

TOWN OF CLARKSTOWN
TOWN BOARD MEETING

327

Town Hall

10/23/90

8:05 P.M.

Present: Supervisor Holbrook
Council Members Kunis, Maloney, Mandia and Smith
Murray N. Jacobson, Town Attorney
Patricia Sheridan, Town Clerk

Supervisor declared Town Board meeting open.
Assemblage saluted the Flag.

Supervisor declared the Public Portion of the meeting
open. No one appeared.

RESOLUTION NO. (924-1990)

ACCEPTING TOWN BOARD
MINUTES SEPTEMBER 25, 1990,
OCTOBER 2, 1990, OCTOBER 9,
1990, OCTOBER 16, 1990

Co. Maloney offered the following resolution:

Resolved, that the minutes of the Town Board Meetings
of September 25, 1990, October 2, 1990, October 9, 1990, and October
16, 1990 are accepted as submitted by the Town Clerk.

Seconded by Co. Smith

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (925-1990)

AUTHORIZING CHANGE OF
STREET NAME FROM WOOD LANE
TO SKY DRIVE, NEW CITY
(SUBDIVISION OF
MOUNTAINSIDE ESTATES)

Co. Maloney offered the following resolution;

WHEREAS, a request has been made that the street known
as Wood Lane, in the Hamlet of New City, as shown on a filed map
entitled, "Subdivision Plat of Mountainside Estates," be changed to
Sky Drive;

NOW, THEREFORE, be it

RESOLVED, that the name of "Wood Lane" is hereby
changed to "Sky Drive," and be it

FURTHER RESOLVED, that the Highway Superintendent take
notice of this resolution and make appropriate changes in the street
sign as may be necessary and that the Town Clerk pursuant to Town
Law 64(9) shall within ten days from the date hereof cause a copy of
this resolution to be forwarded to the Planning Board of the Town of
Clarkstown, the Clarkstown School District, the New City Post
Office, the New City Fire Department, the New City Ambulance Corps,
and the Clarkstown Police Department, and that a certified copy of
this resolution be filed with the Rockland County Clerk and the
Rockland County Engineer, and be it

FURTHER RESOLVED, that this resolution shall take
effect immediately.

Seconded by Co Mandia

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RESOLUTION NO. (925-1990) Continued

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (926-1990)

REFERRAL OF ZONE CHANGE
PETITION FROM R-15 DISTRICT
TO PO DISTRICT TO
CLARKSTOWN PLANNING BOARD
AND ROCKLAND COUNTY
COMMISSIONER OF PLANNING
(ALVIN ARONOFF)

WHEREAS, ALVIN ARONOFF, has petitioned the Town Board of the Town of Clarkstown that the Zoning Ordinance of the Town be amended by redistricting property of the petitioner described from an R-15 District to a PO District, and

WHEREAS, said property is designated on the Clarkstown Tax Map as Map 59, Block A, Lot 15.1;

NOW, THEREFORE, be it

RESOLVED, that the petition is hereby referred to the Clarkstown Planning Board for report pursuant to Section 106-32 of the Zoning Ordinance of the Town of Clarkstown and to the Rockland County Commissioner of Planning and the other municipalities and governmental bodies as required by Sections 239-1 and 239-m of the General Municipal Law and other applicable provisions of law, and be it

FURTHER RESOLVED, for the purposes of the New York State Environmental Quality Review Act (SEQRA), the Town Board determines that it shall act as lead agency and Robert Geneslaw, Planning Consultant, is hereby authorized and directed to act as agent for the Town Board with respect to SEQRA review.

Seconded by Co. Smith

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (927-1990)

AUTHORIZING KARL KIRCHNER
TO PROVIDE TESTIMONY AT
TRIAL- (PERGAMENT
DISTRIBUTORS, INC.) CHARGE
TO ACCOUNT NO. A 1420-439-1

Co. Maloney offered the following resolution:

WHEREAS, a Tax Certiorari was brought against the Town of Clarkstown by Pergament Distributors, Inc., lessee of property designated on the Clarkstown Tax Map as Map 32, Block B, Lots 85.1 and 94, for the years 1985, 1987 and 1988, and

WHEREAS, trial appraisals were prepared by Karl Kirchner, on behalf of the Town of Clarkstown;

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RESOLUTION NO. (927-1990) Continued

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby authorizes Karl Kirchner to provide expert testimony at the trial with regard to the defense of such proceeding, for the fee of \$1,000 per day, and be it

FURTHER RESOLVED, that such fee for expert testimony by Karl Kirchner, shall be charged to Account No. A-1420-439-1.

Seconded by Co. Smith

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (928-1990)

RELEASE OF ESCROWS (GRAND
PLAZA/ROCKLAND CONSUMER
PLAZA

Co. Maloney offered the following resolution:

RESOLVED, that upon the recommendation of the Department of Environmental Control and the Building Department, escrows held by the Town of Clarkstown for incomplete work secured by a Letter of Credit in connection with Site Plan of Grand Plaza/Rockland Consumer Plaza is hereby released as the work has been completed to Town specifications.

Seconded by Co. Smith

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (929-1990)

AUTHORIZING DIRECTOR OF
ENVIRONMENTAL CONTROL TO
HAVE CORRECTIVE DRAINAGE
WORK PERFORMED VICINITY OF
LOTS 71-D-1.15 & 71-B-4.07,
WEST NYACK, NEW YORK -
CHARGE CAPITAL ACCOUNT #2

Co. Smith offered the following resolution:

WHEREAS, an adverse drainage condition exists within drainage easements of lots 71-D-1-15, Fox Lane, West Nyack, New York and 71-B-4-07, Alicia Court, West Nyack, New York and

WHEREAS, by Town Board Resolution No. 968-1987 dated September 22, 1987 corrective drainage work was completed to ameliorate an adverse drainage condition on lot 71-D-1.15, Fox Lane, West Nyack, New York; and

WHEREAS, additional stabilization work is required to control overflow of runoff across the easement on lot 71-D-1-15, Fox Lane, West Nyack, New York and

Continued on Next Page

RESOLUTION NO. (929-1990) Continued

WHEREAS, a railroad tie retaining wall is required to control runoff from the adjacent property (Clarkstown School) into an existing drainage ditch on lot 71-B-4.07, Alicia Court, West Nyack, New York;

NOW, THEREFORE, be it

RESOLVED that the Director of Environmental Control be authorized to hire Pinebrook Landscaping and Paving Inc., 49 Rolling Ridge Road, New City, New York to perform the necessary corrective work; and be it

FURTHER RESOLVED that the sum of said improvements shall not exceed \$5000.00 and shall be a proper charge of Capitol Account #2.

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (930-1990)

AUTHORIZING ATTENDANCE AT
COURSE 303 - ASSESSOR'S
OFFICE (CATHY CONKLIN)
CHARGE ACCOUNT NO. 1010-414

Co. Maloney offered the following resolution:

RESOLVED, that Cathy L. Conklin, Supervising Real Property Appraiser of the Town of Clarkstown, is hereby authorized to attend Course 303 in Millbrook, New York from October 29 - November 2, 1990; sponsored by the New York Suburban Counties Chapter of IAAO, and be it

FURTHER RESOLVED, that all proper charges be charged against line 1010-414.

Seconded by Co. Smith

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (931-1990)

AUTHORIZING DIRECTOR OF
PURCHASING TO ADVERTISE FOR
BIDS FOR BID #3-1991 (BUS
TRANSPORTATION SERVICE)

Co. Maloney offered the following resolution:

RESOLVED, that the Director of Purchasing is hereby authorized to advertise for bids for:

BID #3-1991
BUS TRANSPORTATION SERVICE

RESOLUTION NO. (931-1990) Continued

bids to be returnable to the Office of the Director of Purchasing, 10 Maple Avenue, New City, New York by 11:00 A.M. on Monday, December 3, 1990 at which time bids will be opened and read, and be it

FURTHER RESOLVED, that bid specifications and proposal documents can be obtained at the Office of the Clarkstown Director of Purchasing.

Seconded by Co. Smith

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (932-1990)

AUTHORIZING DIRECTOR OF PURCHASING TO ADVERTISE FOR BIDS FOR BID #4-1991 (PRINTING OF TOWN ENVELOPES AND STATIONERY)

Co. Maloney offered the following resolution:

RESOLVED, that the Director of Purchasing is hereby authorized to advertise for bids for:

BID #4-1991
PRINTING OF TOWN ENVELOPES AND STATIONERY

bids to be returnable to the Office of the Director of Purchasing, 10 Maple Avenue, New City, New York by 11:00 A.M. on Wednesday, November 14, 1990 at which time bids will be opened and read, and be it

FURTHER RESOLVED, that bid specifications and proposal documents can be obtained at the office of the Clarkstown Director of Purchasing.

Seconded by Co. Smith

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (933-1990)

AUTHORIZING DIRECTOR OF PURCHASING TO ADVERTISE FOR BIDS FOR BID #76-1990 - CENTENARY - OLD 304 DRAINAGE PROJECT

Co. Maloney offered the following resolution:

RESOLVED, that the Director of Purchasing is hereby authorized to advertise for bids for:

BID #76-1990
CENTENARY - OLD ROUTE 304
DRAINAGE PROJECT

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RESOLUTION NO. (933-1990) Continued

bids to be returnable to the Office of the Director of Purchasing, 10 Maple Avenue, New City, New York by 11:00 A.M. on Tuesday, November 20, 1990 at which time bids will be opened and read, and be it

FURTHER RESOLVED, that bid specifications and proposal documents can be obtained at the Office of the Clarkstown Director of Purchasing.

Seconded by Co. Smith

On roll call the vote was as follows:

- Councilman Kunis.....Yes
- Councilman Maloney.....Yes
- Councilman Mandia.....Yes
- Councilwoman Smith.....Yes
- Supervisor Holbrook.....Yes

RESOLUTION NO. (934-1990)

AUTHORIZING DIRECTOR OF PURCHASING TO ADVERTISE FOR BIDS FOR BID #77-1990 - DEMOLITION AND REMOVAL OF STRUCTURE

Co. Maloney offered the following resolution:

RESOLVED, that the Director of Purchasing is hereby authorized to advertise for bids for:

BID #77-1990
DEMOLITION AND REMOVAL OF STRUCTURE

bids to be returnable to the Office of the Director of Purchasing, 10 Maple Avenue, New City, New York by 11:00 A.M. on Monday, November 19, 1990 at which time bids will be opened and read, and be it

FURTHER RESOLVED, that bid specifications and proposal documents can be obtained at the Office of the Clarkstown Director of Purchasing.

Seconded by Co. Smith

On roll call the vote was as follows:

- Councilman Kunis.....Yes
- Councilman Maloney.....Yes
- Councilman Mandia.....Yes
- Councilwoman Smith.....Yes
- Supervisor Holbrook.....Yes

RESOLUTION NO. (935-1990)

AUTHORIZING DIRECTOR OF PURCHASING TO ADVERTISE FOR BIDS FOR BID #6-1991 - PHOTOCOPIER/FAX SUPPLIES

Co. Maloney offered the following resolution:

RESOLVED, that the Director of Purchasing is hereby authorized to advertise for bids for:

BID #6-1991
PHOTOCOPIER/FAX SUPPLIES

RESOLUTION NO. (935-1990) Continued

bids to be returnable to the Office of the Director of Purchasing, 10 Maple Avenue, New City, New York by 11:00 A.M. on Thursday, November 15, 1990 at which time bids will be opened and read, and be it

FURTHER RESOLVED, that bid specifications and proposal documents can be obtained at the Office of the Clarkstown Director of Purchasing.

Seconded by Co. Smith

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (936-1990)

AUTHORIZING DIRECTOR OF PURCHASING TO ADVERTISE FOR BIDS FOR BID #5-1991 - PAPER AND PLASTIC SUPPLIES

RESOLVED, that the Director of Purchasing is hereby authorized to advertise for bids for:

BID #5-1991
PAPER AND PLASTIC SUPPLIES

bids to be returnable to the Office of the Director of Purchasing, 10 Maple Avenue, New City, New York by 11:00 A.M. on Friday, November 16, 1990 at which time bids will be opened and read, and be it

FURTHER RESOLVED, that bid specifications and proposal documents can be obtained at the Office of the Clarkstown Director of Purchasing.

