

TOWN OF CLARKSTOWN
TOWN BOARD MEETING

TOWN HALL

11/25/03

8:00 P.M.

Present: Supervisor Holbrook
Council Members Lasker, Maloney, Mandia & Smith
Marcia Coopersmith, Deputy Town Attorney
Patricia Sheridan, Town Clerk

Supervisor Holbrook declared the Town Board Meeting open. Assemblage saluted the Flag.

On motion of Co. Maloney seconded by Co. Mandia and unanimously adopted, the public hearing re: Proposed zone change (M to R-15) for properties along Pine View Rd, West Nyack was opened, time: 8:10 p.m.

On motion of Co. Mandia seconded by Co. Maloney and unanimously adopted, the public hearing re: Proposed zone change (M to R-15) for properties along Pine View Rd, West Nyack was closed, time: 8:15 p.m.

Supervisor opened the public portion of the meeting.

Appearance: Trudy Laforgia
Nanuet

Item #4 – She suggested that the Town Board wait on a decision.

RESOLUTION NO. (880-2003)

Co. Mandia offered and Co. Lasker seconded

WHEREAS, NANCY BERNHARDT has made application to the Town Board of the Town of Clarkstown for use of provisions of Town Law 280-a(4) to create an Open Development Area for subdivision of the premises known as 64.12-2-55, and

WHEREAS, a public hearing was duly held on November 18, 2003, and

WHEREAS, the Town Board of the Town of Clarkstown has reviewed the Environmental Assessment Form prepared pursuant to SEQRA, by its consultant Robert Geneslaw, and which the Board has discussed and considered in making its decision herein;

NOW, THEREFORE, be it

RESOLVED, that based upon the November 18, 2003 report of Robert Geneslaw, acting as staff to the Town Board as lead agency, it is hereby determined that the proposed use of Town Law 280-a(4) for the subject premises 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

RESOLUTION NO. (880-2003) continued

FURTHER RESOLVED, that under the provisions of Section 280-a(4) of the Town Law, and pursuant to the recommendations of the Town of Clarkstown Planning Board, the Town Board hereby establishes an "Open Development Area" for property situate at 78 Van Houten Fields, West Nyack, New York, which property is more specifically designated on the Clarkstown Tax Map as Map 64.12-2-55, and which is known as "Nancy Bernhardt Subdivision," so that same may be developed as a result of the application presently pending before the Clarkstown Planning Board without lot frontage on Town owned or maintained streets, provided however, prior to the issuance of any building permit the following conditions shall be met by the owner:

1. "The Open Development Area" shall consist of the streets under the control of the Van Houten Fields Homeowners' Association as shown on the vicinity map of the proposed subdivision map entitled, "NANCY BERNHARDT, Town of Clarkstown, Rockland County, New York, Subdivision Plat," dated April 29, 2003, last revised July 24, 2003, drawn by Atzl, Scatassa & Zigler, P.C., New City, New York, for which Building Permits and Certificates of Occupancy may be issued for no more than one (1) additional one family dwelling subject to final subdivision approval being granted by the Clarkstown Planning Board which provides for access to said dwellings by the private right-of-way or easement as shown on said proposed subdivision.

2. Prior to final approval, applicant shall secure a written statement from the Fire District and Ambulance Corps serving the subject area, in a form satisfactory to the Director of the Department of Environmental Control, that the proposed right-of-way will provide sufficient and safe emergency access.

3. Applicant shall obtain the written approval for any required drainage improvements and the necessary sewer systems from the Director of the Department of Environmental Control, prior to final subdivision approval.

4. Prior to filing the subdivision map, applicant shall provide a Declaration of Restrictive Covenant which shall run with the land in a form acceptable to the Town Attorney, which declaration shall be recorded in the Rockland County Clerk's Office, and shall provide and be legally sufficient to require the following:

A. That the property owners or successors and assigns acknowledge that access to the nearest public road has been obtained by private easement or right-of-way and that such property owners shall not receive any municipal services consisting of road maintenance and resurfacing, snow removal or sanding, pothole repair, or other similar services which are normally provided to residents of the Town of Clarkstown whose properties front on a public road.

