposed Action

That the Board of Trustees adopt the Resolution

Attachments

AUTHORIZING THE SUBMISSION OF A HOME RULE REQUEST TO IMPOSE A HOTEL
OCCUPANCY TAX IN THE VILLAGE OF PORT CHESTER

On motion of TRUSTEE _____, seconded by TRUSTEE _____

, the following resolution was adopted by the Board of trustees of the Village of Port
Chester, New York:

WHEREAS, the Village of Rye Brook secured special state legislation to adopt a local law to impose a hotel occupancy tax of three percent; and

WHEREAS, the cities of Rye, New Rochelle and White Plains also have a hotel occupancy tax; and

WHEREAS, a hotel occupancy tax offers the advantage of raising necessary revenue without imposing a regressive and heavier burden on property owners; and

WHEREAS, the Board of Trustees has accepted the petition of PC 406 BPA and PC 999 High Street Corp. which is the subject of a pending environmental review process pursuant to the State Environmental Quality Review Act (SEQRA) to redevelop the former site of United Hospital for a mixed residential/commercial development which includes a proposed hotel; and

WHEREAS, New York State Senator George Latimer has introduced legislation to the Senate with bill number S. 7152 and New York State Assemblyman Steve Otis has introduced legislation in the Assembly with bill number A. 9694 that would authorize the Village of Port Chester to impose such a hotel occupancy tax. Now, therefore, be it

RESOLVED, that the Board of Trustees of the Village of Port Chester hereby approves the submission of a Home Rule Request to the New York State Senate and Assembly for bill numbers S. 7152 and A. 9694 respectively relating to the authority of the Village to impose a hotel occupancy tax; and be it further

RESOLVED, that the Village Clerk is hereby authorized to execute all necessary documents with regard to the Home Rule Request and the Mayor to cause their delivery to the New York State Legislature on behalf of the Board.

APPROVED AS TO FORM:

Anthony M. Cerreto, Village Attorney

9694

I N A S S E M B L Y

March 30, 2016

Introduced by M. of A. OTIS -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to authorizing the imposition of an occupancy tax in the village of Port Chester; and providing for the repeal of such provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The tax law is amended by adding a new section 1202-dd to
2 read as follows:

3 S 1202-DD. OCCUPANCY TAX IN THE VILLAGE OF PORT CHESTER. (1) NOTWITH-
4 STANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE VILLAGE OF PORT
5 CHESTER, IN THE COUNTY OF WESTCHESTER, IS HEREBY AUTHORIZED AND
6 EMPOWERED TO ADOPT AND AMEND LOCAL LAWS IMPOSING IN SUCH VILLAGE A TAX,
7 IN ADDITION TO ANY OTHER TAX AUTHORIZED AND IMPOSED PURSUANT TO THIS
8 ARTICLE, SUCH AS THE LEGISLATURE HAS OR WOULD HAVE THE POWER AND AUTHOR-
9 ITY TO IMPOSE UPON PERSONS OCCUPYING ANY ROOM FOR HIRE IN ANY HOTEL. FOR
10 THE PURPOSES OF THIS SECTION, THE TERM "HOTEL" SHALL MEAN A BUILDING OR
11 PORTION OF IT WHICH IS REGULARLY USED AND KEPT OPEN AS SUCH FOR THE
12 LODGING OF GUESTS. THE TERM "HOTEL" INCLUDES AN APARTMENT HOTEL, A MOTEL
13 OR A BOARDING HOUSE, WHETHER OR NOT MEALS ARE SERVED. THE RATE OF SUCH
14 TAX SHALL NOT EXCEED THREE PERCENT OF THE PER DIEM RENTAL RATE FOR EACH
15 ROOM WHETHER SUCH ROOM IS RENTED ON A DAILY OR LONGER BASIS.

16 (2) SUCH TAXES MAY BE COLLECTED AND ADMINISTERED BY THE CHIEF FISCAL
17 OFFICER OF THE VILLAGE OF PORT CHESTER BY SUCH MEANS AND IN SUCH MANNER
18 AS OTHER TAXES WHICH ARE NOW COLLECTED AND ADMINISTERED BY SUCH OFFICER
19 OR AS OTHERWISE MAY BE PROVIDED BY SUCH LOCAL LAW.

20 (3) SUCH LOCAL LAWS MAY PROVIDE THAT ANY TAXES IMPOSED SHALL BE PAID
21 BY THE PERSON LIABLE THEREFOR TO THE OWNER OF THE ROOM FOR HIRE IN THE
22 TOURIST HOME, INN, CLUB, HOTEL, MOTEL OR OTHER SIMILAR PLACE OF PUBLIC
23 ACCOMMODATION OCCUPIED OR TO THE PERSON ENTITLED TO BE PAID THE RENT OR
24 CHARGE FOR THE ROOM FOR HIRE IN THE TOURIST HOME, INN, CLUB, HOTEL,
25 MOTEL OR OTHER SIMILAR PLACE OF PUBLIC ACCOMMODATION OCCUPIED FOR AND ON
26 ACCOUNT OF THE VILLAGE OF PORT CHESTER IMPOSING THE TAX AND THAT SUCH
27 OWNER OR PERSON ENTITLED TO BE PAID THE RENT OR CHARGE SHALL BE LIABLE

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD14867-01-6

1 FOR THE COLLECTION AND PAYMENT OF THE TAX; AND THAT SUCH OWNER OR PERSON
2 ENTITLED TO BE PAID THE RENT OR CHARGE SHALL HAVE THE SAME RIGHT IN
3 RESPECT TO COLLECTING THE TAX FROM THE PERSON OCCUPYING THE ROOM FOR
4 HIRE IN THE TOURIST HOME, INN, CLUB, HOTEL, MOTEL OR OTHER SIMILAR PLACE
5 OF PUBLIC ACCOMMODATION, OR IN RESPECT TO NONPAYMENT OF THE TAX BY THE
6 PERSON OCCUPYING THE ROOM FOR HIRE IN THE TOURIST HOME, INN, CLUB,
7 HOTEL, MOTEL OR SIMILAR PLACE OF PUBLIC ACCOMMODATION, AS IF THE TAXES
8 WERE A PART OF THE RENT OR CHARGE AND PAYABLE AT THE SAME TIME AS THE
9 RENT OR CHARGE; PROVIDED, HOWEVER, THAT THE CHIEF FISCAL OFFICER OF THE
10 VILLAGE, SPECIFIED IN SUCH LOCAL LAWS, SHALL BE JOINED AS A PARTY IN ANY
11 ACTION OR PROCEEDING BROUGHT TO COLLECT THE TAX BY THE OWNER OR BY THE
12 PERSON ENTITLED TO BE PAID THE RENT OR CHARGE.

13 (4) SUCH LOCAL LAWS MAY PROVIDE FOR THE FILING OF RETURNS AND THE
14 PAYMENT OF THE TAXES ON A MONTHLY BASIS OR ON THE BASIS OF ANY LONGER OR
15 SHORTER PERIOD OF TIME.

16 (5) THIS SECTION SHALL NOT AUTHORIZE THE IMPOSITION OF SUCH TAX UPON
17 ANY OF THE FOLLOWING:

18 A. THE STATE OF NEW YORK, OR ANY PUBLIC CORPORATION (INCLUDING A
19 PUBLIC CORPORATION CREATED PURSUANT TO AGREEMENT OR COMPACT WITH ANOTHER
20 STATE OR THE DOMINION OF CANADA), IMPROVEMENT DISTRICT OR OTHER POLI-
21 TICAL SUBDIVISION OF THE STATE;

22 B. THE UNITED STATES OF AMERICA, INSOFAR AS IT IS IMMUNE FROM TAXA-
23 TION; OR

24 C. ANY CORPORATION OR ASSOCIATION, OR TRUST, OR COMMUNITY CHEST, FUND
25 OR FOUNDATION ORGANIZED AND OPERATED EXCLUSIVELY FOR RELIGIOUS, CHARITA-
26 BLE OR EDUCATIONAL PURPOSES, OR FOR THE PREVENTION OF CRUELTY TO CHIL-
27 DREN OR ANIMALS, AND NO PART OF THE NET EARNINGS OF WHICH INURES TO THE
28 BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL AND NO SUBSTANTIAL PART
29 OF THE ACTIVITIES OF WHICH IS CARRYING ON PROPAGANDA, OR OTHERWISE
30 ATTEMPTING TO INFLUENCE LEGISLATION; PROVIDED, HOWEVER, THAT NOTHING IN
31 THIS PARAGRAPH SHALL INCLUDE AN ORGANIZATION OPERATED FOR THE PRIMARY
32 PURPOSE OF CARRYING ON A TRADE OR BUSINESS FOR PROFIT, WHETHER OR NOT
33 ALL OF ITS PROFITS ARE PAYABLE TO ONE OR MORE ORGANIZATIONS DESCRIBED IN
34 THIS PARAGRAPH.