Seconded by Do. Smith

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (937-1990)

AWARDING BID FOR BID #86-1990 - GROUNDSKEEPING EQUIPMENT (WILFRED MACDONALD, ARGENTO & SONS, AND RYAN RENOVAIRE POWER AERATOR)

Co. Maloney offered the following resolution:

RESOLVED, that based upon the recommendation of the Sup. of Recreation & Parks and the Director of Purchasing that

BID #68-1990
GROUNDSKEEPING EQUIPMENT

is hereby awarded to the following bidders as per their low bid proposals

RESOLUTION NO. (937-1990) Continued

Item #1 - Slicer Seeder - SALSCO Model #SS-35-20S @ \$3,450.00

Awarded to: WILFRED MacDONALD, INC.
340 Main Avenue
Clifton, N.J. 07014
Principals: Wilfred MacDonald
James Pelrine

Item #2 - Core Aerator - SALSCO Model 30-6 (XRA240) @ \$3,375.00

AND

Item #4 - Compact Tractor - John Deere - Model #955 with 72" Mid Mower and 550 Tiller @ \$15,559.00

Awarded to: Argento & Sons
1 Prospect Avenue
White Plains, N.Y. 10607
Principals: Sal Argento
Rose Argento

Item #3 - Power Aerator - Ryan Renovaire Power Aerator @ \$4,345.00

Awarded to: Westchester Ford Tractor, Inc.
Meadow Street
Goldens Bridge, N.Y. 10526
Principal: John M. Apple

Seconded by Co. Mandia

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (938-1990)

AWARDING BID FOR BID
#16b-1990 - POLICE UNIFORMS
(BEST UNIFORM CO. INC.)

Co. Maloney offered the following resolution:

RESOLVED, that based upon the recommendation of the Administrative Captain of the Police Department that

BID #16b-1990
POLICE UNIFORMS

is hereby awarded to:

BEST UNIFORM CO. INC.
2417 THIRD AVE.
BRONX, NY 10451

as per the attached item/price schedule.

Seconded by Co. Mandia

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (939-1990)

AUTHORIZING SUPERINTENDENT
OF HIGHWAYS TO INSTALL STOP
SIGN LAUREL ROAD, CENTRAL
NYACK AT EXIT ROAD FROM
NORTHGATE GARDENS

Co. Kunis offered the following resolution:

RESOLVED, that based upon the recommendation of the
Traffic and Traffic Fire Safety Advisory Board, the Superintendent
of Highways is hereby authorized to install:

A stop sign at the exit road from Northgate
Garden, Laurel Road, Central Nyack, NY, on
Laurel Road, Central Nyack, NY

and be it

FURTHER RESOLVED, that the Town Clerk be directed to
forward copies of this resolution to the Superintendent of Highways,
John Mauro, for implementation.

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (940-1990)

AUTHORIZING SUPERINTENDENT
OF HIGHWAYS TO INSTALL A
STOP SIGN ON JOHNSON'S LANE
AT SHETLAND DRIVE, NEW CITY

Co. Kunis offered the following resolution:

RESOLVED, that based upon the recommendation of the
Traffic and Traffic Fire Safety Advisory Board, the Superintendent
of Highways is hereby authorized to install.

A Stop Sign on Johnson's Lane at
Shetland Drive, New City.

and be it

FURTHER RESOLVED, that the Town Clerk be directed to
forward copies of this resolution to the Superintendent of Highways,
John Mauro, for implementation.

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (941-1990)

AUTHORIZING THE
SUPERINTENDENT OF HIGHWAYS

RESOLUTION NO. (941-1990) Continued

TO INSTALL A STOP SIGN ON
AMERICAN LEGION WAY AT
CONGERS ROAD, NEW CITY

Co. Kunis offered the following resolution:

RESOLVED, that based upon the recommendation of the
Traffic and Traffic Fire Safety Advisory Board, the Superintendent
of Highways is hereby authorized to install:

A Stop Sign on American Legion Way at Congers Road, New
City
and be it

FURTHER RESOLVED, that the Town Clerk be directed to
forward copies of this resolution to the Superintendent of Highways,
John Mauro, for implementation.

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (942-1990)

AUTHORIZING SUPERINTENDENT
OF HIGHWAYS TO INSTALL "NO
PARKING HERE TO CORNER"
SIGN ON THE WEST SIDE OF
MAPLE AVENUE 25 FEET SOUTH
OF SECOND STREET

Co. Kunis offered the following resolution:

RESOLVED, that based upon the recommendation of the
Traffic and Traffic Fire Safety Advisory Board, the Superintendent
of Highways is hereby authorized to install:

A "No Parking Here to Corner" sign on the westside
of Maple Avenue 25 ft. South of Second Street, New
City.

and be it

FURTHER RESOLVED, that the Town Clerk be directed to
forward copies of this resolution to the Superintendent of Highways,
John Mauro, for implementation.

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (943-1990)

INCREASING ESTIMATED
REVENUE ACCOUNT NO.
15-002705 (CAPITAL GIFTS &
DONATIONS) AND APPROPRIA
TION ACCOUNT NO. H

RESOLUTION NO. (943-1990) Continued

8730-30-409 (DRAINAGE,
ROCKLAND CORPORATE CENTER,
BLDG. 3)

Co. Maloney offered the following resolution:

WHEREAS, Gibraltar Management has donated \$100,000 for a drainage project at the Rockland Corporate Center, Building 3,

NOW, THEREFORE, be it

RESOLVED, to increase Estimated Revenue Account No. 15-002705 (Capital-Gifts & Donations) and Appropriation Account No. H 8730-30-409 (Drainage, Rockland Corporate Center, Bldg. 3) by R100,000.

Seconded by Co. Smith

On roll call the vote was as follows:

Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilman Mandia.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (944-1990)

INCREASE ESTIMATED REVENUE
ACCOUNT NO. 01-002130
(REFUSE & GARBAGE) AND
VARIOUS OTHER APPROPRIA-
TIONS ACCOUNTS AND DE-
CREASING APPROPRIATIONS
ACCOUNT NO. A 7410-550
(MARTIN LUTHER KING
LIBRARY) AND CONTINGENCY
ACCOUNT NO. A 1990-505)

Co. Kunis offered the following resolution:

WHEREAS, various Appropriation Account Numbers require additional funding,

NOW, THEREFORE, be it

RESOLVED, to increase Estimated Revenue Account No. 01-002130 (Refuse & Garbage) by \$67,565 and increase the following Appropriation Account Numbers:

A 3310-313 (Traffic Advisory-Office Prtg.).....	\$	10
A 3320-409 (Install Light Poles-Fees).....		2,555
A 3120-225 (Police-Computer Hardware		65,000

and it be

FURTHER RESOLVED, to decrease Appropriation Account No. A 7410-550 (Martin Luther King Library) and increase Contingency Account No. A 1990-505 by \$9,000.

Scnded by Co. Maloney

On roll call the vote was as follows:

Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilman Mandia.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (945-1990)

INCREASE ESTIMATED REVENUE
NO. 01-002131 (REFUSE AND
GARBAGE) AND APPROPRIATION
ACCOUNT NO. A 9550-1990
(TRANSFER TO CAPITAL #2
FUND)

Co Kunis offered the following resolution:

WHEREAS, Appropriation Account No. A 9550-910 (Transfer to Capital #2 Fund) requires additional funding,

NOW, THEREFORE, be it

RESOLVED, to increase Estimated Revenue No. 01-002130 (Refuse & Garbage) and Appropriation Account No. A 9550-910 by \$758,927.

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (946-1990)

AUTHORIZING TOWN ATTORNEY
TO APPEAL DECISION (HUDSON
RIVER DEFENSE LEAGUE, INC.)

Co. Maloney offered the following resolution:

WHEREAS, the Supreme Court of Rockland County has rendered a decision in the matter of HUDSON RIVER DEFENSE LEAGUE, INC., et al., against the TOWN OF CLARKSTOWN, et al., and

WHEREAS, it is deemed appropriate that the decision as against the Defendant-Respondent Town of Clarkstown be appealed;

NOW, THEREFORE, be it

RESOLVED, that the Town Attorney is hereby authorized to take all necessary steps to appeal said decision.

Seconded by Co. Smith

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (947-1990)

RELEASE OF ESCROW FUNDS
(MALL AT 59)

Co. Maloney offered the following resolution:

RESOLVED, that upon the recommendation of the Department of Environmental Control of the Town of Clarkstown, the sum of \$10,000 held in escrow by the Town to guaranty completion of certain work at a site known as THE MALL AT 59 is hereby released as the work has been completed to Town requirements.

Seconded by Mandia

RESOLUTION NO. (947-1990) Continued

On roll call the vote was as follows:

Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilman Mandia.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (948-1990)

MEMORIALIZING ROCKLAND
COUNTY LEGISLATURE WITH
REGARD TO MTA FUNDS

Co. Maloney offered the following resolution:

WHEREAS, the Legislature of the County of Rockland have decided not to allocate any MTA funds for the year 1991 to the Town of Clarkstown, as they have in previous years, and

WHEREAS, it is necessary for the Town to receive MTA funds in the amount of \$316,000.00, for the year 1991, to defray costs to the Town of Clarkstown;

NOW, THEREFORE, be it

RESOLVED, that the Town Board of the Town of Clarkstown hereby memorializes the Legislature of the County of Rockland for the MTA funds for the year 1991, in the amount of \$316,000.00.

Seconded by Co. Kunis

On roll call the vote was as follows:

Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilman Mandia.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (949-1990)

MEMORIALIZING THE ROCKLAND
COUNTY LEGISLATURE WITH
REGARD TO RECYCLING FUNDS

Co. Smith offered the following resolution:

WHEREAS, the Legislature of the County of Rockland have decided not to allocate any MTA funds for the year 1991 to the Town of Clarkstown, as they have in previous years, and

WHEREAS, it is necessary for the Town to receive MTA funds in the amount of \$316,000.00, for the year 1991, to defray costs to the Town of Clarkstown;

NOW, THEREFORE, be it

RESOLVED, that the Town Board of the Town of Clarkstown hereby memorializes the Legislature of the County of Rockland for the MTA funds for the year 1991, in the amount of \$316,000.00.

Seconded by Co. Maloney

On roll call the vote was as follows:

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RESOLUTION NO. (949-1990) Continued

Councilman Kunis.....Yes
 Councilman Maloney.....Yes
 Councilman Mandia.....Yes
 Councilwoman Smith.....Yes
 Supervisor Holbrook.....Yes

RESOLUTION NO. (950-1990)

AUTHORIZATION OF BONFIRES
FOR PEP RALLIES AT
CLARKSTOWN NORTH AND SOUTH
HIGH SCHOOLS

Co. Maloney offered the following resolution:

WHEREAS, Clarkstown North and South High Schools have pep rallies planned for November 9, 1990, and it is traditional to have bonfires in conjunction with the rallies,

NOW, THEREFORE, be it

RESOLVED, that Clarkstown North High School and Clarkstown South High School are hereby authorized by the Town of Clarkstown to burn bonfires in conjunction with their pep rallies on November 9, 1990.

Seconded by Co. Kunis

On roll call the vote was as follows:

Councilman Kunis.....Yes
 Councilman Maloney.....Yes
 Councilman Mandia.....Yes
 Councilwoman Smith.....Yes
 Supervisor Holbrook.....Yes

RESOLUTION NO. (951-1990)

APPOINTING TO POSITION OF
CLERK TYPIST - TOWN CLERK'S
OFFICE (ANNE HOULIHAN)

Co. Maloney offered the following resolution:

WHEREAS, the Rockland County Personnel Office has furnished Certification of Eligibles Clerk Typist #90086, which contains the name of Anne Houlihan,

NOW, THEREFORE, be it

RESOLVED, that Anne Houlihan, 14 Ardsley Drive, New City, New York is hereby appointed to the position of Clerk Typist - Town Clerk's Office - at the current 1990 annual salary of \$16,113., effective and retroactive to October 17, 1990.