B. That any deed of conveyance for the subject premises shall recite that the conveyance is subject to the Declaration of Covenant required herein.

C. That the fee ownership of the right-of-way or easement shall be vested in the abutting lot owners or a home owners' association.

D. That said Declaration shall contain provisions whereby the property owners shall agree to participate in shared regular maintenance, repair, snow plowing and other necessary services on the right-of-way or easement, through the already established Association.

E. That the Certificate of Occupancy issued for the contemplated new premises within the Open Development Area shall be conditioned upon observance and subject to the Declaration of Covenant herein required.

RESOLUTION NO. (880-2003) continued

F. That in the event the property owner at any time in the future shall request, or the Town Board shall on its own motion seek establishment of a road improvement district, or otherwise seek to dedicate the private right-of-way or easement as a public street, such owners shall gratuitously and irrevocably offer for dedication to the Town of Clarkstown any interest of the property owner in this easement or right-of-way and any property adjacent thereto to accomplish any necessary road widening, and said owner shall covenant in said Declaration of Covenant to participate in any such road improvement district at the request of the Town of Clarkstown by resolution duly adopted by the Town Board with the costs of such road improvement district being assessed against the property owners in accordance with the provisions of Town Law.

G. That the applicant shall return to the Planning Board for final subdivision review and approval, and that any subdivision map approved by the Planning Board shall contain a note(s) referring to this resolution establishing the "Open Development Area" by date and number, and also reference and recite the recording data of the covenant required pursuant to this resolution, and such note shall also state that the issuance of Building Permits and Certificates of Occupancy are subject to compliance therewith.

On roll call the vote was as follows:

- Councilwoman Lasker Yes
- Councilman Maloney Yes
- Councilman Mandia Yes
- Councilwoman Smith Yes
- Supervisor Holbrook Yes

RESOLUTION NO. (881-2003)

Co. Lasker offered and Co. Maloney seconded

WHEREAS, PARTNERS IN SAFETY, INC. has submitted a proposal for the renewal of an agreement with the Town of Clarkstown, to provide alcohol and drug testing of safety-sensitive employees, including transportation employees and those holding commercial driver's licenses, and

WHEREAS, the Town Board wishes to renew said contract;

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby authorizes the Supervisor to enter into a renewal agreement with Partners in Safety, Inc., 800 Route 17M, Middletown, New York, for the period commencing January 1, 2004 and terminating on December 31, 2004, in a form satisfactory to the Town Attorney, to provide alcohol and drug testing of safety-sensitive employees, including transportation employees and those holding commercial driver's licenses, and be it

FURTHER RESOLVED, that the agreement shall provide for contract indemnification and professional and other liability insurance coverage, as required by the Town Attorney, and be it

FURTHER RESOLVED, that the fees for the year 2004, for such services, shall be \$3,898.50, in accordance with said proposal, and additional hourly fees shall be charged to Account No. A 9000-409.

RESOLUTION NO. (881-2003) continued

On roll call the vote was as follows:

- Councilwoman Lasker Yes
- Councilman Maloney Yes
- Councilman Mandia Yes
- Councilwoman Smith Yes
- Supervisor Holbrook Yes

RESOLUTION NO. (882-2003)

Co. Lasker offered and Co. Maloney seconded

RESOLVED, that the Town Board hereby authorizes the Supervisor to enter into a lease agreement with KEEP ROCKLAND BEAUTIFUL, INC., in a form approved by the Town Attorney, for rental of two (2) rooms on the first floor of the former Clarkstown Police Station located at 10 Maple Avenue New City, New York, consisting of 500 sq. ft., for a one (1) year period, with a ninety (90) day termination clause, commencing December 1, 2003 to November 30, 2004, at an annual rental of \$9,000.00, payable in equal monthly installments of \$750.00, in advance of the first day of each month.