35 D. A PERMANENT RESIDENT OF A HOTEL OR MOTEL. FOR THE PURPOSES OF THIS
36 SECTION, THE TERM "PERMANENT RESIDENT" SHALL MEAN A NATURAL PERSON OCCU-
37 PYING ANY ROOM OR ROOMS IN A HOTEL OR MOTEL FOR AT LEAST THIRTY CONSEC-
38 UTIVE DAYS.

39 (6) ANY FINAL DETERMINATION OF THE AMOUNT OF ANY TAX PAYABLE HEREUNDER
40 SHALL BE REVIEWABLE FOR ERROR, ILLEGALITY OR UNCONSTITUTIONALITY OR ANY
41 OTHER REASON WHATSOEVER BY A PROCEEDING UNDER ARTICLE SEVENTY-EIGHT OF
42 THE CIVIL PRACTICE LAW AND RULES IF APPLICATION THEREFOR IS MADE TO THE
43 SUPREME COURT WITHIN THIRTY DAYS AFTER THE GIVING OF NOTICE OF SUCH
44 FINAL DETERMINATION, PROVIDED, HOWEVER, THAT ANY SUCH PROCEEDING UNDER
45 ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES SHALL NOT BE
46 INSTITUTED UNLESS:

47 A. THE AMOUNT OF ANY TAX SOUGHT TO BE REVIEWED, WITH SUCH INTEREST AND
48 PENALTIES THEREON AS MAY BE PROVIDED FOR BY LOCAL LAWS OR REGULATIONS
49 SHALL BE FIRST DEPOSITED AND THERE SHALL BE FILED AN UNDERTAKING, ISSUED
50 BY A SURETY COMPANY AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE AND
51 APPROVED BY THE SUPERINTENDENT OF FINANCIAL SERVICES OF THIS STATE AS TO
52 SOLVENCY AND RESPONSIBILITY, IN SUCH AMOUNT AS A JUSTICE OF THE SUPREME
53 COURT SHALL APPROVE TO THE EFFECT THAT IF SUCH PROCEEDING BE DISMISSED
54 OR THE TAX CONFIRMED THE PETITIONER WILL PAY ALL COSTS AND CHARGES WHICH
55 MAY ACCRUE IN THE PROSECUTION OF SUCH PROCEEDING; OR

1 B. AT THE OPTION OF THE PETITIONER, SUCH UNDERTAKING MAY BE IN A SUM
2 SUFFICIENT TO COVER THE TAXES, INTEREST AND PENALTIES STATED IN SUCH
3 DETERMINATION PLUS THE COSTS AND CHARGES WHICH MAY ACCRUE AGAINST IT IN
4 THE PROSECUTION OF THE PROCEEDING, IN WHICH EVENT THE PETITIONER SHALL
5 NOT BE REQUIRED TO PAY SUCH TAXES, INTEREST OR PENALTIES AS A CONDITION
6 PRECEDENT TO THE APPLICATION.

7 (7) WHERE ANY TAXES IMPOSED HEREUNDER SHALL HAVE BEEN ERRONEOUSLY,
8 ILLEGALLY OR UNCONSTITUTIONALLY COLLECTED AND APPLICATION FOR THE REFUND
9 THEREFOR DULY MADE TO THE PROPER FISCAL OFFICER OR OFFICERS, AND SUCH
10 OFFICER OR OFFICERS SHALL HAVE MADE A DETERMINATION DENYING SUCH REFUND,
11 SUCH DETERMINATION SHALL BE REVIEWABLE BY A PROCEEDING UNDER ARTICLE
12 SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES, PROVIDED, HOWEVER,
13 THAT SUCH PROCEEDING IS INSTITUTED WITHIN THIRTY DAYS AFTER THE GIVING
14 OF THE NOTICE OF SUCH DENIAL, THAT A FINAL DETERMINATION OF TAX DUE WAS
15 NOT PREVIOUSLY MADE, AND THAT AN UNDERTAKING IS FILED WITH THE PROPER
16 FISCAL OFFICER OR OFFICERS IN SUCH AMOUNT AND WITH SUCH SURETIES AS A
17 JUSTICE OF THE SUPREME COURT SHALL APPROVE TO THE EFFECT THAT IF SUCH
18 PROCEEDING BE DISMISSED OR THE TAXES CONFIRMED, THE PETITIONER WILL PAY
19 ALL COSTS AND CHARGES WHICH MAY ACCRUE IN THE PROSECUTION OF SUCH
20 PROCEEDING.

21 (8) EXCEPT IN THE CASE OF A WILLFULLY FALSE OR FRAUDULENT RETURN WITH
22 INTENT TO EVADE THE TAX, NO ASSESSMENT OF ADDITIONAL TAX SHALL BE MADE
23 AFTER THE EXPIRATION OF MORE THAN THREE YEARS FROM THE DATE OF THE
24 FILING OF A RETURN, PROVIDED, HOWEVER, THAT WHERE NO RETURN HAS BEEN
25 FILED AS PROVIDED BY LAW THE TAX MAY BE ASSESSED AT ANY TIME.

26 (9) ALL REVENUES RESULTING FROM THE IMPOSITION OF THE TAX UNDER THE
27 LOCAL LAWS SHALL BE PAID INTO THE TREASURY OF THE VILLAGE OF PORT CHES-
28 TER AND SHALL BE CREDITED TO AND DEPOSITED IN THE GENERAL FUND OF SUCH
29 VILLAGE. SUCH REVENUES MAY BE USED FOR ANY LAWFUL PURPOSE.

30 (10) EACH ENACTMENT OF SUCH A LOCAL LAW MAY PROVIDE FOR THE IMPOSITION
31 OF A HOTEL OR MOTEL TAX FOR A PERIOD OF TIME NO LONGER THAN THREE YEARS
32 FROM THE DATE OF ITS ENACTMENT. NOTHING IN THIS SECTION SHALL PROHIBIT
33 THE ADOPTION AND ENACTMENT OF LOCAL LAWS, PURSUANT TO THE PROVISIONS OF
34 THIS SECTION, UPON THE EXPIRATION OF ANY OTHER LOCAL LAW ADOPTED PURSU-
35 ANT TO THIS SECTION.

36 (11) IF ANY PROVISION OF THIS SECTION OR THE APPLICATION THEREOF TO
37 ANY PERSON OR CIRCUMSTANCE SHALL BE HELD INVALID, THE REMAINDER OF THIS
38 SECTION AND THE APPLICATION OF SUCH PROVISION TO OTHER PERSONS OR
39 CIRCUMSTANCES SHALL NOT BE AFFECTED THEREBY.