Seconded by Co. Mandia

On roll call the vote was as follows:

Councilman Kunis.....Yes
 Councilman Maloney.....Yes
 Councilman Mandia.....Yes
 Councilwoman Smith.....Yes
 Supervisor Holbrook.....Yes

RESOLUTION NO. (952-1990)

APPOINTING TO POSITION OF
OFFICE WORKER STUDENT -

RESOLUTION NO. (952-1990) Continued

RECEIVER OF TAXES (JOLEEN DELGADO)

Co. Maloney offered the following Resolution:

RESOLVED, that Joleen Delgado, 330 Congers Road, New City, New York, is hereby appointed to the position of Office Worker Student - Receiver of Taxes Office - at the current hourly rate of \$4.50 - effective and retroactive to October 5, 1990.

Seconded by Co. Mandia

On roll call the vote was as follows:

Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilman Mandia.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (953-1990)

ACCEPTING RESIGNATION OF CLERK TYPIST (SEASONAL)-RECEIVER OF TAXES OFFICE (MARY DeFOREST)

Co. Maloney offered the following Resolution:

RESOLVED, that the resignation of Mary DeForest, 22 Old Brick Road, New City, New York - Clerk Typist (Seasonal) Receiver of Taxes Office - is hereby accepted - effective and retroactive to October 22, 1990

Seconded by Co. Mandia

On roll call the vote was as follows:

Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilman Mandia.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (954-1990)

APPOINTING TO POSITION OF CLERK TYPIST (SEASONAL) - RECEIVER OF TAXES OFFICE (KATHLEEN McDERMOTT)

Co. Maloney offered the following Resolution:

RESOLVED, that Kathleen McDermott, 54 Basswood Court, Bardonia, New York, is hereby appointed to the position of Clerk Typist (Seasonal) - Receiver of Taxes Office - at the current 1990 hourly rate of \$8.40 - effective and retroactive to October 22, 1990.

Seconded by Co. Mandia

On roll call the vote was as follows:

Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilman Mandia.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (955-1990)

RECOGNIZING APPOINTMENT BY
PARKS BOARD AND RECREATION
COMMISSION OF GROUNDWORKER
(WILLIAM J. CAREY)

Co. Maloney offered the following Resolution:

RESOLVED, that the Town Board hereby recognizes the appointment by the Parks Board and Recreation Commission of William J. Carey, 142 Pineview Avenue, Bardonia, New York, to the position of Groundworker - Parks Board and Recreation Commission - at the current 1990 annual salary of \$18,316., effective and retroactive to October 9, 1990.

Seconded by Co. Mandia

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (956-1990)

APPOINTING TO POSITION OF
(TEMPORARY) PRINCIPAL
ACCOUNT CLERK -
COMPTROLLER'S OFFICE (MARY
DeFOREST)

Co. Maloney offered the following Resolution:

RESOLVED, that Mary DeForest, 22 Old Brick Road, New City, New York, is hereby appointed to the position of (temporary) Principal Account Clerk - Comptroller's Office - at the current 1990 annual salary of \$20,846., for a period not to exceed 30 days (pending Rockland County Personnel Office review and approval of Ms. DeForest's transcripts) effective and retroactive to October 22, 1990

Seconded by Co. Mandia

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

RESOLUTION NO. (957-1990)

RECOGNIZING APPOINTMENT BY
POLICE COMMISSION OF
(PROVISIONAL) POLICE RADIO
DISPATCHER (NANCY FUCHS)

Co. Maloney offered the following Resolution:

RESOLVED, that the Town Board hereby recognized the appointment by the Police Commission of Nancy Fuchs, 40 Barry Lane, Bardonia, New York, to the position o (provisional) Police Radio Dispatcher - Police Department - at the current annual salary of 21,768., effective and retroactive to October 18, 1990.

Seconded by Co. Mandia

RESOLUTION NO. (957-1990) Continued

On roll call the vote was as follows:

Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilman Mandia.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

RESOLUTION NO. (958-1990)

ACCEPTING RESIGNATION OF
MOTOR EQUIPMENT OPERATOR I
- HIGHWAY DEPARTMENT
(RICHARD CURRAO)

Co. Maloney offered the following Resolution:

RESOLVED, that the resignation of Richard Currao, 82 Hall Avenue, New City, New York - Motor Equipment Operator I - Highway Department - is hereby accepted - effective and retroactive to October 19, 1990.

Seconded by Co. Mandia

On roll call the vote was as follows:

Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilman Mandia.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

On motion of Councilman Maloney, seconded by Councilman Mandia and unanimously adopted, the Public Hearing re: Zone Change from R-15 to LIO - Map 164, Block A, Lot 19 (Yassky & Faist) was opened, time: 8:20 P.M.

On motion of Councilman Kunis, seconded by Councilman Maloney and unanimously adopted, the Public Hearing re: Zone Change from R-15 to LIO - Map 164, Block A, Lot 19 (Yassky & Faist) was closed, RESOLUTION ADOPTED, time: 8:35 P.M.

RESOLUTION NO. (959-1990)

GRANTING ZONE CHANGE FROM
R-15 TO LIO - MAP 164,
BLOCK A, LOT 19 (YASSKY &
FAIST)

Co. Smith offered the following resolution:

WHEREAS, the Town Board of the Town of Clarkstown by resolution duly adopted on the 11th day of September, 1990, provided for a public hearing on the 23rd day of October, 1990, at 8:05 P.M., to consider the application of ALAN YASSKY and GEORGE FAIST, to amend the Zoning Ordinance of the Town of Clarkstown by redistricting the property of the Petitioners described on the Clarkstown Tax Map as Map 164, Block A, Lot 19, from an R-15 District to an LIO District, and

WHEREAS, notice of public hearing was duly published as required by law and the public hearing was duly held at the time and place specified in the notice, and

WHEREAS, the Town Board of the Town of Clarkstown has received a Short Environmental Assessment Form pursuant to SEQRA, from our consultant Robert Geneslaw, which the Board has discussed and considered such report in making their decision herein;

Continued on Next Page

RESOLUTION NO. (960-1990) Continued

NOW, THEREFORE, be it

RESOLVED, that based upon the report of Robert Geneslaw, dated September 5, 1990, acting as staff to the Town Board as lead agency, the Town Board hereby determines that the change of zone shall not have any significant impact on the environment and no further processing pursuant to the State Environmental Quality Review Act (SEQRA) is required, and be it

FURTHER RESOLVED, that the zone change provided for herein shall be subject to the receipt and acceptance by the Town Board of a covenant in a form approved by the Town Attorney submitted by the record owner, and shall provide that the recommendations of the Planning Board made upon review of the proposed zone change be implemented by the property owners or his successor in interest as follows:

1. The owner shall provide adequate buffers to protect the residential properties to the west, which is now under construction.

2. The owner shall gratuitously dedicate to the County of Rockland the road widening along Smith Road to conform to the Official Map width,

and be it

FURTHER RESOLVED, that for reasons of public health, safety and welfare, the Zoning Ordinance of the Town of Clarkstown be and it hereby is amended by redistricting from an R-15 District to an LIO District, the following described property in the Spring Valley section of Clarkstown, and be it

FURTHER RESOLVED, that the Town Attorney is hereby authorized and directed to prepare notice of this Amendment to the Zoning Ordinance and that the Town Clerk cause the same to be published in the official newspaper of the Town and file proof thereof in the Office of the Town Clerk, as required by law.

(DESCRIPTION ON FILE IN TOWN CLERK'S OFFICE)

Seconded by Kunis

On roll call Councilman Kunis noted that he was voting yes because he felt it was good and proper zoning. He said not only was he voting for them to put additional parking spaces there but if you do have room to build, which it appears you do, he is all for them constructing an office building and providing jobs and providing a tax ratable. Based on that he was voting yes.

Councilman Mandia said he thinks the nourishing of good clean ratables in the town is in everybody's best interest.

On roll call the vote was as follows:

- Councilman Kunis.....Yes
- Councilman Maloney.....Yes
- Councilman Mandia.....Yes
- Councilwoman Smith.....Yes
- Supervisor Holbrook.....Yes

On motion of Councilwoman Smith, seconded by Councilman Maloney and unanimously adopted the public hearing re: Modification of Covenants - Map 120, Block A, Lots 28 and 31.01 (Hegarty Homes) was opened, time: 8:40 P.M.

Continued on Next Page

On motion of Councilwoman Smith, seconded by Councilman Maloney and unanimously adopted the public hearing re: Modification of Covenants - Map 120, Block A, Lots 28 and 31.01 (Hegarty Homes) was closed, RESOLUTION ADOPTED, time: 8:50 P.M.

RESOLUTION NO. (960-1990)

MODIFYING RESTRICTIVE
COVENANTS OF ZONE CHANGE -
MAP 1220, BLOCK A, LOTS 28
AND 31.01 (HEGARTY HOMES,
INC.)

Co. Smith offered the following Resolution:

WHEREAS, the Town Board of the Town of Clarkstown by resolution duly adopted on the 11th day of September, 1990, provided for a public hearing on the 23rd day of October, 1990 at 8:10, to consider the application of HEGARTY HOMES, INC., to modify the Restrictive Covenant on the subject property, which was dated February 15, 1990, and filed in the Rockland County Clerk's Office on May 1, 1990, in Liber 406 at Page 2078, pertaining to a zone change adopted by the Town Board on April 26, 1988. The property of the Petitioner is designated on the Clarkstown Tax Map as Map 120, Block A, Lots 28 and 31.01, and

WHEREAS, notice of public hearing was duly published as required by law and the public hearing was duly held at the time and place specified in the notice, and

WHEREAS, the Town Board of the Town of Clarkstown has received a Short Environmental Assessment Form pursuant to SEQRA, from our consultant K. Luke Kalarickal, P.E., Deputy Director of Environmental Control, which the Board has discussed and considered such report in making their decision herein;

NOW, THEREFORE, be it

RESOLVED, that based upon the report of K. Luke Kalarickal, dated September 25, 1990, acting as staff to the Town Board as lead agency, the Town Board hereby determines that the modification of the Restrictive Covenants shall not have any significant impact on th environment and no further processing pursuant to the State Environmental Quality Review Act (SEQRA) is required, and be it

FURTHER RESOLVED, that for reasons of public health, safety and welfare, the Town Board hereby authorizes the modifications of the Restrictive Covenants as follows:

1. The premises shall be improved only with a two story building.
2. No parking shall be permitted in the hill area to the northwest of said building beyond that indicated on the site plan entitled "Hegarty 7/30/90."
3. No change.
4. The building shall be located a minimum of thirty feet off the westerly property line.
5. No change.

and be it

FURTHER RESOLVED, that the Town Attorney is hereby authorized and directed to prepare notice of this modification of Restrictive Covenant and that the Town Clerk cause the same to be

Continued on Next Page

RESOLUTION NO. (960-1990) Continued

published in the official newspaper of the Town and file proof thereof in the Office of the Town Clerk, as required by law.

Seconded by Co. Maloney

On roll call the vote was as follows:

Councilman Kunis.....Yes
Councilman Maloney.....Yes
Councilman Mandia.....Yes
Councilwoman Smith.....Yes
Supervisor Holbrook.....Yes

On motion of Councilwoman Smith, seconded by Councilman Kunis and unanimously adopted, the Public Hearing re: Amendment to Official Map - Widening of Route 59 - Hopf Drive to North Greenbush Road which was adjourned from September 11, 1990, was opened, time: 8:50 P.M.

On motion of Councilman Maloney, seconded by Councilwoman Smith and unanimously adopted, the Public Hearing re: Amendment to Official Map - Widening of Route 59 - Hopf Drive to North Greenbush Road was adjourned, time: 9:53 P.M.

On motion of Councilman Maloney, seconded by Councilman Mandia and unanimously adopted, the Public Hearing re: Zone Change from R-22 to LIO - Map 107, Block A, Lots 13.02 and 13.04 - Rockland Hyundai was opened, time: 9:54 P.M.