On roll call the vote was as follows:

- Councilwoman Lasker Yes
- Councilman Maloney Yes
- Councilman Mandia Yes
- Councilwoman Smith Yes
- Supervisor Holbrook Yes

RESOLUTION NO. (883-2003)

Co. Lasker offered and Co. Maloney seconded

WHEREAS, American Appraisal Associates wish to renew its contract with the Town, to provide fixed asset inventory and insurance appraisal for the Year 2003;

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby authorizes the Supervisor to enter into an agreement with American Appraisal Associates, in a form approved by the Town Attorney, to provide fixed assets inventory and insurance appraisal to the Town of Clarkstown for the Year 2003, and be it

FURTHER RESOLVED, that the fee for said services shall not exceed \$1,940 and shall be charged to account No. A 1315-409.

On roll call the vote was as follows:

- Councilwoman Lasker Yes
- Councilman Maloney Yes
- Councilman Mandia Yes
- Councilwoman Smith Yes
- Supervisor Holbrook Yes

RESOLUTION NO. (884-2003)

Co. Maloney offered and Co. Lasker seconded

WHEREAS, Chapter 626 of the Laws of 1991 (General Municipal Law, Article 13BB), authorizes and empowers towns to enter into "Adopt a Municipal Park, Shoreline or Roadway Programs" with volunteers or groups in an effort to reduce and remove litter from parks, shoreline, roadways and other public lands, and

WHEREAS, the following group wishes to continue to adopt a segment of various town roads for a period of two (2) years, beginning November 28, 2003 to November 28, 2005, as follows:

Sponsor: Pell & Associates, P. O. Box 283, West Nyack, NY 10994

Road: .5 mile segment of Rose Road, from Route 59 to West Nyack Road, West Nyack, NY 10994,

and

WHEREAS, it is anticipated that Town money will be saved through the implementation of the volunteer program, in that Pell & Associates will perform a public service in removing trash from above roadways which would otherwise require Town employees to perform such work;

NOW, THEREFORE, be it

RESOLVED, that the Town Board of the Town of Clarkstown authorizes the Supervisor to enter into a renewal agreement, for a period of two (2) years beginning November 28, 2003 to November 28, 2005, in a form approved by the Town Attorney, and Wayne T. Ballard, P.E., C.S.P., Superintendent of Highways, to adopt above segments, and to provide and coordinate services by Pell & Associates, to remove trash from the roadways.

On roll call the vote was as follows:

Councilwoman Lasker Yes
Councilman Maloney Yes
Councilman Mandia Yes
Councilwoman Smith Yes
Supervisor Holbrook Yes

RESOLUTION NO. (885-2003)

Co. Maloney offered and Co. Lasker seconded

WHEREAS, Chapter 626 of the Laws of 1991 (General Municipal Law, Article 13BB), authorizes and empowers towns to enter into "Adopt a Municipal Park, Shoreline or Roadway Programs" with volunteers or groups in an effort to reduce and remove litter from parks, shoreline, roadways and other public lands, and

WHEREAS, the following group wishes to continue to adopt a segment of various town roads for a period of two (2) years, beginning October 9, 2003 to October 9, 2005, as follows:

Sponsor: New York State Horse Council, Inc., (Palisades Chapter)

Road: 1.2 mile segment of Zukor Road, from South Mountain Road to intersection of North Main Street and Old Route 304, New City, NY,

RESOLUTION NO. (885-2003) continued

and

WHEREAS, it is anticipated that Town money will be saved through the implementation of the volunteer program, in that said New York State Horse Council, Inc., (Palisades Chapter), will perform a public service in removing trash from above roadways which would otherwise require Town employees to perform such work;

NOW, THEREFORE, be it

RESOLVED, that the Town Board of the Town of Clarkstown authorizes the Supervisor to enter into a renewal agreement, for a period of two (2) years beginning October 9, 2003 to October 9, 2005, in a form approved by the Town Attorney, and Wayne T. Ballard, P.E., C.S.P., Superintendent of Highways, to adopt above segment, and to provide and coordinate services by New York State Horse Council, Inc., (Palisades Chapter), to remove trash from the roadways.