40 S 2. This act shall take effect immediately and shall expire and be
41 deemed repealed three years after such date.



VILLAGE OF
PORT CHESTER

222 Grace Church Street, Port Chester, New York 10573

RES - 04
BOT 4-4-2016

AGENDA MEMO

Department: Planning and Development Department
Department: Office of the Village Attorney

BOT Meeting Date: 4/4/2016

Item Type: Resolution

Sponsor's Name:	Anthony Cerreto, Village Attorney
Sponsor's Name:	Eric Zamft, Director of Planning & Economic Development

Description	Yes	No	Description	Yes	No
Fiscal Impact	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Public Hearing Required	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Funding Source:			BID #		
Account #:			Strategic Plan Priority Area		
	Yes	No	Transit Oriented Development		
Agreement	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Manager Priorities		
Strategic Plan Related	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Planning & Zoning		

Agenda Heading Title
(Will appear as indicated below on Agenda)

G&S Zoning Petition: Zoning Text Amendments

Summary

On October 1, 2015, G&S Port Chester LLC (the "Applicant") submitted an Amended Petition to the Board for amendments to (i) the Urban Renewal Plan for the MMRP, (ii) the regulations of the MUR MMRP Urban Renewal District of the Village of Port Chester, and (iii) the Concept Development Plan of the MMRP to permit residential use of the

Property, and to amend the MMRP Urban Renewal Plan and MUR District regulations to add a multifamily dwelling parking regulation to the required parking table (the “Petition”)¹.

At the December 29, 2015 Waterfront Commission meeting, the Petition was discussed and on January 4, 2016, the Waterfront Commission issued a determination that the Petition was inconsistent with the Local Waterfront Revitalization Program (“LWRP”), adopted in 1992 and amended in 1999 (to specifically accommodate the G&S project as a commercial project at that time by prohibiting residential as a use).

Beginning at the January 4, 2016 Board of Trustees meeting and continuing to the February 1, 2016 meeting, the Board held a public hearing on among other things, the question of enactment of Local Law No. I-14 of 2015, being a Local Law amending the official zoning map and the text of Chapter 345, Article XVI of the Village Code (Zoning).

At the February 1, 2016 meeting, the public hearing was closed and the Applicant was requested to resolve issues related to traffic and parking in order to satisfy the New York State Environmental Quality Act (“SEQRA”) process.

At the March 7, 2016 meeting, the Board adopted LWRP findings that allowed the project to continue. At the same meeting, the Board also completed the SEQRA process by issuing a Negative Declaration.

As was explained at the March 7, 2016 meeting, a technical correction to the zoning text was necessary to provide clarification on the maximum floor area ratio (“FAR”). A discussion of this technical correction was provided to you in a memorandum from the Department of Planning & Economic Development. That memorandum is attached.

Now that the SEQRA process is completed and the technical correction has been applied, the Board has the ability to make a determination on the actual zoning text and map amendment, as formulated in Local Law No. I-14 of 2015.

Therefore, should the Board wish to proceed, the attached resolution undertakes the following action:

1. Adopts the Local Law

Attachments
<ul style="list-style-type: none">• Department of Planning & Economic Development memorandum• Draft Local Law

¹ Counsel for the Applicant and the Village Attorney have since agreed that the amendments to the MUR MMRP Urban Renewal District are not necessary.



VILLAGE OF PORT CHESTER
DEPARTMENT OF PLANNING & ECONOMIC
DEVELOPMENT

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Eric Zamft, AICP, Director
Andrea Sherman, Planner
Constance Phillips, Planning Commission Secretary

To: Board of Trustees
From: Eric Zamft, AICP, Director of Planning & Economic Development
Tony Cerreto, Village Attorney
Cc: Christopher Steers, Village Manager; Mark Chertok, Special Counsel
Date: March 18, 2016
Re: Revised Local Law Regarding the Proposed Zoning for "Retail D"

Members of the Board,

At the March 7, 2016 Board of Trustees meeting we indicated that the proposed zoning local law for the G&S Petition was not ready to be considered by the Board due to a technical, non-substantial correction that was necessary to be made.

The attached proposed local law reflects that technical, non-substantial correction. The correction is located within § 345-67.B(1)(b)(2), which provides the maximum floor area ratio (FAR). While the base maximum FAR remains at 3.7, the text previously did not provide a cap on the potential bonus that could be achieved – meaning that there technically would not have been a true maximum. The text was corrected to indicate that the bonus would be capped at 0.3 – for an overall maximum of 4.0. This was the original intention of the FAR and bonus provisions and was analyzed as such as part of the New York State Environmental Quality Review Act (SEQRA) review. To that end, this revised zoning is fully within the Negative Declaration that you adopted at the last meeting.

Revised Local Law No. I-14 of 2015

LOCAL LAW NO. I- of 2016

A LOCAL LAW AMENDING THE TEXT OF CHAPTER 345 OF THE VILLAGE CODE, MUR MARINA REDEVELOPMENT PROJECT RENEWAL DISTRICT AND CONCEPT DEVELOPMENT PLAN OF THE MODIFIED MARINA REDEVELOPMENT PROJECT TO PERMIT MULTI-FAMILY RESIDENTIAL DEVELOPMENT IN A PORTION OF THE PROJECT AREA KNOWN AND DESIGNATED AS RETAIL "D" AND MORE FULLY DESCRIBED AS SECTION 142.31, BLOCK 1, LOTS 3, 4, 5, 6, 20, 21, 22, 23 and 24 ON THE TOWN OF RYE OFFICIAL TAX MAP AND AN INTERSTITIAL RIGHT-OF-WAY SHOWN ON SAID TAX MAP

Be it enacted by the Board of Trustees of the Village of Port Chester, New York as follows:

SECTION 1: The Code of the Village of Port Chester, Article XVI, Section 345-67, is hereby amended to read as follows:

§ 345-67. MUR Marina Redevelopment Project Urban Renewal District

A. Purpose; area covered; zoning objectives; proposed actions.

- (1) Area covered. An Urban Renewal Plan for the Village Center Urban Renewal Plan Area was adopted by the Board of Trustees of the Village of Port Chester, New York, on November 1, 1977. An Urban Renewal Plan for the Marina Redevelopment Urban Renewal Plan Area was adopted by the Board of Trustees of the Village of Port Chester, New York, on June 23, 1982. Each of these Urban Renewal Plans has been amended from time to time, the most recent of such amendments having been approved by the Village Board of Trustees on July 14, 1999, on the recommendation of the Planning Commission. The Urban Renewal Plans, as so amended, are sometimes collectively referred to below as the "Urban Renewal Plans." The Urban Renewal Plan Amendment adopted on July 14, 1999, delineates an area referred to in such amendment as the "Modified Marina Redevelopment Project," consisting of contiguous portions of the Village Center Urban Renewal Plan Area and the Marina Redevelopment Urban Renewal Plan Area. The boundaries of the Modified Marina Redevelopment Project correspond to the boundaries of the zoning district designated on the Zoning Map as the "MUR Marina Redevelopment Project Urban Renewal District."
- (2) Zoning objectives. The objectives of the MUR Marina Redevelopment Project Urban Renewal District are to provide for comprehensive planning of redevelopment within the MUR Marina Redevelopment Project Urban Renewal District and to encourage and permit the development of uses which will result in or accomplish the following:
 - (a) Eliminate substandard, blighted, deteriorated and deteriorating conditions within the MUR Marina Redevelopment Project Urban Renewal District.
 - (b) Attract new businesses, create employment opportunities, generate additional tax revenues and further private investment.
 - (c) [Develop new commercial] Encourage a mix of uses, including but not limited to retail, wholesale membership warehouse club, multiscreen cinema theater, [and] supermarket uses, and residential uses, within and in the vicinity of the MUR Marina Redevelopment Project Urban Renewal District. Residential uses are permitted only in Land Use Area 2 as referenced in §345-68, titled "Map of

Land Use Areas and Streets Within the Modified Marina Redevelopment Project.”

- (d) Preserve and enhance property values within and in the vicinity of the MUR Marina Redevelopment Project Urban Renewal District and provide for protection of neighboring areas from any adverse impacts of redevelopment within such district.
 - (e) Provide parking facilities necessary to serve new uses either through the creation of new facilities, the reconfiguration or upgrading of existing facilities or the sharing of facilities.
 - (f) Enhance public access to the waterfront and retain public boating opportunities along the Byram River.
 - (g) Upgrade and provide all utilities necessary to support redevelopment.
 - (h) Improve vehicular access in the area through the realignment and reconstruction of certain streets so that both cars and pedestrians can travel safely.
- (3) Underlying regulations. The land use and development controls set forth in Subsection B below supersede, as provided in said Subsection B below, the controls set forth in this Zoning Regulation for those portions of the C-2 Central Business, DW Design Waterfront Development, M-1 Light Industrial and PTD Planned Tower Development Zoning Districts which are within the MUR Marina Redevelopment Project Urban Renewal District, as well as the controls set forth in §§ 345-14 and 345-15 hereof (all hereinafter referred to as the "underlying controls"). Except during any period in which a special permit is in effect pursuant to Subsection B below in this § 345-67, the underlying controls shall remain in effect for the portions of said zoning districts situated within the MUR Marina Redevelopment Project Urban Renewal District.