On motion of Councilwoman Smith, seconded by Councilman Maloney and unanimously adopted, the public hearing re: Zone Change R-22 to LIO - Map 107, Block A, Lots 13.02 and 13.04 (Rockland Hyundai) was closed, time: 10:35

RESOLUTION NO. (961-1990)

RESERVING DECISION RE:
ZONE CHANGE APPLICATION
FROM R-22 TO LIO - MAP 107,
BLOCK A, LOTS 13.02 and
13.04 (ROCKLAND HYUNDAI)

Co. Maloney offered the following resolution:

WHEREAS, the Town Board of the Town of Clarkstown by resolution duly adopted on the 25th day of September, 1990, provided for a public hearing on the 23rd day of October, 1990, at 8:20 P.M., to consider the application of ROCKLAND HYUNDAI, to amend the Zoning Ordinance of the Town of Clarkstown by redistricting the property of the Petitioners designated on the Clarkstown Tax Map as Map 107, Block A, Lots 13.02 and 13.03, from an R-22 District to an LIO District, and

WHEREAS, notice of public hearing was duly published as required by law and the public hearing was duly held at the time and place specified in the notice, and

WHEREAS, the Town Board has determined to RESERVE DECISION until November 13, 1990.

Seconded by Co. Mandia

On roll call the vote was as follows:

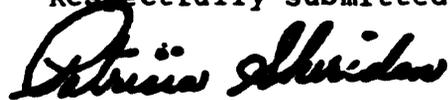
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RESOLUTION NO. (961-1990) Continued

Councilman Kunis.....	Yes
Councilman Maloney.....	Yes
Councilman Mandia.....	Yes
Councilwoman Smith.....	Yes
Supervisor Holbrook.....	Yes

There being no further business to come before the Town Board and no one further wishing to be heard, on motion of Councilman Maloney, seconded by Councilwoman Smith and unanimously adopted, the Town Board Meeting was declared closed, time: 10:40 P.M.

Respectfully submitted,



PATRICIA SHERIDAN,
Town Clerk

TOWN OF CLARKSTOWN
PUBLIC HEARING

349

Town Hall

10/23/90

8:20 P.M.

Present: Supervisor Holbrook
Council Members Kunis, Maloney, Mandia and Smith
Murray N. Jacobson, Town Attorney
Patricia Sheridan, Town Clerk

RE: ZONE CHANGE PETITION FROM R-15 TO LIO - MAP 164, BLOCK A,
LOT 19 (YASSKY & FAIST)

On motion of Councilman Maloney, seconded by Councilman Mandia and unanimously adopted, the public hearing was declared open. Town Clerk read notice calling public hearing and testified as to proper posting and publication.

Town Attorney noted that the Rockland County Planning Board approved. The Clarkstown Planning Board approved with conditions. The conditions being that adequate buffers shall be provided to protect the residential properties in the west now under construction and the applicant shall gratuitously dedicate to the County of Rockland the road widening along Smith Road to conform to the Official Map width.

Town Attorney noted that SEQR was completed and there was no impact.

Supervisor asked if the representative of the applicant was present.

Appearance: Martin Cornell, Esq.
attorney for the applicant

Mr. Cornell said this parcel is located on the south side of Smith Road. It is a small parcel consisting of about 31,000 square feet with a frontage of about 145 feet with a depth of about 220 feet. It is located directly to the west of an existing two story office building which is known as 150 Airport Executive Park. It is located right on the by-pass road.

Mr. Cornell stated the reason for the change of zone from R-15 to LIO is that the owners of the existing office building, which is on the corner of Smith Road and the Clarkstown by-pass road, has parking which needs to be expanded to some extent to augment the already existing parking for that building. When this parcel became available it was purchased by Yassky and Faist, the applicants who also own the office building, and their intention is to utilize in part this particular piece of property for additional parking. He said there is a residence on the property which has been used as a single family residence and for the time being they are going to continue to use that property, in part, as a residential facility. They are also going to try to expand the parking.

Mr. Cornell gave some background on the property. He said at one time it was zoned LIO and also a small portion of the property to the west of the property was zoned LIO. In 1987, the subject property, at the request of the then owner Mr. Karassik, was zoned back to R-15. What occurred then was there was a small pocket of incursion of R-15 zone in the LIO area. At that time Mr. Yassky and Mr. Faist did not own the property but in view of the fact that they now want to augment their parking, they need to ask the Board at this time to consider rezoning the property back to LIO.

Mr. Cornell handed up some copies of a map on which he had marked the subject property hatched and which also shows the existing LIO line. He noted that he had marked in red where the LIO line actually was before the prior zone changes took place. He noted that what was marked in red was where the LIO zone line was until approximately 1987 which essentially ran in a direct north/

Continued on Next Page

south line to Smith Road and then jogged to the east. The subject property and a little piece of Lot 17.05 were rezoned R-15 back in 1987. Essentially what the applicants are asking you to do is to push the LIO zone line back again, close to where it was before, to incorporate the subject property.

Mr. Cornell noted that the subject property, which is a small property, is bounded on the south by an existing office building which is in LIO. He said also which is not shown on the map on the parcel directly to the east, which is Lot 17.01, there is an existing office building of about 9,000 square feet and directly across the street on the north side of Smith Road are a series of one story commercial retail properties.

Mr. Cornell presented photographs which showed the proximity of the subject property to Building 150. There was reference to the photographs and dialogue with reference thereto at this point.

Councilman Mandia asked what was to the west - was it residential? Mr. Cornell said to the west is R-15 and there are three single family lots which are in the process of being constructed with single family residences. He said the Planning Board has requested as a condition of the zone change that there be a buffer between this property and the adjoining residential property. The zoning ordinance in the LIO district provides now in Table 14 that where the LIO property abuts residential property (and he was referring to Column 8, Note 14) it says notwithstanding any other buffer requirements no parking shall be provided within 50 feet of any residential district and such areas shall be landscaped. He said what he is suggesting is that the ordinance now already requires where LIO abuts residential property that there must be a fifty foot buffer area which cannot be used for parking and has to be landscaped. Mr. Cornell said there is adequate protection in the ordinance for a buffer between the subject property and the adjoining property. The applicant suggests that the Board not impose a specific covenant but leave it to the Planning Board, in connection with any site development on the parcel, to deal with that. The ordinance now covers that so that if there was any change in that there would have to be a variance or some other application made to vary from it.

Supervisor asked Mr. Cornell if the primary purpose of this was for parking. Mr. Cornell replied in the affirmative. The existing building on the corner which is 150 Executive Park (Lot 17.01) has parking but in connection with marketing the units there the owners have determined that being a smaller building the type of users they are going to be getting in that building are multiple users which means that the parking may not be completely adequate for that parcel.

Supervisor asked if there was any intention to build on this particular lot. Mr. Cornell said not at the present time. He said they intend to leave the residence as is and gain some additional area on that lot for parking. The economic viability of the office building is very much integrally related to the ability to get more and adequate parking for that building. That is really the only reason they purchased this piece of property at such a dear price but they needed to provide for parking for the adjoining office building.

Supervisor asked if the Board Members had any questions? No one did.

Supervisor asked if anyone from the public had any question or wished to make a comment?

Appearance: Eric Biondi, Esq.

He said he was here on behalf of Bruno Biondi who is out of the country and who owns the property directly across the

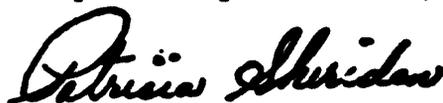
PH - Zone Change - R-15 to LIO (Yassky/Faist)
Page 3

street from the property which is the subject of this application. He said Mr. Yassky had already been before the Zoning Board saying that the area is overdeveloped, there are too many cars in the area and there shouldn't be any further development. Now, he is turning around and he is asking to develop the properties even further than they were intended in the original instance.

Mr. Cornell spoke in rebuttal stating that the office building which is presently there needs the parking. If this application is not granted there is going to be a severe parking problem.

On motion of Councilman Kunis, seconded by Councilman Maloney and unanimously adopted, the public hearing was declared closed, time: 8:35 P.M.

Respectfully submitted,



PATRICIA SHERIDAN,
Town Clerk

(RESOLUTION ADOPTING ZONE CHANGE - NO. 959-1990)

TOWN OF CLARKSTOWN
PUBLIC HEARING

353

Town Hall

10/23/90

8:40 P.M.

Present: Supervisor Holbrook
Council Members Kunis, Maloney, Mandia and Smith
Murray N. Jacobson, Town Attorney
Patricia Sheridan, Town Clerk

RE: MODIFICATION OF RESTRICTIVE COVENANTS - MAP 120, BLOCK A,
LOT 28 (HEGARTY HOMES, INC.)

On motion of Councilwoman Smith, seconded by Councilman Maloney and unanimously adopted, the public hearing was declared open. Town Clerk read notice calling public hearing and testified as to proper posting and publication.

Town Attorney stated that the Rockland County Planning Board approved subject to conditions which are that the Board should be assured that by varying these restrictive covenants traffic safety is not jeopardized by allowing the relocation of the ingress/egress and that the natural features on the hillside are not further jeopardized. The Town Planning Board denied modifications. SEQRA had no environmental impact.

Supervisor called upon the applicant's representative.

Appearance: Henry Horowitz, Esq.
Engineer and Attorney for applicant

Mr. Horowitz said the particular parcel in question was the subject of a zone change several years ago. At that time the Board did impose some five covenants. There have been several changes since that time and he said they are here to request the Board to modify several of those covenants. He stated that the basis of the covenants which the Board included at the time of the zone change was a rough layout which we had at the time. He said the layout showed the building coming into a certain location. The Board indicated that they would like to have this area preserved. The Board also indicated that because only the first floor was level with the grade, that on the second floor they would prefer offices rather than retail because of the difficulty of going up on the second floor for retail purposes.

Mr. Horowitz added that since the time we were before the Board we now have developed a very specific plan of utilization for that particular site depicting a somewhat smaller building but with an entirely different orientation and in a location we feel is much more desirable. Here reference was made to the plans and what was intended. He noted that the nearest residence is over two hundred feet away. He said the first covenant which the Board had imposed was that the premises shall be improved only with a two story building containing retail uses on the first level and office uses on the second level. Mr. Horowitz said in view of the fact that on the second level we have direct access at this level, and on the first level there is direct access to the rear, we are requesting that particular note not confine us to having solely retail use on the second floor but just allow us to work within the zoning ordinance. He said then that particular covenant should read that the premises shall be improved with no greater than a two story building.

Mr. Horowitz said the second covenant we had was that no parking shall be permitted in the hill area to the northwest of said building. He said he was requesting that same covenant but tie it into the drawing dated 7/30/90 which is the actual drawing which will be processed for site plan.

Mr. Horowitz noted that the third covenant was that access shall be determined by the Planning Board upon review and approval of the site plan and there is absolutely no problem with that.

Continued on Next Page

Mr. Horowitz said the fourth covenant stated as shown on Exhibit C (refers to just a concept at that time) filed in the Clarkstown Planning Office next to the zone change petition that the building shall be located 25 feet off the westerly property line with the entry road to the east of the building. The entry road no longer needs to be east of the building. As far as the 25 feet, we will meet the 25 feet; in fact it can be changed to 30 feet for that particular covenant because the Board was concerned with the location between us and the adjoining property. That particular covenant in fact would be increased to the effect that the minimum offset route shall be no less than 30 feet rather than 25 feet.

Mr. Horowitz said the last covenant also is not sought to be changed. That provides that the property owner shall gratuitously convey a forty foot widening strip from the center line of Route 59.

Supervisor said so essentially what you are asking is that whatever is permitted in the zoning ordinance be permitted on the second story? Mr. Horowitz said that is correct. He said when the Board had spoken about the northwest corner we would be coming a little bit further than the original plan and that would be controlled by our latest drawing which is dated July 1990. We would not get any closer than we depict on the drawing.

Mr. Horowitz said in regard to the comments which Mr. Jacobson read from the Planning Board, the Planning Board could not get a majority in either direction. It is really a no comment from the Planning Board. There were two resolutions both going 3-2. There were only 5 members of the Board present so from a technical point of view there really is no recommendation from the Planning Board. He said the reason for the difficulty is not because of the proposed layout. It is primarily because when covenants are imposed we don't want to see them broken. He said he could understand that but he also has to face a Board and indicate that if conditions change the Board will recognize it and make the change. He said we can all agree that the covenants imposed at the time make sense and if conditions change the covenants should change.

Supervisor asked if any Board Member had any question?

Councilman Mandia said the use of the building is not a real issue. The parking is not even a big deal. He felt the real question is what he feels the effect on traffic would be when you make that retail space instead of offices. That is a tight squeeze turn. He asked Mr. Horowitz to comment on that. Mr. Horowitz said they have access from Ingels Street and Route 59. If the State says don't use Route 59, we can live without it now but they would like to have it, if they can.