On roll call the vote was as follows:

- Councilwoman Lasker Yes
- Councilman Maloney Yes
- Councilman Mandia Yes
- Councilwoman Smith Yes
- Supervisor Holbrook Yes

RESOLUTION NO. (886-2003)

Co. Mandia offered and Co. Lasker seconded

WHEREAS, the Rockland County Personnel Office has furnished Certification of Eligibles #03087 Zoning Enforcement Officer & Community Liaison (Prom), which contains the name of Joel J. Epstein,

Now, therefore, be it

RESOLVED, that Joel J. Epstein, 99 Bardonia Road, Bardonia, New York, is hereby appointed to the (Permanent) position of Zoning Enforcement Officer & Community Liaison (Prom) – Office of the Town Attorney – at the current 2003 annual salary of \$58, 091., effective and retroactive to November 24, 2003.

On roll call the vote was as follows:

- Councilwoman Lasker Yes
- Councilman Maloney Yes
- Councilman Mandia Yes
- Councilwoman Smith Abstained
- Supervisor Holbrook Yes

Co. Smith asked if the appointment could be effective on January 1, 2004 for reasons of financial considerations for the Town. She referenced the salary increase of the position in the past two years.

Supervisor Holbrook replied that there would be no financial impact since the motion is to grant from provisional status to permanent status.

RESOLUTION NO. (887-2003)

Co. Mandia offered and Co. Lasker seconded

WHEREAS, the Town Board of the Town of Clarkstown has previously approved resolution #458-2003 authorizing the Director of the Department of Environmental Control to retain the services of MRJ Excavating, Inc. to repair a malfunctioning drainage system in the vicinity of 68 Grand Street; and

WHEREAS, unforeseen field conditions required additional materials and labor in order to complete the proposed repairs; and

WHEREAS, the total cost of the additional labor and materials is \$4,475.00;

WHEREAS, the total cost of the additional labor and materials has been reviewed by the Deputy Director in charge of Survey & Design for the Department of Environmental Control, and found to be acceptable;

NOW, THEREFORE, BE IT RESOLVED that the budget allowance for this project be increased from \$10,650.00 to \$15,125.00 to reflect the change; and

BE IT FURTHER RESOLVED that this shall continue to be a proper charge to account #H 8753-409-0-77-16

On roll call the vote was as follows:

- Councilwoman Lasker Yes
 - Councilman Maloney Yes
 - Councilman Mandia Yes
 - Councilwoman Smith Yes
 - Supervisor Holbrook Yes
- *****

RESOLUTION NO. (888-2003)

Co. Maloney offered and Co. Lasker seconded

RESOLVED, that Resolution No. 369-2003 is hereby amended to reflect the total project cost for the General Construction component of the Lake Nanuet Improvement project awarded to West Con Contracting as \$820,678.64, and

WHEREAS, additional work in the amount of \$3,000.00 for the General Construction component has become necessary, and

WHEREAS, Maser Consulting and Charles F. Connington, Supt. of Recreation and Parks recommend this additional work to enable proper winterization and to avoid pipe breakage,

NOW, THEREFORE BE IT RESOLVED, that Change Order #19 in the amount of \$3,000 is hereby approved for a total cost of \$820,678.64 to West Con Contracting and

BE IT FURTHER RESOLVED that all expenses be charged to account H-8749-400-409-73-12.

On roll call the vote was as follows:

- Councilwoman Lasker Yes
 - Councilman Maloney Yes
 - Councilman Mandia Yes
 - Councilwoman Smith Yes
 - Supervisor Holbrook Yes
- *****

RESOLUTION NO. (889-2003)

Co. Maloney offered and Co. Lasker seconded

WHEREAS, STEPHEN COVELLO requested a refund of Building Permit fee (No. 03-1201) paid in the amount of \$368.00 for premises located at 17 Waldron Avenue, Central Nyack, New York, because he has cancelled the proposed addition to his house;

NOW, THEREFORE, be it

RESOLVED, that upon the recommendation of the Building Inspector, the Town Board hereby authorizes a partial refund of Building Permit fee paid, less the cost of \$140.00 for processing, in the amount of \$228.00 to STEPHEN COVELLO, to be charged to Account No. B 02-6-2555-0, provided the applicant shall surrender the Building Permit to the Building Department for cancellation.