B. Land use and development controls.

- (1) Permitted land uses and development controls. Set forth in this Subsection B are land use and development controls for the MUR Marina Redevelopment Project Urban Renewal District. The controls set forth in this Subsection B will, during any period in which a special permit is granted and remains valid and in full force and effect under said Subsection B(4), replace and supersede all of the underlying controls. The land use areas referred to below in this Subsection B are shown on the map referenced in § 345-68, which map is titled "Map of Land Use Areas and Streets Within the Modified Marina Redevelopment Project."

(a) Land Use Area 1.

[1] Permitted land uses:

[a] Retail sales, including supermarket with customary accessory uses, retail and personal services or restaurant types of uses, general and professional offices and uses customarily accessory to each of the foregoing uses, parking and loading and open space uses.

[b] Multiscreen cinema theater, theaters and accessory uses customarily found in such a complex.

[2] Permitted development: 275,000 square feet of building floor area.

[3] Permitted height: three stories; 70 feet.

(b) Land Use Area 2.

[1] Permitted land uses:

[a] the same as Land Use Area 1, except for multiscreen cinema theater, theaters and supermarket.

[b] Multi-family dwellings.

[2] [Permitted development: 40,000 square feet of building floor area.] Maximum floor-area-ratio (FAR): 3.7. At the option of the property owner, the development potential of a site can be increased in the form of an additional floor area bonus of 0.3 if the property owner makes a monetary contribution to the Village equal to 15% of the assessed value of the bonus floor space, as determined by the Village Assessor. If there is no Village Assessor, the calculation shall be based upon the assessed value of the bonus floor space as determined by the Town Assessor.

[3] Permitted height: [three stories; 45 feet] five stories; 70 feet.

[4] Useable open space: A minimum requirement for useable open space is 25 square feet per dwelling unit.

(c) Land Use Area 3.

[1] Permitted land uses:

[a] Retail sales, retail, wholesale membership warehouse club, personal services and restaurant uses, neighborhood facilities, general and professional offices, as well as uses customarily accessory to each of the foregoing uses.

[b] Multiscreen cinema theater, theaters and accessory uses customarily found in such a complex.

[c] Parking and loading and open space uses.

[2] Permitted development: 275,000 square feet of building floor area.

[3] Permitted height: two stories; 65 feet.

(d) Land Use Area 3A.

[1] Permitted land uses:

[a] Same as Land Use Area 3.

[b] Open storage of materials or equipment and uses customarily accessory thereto.

[2] Permitted development: an aggregate of 275,000 square feet of building floor area, including development on Land Use Area 3.

[3] Permitted height: same as Land Use Area 3.

(e) Land Use Area 4.

[1] Permitted land uses:

[a] General and professional offices and uses customarily accessory thereto.

[b] Retail and personal services uses, restaurant and customary accessory uses.

[c] Parking and loading and open space uses.

[2] Permitted development: 80,000 square feet of building floor area.

[3] Permitted height: three stories; 45 feet.

(f) Land Use Area 5.

[1] Permitted land uses: open space, park and water-related recreation uses which shall be accessible to the general public.

(2) Concept Development Plan. Any special permit issued under Subsection B(4) below shall require compliance with the land use and development controls set forth in this Subsection B and with the Amended Concept Development Plan dated May 20, 1999, which map, together with such land use and development controls, set forth the proposed general building layout and disposition of uses, general parking area locations, access, general circulation, densities, number of stories and/or height and public open space. Such map is on file in the office of the Village Clerk and is hereinafter referred to as the "Concept Development Plan."

(3) Other development controls and prohibited uses. There shall become effective with respect to the entire MUR Marina Redevelopment Project Urban Renewal District, upon the approval of a special permit under Subsection B(4) below and upon the satisfaction of all conditions of the effectiveness of such special permit set forth in this section, the following additional land use and development controls:

(a) For Land Use Areas 3 and 4, there shall be a continuous pedestrian promenade on the waterfront side of these parcels. The width of the promenade shall be an average minimum of 10 feet and an average width of 30 feet from the bulkhead.

(b) For Land Use Areas 3 and 4, the building setback on the waterfront side of the parcels shall be a minimum of 15 feet on average, and may be staggered.

- (c) Unless paved, all open areas which are visible from the street shall be landscaped.
- (d) All buildings shall be consistent with the New York State Uniform Fire Prevention and Building Code requirements for handicapped access. All streets and sidewalks shall provide access for the handicapped.
- (e) No use permitted herein shall be noxious or offensive by reason of emission of odor, dust, noise, smoke, gas, fumes or radiation or which in any other way presents a nuisance and hazard to public health and safety.
- (f) There shall be no restriction of occupancy or use of any part of the MUR Marina Redevelopment Project on the basis of race, creed, color, sex or national origin.
- (g) The requirements for off-street parking for uses in the Marina Redevelopment Project Urban Renewal District shall be as follows:
 - [1] Parking for all uses shall be provided in a combination of on-street and off-street parking facilities. At least 85% of the parking required for uses in the MUR Marina Redevelopment Project Urban Renewal District, considered on an overall basis, shall be located within the boundaries of the MUR Marina Redevelopment Project Urban Renewal District. The Board of Trustees shall, upon the request of the applicant for the special permit, approve up to 15% of the total number of parking spaces required on an overall basis for all uses in the MUR Marina Redevelopment Project Urban Renewal District, to be located outside of the district boundaries, subject to demonstration, by the applicant for the special permit, of adequate control over such spaces and that all such spaces are within 650 feet of the uses they are intended to serve.
 - [2] Minimum parking spaces.
 - [a] The minimum number of parking spaces to be provided for each individual category of use in the proposed development shall be computed in accordance with the criteria noted below, and the aggregate number of spaces available to all of the uses at any specific point in time shall be sufficient to meet the combined parking requirements of these uses at such specific point in time, less a reduction for multipurpose trips. The reduction for multipurpose trips shall be computed only when parking demand is generated by two or more categories of nonresidential use and shall not exceed the smaller of the following two numbers:
 - [i] That number of parking spaces which shall constitute 12% of the combined parking requirement for all nonresidential uses; or
 - [ii] That number of parking spaces which shall constitute 20% of the parking requirement for the retail, wholesale membership warehouse club, service and restaurant category.
 - [b] In determining the required minimum number of parking spaces for specific categories of use, the following standards shall be utilized:

9:00 a.m.	0.08 per slip
Midday	0.08 per slip
12:00 midnight	0.02 per slip
Weekends	
Saturday	
9:00 a.m.	0.5 per slip
Midday	0.5 per slip
9:00 p.m.	0.23 per slip
12:00 midnight	0.02 per slip

Multifamily Dwellings

Weekdays

Monday through Friday

<u>9:00 a.m.</u>	<u>0.75 per 1,000 square feet of floor area</u>
<u>12:00 p.m.</u>	<u>0.75 per 1,000 square feet of floor area</u>
<u>6:00 p.m.</u>	<u>1.0 per 1,000 square feet of floor area</u>
<u>9:00 p.m.</u>	<u>1.25 per 1,000 square feet of floor area</u>

Weekends

Saturday and Sunday

<u>9:00 a.m.</u>	<u>0.5 per 1,000 square feet of floor area</u>
<u>12:00 p.m.</u>	<u>0.5 per 1,000 square feet of floor area</u>
<u>6:00 p.m.</u>	<u>1.0 per 1,000 square feet of floor area</u>
<u>9:00 p.m.</u>	<u>1.25 per 1,000 square feet of floor area</u>