Obviously, if there is a feeling, because of the location in the area, traffic, site distance, etc., this is an unsafe condition, it should come out but we are now set for either one. In so far as what you say now, the difference between retail and office is a tough one. One does seem to have more traffic than the other. Since the office space has more traffic our requirements for parking are greater for office space than for retail. The hours of operation are somewhat different. The building has been reduced in size by 1,000 or so square feet from the original concept that we had. He said he did not think there was going to be very much of a difference. He said if he had to guess having something all retail might have a lesser impact than having it all office. He said if he takes the second floor it is a toss up depending on how successful an office you have as compared as to how busy a retail operation you are going to have in the area.

Councilman Mandia asked how many square feet the second floor was? Mr. Horowitz said 6,800 square feet.

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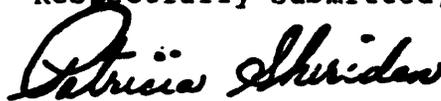
PH - Modification of Restrictive Covenants - Map 120, Block A, Lot
28 (Yassky & Faist)
Page 3

Supervisor asked if there was any member of the public present who would like to make a comment or ask a question? No one appeared.

Mr. Horowitz said he had nothing more to add on the subject.

There being no one further wishing to be heard on motion of Councilwoman Smith, seconded by Councilman Maloney and unanimously adopted, the public hearing was declared closed, RESOLUTION ADOPTED, time: 8:50 P.M.

Respectfully submitted,



PATRICIA SHERIDAN,
Town Clerk

(RESOLUTION NO. (960-1990 ADOPTED))

TOWN OF CLARKSTOWN
CONTINUATION OF PUBLIC HEARING FROM SEPTEMBER 11, 1990

Town Hall

10/23/90

8:50 P.M.

Present: Supervisor Holbrook
Council Members Kunis, Maloney, Mandia and Smith
Murray N. Jacobson, Town Attorney
Patricia Sheridan, Town Clerk

RE: AMENDMENT TO OFFICIAL MAP - WIDENING OF ROUTE 59
HOPF DRIVE TO NORTH GREENBUSH ROAD

On motion of Councilwoman Smith, seconded by Councilman Kunis and unanimously adopted, the public hearing was continued.

Supervisor said last month we opened this hearing relative to the establishing of a right of way of 120 feet throughout the Route 59 corridor. At that time we said we would try to provide additional information. He asked Mr. Geneslaw, our Planning Consultant, to make a presentation regarding this.

Mr. Geneslaw said we prepared a memorandum for the Board and copies were made available to the public this evening. In reviewing what happened at the last meeting he said he thought there was a lot of confusion as to exactly what the purpose of the amendment would be. The purpose of the official map as a legal document for the town is to help to ensure that adequate space will be available to either widen roads in the future or to build new roads. The Town Board members, particularly those who have been on for a long period of time, will remember that the Phillips Hill Road proposal was on the Official Map at one time. The Maple Avenue Extension was on the Official Map at one time. A whole series of roads were shown on the Official Map scheduled for widening at some time in the future when the need arose.

Mr. Geneslaw said the real purpose of the Official Map is to look into the future and try to determine what kind of road improvements will be necessary years ahead and to reserve the right of way where there is an opportunity to do so at no cost to the Town. The procedure is that when a developer comes in for approval for a project he dedicates to the Town necessary land to bring the roadway width to the dimension shown on the Official Map. Sometimes the developer is asked to actually make the physical improvement. Most times he is not asked to and the offer of dedication is made to the Town and the offer may be accepted at any time between the time the offer is made and the actual improvement of the road takes place. Some dedications have been offered to the Town ten and fifteen years ago and have not been accepted because it hasn't come time to widen those particular roads.

The purpose is to provide some assurance that adequate roadway width will be available in the future and to minimize the cost to the public in the form of taxation to acquire that additional area for a roadway whenever it is needed. He said another objective is to help to control a setback of buildings from the street. The building setback in the Zoning Code is based on the Official Map location of the road. If there is a road that may be widened in the future the setback takes into account that potential widening. That means if the road widening is made, there will still be a reasonable amount of space between the building and the road.

Mr. Geneslaw said as an example of what occurs when that doesn't happen, you can look at Route 59 in the Nanuet area where a whole range of buildings are either going to have the fronts lopped off or their parking removed because they have turned out to be too close to Route 59 based on current needs for the roadway. The proposal is to widen the Official Map width from 80 feet to 120 feet. For any property for which no development is proposed there is no effect. It only affects those properties where a development proposal comes to a Town agency. In the section of Route 59 from Spring Valley to the PIP, for example, we all know DOT will widen that road in a few years.

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At the present time, if someone were to come in for development approval tomorrow and we knew that they wanted to put a building close to where the roadway will be, we would have no way to prevent that from happening except through the use of the Official Map. The Official Map width now is 80 feet for Route 59. There is a letter attached to the memo which indicates that the State wants 102 feet. In fact, if you add up their dimensions it comes to 112 feet. Near intersections it is more than that.

Mr. Geneslaw said that even in those sections where we know there will be an improvement in the next two to three years building and parking lot construction can take place in an area that will become part of the widened Route 59. The Official Map can also be used to avoid construction in areas where we know roadway construction will take place and avoid the loss of ratables. There are a number of buildings along Route 59 in Nanuet where the first 10 or 20 feet of the building is in the way of the widened Route 59. The entire buildings will be acquired. Not the first ten or twenty feet. Department of Transportation plans to take the entire buildings. There is an effect then on assessed value. There is an effect on the availability of shopping and service facilities and there is a loss of jobs when those buildings are taken. The amendment to the Official Map can help to avoid some of that.

Mr. Geneslaw said they have broken Route 59 into three sections. The first which he has referred to - the westerly section to the PIP. The second segment we refer to is from the PIP roughly to the Hackensack River in West Nyack. The third segment is roughly from the Hackensack River to North Greenbush Road. At the two ends there is a great deal of commercial particularly retail activity. There will be more. It is most critical that the improvements can be made there at such point in the future as they are necessary. There is a potential for improvement in the center section but it is much less certain than at the two ends.

Mr. Geneslaw said he has also included a memorandum from Commissioner Chase of the Rockland County Planning Department which explains their point of view on the use of the Official Map and setbacks.

Superevisor said many of the people attending the meeting a month ago lived in that middle section or had homes which abutted the middle section. He said his recollection is the middle section is a four lane highway with a median divider. He said the question that people were trying to determine is whether or not the present right of way on Route 59 is 120 feet. Mr. Geneslaw said it is probably close. He said he couldn't tell you for sure. He said what he did do after those questions came up was to look at the plans for the original subdivision on the south side which only show the Route 59 right of way. They don't show the width. The plans for the Rockland Corporate Center which was built has a signal at Crossfield Avenue and Route 59 has been widened at Crossfield to allow for turning movements. He said based on the maps which they have available it looks like at least 100 feet and possibly 120 feet at that point. He said they used the location of the signal as the approximate center line of the road. It is not a precise measurement and a survey might turn up something a little bit different. But that is generally accurate for that area.

Supervisor said then you are saying that at that area it approximates between 100 and 120 feet? Mr. Geneslaw said based on the information they have now that seems to be the case. He said unless there were development proposals in that area the amendment to the Official Map would have no practical effect on the property owners.

Supervisor said to the best of his recollection along the south side of Route 59 which is where Foxwood is, residential

homes are there right up against Route 59. There properties back on to what the State right of way is. There would not be potential for any commercial development in that particular area. Foxwood is a long street. Mr. Geneslaw said there are 20 to 25 houses backing onto Route 59 at that point so it is very unlikely that there would be a change in that area. Supervisor said it would seem unlikely that they could put in any commercial buildings there. Mr. Geneslaw said not unless the entire area were rezoned and most of the properties were acquired by one interest and that is an extremely unlikely possibility.

Supervisor asked if any Board Members had any questions? No one did.

Supervisor asked if anyone from the public had any comment or wished to ask a question?

Appearance: Philip J. and Constance Bosco
2 Short Street
West Nyack, New York 10994

Mr. and Mrs. Bosco spoke at length about their concerns regarding acquisition of their and neighboring properties and the compensation therefor. Mrs. Bosco said once you put it on the Official Map, the State can come in and widen that road and she would not be compensated and that is not fair. Supervisor asked Town Attorney Murray Jacobson if that was correct.

Mr. Jacobson said no, that was not correct. Once the Official Map is put in place, you have to be compensated for the land and the buildings thereon. If there are no existing buildings and you build later into the Official Map then you are only compensated for the land.

Mrs. Bosco read comments from a paper which said when a public agency wishes to widen a road, the necessary property must be purchased by the public agency typically with tax dollars. Where bonds are used interest must be added. In the case of a road like Route 59, the acquisition costs often include buildings and parking lots. This is a far more expensive cost and business disruptions increase costs even more. Such acquisitions also have an effect on the assessed values. In the past few years New York State policy has been to require some cost sharings by municipalities. Where the right of way has been reserved it can be part of the municipal share.

Mrs. Bosco felt any widening will be intended to accommodate the Palisades Center Project and possibly other induced retail developments. She said she was requesting that a survey map and a search be done showing the actual area under consideration with a map, block and lot number as well as the owners of record of the lands to be taken for this right of way or reserved for the right of way.

She suggested that segment three be left out of the plan especially with the delay in the construction of the Palisades Center. She thinks the entire community should share the cost of the convenience and not a few property owners.

Mr. Bosco asked what the assessment impact and the value impact to his property would be in a situation like this where it is somewhere between forty feet and no feet and could be on a lot that is only about ninety feet deep. He said that would also go for his next door neighbor who couldn't be here tonight.

Supervisor said if it is on the Official Map it would serve notice that nothing could be built in the bed of that mapped street so it would have to have some impact. Mr. Bosco said on his property it would have 100% impact because of the depth of the

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property and that is very serious. Supervisor said we might have to do a survey to some extent to find out exactly where the center line is as that might allay the questions you are asking right now.

Mr. Bosco said they like it here and they would like to stay here but they are really concerned about something that may jeopardize their livelihood.

Appearance: Ms. Pat Galgano
Sickletown Road
West Nyack, New York

Ms. Galgano read from the Journal News that the tax saving would come from decreasing the amount of private property that the State would have to acquire if it winds through Route 59. She said that takes her house. She said you have said you are going to take it from the corporate side. But what does that mean to West Nyack Elementary School and about six or eight of us including Alicia Drive which is a cul de sac. She said if you widen it all the homes on Alicia Drive have a problem.

Supervisor said he did not think the intention was to widen it. He said he understands what her concern is. Ms. Galgano said once you are on the map, New York State can take whatever it wants. Supervisor said he did not think they could take the land without compensation. Town Attorney said that was correct.

Mr. Geneslaw stated that the Journal News article has a number of mistakes in it.

Supervisor said for example Pyramid Corporation has acquired a lot of land along Route 59. When and if they get final site plan approval they would probably be required by the Town Planning Board to gratuitously give that widening for whatever improvements they are going to have to do. He said when you talk about the area by Foxwood, that area is all residential and will never be developed industrially because it is not zoned for it.

Supervisor said New York State will not do anything until we have determined the actual right of way. That is one of the concerns the Board Members have had. We are trying to allay some of your fears. Certainly New York State or the Town of Clarkstown cannot take lands without compensation. He said we are not interested in taking the land. It is just indicating the right of way. People want to make sure they know where it is and he could understand that.

Ms. Galgano said the only improvement going in is Pyramid and that is the headache Route 59 is having down by her property. There is no major traffic problem there. She felt the Town Board should come up with a new letter to the Journal News because nothing from any direction so far makes any sense.

Supervisor said at the end of this meeting there might be a better understanding of what is intended. Before the Town Board does anything in regard to this, particularly in the area of the second section and the third section (the middle and the easterly portion) he said they would want to see an actual map.