On roll call the vote was as follows:

- Councilwoman Lasker Yes
- Councilman Maloney Yes
- Councilman Mandia Yes
- Councilwoman Smith Yes
- Supervisor Holbrook Yes

RESOLUTION NO. (890-2003)

Co. Maloney offered and Co. Lasker seconded

WHEREAS, JOHN M. ROWE requested a refund of Building Permit fee (No. 03-632) paid in the amount of \$848.00 for premises located at 99 Old Haverstraw Road, Congers, New York, because he has cancelled the proposed construction to his house;

NOW, THEREFORE, be it

RESOLVED, that upon the recommendation of the Building Inspector, the Town Board hereby authorizes a partial refund of Building Permit fee paid, less the cost of \$140.00 for processing, in the amount of \$708.00 to JOHN M. ROWE, to be charged to Account No. B 02-6-2555-0, provided the applicant shall surrender the Building Permit to the Building Department for cancellation.

On roll call the vote was as follows:

- Councilwoman Lasker Yes
- Councilman Maloney Yes
- Councilman Mandia Yes
- Councilwoman Smith Yes
- Supervisor Holbrook Yes

RESOLUTION NO. (891-2003)

Co. Mandia offered and Co. Maloney seconded

RESOLVED, that based upon the recommendation of the Purchasing Department that

BID #3-2004 – PRINTING OF TOWN ENVELOPES, STATIONERY & BUSINESS CARDS

RESOLUTION NO. (891-2003) continued

is hereby awarded to:

IK BUSINESS FORMS
949 SPRING VALLEY ROAD #206
MAYWOOD, NJ 07607
PRINCIPALS: PHILIP L. IAMPINETRO JR.

NEWBURGH ENVELOPE CORP
1720 ROUTE 300
NEWBURGH, NY 12550
PRINCIPALS: CARL STILLWAGGON
STUART STILLWAGGON

NATIONAL PAPER & ENVELOPE CORP
d/b/a VICTORIA ENVELOPE
99 KERO ROAD
CARLSTADT, NJ 07072
PRINCIPALS: JOHN F. TACHON
JOHN J. TACHON

as per the attached price/item list (On file in Town Clerk's Office)

On roll call the vote was as follows:

- Councilwoman Lasker Yes
- Councilman Maloney Yes
- Councilman Mandia Yes
- Councilwoman Smith Yes
- Supervisor Holbrook Yes

RESOLUTION NO. (892-2003)

Co. Maloney offered and Co. Mandia seconded

WHEREAS, the Town of Clarkstown has previously awarded a contract to Tectonic Engineering Consultants, P.C. for design and associated services in conjunction with the Strathmore Creek Remediation project; and

WHEREAS, Town Board resolution 894-2002 authorized payment for said associated services in accordance with the schedule of rates included in the consultant's proposal; and

WHEREAS, the amount allotted for these services is about to lapse; and

WHEREAS, the Department of Environmental Control desires to continue said services in accordance with aforementioned schedule of rates;

NOW, THEREFORE, BE IT RESOLVED that the fee for said services be increased by \$5,000.00 to an amount not to exceed \$15,000.00; and

BE IT FURTHER RESOLVED that this amount may not be increased without further resolution of the Town Board; and

BE IT FURTHER RESOLVED that this shall be a proper charge to account number H 8749 409 0 73-27.

RESOLUTION NO. (892-2003) continued

On roll call the vote was as follows:

Councilwoman Lasker Yes
 Councilman Maloney Yes
 Councilman Mandia Yes
 Councilwoman Smith Yes
 Supervisor Holbrook Yes

RESOLUTION NO. (893-2003)

Co. Mandia offered and Co. Maloney seconded

WHEREAS, Nancy Willen, Administration, Highway Department, has requested permission to attend a seminar regarding Management Skills, which is being held in White Plains, New York, on December 8, 2003, at a cost of \$179.00;

NOW, THEREFORE, be it

RESOLVED, that the Town Board hereby authorizes Nancy Willen, Administration, Highway Department, to attend a seminar which is being held in White Plains, New York, on December 8, 2003, and be it

FURTHER RESOLVED, that the cost of \$179.00 for said seminar, and the cost of any reasonable expenses for travel and food shall be charged to Account No. DB 5110-414.