- (h) Parking decks, garages, arcades, covered ways, parking areas, fire access, other accessways, street furniture, sculpture and landscaped areas may be developed within the public rights-of-way so long as access to abutting non-project properties is maintained.
 - (i) Notwithstanding anything to the contrary in this zoning regulation, the permitted building floor area set forth in Subsection B(1) above shall mean the sum of the total horizontal floor areas within a building which are designed for the exclusive use and occupancy of tenants, measured from the interior faces of exterior walls, not including the areas of:
 - [1] Floor space of cellars.
 - [2] Floor space designed and intended for the parking of motor vehicles of any kind.
 - [3] Elevator shafts.
 - [4] Stairwells and exit corridors.
 - [5] Floor space used for mechanical equipment having structural headroom of less than seven feet, six inches.
 - [6] Floor space of mezzanines and other areas not accessible to the general public.
- (4) Special permit for permitted uses.
- (a) Before a building permit may be issued by the Building Inspector for any use permitted under the preceding provisions of this Subsection B, the Village Board of Trustees must adopt, by majority

vote, a resolution granting a special permit for such use. The provisions of Article X of this Zoning Regulation shall not be applicable with respect to special permits or to the procedures pertaining thereto authorized and described in this Subsection B or in Subsection C below.

- (b) An application for such a special permit shall not be made with respect to less than the entire area of the MUR Marina Redevelopment Project Urban Renewal District, and the applicant shall have a reasonable prospect of being able to achieve ownership or control of such area, evidenced by satisfaction of at least one of the following eligibility standards:
 - [1] Ownership of not less than 60% of the total area contained within all land use areas, considered in the aggregate, shown on the map referred to in § 345-68, which map is titled "Map of Land Use Areas and Streets Within the Modified Marina Redevelopment Project," which map is dated March 22, 1999.
 - [2] Designation of the applicant as a qualified and eligible sponsor for the entire Modified Marina Redevelopment Project pursuant to Article 15 of the General Municipal Law, accompanied by an executed development agreement between the applicant and the Village of Port Chester setting forth the manner in which the applicant will proceed in conjunction with such designation.
 - [3] The existence of an executed land disposition agreement between the applicant and the Village Board, approved by the Village Board pursuant to Article 15 of the General Municipal Law, in connection with the Modified Marina Redevelopment Project.
- (c) An applicant shall apply to the Village Board for a special permit. In deciding whether to approve such application, the Village Board shall consider whether the following preconditions of such approval have been satisfied:
 - [1] The proposed development is consistent with the Concept Development Plan, the Urban Renewal Plans, the land use and development controls set forth in Subsection B above and the purposes of the MUR Marina Redevelopment Project Urban Renewal District set forth in Subsection A above.
 - [2] The potential impacts of the proposed use have been evaluated and mitigated to the maximum extent practicable as set forth in an environmental impact statement completed for the Modified Marina Redevelopment Project in accordance with the New York State Environmental Quality Review Act and as set forth in a statement of findings which the Village Board of Trustees has adopted with respect to such environmental impact statement.
- (d) Any Village Board resolution approving a special permit pursuant to this Subsection B(4) shall require the applicant to implement those environmental impact mitigation measures for which the applicant is responsible as set forth in the above-mentioned statement of findings.
- (e) After the approval of a special permit under Subsection B(4), the successful applicant therefor or any other person, firm or entity who or which meets any of the eligibility standards set forth in Subsection B(4)(b) above is herein below referred to as the "special permit grantee."

(f) Conditions:

[1] Notwithstanding the approval of a special permit by the Village Board under this Subsection B(4), such special permit shall not be effective and a building permit shall not be issued pursuant to such special permit until each of the following conditions has been satisfied:

[a] A land disposition agreement has been approved by the Village Board of Trustees and duly executed and delivered in accordance with § 507 of the General Municipal Law.

[b] The entire area within the MUR Marina Redevelopment Project Urban Renewal District is owned in fee by the Village of Port Chester, and/or by the Village of Port Chester Industrial Development Agency, provided that in the event of fee ownership of all or any part of such district by such Industrial Development Agency, such ownership is permitted under the land disposition agreement referred to in Subsection B(4)(f)[1][a] above.

[2] Upon the satisfaction of each of the conditions set forth above in this Subsection B(4)(f), the restriction on construction activity set forth above in this Subsection B(4)(f) shall automatically terminate, no further Village action being required for such termination. If, after Village Board approval of a special permit under this Subsection B(4) and after satisfaction of the conditions set forth in Subsection B(4)(f)[1][a] and [b] above in this Subsection B(4)(f), the ownership referred to in said Subsection B(4)(f)[1][b] shall cease, such cessation shall not be deemed to cause or require termination of the special permit with respect to any portion of the MUR Marina Redevelopment Project Urban Renewal District.

(g) In the event that the condition specified in Subsection B(4)(f)[1][a] above is not satisfied within 90 days following the date of Village Board approval of the special permit and if the special permit grantee shall not have negotiated the land disposition agreement in good faith prior to the end of such ninety-day period, or if during the ninety-day period or thereafter the special permit grantee does not negotiate the land disposition agreement in good faith, then the Village Board of Trustees may, upon 15 days' notice to the special permit grantee, terminate the special permit. In the event of such termination, the underlying controls shall remain in effect.

(h) In connection with the grant of any special permit under this Subsection B(4), the Village Board shall assure that adequate provision is made for the following:

[1] Within the MUR Marina Redevelopment Project Urban Renewal District, all of the parcels and structures will be acquired by the Village of Port Chester pursuant to Article 15 of the General Municipal Law of the State of New York and the Urban Renewal Plans.

[2] Redevelopment will include the development of new public infrastructure, including but not limited to streets, sidewalks, curbs, water, sewer and drainage facilities, parking, lighting and other utilities and services, the closing and realignment of portions of public streets, the placement of required fill to raise new buildings above flood levels, development of a new waterfront park at the foot of Westchester Avenue and a new public promenade along the waterfront within the MUR Redevelopment Project Urban Renewal District. Redevelopment within the MUR Marina Redevelopment Project Urban Renewal District also shall include the development of new uses, including commercial, retail, wholesale membership warehouse club,

multiscreen cinema theater, restaurant and parking, and may include health clubs and family entertainment centers and general office uses.

[3] Street alignments and configurations shall generally conform to those shown on the following map titled "Map of Land Use Areas and Streets Within the Modified Marina Redevelopment Project" and dated March 22, 1999, which map is on file in the office of the Village Clerk.

- (i) If, prior to the adoption of this section and the amendment of the Zoning Map in connection therewith, an application for approval of a special permit was submitted in anticipation of such adoption and amendment, then if such application satisfies the requirements of this Subsection B(4), the Village Board may approve such special permit immediately following such reclassification and adoption, either on or after the date or dates on which such reclassification and adoption shall have occurred.

C. Properties not vacated.

- (1) Modification of controls. If the Village of Port Chester does not complete urban renewal relocation activities, as contemplated in the Urban Renewal Plans, with respect to the entire Modified Marina Redevelopment Project, within any time period specified in the urban renewal land disposition agreement between the Village and a special permit grantee, and consultations between the special permit grantee and the Village result in agreement requiring modifications to the Concept Development Plan and, if necessary, the land use and development controls made applicable through approval of a special permit under Subsection B above and through satisfaction of the conditions thereof, then it is intended that such Concept Development Plan will be modified accordingly and reflected in an amendment to the special permit and to the land disposition agreement. The Village shall enter into such consultations upon the request of the special permit grantee. The term "Concept Development Plan" as used in this Subsection C, shall be deemed to refer collectively to the Concept Development Plan and the above-mentioned land use and development controls.
- (2) Additional modification provisions. If modifications pursuant to Subsection C(1) above do not occur within 120 days following the date of delivery of a request as therein provided, then the following shall be applicable:

(a) Notice of determination.