Mr. Robert Geneslaw said there seems to be some confusion regarding the Official Map and the DOT. Mrs. Galgano had stated that she understood that once it is on the Official Map, the State could come in and do it. He said the State can come in and do it no matter what you do here, whether you change it or don't change it. If the State wants to widen Route 59 badly enough and they have the money, they will do it. The two things are separate and the best example of that is that Route 59, Nanuet is 80 feet on the Official Map. The letter that everybody has says they want 102 as

an operating minimum. If you add up their numbers it actually comes to 112. They are buying land. They will be buying land beyond that 80 feet or beyond what they presently own throughout Nanuet. They will be contacting people once the detailed plans are finished. That is a perfect example that it does not have to be on the Official Map in order for DOT to do the work.

Councilman Kunis asked how do they go about purchasing this land? Mr. Geneslaw said they will make appraisals. They will make offers. If the property owner accepts the offer that is fine. If the property owner does not accept the offer, the property owner has the opportunity to go to court. However, the State does have the authority to take possession of the land while it is in court. The purpose of that is that one property owner can't stop an entire highway. He cited the Thruway as an example and said when the Thruway was being built if the State couldn't take the land and fight about the value later there would be no way to ever condemn it.

Councilman Maloney said eventually they paid. Mr. Geneslaw said yes they did. Town Attorney said the State has the right of eminent domain. Mr. Geneslaw said he believed that right is basically absolute. The State can take what it needs for a public purpose as long as they pay the value.

Councilman Mandia said he hoped that they would be able to find out exactly based on the last hearing how wide it is now especially to that residential area along Foxwood because it is pretty wide there. He asked is it possible to stake it at some point along the road? Supervisor said they have to survey. Councilman Mandia said taking it from dead center out 60 feet each way shows it to be a pretty wide piece. It may not be as bad as you think.

Mr. Geneslaw said he did not think it was going to be as bad as people visualize. It would mean either getting a map that is already prepared or having a surveyor physically go out and do a survey to find the center line.

Town Attorney said he would think that the State does have maps of Route 59. What you would have to do is take their map and stake it. Mr. Geneslaw said there is some existing map material. Where Crossfield Road enters Route 59 there are at least detailed maps of that side of the road. He did not know if there was one that showed the center line but there are maps that show what they are doing on the north side. He said further down to the east and to the west there is information available at spot locations. The last speaker said there is no problem east of Sickletown at the present time except for the sinking of the road. Pathmark is empty and most of the other stores in that area are empty. If someone comes in to redevelop that property and not just simply to occupy the stores but to redevelop the Town would have the opportunity to obtain whatever is needed from the center line back to 80 feet if you don't make the change; the center line back to 60 feet if you make the change. Pathmark is empty. At some point something will happen there. Grant Hardware, according to the Journals News, will be moving out by the end of the year. Sooner or later something will be happening there. Part of what we are trying to do is to anticipate that need and where that kind of redevelopment takes place have the roadway that is needed for the widening be given to the Town or to the State rather than going back and buying it later. In Nanuet the State is buying approximately 12 or 14 buildings in order to widen the road, basically trying to avoid that kind of situation.

Councilman Mandia said if you do widen the road and you do create this ghost of a line even if the State must by law pay for it what he would be concerned about is when are they going to want to buy it and if it is in my best interest to sell it before they

are ready to buy it. The prospective buyer sees that ghost of a line through the property and suddenly is scared off. In other words, what you can be doing, in effect, is decreasing the real market value of the property until such time as the State decides they want to buy it. He said he thinks that is what the residents are concerned about and he thinks perhaps a survey, as the Supervisor suggested, or at least for that residential area especially, some kind of a staking. It might satisfy everyone that is concerned about it as some members of the Board are.

Mr. Geneslaw said he understand the point Councilman Mandia is making and he said if you use the example that the Boscos used where the property is 90 feet deep a line substantially into the property might seriously affect them. In the case of Pathmark, which is set way back, it wouldn't. That is going to be redeveloped by somebody who has experience in relatively large scale development. They are going to look at that and they are going to say to themselves, the Town or the State is making provision for future widening whenever that is and I'm keeping my building and my parking behind it so I don't get hurt later on. He said it depends partly on the size of the development and it depends partly on the shape of the property. He said we know DOT will do the western portion in the next two to three years. We know they have absolutely no plans and no need to do the middle portion and the portion to the east will be done piecemeal partly by Palisades Center based on conditions that this Town Board imposed; partly by other development that may be induced; and the redevelopment or reuse of Pathmark and Grant Hardware and possibly some of the other properties in that area. The easterly third will probably be done on a piecemeal basis but by having the opportunity to preserve the area in which improvements have to be made the cost to the taxpayer is reduced ultimately.

Councilman Maloney said the Nanuet area will be done first. Mr. Geneslaw said absolutely.

Appearance: Mr. Martin Bernstein
 New City, New York

Mr. Bernstein said as a taxpayer in the Town he is very interested in this idea because we can then get property and won't have to pay for it or pay very little for it. The fact that you map something means that even if you pay something, you pay a lot less in condemnation when a street is mapped than when it isn't. He asked Mr. Jacobson, Town Attorney, if that was correct? Mr. Jacobson said that was absolutely correct. Mr. Bernstein said that before Mr. Jacobson had said that you had to pay for it. Mr. Jacobson said you had to pay for it but if there are existing buildings when you map it you have to pay for the land and the buildings. If you map it and then somebody later on builds into the mapped street they don't get paid for the building; they only get paid for the property.

Mr. Bernstein said then actually the person who owns this property is hurt by widening a road, is that right? They could be hurt? Supervisor said if it is on the Official Map and they go ahead and put a building in the mapped street then they could be hurt because the building could be taken. If you come in with a new development the Town is going to require you to give that widening anyway so you are going to build back of that. The reason to put it on the Official Map is to serve notice to those people who are going to be developing - large developers of property - that this is the right of way and don't build in it.

Supervisor said they had a situation a few weeks ago in Congers where a house was built into the bed of a mapped street and the people went to get a mortgage for the house and they couldn't get it because back in 1935 when surveys maybe weren't as accurate

the corner of the house was in the bed of a mapped street. We had to resolve that situation here. Most of what is being talked about here relates to the commercial properties when they come in for development, or redevelopment, as is the case.

Mr. Bernstein said we should not make it unclear that the person who owns that property is going to be hurt by you widening that street. Councilman Maloney said not necessarily. Mr. Bernstein said if for instance you map it and then the State comes along and wants to widen the street, if they have to condemn that property, they'll pay a lot less when it is mapped for that width than if it is not mapped for that width. Is that right? Town Attorney said no. They will still pay the value of the land but they will not pay for any improvement that you put in after it is mapped. Mr. Bernstein said but they will not pay for the fact that if it was wider you could do a lot more with the property than if it wasn't.

Mr. Jacobson said if it is manufacturing land they will pay that value. Mr. Bernstein said but if you have a certain amount of land and you can put certain things on that property and now you widen the right of way you can put less on that property and therefore you are hurt by it.

Mr. Geneslaw said if the building is built and the business is operating and then the State comes along and acquires the building or the parking in front of the building you may be hurt differently. Mr. Bernstein said if you speak to any condemnation person they will tell you that if it is a mapped street you are going to be hurt more than if it is not a mapped street because you are going to get more money if that happens. It should be clarified. He said as a taxpayer he thinks it is very nice for the Town to do this because we will pay less money in the long run and we'll have less taxes.

Appearance: Ms. Annette Irene Fisher
Foxwood Road
West Nyack, New York

Ms. Fisher said this whole thing seems to be mind boggling to her in reference to the taxes we discussed as far as the map is concerned. She said regarding the State reimbursing, do we get the money that the State says is the value or do we get our assessed value that we have from the Town. Supervisor said the appraised value. She said that is much higher than what the State will give us is that right? Supervisor said you would want the actual value as the appraisal could be not what the market is - it could be less than that.

Mr. Jacobson said the State will do a couple of appraisals. They will offer the landowner an amount. If the owner accepts it, fine, they get a deed and will get paid. If they don't accept it, then the State will go in and condemn the property which means they would pay up to the amount that they have offered and then you can go to court and the landowner can protest that they should get more dollars. Ms. Fisher said which we know as a fact that the landowner will lose. Mr. Jacobson said they make out very nicely in condemnation as it is a very lucrative practice.

Ms. Fisher said with widening Route 59 from the Palisades Parkway down to Route 303 we have now a tremendous amount of traffic. She said there is no buffer zone and no plants that are being put onto Route 59 to make it a more quiet area. Why do we have to have it widened just to accommodate the Palisades Mall? Supervisor said it is not going to be widened. The middle section particularly he did not envision ever being widened. The section in the eastern most portion will be improved if Palisades Center goes in and if Grant Hardware is bought by someone else and if Pathmark

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is developed. The middle section is already four lanes with a divider. The State has no plans right now to do that. What will happen if we approve this would be to just put a width on a map showing what the official right of way would be. He said he did not envision that ever happening in the middle section.

Councilman Maloney said it well may be that middle section is already at the width that it should be. Ms. Fisher said will they also accommodate the people who live close to Route 59 to put up extra shrubbery and not just an ugly fence as they have on the Thruway. Councilman Maloney said that was discussed with the people from DOT at one of the public hearings. Ms. Fisher said she implored the Town Board to make a good study of that map before they agree to anything.

Supervisor said we had a study in the Town in 1985 for the western most portion. After going through the approvals and the bond issues, etc. the first construction on the western most portion which everybody is in favor of, if all things are fortuitous, is 1994. Now, generally speaking, the State talks in terms of improvements for a generation - 20 to 25 year period. He said he could almost say with certainty that the second portion there will never be widened. However, before we do anything we will find out exactly the width so that everybody would be sure. He stated that we are not talking about widening in the middle portion. He said if Pyramid ever were to get constructed, that is where improvements are going to happen. Not in the middle section.

Appearance: Ms. Ellen Ferretti
South Middletown Road
Nanuet, New York

Ms. Ferretti said she is befuddled. She lives at the intersection and is not down in the West Nyack area. She referred to a letter which stated that the width of the road would be 102 feet. She said as Mr. Geneslaw said if you add it all up it would be 112 feet. She said there will be double left turn lanes. It is more than 120 feet at that intersection. Supervisor said he did not think so. Ms. Ferretti asked why not? Supervisor said he could not say with any certainty. Ms. Ferretti asked how wide are the two double lanes going to be? Supervisor asked what was the standard width of a lane? Is it 12 feet? Mr. Geneslaw said they are generally 12 feet.

Mr. Geneslaw said at the Caldor/Service Merchandise Shopping Centers the width there of the right of way, not the pavement, comes out to almost exactly 120 feet. Now, where Mrs. Ferretti is talking about at Middletown Road will probably turn out to be a little bit wider. Mr. Geneslaw said if they need more than 120 they will acquire more than 120. That is the point he was trying to make before. If they need more lanes at the intersections they will get them. Their plans for Route 59 at Middletown call for two left turn lanes when you are travelling east on Route 59, turning north into Middletown. There is one turning lane there now. The plans call for two left turn lanes and a through lane and a right turn. Obviously, they need a lot of space. Mrs. Ferretti said then it is going to be more than 120 feet. Mr. Geneslaw said in that location it probably will and in a few others it probably will.

Supervisor said in his office they are continuing to prepare plans for the Middletown Road intersection and they are essentially the same in all respects that you saw in July. The widening at that intersection will take place on the east side of Middletown Road and on the south side of Route 59. The property next to Mrs. Ferretti, which is Buy-Rite, will be taken. Mrs. Ferretti asked where the center of Route 59 is right now?

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Supervisor said he could show her where the center would be, based upon their surveys which they have done in that section. Mr. Geneslaw has a copy of those plans and he would show that to Mrs. Ferretti. Mrs. Ferretti said where is this going to leave her when they want more land? Supervisor said he did not think they would want any more land in addition to what they have already planned for. Supervisor said they made it clear to DOT that they did not want them to take Mrs. Ferretti's house. The widening was best on the other side of the road. If they had wanted to take it they would have taken it.