On roll call the vote was as follows:

Councilwoman Lasker Yes
 Councilman Maloney Yes
 Councilman Mandia Yes
 Councilwoman Smith Yes
 Supervisor Holbrook Yes

RESOLUTION NO. (894-2003)

Co. Maloney offered and Co. Mandia seconded

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

BID #54-2003 – BUS TRANSPORTATION – SENIOR CITIZEN & YOUTH

Bids to be returnable to the office of Purchasing, 10 Maple Avenue, New City, New York by a time and date to be determined 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 Purchasing Department.

On roll call the vote was as follows:

Councilwoman Lasker Yes
 Councilman Maloney Yes
 Councilman Mandia Yes
 Councilwoman Smith Yes
 Supervisor Holbrook Yes

RESOLUTION NO. (895-2003)

Co. Mandia offered and Co. Lasker seconded

RESOLVED, that the Town Board, on its own motion, reserves decision with respect to the proposed zone change for properties known as: Map 65.9-2-28, 65.9-2-29, 65.9-2-30, 65.9-2-31, 5.9-2-34, 65.9-2-35, 65.9-2-36, 65.9-2-37, 65.9-2-38, 65.9-2-39, 65.9-2-32, 65.9-2-33, 65.9-2-40, 65.9-2-41, from an M District to an LIO District, and be it

FURTHER RESOLVED, that since the proposed zone change, if approved, may be in conflict with the Town of Clarkstown Comprehensive plan adopted on June 30, 1999, the Town Board hereby refers a proposed conforming amendment to the Comprehensive Plan to the Clarkstown Planning Board for its study and recommendations, and this matter is also referred to the Rockland County Commissioner of Planning and the other municipalities and governmental bodies as required by Section 239-l and 239-m of the General Municipal Law and other applicable provisions of law, and be it

FURTHER RESOLVED, that a public hearing pursuant to Sections 264, 265, and 272-a of the Town Law be held at the Auditorium of the Town Hall of the Town of Clarkstown, at 10 Maple Avenue, New City, Rockland County, New York, in the Town of Clarkstown, on December 16, 2003 at 8:00 p.m., and be it

FURTHER RESOLVED, that the Town Attorney prepare notice of such statutory hearing and that the Town Clerk cause the same to be published in the newspaper of general circulation and posted in the manner provided by law and file proof thereof in the Office of the Town Clerk, 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 Joseph Simoes, Town Planner, is hereby authorized and directed to act as agent for the Town Board with respect to SEQRA review.

On roll call the vote was as follows:

- Councilwoman Lasker Yes
- Councilman Maloney Yes
- Councilman Mandia Yes
- Councilwoman Smith Yes
- Supervisor Holbrook Yes

There being no further business and no one further wishing to be heard, on motion of Co. Mandia, seconded by Co. Maloney and unanimously adopted the Town Board Meeting was closed, time 8:30 P.M.

Respectfully submitted,



Patricia Sheridan
Town Clerk

TOWN OF CLARKSTOWN
PUBLIC HEARING

Town Hall

11/25/2003

8:05 PM

Present: Supervisor Holbrook
Council Members Lasker, Maloney, Mandia, Smith
Marsha Coopersmith – Deputy Town Attorney
Patricia Sheridan, Town Clerk

Re: Proposed Zone Change (M to R-15) for Properties Along Pine View Road, West Nyack.

On motion of Co. Maloney, seconded by Co. Mandia and unanimously adopted, the public hearing was declared open. The Notice of Public Hearing was read by the Town Clerk.

Supervisor Holbrook said this public hearing is a result of a petition received by the Town by most of the property owners on Pine View Road in West Nyack. Supervisor read correspondence from the following:

Town of Clarkstown Planning Board November 17, 2003
(On file in the Town Clerk's office)

Supervisor said that as a consequence of information from the Planning Board, the zone change has been amended to include properties 65.9-2-321, 65.9-2-33, 65.9-2-40 and 65.9-2-41.