[1] If the special permit grantee determines that compliance with those provisions of the Concept Development Plan, any site plan approval or conditions thereof approved by the Village Board in connection with the Modified Marina Redevelopment Project, the provisions of this Zoning Regulation or any condition of the special permit which specifies or restricts the type and/or building bulk of the uses which may be constructed within the MUR Marina Redevelopment Urban Renewal District or which imposes a time schedule for construction of such uses is rendered impracticable by the failure to achieve vacant possession, then the special permit grantee may give the Village formal written notice of such determination, accompanied by the following:

[a] A statement containing information, data and analysis supporting the determination;

- [b] A plan setting forth the special permit grantee's proposed modification of the Concept Development Plan;
 - [c] A request for concurrence by the Village Board of Trustees in the special permit grantee's determination of impracticability; and
 - [d] A request for approval, by the Village Board of Trustees, of a revised Concept Development Plan.
- [2] Within 60 days following the submission of the above to the Village, the Village Board of Trustees will deliver to the special permit grantee a notice of Village Board action granting or denying the requests described in Subsection C(2)(a)[1][c] and [d] above. If the Village's notice indicates non-concurrence as to impracticability and/or the Village's disapproval of the revised Concept Development Plan, then it shall set forth the reasons for such non-concurrence as to impracticability and/or the Village's disapproval of the revised Concept Development Plan, and the special permit grantee shall have the right to repeat the procedure described above in this Subsection C(2) on one or more occasions.
- (b) The Village Board of Trustees shall not unreasonably withhold any concurrence and/or approval requested by the special permit grantee under Subsection C(2)(a) above. Notwithstanding any contrary provision of this Subsection C, prior to approval of a revised Concept Development Plan the Village Board of Trustees shall make findings as to compliance with the following criteria:
- [1] The revised Concept Development Plan shall be consistent with the objectives of the Urban Renewal Plans;
 - [2] The proposed uses set forth in the revised Concept Development Plan shall consist only of uses permitted to be constructed within the MUR Marina Redevelopment Project Urban Renewal District, under the Urban Renewal Plans; and
 - [3] The Concept Development Plan shall conform with the limitations on height, density and floor area set forth, with respect to said district, in the Urban Renewal Plan.
- (a) Upon approving a revised Concept Development Plan as provided above, the Village Board shall be deemed to have modified the special permit and any previously approved site plan in order to reflect said approval and any such special criteria.
- (b) If, after obtaining Village Board concurrence and approval under Subsection C(2)(a) and (b) above, the special permit grantee decides to proceed with construction in accordance with a revised Concept Development Plan, then, except as provided in Subsection D below, the special permit grantee shall not be relieved from compliance with any provisions of this Zoning Regulation (as specified in this § 345-67) which set forth permitted uses, maximum density or maximum floor area or maximum building heights.
- (c) If, within 90 days following the expiration of the one-hundred-twenty-day period set forth in the introductory provisions of this Subsection C(2), a notice and requests are not submitted to the Village in accordance with Subsection C(2)(a) above in this Subsection C(2) or if following the delivery of such

notice and requests to the Village and before the granting of the requests such notice and requests are withdrawn by the special permit grantee or if requests submitted in accordance with Subsection C(2)(a) above in this Subsection C(2) are not granted and construction does not commence in compliance with an approved or modified special permit and Concept Development Plan within 90 days following expiration of the aforesaid ninety-day period, the special permit shall terminate and shall be of no further force or effect. In the event of such termination, the land use and development controls applicable within the MUR Marina Redevelopment Project Urban Renewal District shall be the underlying controls, as defined in Subsection A(3) above in this § 345-67, provided that no building permit shall be issued for any proposed development in accordance with such underlying controls until the Village Board shall have approved a revised Concept Development Plan, complying as to content and completeness with the provisions of Subsection B(2) above but implementing such underlying controls.

- (d) Any special permit approved by the Village Board under Subsection B above and any resolution adopted by the Village Board approving a site plan as set forth in Subsection D below shall contain provisions implementing the provisions of this Subsection C(2).

D. Site plan and Concept Development Plan.

- (1) Contents, submission and approval of plans. The Concept Development Plan and the permitted land uses and development controls specified in Subsection B of this § 345-67 indicate the proposed general layout and disposition of uses, buildings, parking, access, circulation, densities, number of stories and/or height, public open space, public uses and promenades. Any promenade situated along the shore of the Byram River shall, except for railing required for safety of pedestrians, be open and unenclosed on the riverward side of such promenade.
- (2) Site plan approval. Before a building permit may be issued by the Building Inspector for any use for which a special permit has been issued under Subsection C(4) above, a site plan shall be approved therefor in accordance with the provisions of Article V of this Zoning Regulation, as modified by the provisions of this Subsection D. Authority to approve site plans for such uses is vested in the Village Board of Trustees.
- (3) Applications for site plan approval. The special permit grantee under this section may submit applications for site plan approval of all or any part of the Modified Marina Redevelopment Project. The applicant for site plan approval shall submit to the director of the Office of Planning and Development of the Village site plans which show cross sections, elevations grading and other site plan data which carry out all or any part of the Concept Development Plan. Site plans shall comply, as to content and completeness, with § 345-23 of this Zoning Regulation. The site plans shall also show any parking facilities proposed to be located outside of the Modified Marina Redevelopment Project which are intended to serve the development depicted in such site plans, along with documentation showing the applicant's control over these facilities.
- (4) Board action. The Board of Trustees shall not disapprove a site plan submitted under this Subsection D or require that such site plan be revised or amended, by reason of or with respect to general location and disposition of uses, buildings, parking areas and open space, density and height of structures and site access and circulation, provided that the site plan is consistent with the approved Concept Development Plan and the land use and development controls of § 345-67 of this Zoning Regulation. Site plans shall be approved or disapproved within 90 days of the date when submission is deemed complete by the Director of the Office of Planning and Development. Subsequent to site plan approval the developer shall submit detailed construction plans and specifications to the Office of Planning and Development

and the Port Chester Building Department, which plans shall be reviewed with respect to their conformance with Chapter 151, Building and Fire Prevention, and approved site plans. Construction plans and specifications must be consistent with approved site plans prior to issuance of a building permit.

- (5) Overall effect of Concept Development Plan. All or any portion of the land area within the MUR Marina Redevelopment Project Urban Renewal District may be subdivided either horizontally or vertically for purposes of sale, lease or mortgage and/or (to the extent permitted by law) tax lot creation without the requirement for any other or further approvals under any law, ordinance, rule or regulation of the Village of Port Chester, including subdivision, zoning or site plan review. All of the requirements set forth herein for the MUR Marina Redevelopment Project Urban Renewal District, including, without limitation, those regulating the use of buildings and land and the height, bulk and arrangement of buildings shall be applied on an overall basis to the MUR Marina Redevelopment Project Urban Renewal District and shall not be applied to any individual areas within said district, notwithstanding the subdivision of the area within said district into two or more separate parcels and/or the separate ownership of such parcels, provided that no development within the MUR Marina Redevelopment Project Urban Renewal District may take place pursuant to a special permit approved under this section except in accordance with a Concept Development Plan and site plans which have been approved by the Village Board.
- (6) Amendment of Concept Development Plan. The Concept Development Plan may be amended by majority vote of the Village Board of Trustees, provided that a minor amendment (which results in less than a ten-percent variation from the overall approved Concept Development Plan) may be granted by a majority vote of the Village Board of Trustees. A substantial change in use or density shall require the same procedure as that required for an amendment to the provisions of this Zoning Regulation, as set forth in Subsection F below and in Article VII of this Zoning Regulation.

E. Applicability of other codes and ordinances. Except as set forth in Subsection A above and in the following subsections, all other applicable federal, state, county and Village of Port Chester codes and ordinances shall govern the development, ownership and management of all properties within the MUR Marina Redevelopment Project Urban Renewal District.