Mr. Geneslaw said Route 59 is on the Official Map now with an 80 foot width. It has been that way since 1967. He said he was not here then but he would be willing to bet there is a lot more traffic on Route 59 now than there was in 1967. Little Tor Road and Middletown Road are the same 80 foot right of way. Surely, they carry less traffic than Route 59. What we are simply trying to do and this really falls into part of the Master Plan program that the Planning Board has been undertaking, is to anticipate the need for the widening again in the westerly end starting in 1994. In the extreme easterly end maybe some piecemeal before then and some after that. In the middle section, maybe in 20 years, maybe in 25 years. The Town Board in 1967 had the foresight to establish an Official Map. Some of the things on that Official Map were done. Some were taken off because of changes in conditions and some are waiting to be done where the right of way has been offered to the Town. It is a matter of looking quite a long way into the future to try to anticipate what the needs will be.

Mrs. Ferretti asked when could they possibly see a map that shows what is going on? Supervisor said in the Planning Office we have a copy. She asked is it better than the one we saw in July? Supervisor said it is the latest about one week old. Mr. Geneslaw said this is not all of Route 59 but it is the portion roughly from the Spring Valley Market Place to Smith Road. He said most of the people in the room now are interested in the eastern section. Mrs. Ferretti said she understood that but she is concerned because their portion is going to be done first. Mr. Geneslaw said that Mrs. Ferretti could go upstairs now and look at those plans.

Mr. Geneslaw said the real question is whether the Town has the interest to look at it and try to anticipate what needs may be in the future or whether the Town wants to deal with today and tomorrow morning and let whatever happens, happen. He said remember 12 to 14 buildings will be acquired as part of the improvement to Route 59. Some people are going to say why did they ever let them build there in the first place? Apart from that even though we didn't have the wisdom to know that Route 59 would be widened, there is going to be a loss of assessed value for those 14 buildings that are going to be acquired. The parcels that remain are going to be very small. They are not going to be redevelopable easily. That is the other side of the coin.

Appearance: Ms. Dorinda Mittiga
Congers, New York

Ms. Mittiga said she wanted to make something clear and she did not know if the people out here can discern this from all the rhetoric flying back and forth tonight. She said she used to do title searches many years ago and she does know that whether or not the State plans on widening something, whether or not they have the money for it, whether or not it ever will eventually be done when you have something like this listed on a map, the property automatically loses a great deal of marketability to any prospective clients who come in and want to purchase it. She said you can tell all these people here tonight that it will never hurt their property but if anybody knows what they're doing a title search will turn

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this out and it will hurt the price of their property and that is the bottom line.

Mr. Geneslaw said every public road, Town, County or State is on the Official Map and has been on since 1967. The widening, putting it on as 120 rather than 80, may have an effect on some properties, the Bosco property being a particularly good example. Ms. Mittiga said it will have an effect. If properties are affected by marketability they have been at least since 1967 Ms. Mittiga said and they will be even more affected now.

Supervisor said one of the things that the Town Board has indicated is that we are not going to do anything until we find out whether or not it affects residential properties. That is not our intention. He said the residents will be protected. They are not going to adopt it until they determine exactly where that right of way, the 120 feet, would be. He said the whole Town Board agrees with that. Supervisor said we don't want to have a situation where it goes through your pool or somebody else's living room, etc.

Appearance: Mr. Rich Grail
 37 Foxwood Road
 West Nyack, New York

Mr. Grail said that the Supervisor had mentioned that New York State looks for support of the local government for improvements. Supervisor said because they are not going to spend that type of money if nobody wants it. Mr. Grail said they are here collectively tonight to say that we are not going along with it and we don't appreciate it. We want you to know that we are not in favor of giving you the support which you then in turn would give to New York State. Supervisor said we are not in favor of the widening there either. He wanted to make that clear. He said putting it on the map is different from widening but he understands the point Mr. Grail is trying to make.

Mr. Grail asked if it was fair to ask the Board tonight to commit to that survey? Supervisor said that will be so noted by the Town Clerk that we will have a survey done so that we would determine exactly where the 120 foot right of way would be. Mr. Grail said he hoped they could see it and asked when? Supervisor said as soon as they can get it done. He said we are not going to approve this thing in a vacuum.

Appearance: Ms. Bernadette Sheridan
 Foxwood Road
 West Nyack, New York

Ms. Sheridan said she is asking her Town to protect her. She said if you widen this road or you put this on the map you are taking from her because her property value will go down. Yes, that road is out there and her property abuts on to Route 59. She is asking you to protect the people who are already there. She said she is wary of a new map affecting her property. She said suppose she chose to put a swimming pool in the back of her property. If this comes in part of it will have to be condemned. Could you take away half of a pool? She said she would like to second Mrs. Bosco's request for a survey so that maybe we know where the middle of the road is. She said if the State has the right she would rather that her Town protect her. She said you keep saying that you are not talking about widening the middle section, then don't grant approval. You are talking about homeowners who are there, people who pay their taxes, who have invested 20 or 30 years of their life into their properties. She urged the Town Board not to do this to us.

Appearance: Mr. John Cuff
 West Nyack, New York

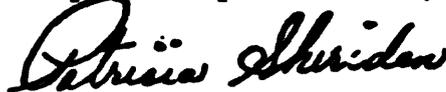
Mr. Cuff asked if anyone had contacted the New York State DOT and invited someone to come here who might be able to come

up with something? He said DOT should be here. He said our professional planner could have done a little more with this since last June than take a xerox copy of a Clarkstown/Rockland County map and put a little yellow line across it. He felt between June and now someone could have come up with the dimensions of Route 59 in all the areas right from Mountainview Avenue in Central Nyack all the way over to the Spring Valley line. This goes back to 1984 or thereabouts? Supervisor said the original Route 59 study in the corridor from the PIP to Hopf Drive or to the Marketplace was done in 1985. Mr. Cuff said in five years someone should have been able to come up with some kind of dimensions. Supervisor said this recommendation for this particular section and the third section is of 1990 vintage. The western most portion was the catalyst for considering the right of way all the way through. This portion does not go back to 1985. Mr. Cuff said if you look back at the minutes of the Town Board Meeting on this in 1985 he (Mr. Cuff) had asked the question if there was kind of a magic wall at the intersection of Palisades Parkway and Route 59 because they were going to do the study from Spring Valley down to the Palisades Parkway. He said he had suggested at that time that a survey should be done from the Spring Valley line down to Mountainview Avenue which would encompass all of Clarkstown and then we would know where we stand instead of doing it bit by bit in painful piece by piece.

Supervisor said the study we did in 1985 has been brought to fruition with the State moving ahead on it. He said Mr. Cuff is right. It should be looked at. There should be a survey and there will be. Mr. Cuff again repeated that someone from DOT should have been here tonight to answer some of the questions. Supervisor said this is not a DOT plan. This is a Town of Clarkstown Planning Board plan. This is not something that the State is foisting on us. It is a recommendation of the Planning Board. That is the reason the State is not here. As the Town Board has said we will find exactly where the 120 feet are so that people can determine and see exactly for themselves. Mr. Cuff said will that be put on a legible type map that we can look at. Supervisor said yes.

There being no one further wishing to be heard, on motion of Councilman Maloney, seconded by Councilwoman Smith and unanimously adopted, the public hearing was declared adjourned, time 9:53 P.M.

Respectfully submitted,



PATRICIA SHERIDAN,
Town Clerk

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TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall

10/23/90

9:54 P.M.

Present: Supervisor Holbrook
Council Members Kunis, Maloney, Mandia and Smith
Murray N. Jacobson, Town Attorney
Patricia Sheridan, Town Clerk

RE: ZONE CHANGE FROM R-22 TO LIO - MAP 107, BLOCK A, LOT 13.02
ROCKLAND HYUNDAI, ROUTE 303, WEST NYACK

On motion of Councilman Maloney, seconded by Councilman Mandia and unanimously adopted, the public hearing was declared open. Town Clerk read notice calling public hearing and testified as to proper posting and publication.

Town Attorney said the Rockland County Planning Board approves. The Clarkstown Planning Board approves subject to covenants which are that the buffer area shall be increased to 75 feet, screening and landscaping shall be provided to protect the residential area, no structure shall be constructed with the area to be changed to LIO. He said SEQRA decision was no environmental impact.

Supervisor asked if there was any correspondence. Town Clerk read letter from Clarkstown Shade Tree Commission:

"Mr. Charles Holbrook, Supervisor
Town of Clarkstown
10 Maple Avenue
New City, New York 10956

October 23, 1990

Re: Hyundai, Route 303, zone change request R-22 to LIO 107-A-13.

Dear Mr. Holbrook:

Over the last few years the Shade Tree Commission has had the opportunity to review many of the car dealerships in the town. We find that the sites are often built to the maximum with vast areas of blacktop to provide for the outside storage of vehicles. Providing adequate landscaping is often a challenge when insufficient areas are provided. Further, we find that cars are often parked (for display purposes) within the landscaped areas that are most visible from the highway.

The site before you tonight already has an adequate buffer area provided by the R-22 zone. The site was reviewed by the Shade Tree Commission on June 20, 1988 and the landscape plan was signed at that time. The R-22 area has many large trees within it. Landscaping was not required on the eastern portion of this site within the R-22 area for that reason. The wooded area serves as a visual, environmental, and auditory buffer for the residents in this area. The same residents we know will be impacted upon by the already approved major, future development in the Route 303 area. To remove this buffer would create a hardship for those residents. Too often hardship is claimed by the developer because the site is too small. The obvious answer is perhaps the building and parking are too large. I hope that the residents welfare will be foremost in your minds when considering any intrusion into the R-22 zone.

Sincerely,

/s/ Celia Juris, Chairperson
Shade Tree Commission"

Supervisor asked if the petitioner or his representative were present?

Appearance: Henry Horowitz, Esq.
representing petitioner

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Mr. Horowitz said the matter we are speaking about tonight is the Pontiac dealership. Mr. Horowitz referred to a map showing the zoning in the area in question. This matter was a subject of a hearing before the Board of Appeals which granted the necessary variances and indicated that they wanted a 60 foot buffer along the entire site. That buffer has been put in and complied with. Mr. Horowitz said there is also a requirement in the Zoning Ordinance that one cannot park within 50 feet of a residential district. Since the zone line goes through the one property it prevents the owner of the site from parking within 50 feet although he owns the entire site.

Mr. Horowitz said he is not seeking to increase his building size by one square foot. The 60 foot buffer established by the Board of Appeals remains in full force and effect. The Planning Board has recommended it be increased to 75 feet which, if the Board deems unnecessary, so be it. What they are requesting is an increase in the parking. He said right now they have a piece which is zoned R-22 and cannot be used at all.

Mr. Horowitz said the R-22 zone is not between the petitioner and his neighbor. Again reference was made to maps and Mr. Horowitz explained what would happen if the change is granted. He said you would have a buffer area and there can be no expansion of the building as a result of the zone change but merely allowing him to use more of his own lot for some of his storage parking. That is the only function of the zone change. It does not in any way impact the buffer.

Supervisor asked if the Board members had any questions?

Councilman Mandia asked if the R-22 piece was landlocked? Mr. Horowitz said no the entire piece is owned by the petitioner. He can use it but he is not supposed to park within 50 feet of the line. Councilman Mandia asked if the owner of the property wanted to build a home on that R-22 piece could he do that? Mr. Horowitz said he can. Councilman Mandia asked how access would be gained? Mr. Horowitz showed where the road was on the map for access.

Supervisor asked if there was anyone from the public wishing to ask a question or make a comment?

Appearance: Ms. Gertie Larson
24 Strawberry Hill North
West Nyack, New York

Ms. Larson handed pictures of the site up to the Board. She said they have counted on occasion 160 cars in this area and that is what they have to look at. She mentioned problems with garbage. She complained of a circus like atmosphere. She noted parking in the front which they promised they would do not. She complained about the traffic in the area now and questioned why they should create more. She said trees will be cut down. The noise from the Thruway is terrible now. The trees were all cut down by the Palisades Parkway and it is unbearable as the noise sounds like the roar of the ocean. She realized it was a business but the owner does not live there and they have to live with this in their backyard.

She said the owners had planted nine pine trees. Three of them are dead already. Where there is supposed to be a so called 50 foot buffer zone they planted 12 very little trees which do nothing. They promised a one story building. They built a two story building. The builders promise and promise but they don't keep their promises. She reiterated that the pictures she took were only two days old.