Rockland County Planning Board October 16, 2003
(On file the Town Clerk's office)

Town of Clarkstown,
Department of Environmental Control November 24, 2003
(On file in the Town Clerk's office)

Supervisor opened the meeting for public comment.

Appearance: Donald S. Tracy, Esq.
 Represents four (4) property owners

He said he gave John Costa, Town Attorney, a copy of 265 Affidavit. He said they are protesting 6.12 acres out of 15.75 acres. He gave the original, fully executed Affidavit to the Mrs. Patricia Sheridan, Town Clerk. (Affidavit on file in the Town Clerk's office)

Mr. Tracy said that the Town failed to comply with the Sec. 272 (a) of the Town Law. He said the Town enacted a Comprehensive Plan and he referred to Sec. 264a-(11)(a) provides that zoning cannot be changed without changing the Comprehensive Plan. He said that prior to any enactment to change a zone, the Town would have to advertise and hold a public hearing to change the Comprehensive Plan.

Mr. Tracy asked Marsha Coopersmith, Deputy Town Attorney if she had the citation and if she agreed with his opinion. Ms. Coopersmith said in reply that she did not entirely agree.

Supervisor, in reply, read a memo from Robert Geneslaw, Town Planning Consultant, dated October 13, 2003. (On file in the Town Clerk's office)

Mr. Tracy said this is not an appropriate way to zone.

Appearance: Bill Fowler
 West Nyack

He owns two (2) properties on Pineview Road and owns a Landscaping business. He needs the property to house his business and keep his equipment legally. He expressed

concerns that if the zone change is approved, he will not be able to find property for his business.

Appearance: Don DeGiacimo
West Nyack

He purchased land on Pine View Road and to maintain his business. He has gone through a lot of expense for engineers and TAC meetings so that he could keep his business equipment on the property.

Appearance: Bart Simons
West Nyack

He is one of the petitioners asking for the zone change and that the properties do not conform to property size for selling. He said the quality of life in the area has deteriorated in the past few years and the residents are asking for the zoning to go back to their previous zoning.

Supervisor asked Mr. Simons if the residents would be willing to enter into a road maintenance agreement.

Mr. Simons said they would and they have had several meetings regarding this over the past year.

Appearance: John Pugiese
West Nyack

He said this has always been a quiet, residential street. He said there are now 30-40 strangers on the road. He expressed concerns for the children because the workers block the road with their trucks.

Appearance: Brian Klemik
Bill Fowler's Partner

He said they have invested a lot of money into their property. He said they thoroughly cleaned up their property and plowed the road for the past two and one-half (2 ½) years). He said they are in at 7:30 am and out by 8:00 am returning at 6 pm and are not present twelve (12) hours a day.

Appearance: Danny Clapp
West Nyack

He said he specifically bought the property for business purposes.

Appearance: Donald Tracy, Esq.

He asked if there was a vote on whether or not there is a super majority in favor of this zone change before sending back to cure the legal technicality, the necessity of all the extra work could be eliminated.

Co. Maloney asked if there was any opposition when the property was purchased for business purposes.

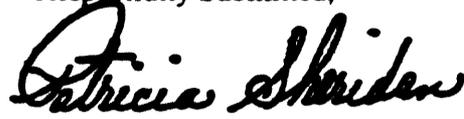
Mr. Fowler said that all of the neighbors have been very nice to him. Co. Maloney asked if the M zone is the only zone where he could store his equipment. He said he does not have forty (40) people working for him only fifteen (15) to twenty (20) people.

On motion of Co. Mandia, seconded by Co. Lasker and unanimously adopted, a resolution was offered to refer the matter to the Planning Board and set a public hearing for December 9, 2003.

PH: Proposed Zone Change (M to R-15) for Properties Along Pine View Road, West
Nyack 11/25/2003 Page 3

On motion of Co. Maloney, seconded by Co. Mandia and unanimously adopted, the
public hearing was CLOSED and DECISION RESERVED. Time:

Respectfully Submitted,



Patricia Sheridan
Town Clerk

RESOLUTION NO. 895-2003 ADOPTED
(Referred to Planning Board)