F. Amendments to the Zoning Regulation provisions for the MUR Marina Redevelopment Project Urban Renewal District. The zoning provisions set forth in the preceding paragraphs of this § 345-67 may be amended at any time as follows:

- (1) Minor changes. A minor change, as defined below, shall not be deemed to require an amendment of the Zoning Regulation specified in this § 345-67, and approval of any such minor change may be granted by a majority vote of the Village Board of Trustees. A minor change shall be deemed to be:
 - (a) One that modifies a dimensional requirement or an overall permitted development floor area or density by 10% or less; or
 - (b) One that represents a clarification, refinement or interpretation of the zoning requirements set forth in this § 345-67.
- (2) Other changes. Any change which is not within Subsection F(1)(a) or (b) above shall be deemed to require an amendment of the Zoning Regulation and shall require a procedure identical with that followed in the adoption of zoning amendments as specified in Article VII of this Zoning Regulation.

SECTION 2: The Amended Concept Development Plan dated May 20, 1999, made part of the Zoning Regulation pursuant to Article XVI, Section 345-68, of the Code of the Village of Port Chester, is hereby amended to permit development for multi-family dwellings in that portion of the Project Area of the Modified Marina Redevelopment Project known and designated as Retail “D” and more fully described as Section 142.31, Block 1, Lots 3, 4, 5, 6, 20, 21, 22, 23 and 24 of the Town of Rye Official Tax Map including an interstitial right-of-way shown on said map.

SECTION 3. Severability

If any provision of this local law is held to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof shall continue in full force and effect.

SECTION 4. Effective Date

This local law shall take effect immediately as provided by law upon due publication and filing with the Secretary of State.

[Brackets] denote wording to be DELETED.
Underlined denote wording to be ADDED

RESOLUTION

ADOPTING LOCAL LAW NO. _ OF 2016 AMENDING THE TEXT OF CHAPTER 345 OF THE VILLAGE CODE, MUR MARINA REDEVELOPMENT PROJECT RENEWAL DISTRICT AND CONCEPT DEVELOPMENT PLAN OF THE MODIFIED MARINA REDEVELOPMENT PROJECT

On motion of TRUSTEE _____, seconded by TRUSTEE _____, the

following resolution was adopted by the Board of Trustees of the Village of Port Chester, New York:

WHEREAS, G&S Port Chester LLC (the “Applicant”) owns the property parcels known as Section 142.031, Block 1, Lots 3, 4, 5, 6, 20, 21, 22, 23, and 24 of the Town of Rye Official Tax Map and interstitial Liberty Street Right-of-Way, which consists of approximately 23,138 square feet (the “Property”); and

WHEREAS, on 1999, the Applicant received approval from the Board of Trustees (hereinafter referred to as the “Board”) to develop the Property for retail use as part of the Modified Marina Redevelopment Project (MMRP”) in 1999; and

WHEREAS, such approval allows use of the Property for 48,000 gross square feet of retail use (approximately 40,000 net square feet of such use); and

WHEREAS, on December 5, 2014, the Applicant submitted a Petition to the Board to amend the zoning map and text amendments to the Urban Renewal Plan for the MMRP, regulations to the MUR Marina Redevelopment Project Renewal District, and Concept Development Plan of the Modified Marina Redevelopment to permit multi-family residential development of the Property and to add a multifamily dwelling parking regulation for the required parking table; and

WHEREAS, on October 1, 2015, the Applicant submitted an Amended Petition to the Board for amendments to (i) the Urban Renewal Plan for the MMRP, (ii) the regulations of the MUR MMRP Urban Renewal District of the Village of Port Chester, and (iii) the Concept Development Plan of the MMRP to permit residential use of the Property, and to amend the MMRP Urban Renewal Plan and MUR District regulations to add a multifamily dwelling parking regulation to the required parking table (the “Proposed Rezoning”); and

WHEREAS, the Applicant plans to develop the Property for a mixed residential and commercial use development, consisting of approximately 12,000 square feet of ground floor retail space and 60,000 square feet of residential space (79 residential dwelling units, primarily studios and one-bedroom units), which includes a density bonus provision for additional floor area (the Proposed Rezoning and proposed development are, collectively, the “Proposed Action”); and

WHEREAS; the Board held a public hearing on the Petition that commenced on January 4, 2016 and was closed on February 1, 2016 upon, among other things, the question of enactment of Local Law No. _ of 2016, being a Local Law amending the official zoning map and the text of Chapter 345, Article XVI of the Village Code (Zoning) as set forth on Exhibit “A” which is on file with the Village Clerk’s Office of the Village of Port Chester; and

WHEREAS, the Board of Trustees determined that the Proposed Action will not have a significant adverse impact on the environment as described in the Negative Declaration; and

WHEREAS, the Board of Trustees adopted the Negative Declaration on March 7, 2016.

NOW, THEREFORE, be it

RESOLVED, by the Village of Port Chester Board of Trustees that Local Law No. _ of 2016, is hereby enacted as follows and effective upon its filing with the New York State Department of State:

LOCAL LAW NO. _ of 2016

A local law amending the text of Chapter 345 of the Village Code, MUR Marina Redevelopment Project Renewal District and Concept Development Plan of the Modified Marina Redevelopment project to permit multi-family residential development in a portion of the project area known and designated as Retail “D” and more fully described as Section 142.31, Block 1, Lots 3, 4, 5, 6, 20, 21, 22, 23 and 24 on the Town of Rye Official Tax Map and an interstitial right-of-way shown on said tax map.

Approved as to Form:

Village Attorney
Anthony Cerreto

EXECUTIVE DIRECTOR: Andrea Kocsis, LCSW
DEPUTY DIRECTOR: Kathy Pandekakes

Received

MAR 24 2016

Village Clerk
VILLAGE OF PORT CHESTER

March 14, 2016

Hon. Dennis Pilla and Board of Trustees
Village of Port Chester
222 Grace Church Street
Port Chester, NY 10573

Re: Redevelopment of the United Hospital Site

Dear Mayor and Board of Trustees:

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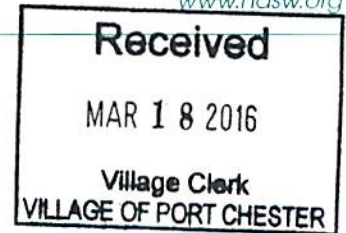
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Respectfully submitted,



EXECUTIVE DIRECTOR: Andrea Kocsis, LCSW
DEPUTY DIRECTOR: Kathy Pandekakes



March 14, 2016

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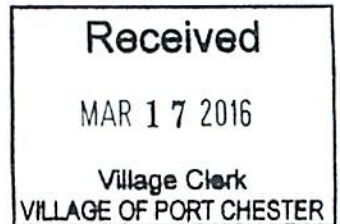
Respectfully submitted,

A handwritten signature in cursive script that reads "Shelby Bender".

EXECUTIVE DIRECTOR: Andrea Kocsis, LCSW
DEPUTY DIRECTOR: Kathy Pandekakes

March 14, 2016

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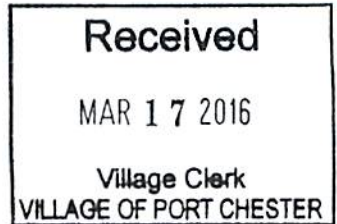
Respectfully submitted,

William Stallings

EXECUTIVE DIRECTOR: Andrea Kocsis, LCSW
DEPUTY DIRECTOR: Kathy Pandekakes

March 14, 2016

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Respectfully submitted,


Frances H. Arrow

June 8

Bruce Baker to be honored.

+ "NAMI" " " "

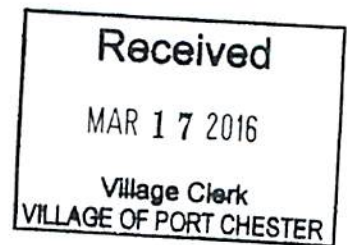
May 21,

a Walk.