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Rockland Hyundai, Route 303, West Nyack

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Councilman Kunis said they have to build within the laws of the Town. When they submitted this building plan it was approved by the Town. He said he did not know how they could promise to do one thing and do another. You have to build within a certain code. Ms. Larson said that was true but then they go to the ZBA. They are supposed to protect the environment by putting in certain landscaping but they don't do that either. It is forgotten. Councilman Kunis said they can't get permits. Mrs. Larson said the landscaping comes after. Councilman Kunis said but that is also part of the map and part of the approval process. He said he would visit the site but the Town has codes and maps and these all are built in accordance with the different departments such as Shade Tree Commission, the Planning Board, the ZBA if there is a variance, etc. It is not that they just come and do their own thing.

Supervisor said he could see from the pictures that there is heavy utilization of the site and there is no question about that. Ms. Larson questioned if they cannot sell what is there now why do they want to place more on the site?

Councilman Kunis asked Mr. Horowitz how many more spots he would gain? Mr. Horowitz said the entire area of the zone change is about nine tenths of an acre. If you take away the buffer area it looks as though we might be talking about half an acre, about 20,000 square feet which could be about 50 or 60 spaces. It is not going to add to traffic. The fellow can't use a little over an acre of his property because he can't park. This has gone through the Board of Appeals initially and was done in accordance with the approvals received. With regard to the housekeeping if there is unnecessary debris around something should be done and he had no argument with that. Supervisor said also the flags should go and Mr. Horowitz agreed with that.

Appearance: Mr. Kasida (?)
 West Nyack, New York

He said that he lives in back of the Hyundai building. He said two years ago there was a hearing and the Town Board approved of the parking lot on the south of the building. At that time the owner promised us landscaping but only put in three trees and never covered the buffer area. They are not supposed to park cars in the rear but they do. He complained of the noise. He asked why the Town Board approved of such a cheap operation? He said other areas strictly enforce their building codes. He said why little by little are they changing the property? There is no buffer area and the small amount of trees placed are nothing. They make promises but do not keep them. He complained about the garbage. He complained about the unloading of many cars which creates a great deal of noise and which goes on even at 6:00 in the morning.

Appearance: Mr. Richard Schroer
 19 Strawberry Hill Lane
 West Nyack, New York 10944

Mr. Schroer said there is about 50 feet between his property and the affected zone and so he may be less affected than some of the other people present. He said since Vail Hyundai went in there, whereas he used to see nothing of Route 303, he now sees the stop lights and the traffic during the day in the summer let alone in the winter when the trees are bare. The point is being made that the poor man who bought this property can't use all his property is suggesting the Town Board is being asked to pay for a lot of very poor business decisions that were made. This property was not bought without knowing what the zoning was. You should not saddle the homeowners in the area with the fact that they made a poor business decision. He opposed the change.

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Appearance: Ms. Madeline Hudson
 20 Strawberry Hill Lane
 West Nyack, New York

Ms. Hudson reiterated the comments of Mr. Schroer. She said she can sit in her living room summer or winter and look up Route 303 which she could never do before. She said she really would like to see the Town Board protect us. She recalled the damage the Thruway did to the area. She noted the property that was sold to the Journal News which damaged the area. She said if you give this change to Hyundai, the Journal News is going to come in and say they want the same thing. She said it has gotten to the point that it is unbearable to live in the area.

Appearance: Mr. Mark Stevens
 24 Strawberry Hill North
 West Nyack, New York 10994

Mr. Stevens said the request for the zone change is totally unacceptable to him. He said this organization has made other promises to the homeowners, all of which have been broken. The buffer zone that was supposed to be heavily planted has 9 trees planted on it. That is hardly heavy planting for a 430 foot strip. Now, they plan to take this other section and change it to LIO and they will then strip that area, just as they did the section that exists between our homes and the Hyundai dealership. That was at one time very heavily populated with saplings, bushes, etc. They came in and stripped the place. They will do exactly the same thing to the new section. They will make all sorts of promises just as they did for us earlier and they will complete none of them.

Appearance: Mr. Dave Braunstein
 118 North Greenbush Road
 West Nyack, New York

Mr. Braunstein said his property abuts Hyundai at the rear of the section in question. He stated that Mr. Horowitz said there is a buffer zone. There is supposed to be a buffer zone. However, at the corner of his property there was a buffer zone - a forest. It is not there any more because these Hyundai people came in and plowed a 28 foot trough coming right up to within four feet of his property line. He said he understood that they had to connect to the sewer pipe but they did not have to come in with heavy tractors to do it. They could have tree men cutting only what was necessary. He said they were aware that they shouldn't be doing this because it happened on a Sunday morning at 6:00 A.M. These people should not be given a less restrictive zoning situation since they are not in compliance with a more restrictive.

The Journal News makes an effort to be a good neighbor. They put the fence up on the other side of the buffer zone leaving the buffer zone on his side of the property. The Hyundai people could have continued that fence but they put it right on the property line and there is no way of caring for that supposed buffer zone. Twenty-eight feet is a large piece where it abuts his property right in the corner. He said he did not know if the map indicates the sewer line but where that sewer line is there is no screenage meaning that when he is trying to enjoy the tranquility of his property he can't. He said the front of his property is so close to the Thruway he can't use it. The only place where he can enjoy his property is in the back. It is getting more and more difficult because now he has Route 303 on one side, the Thruway on another side and he is caught in the middle. He did not really need these Hyundai people coming in and taking out trees. They are not good neighbors and they do not deserve a less restrictive zoning situation. With greater traffic on Route 303 and with the Thruway there is no sound board there. It is a very noisy area. This once beautiful area deserves to be protected and nothing should be done

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to it. These people knew what the zoning was when they came in. They have not been in compliance with it. Their maps show beautiful shrubbery and trees. You saw the pictures. They have taken out much more than they have put in. He said he is not talking about the area around the building. He is talking about the landscaping. He said he opposes this very strongly.

Appearance: Mr. Chuck Trilling
15 Strawberry Hill
West Nyack, New York

Mr. Tilling read a lengthy letter from his father, a copy of which is on file in the Town Clerk's office. In this letter Mr. Trilling noted that he has lived in the area in question since 1951. He noted that it had been most beautiful. He stated that they had placed their confidence in the zoning laws and the elected officers. He noted that he now questions that confidence. He noted the arrival of the Thruway which creates a 24 hour a day noise that is almost unbearable. There was no support from the Town for such a barrier.

Mr. Trilling then discussed the Journal News plan to keep tractor trailers off North Greenbush Road and to use the gate on Greenbush as a fire and emergency gate only but that has been forgotten. We are told there is no record of such agreement.

He noted a jeep warehouse which was built in the area which is now used by the Journal News. Although they try to be a good neighbor if you see the hundreds of sheets of the Journal News that careless Journal News drivers litter you can understand our frustration as this was supposed to be a residential area.

Mr. Trilling read on, noting that many large, old beautiful trees were removed at the corner of Greenbush and Strawberry Hill Lane to create a turn around.

He questioned the approval of such a narrow lot for the Hyundai operation. Had we realized the extent of their clearing of the land we would have opposed the use and plan more vigorously. Trees and a barrier screen were also promised to protect the properties but were never put in place.

Mr. Trilling said 13 Strawberry Hill Lane was a pleasant place but is now open access to traffic noise from Route 303. He feels the Hyundai operation personally cost him \$20,000.00 on the sale of this house which will not be made up to him by Hyundai or the Town.

Mr. Trilling voiced fears that now it is going to happen again to his present property at 15 Strawberry Hill Lane. If Hyundai is allowed this change then his present home will be difficult to sell or sell for a much lower price in the future. He said as a former real estate broker he could assure that he knows the dollar loss value this will have on my property and on his neighbors' properties.

He wondered if the courts would award damages for economic loss in a case of this type but it would be interesting to find out.

He said the residents of the area have been hurt by previous actions over the years both economically and in the quality of life. He requested that the zoning change be permanently refused and some effort by the Town be made to protect this corner of Clarkstown.

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Appearance: Mr. John Scott
West Nyack

He said his property was to the east of the Hyundai line. He said most of the people here live higher up than the property in question and we are looking down on it. He said they didn't vigorously contest the last zoning change and an accommodation was reached which they had hoped would be fulfilled. He said that was a mistake because this continuation is going to affect us drastically. There are in that area that they want to park at least 40 or 50 large trees which is screening between the residents and Hyundai. These will have to come down in order to provide this parking space. He said at night bright lights shine, some of them up into our homes. It is going to be much worse when these trees are removed.

Mr. Scott asked did he understand that the Planning Board did approve this? Councilman Maloney said with covenants. Supervisor said there was a hearing before the Planning Board. Mr. Scott said no one was notified. Councilman Maloney said they did not have to be. Mr. Scott said he believed there was a covenant in the last agreement that the Shade Tree Commission should be involved in any future negotiations which apparently they weren't. Mrs. Juris did not know about it until he told her yesterday. Councilman Maloney said they had to be, didn't they? Supervisor said apparently there was not notification. He said he did not know if there had to be in this instance but it would seem to follow. Town Attorney said it is a referral by the Board to them for their recommendation. They don't usually send out notices. Mr. Scott said they had no voice in it. They had no chance to express opinions. He assumed that Mrs. Juris should have been involved. He said he was almost certain there was a covenant in the earlier agreement.

Mr. Scott said in addition reference was made to property values. He said he has a couple of acres of land there next to what is going to happen and he said if this should happen that land is certainly going to decrease in value. He was afraid there would be no screening at all. He said this should be a consideration of this Board. He complained of the number of cars parked there now and noted that he is forcefully against this and he asked that the Board consider these things before making any decision.

Mr. Horowitz spoke in rebuttal noting that neither the Town Board, nor the applicant, nor any of the residents are responsible for the zoning in the area. The residents who spoke this evening are situate in an R-22. He said it is unfortunate, as they were there first, but we all have to work within the framework of the zoning. Immediately to the north of these residents, zoning is LO. Immediately to the south of these residents, zoning is LIO. Immediately across the street it fronts on Route 303 and the zone is M and we have Snake Hill Road and we have the New York State Thruway. Clearly, there is a conflict of the uses that are in the area. At the time of the purchase of this by the current user no zone change was requested and no zone change was granted. It was an application before the Board of Appeals. At that time a series of

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covenants was entered into and if any of those covenants have not been met then whether this Board approves or disapproves is all immaterial. He said he would hope that it didn't have to wait until this point came up that the people got down to our Building Department, got down to whatever agency we have that is involved and in fact registered a complaint. There is no reason not granting a zone change if it makes sense. There is certainly no reason, whether you approve or disapprove, that these people should not be given the covenants that have been entered into.

Mr. Horowitz said as to the recommendation of the Planning Board it is done at a public hearing. It is not an advertised public hearing because it need not be an advertised public hearing since it is solely for purposes of referral. The ultimate decision, regardless of who makes what recommendation, lies with this particular board. He said in that regard he would point out that the two planning agencies, the Town and the County, both have recommended approval. He said he could understand people, who feel that covenants have been breached, being upset and saying no. He would ask this Board to consider is there any possibility that having some additional area to park may possibly alleviate the particular problem? That is a choice this Board would have to make. He said we have also heard for some reason that the buffer in the rear part of the property (and by the way this buffer went around the entire site not just in this location) there is about 9 trees and there is a very heavily treed area here. He said he would have to raise a little question. He could see if the reverse would be the case.

Mr. Horowitz said finally he would like to point out that in so far as any violations, any breach of covenants by all means they should be taken up no matter how this Board goes. The two planning boards that have jurisdiction have responded to this Board recommending approval. As far as the Shade Tree Commission is concerned someone said something about negotiations. There is no such thing as negotiations. If the Shade Tree is called in by the Planning Board they would respond. Again, if there was a covenant which affected Shade Tree then by all means people should go to the Shade Tree Commission, make the complaint and get the violation issued but none of this should have any bearing as to whether or not the request before the Board makes sense or doesn't make sense. He urged the Town Board to rule accordingly.

There being no one further wishing to be heard on motion of Councilwoman Smith, seconded by Councilman Maloney and unanimously adopted, the public hearing was declared closed, DECISION RESERVED, time: 10:35 P.M.

Respectfully submitted,


PATRICIA SHERIDAN,
Town Clerk

(RESOLUTION NO. 961-1990 RESERVING DECISION UNTIL 11/13/90 ADOPTED)