EXECUTIVE DIRECTOR: Andrea Kocsis, LCSW
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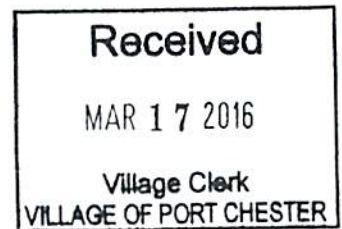
Respectfully submitted,

Carlton (Tom) Kissner

EXECUTIVE DIRECTOR: Andrea Kocsis, LCSW
DEPUTY DIRECTOR: Kathy Pandekakes

March 14, 2016

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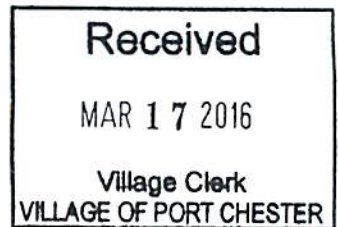
Respectfully submitted,

A handwritten signature in cursive script that reads "Marcela Kisser".

EXECUTIVE DIRECTOR: Andrea Kocsis, LCSW
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March 14, 2016

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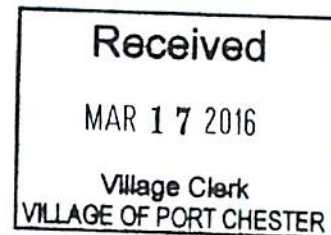
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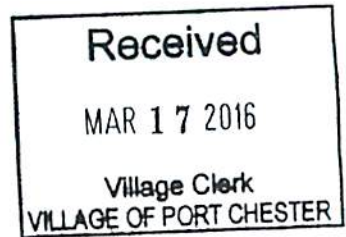
Respectfully submitted,

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EXECUTIVE DIRECTOR: Andrea Kocsis, LCSW
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March 14, 2016

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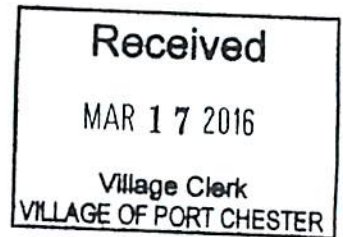
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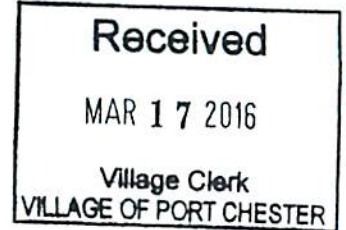
Donald Davis

Donald Davis 8 Tower Hill Drive. Port Chester

6-8-16

5-21-16

EXECUTIVE DIRECTOR: Andrea Kocsis, LCSW
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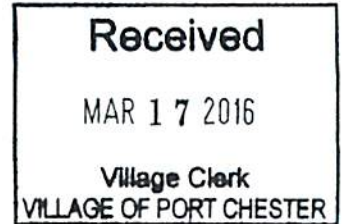
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EXECUTIVE DIRECTOR: Andrea Kocsis, LCSW
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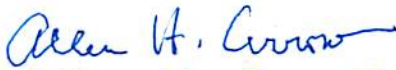
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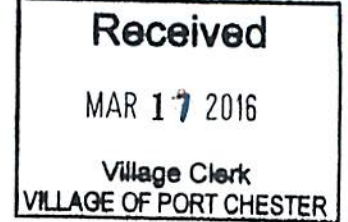
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- Adequate funding given to the Port Chester schools to ensure this project does not exacerbate the overcrowding that our students and educators already struggle with.
- The hiring of an independent monitor to supervise clean up and mitigation at the hospital site, which is contaminated with hazardous materials, including PCBs, human waste and asbestos.

These are measures that responsible developers have adopted at other projects without sacrificing the opportunity for sizeable returns on their investments. Please make sure that the United Hospital redevelopment truly benefits Port Chester.

Respectfully submitted,


Allen H. Arrow

EXECUTIVE DIRECTOR: Andrea Kocsis, LCSW
DEPUTY DIRECTOR: Kathy Pandekakes



March 14, 2016

Hon. Dennis Pilla and Board of Trustees
Village of Port Chester
222 Grace Church Street
Port Chester, NY 10573

Re: Redevelopment of the United Hospital Site

Dear Mayor and Board of Trustees:

As a member of the Board of Directors for Human Development Services of Westchester (HDSW), a not for profit organization administering community revitalization and housing programs in the Village of Port Chester, I am writing to express my support for responsible development at the United Hospital site.

HDSW has been involved in promoting responsible housing in Port Chester for more than 40 years, and has seen both positive and negative development affect this community and its residents. As this redevelopment opportunity arises, I hope that you and the Board will emphasize the needs of our community to the developer by addressing the following concerns:

- A plan for a 20 percent of the project's units to be affordable for working Port Chester families or for Starwood to pay for the construction of an equal number of units at a separate site within the Village.
- A guarantee that all jobs for building and running the project will be good, safe jobs, offering ample training opportunities, and at least area-standard wages and benefits.
- Adequate funding given to the Port Chester schools to ensure this project does not exacerbate the overcrowding that our students and educators already struggle with.
- The hiring of an independent monitor to supervise clean up and mitigation at the hospital site, which is contaminated with hazardous materials, including PCBs, human waste and asbestos.

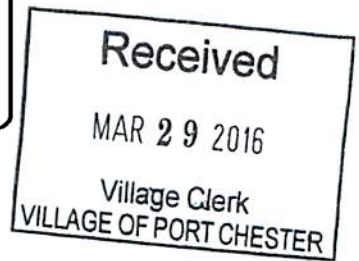
These are measures that responsible developers have adopted at other projects without sacrificing the opportunity for sizeable returns on their investments. Please make sure that the United Hospital redevelopment truly benefits Port Chester.

Respectfully submitted,

A handwritten signature in black ink that reads "Stephen D. Gutmann". The signature is written in a cursive style.

CORR -02

BOT 4-4-2016



**Iglesia Adventista del Séptimo Día Spanish Port Chester
136 E William St
Port Chester, New York**

March 28, 2016

Mayor Pilla and Board of Trustees
Village of Port Chester
222 Grace Church St.
Port Chester, NY 10573

Dear Mayor Pilla,

My name is Evarista Perez, Health Coordinator of the Spanish Port Chester Seventh Day Adventist Church.

We are interested in having an event to help the community on August 28, 2016 from 11:00am to 5:00 pm. We want to bring the Wellness to Go Van, in which we will be able to check people's blood pressure, give chair massages and check BMI. We also want to give out bottled water and health literature.

We have a total of 15 members who are willing to help out with this activity, and we expect to service around 100 people. This event will take place in the Municipal Lot in front of 29 New Broad St, Village of Port Chester, NY. We need three spaces to park the Wellness to Go Van.

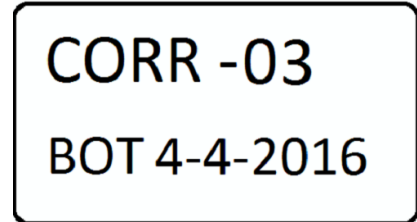
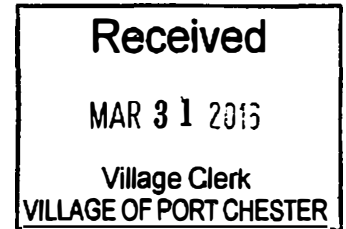
If you have any questions, please do not hesitate to contact me at 203-898-4175 or you may contact Pastor Carlos Aragonéz at 516-503-5122.

Thank you very much in advance for your time and any consideration you give this request.

Respectfully,

Evarista Perez
Health Coordinator

Bart A. Didden
123 Betsy Brown Road
Port Chester, NY 10573
914-937-2602



March 31, 2016

David Thomas, Village Clerk
Village Of Port Chester, NY
222 Grace Church Street
Port Chester, NY 10573

RE: resignation from Waterfront Commission

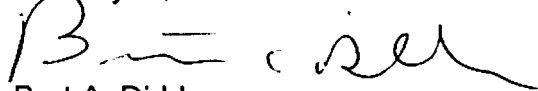
Dear Mr. Clerk,

Please accept this letter as my formal resignation from the Village of Port Chester Waterfront Commission and as its Chairman.

It has been a pleasure to serve the Village in this capacity but as a result of my being elected as a Trustee in the March 15th, 2016 election, I find that continuing service on the Waterfront Commission will create a conflict.

This resignation is effective immediately upon receipt.

Thank you,


Bart A. Didden