

The Town Board's meeting officially begins at 6:45PM. The Televised portion of the meeting begins at 7:30PM

FINAL TOWN BOARD AGENDA
TOWN OF YORKTOWN
JUNE 16, 2015

PLACE:
TOWN HALL

TIME:
7:30pm

1. PLEDGE OF ALLEGIANCE
2. MOMENT OF SILENCE
3. PRESENTATIONS

Police Chief Daniel McMahon - Department Appointment, Promotion and Awards

Town Board –

Retirements: Lt. Richard Malan
Mary DeSilva – Director of the Nutrition Center
Patricia Barressi – John C. Hart Library Director
Peter Reyes

4. SUPERVISOR GRACE'S REPORT TO THE TOWN

Town Board will hold its first outside meeting for 2015 at Downing Park on July 7, 2015. The meeting will begin at 6:00PM. This meeting will be recorded for broadcast.

5. REPORTS FROM THE TOWN COUNCIL
6. COURTESY OF THE FLOOR
7. PUBLIC HEARINGS:

Convene:

NOTICE IS HEREBY GIVEN that a Public Hearing will be convened by the Town Board, Town of Yorktown, Westchester County, New York at the Town Hall, 363 Underhill Avenue, Yorktown Heights, 10598 on the 16th day of June, 2015 at 7:30 PM or as soon thereafter as the same can be heard, to consider the application received from Chestnut Petroleum Distributors, Inc. for an amendment to their Special Use Permit . The request is to approve a sign at the Mobil Gasoline Station located at 2035 Saw Mill River Road., also known as Section 37, Parcel 1, Lot 2 on the Tax Map of the Town of Yorktown.

7. PUBLIC HEARINGS: (continued)

Convene:

Request for a Wetlands Permit for the Junior Lake Mitigation Project

NOTICE IS HEREBY GIVEN that a Public Hearing will be convened by the Town Board, Town of Yorktown, Westchester County, New York at the Town Hall, 363 Underhill Avenue, Yorktown Heights, New York on the 16th day of June, 2015 at 7:30 o'clock PM to consider the application for a wetlands permit from Algonquin Gas Transmission. The project will provide ecological enhancement of seasonally flooded habitats and riparian buffers within and adjacent to a 2.4 acre portion of Junior Lake. The objective of this project is to offset impacts to wetlands affected by the AIM Project Facilities located in the State of New York.

8. APPOINTMENTS

9. RESOLUTIONS

Request from the Comptroller:

Approve request to go out to bid for computer equipment:

Be it resolved, for reasons of efficiency and economy and pursuant to the authority conferred by subdivision 5 of section 103 of the General Municipal Law, it is determined by the Town Board that there is a need for standardization in the purchase of computer and networking equipment for use by all Town Departments, and the Town's officials are authorized to seek competitive bids and to contract for the purchase of computer and networking equipment from the following manufacturers:

Server Software

Microsoft

Symantec

Rack & UPS Equipment

APC

Aten

Server Equipment

Hewlett-Packard

Cables to Go

Computer / Printer Hardware

Panasonic

Hewlett-Packard

Desktop Software

Microsoft

Optional Items

Hewlett-Packard (Hot Swap Drive / Processor Kit)

Request from the Comptroller

Authorize the Supervisor to enter an agreement with Sullivan Data:

Resolved, that the Supervisor is authorized to enter into an agreement with Sullivan Data for the installation of IT infrastructure and department specific computer system upgrades for 2015 and the Comptroller is authorized to pay \$33,825.00 for said services in calendar year 2015

Requests from the Engineering Department:

Extend the bid for Preventative Maintenance Generator Systems #14-2

WHEREAS, the Town Board at its meeting of June 18, 2014, awarded the Preventative Maintenance Generator Systems Bid #14-2 for various Town facilities to Peak Power Systems, Inc., and

WHEREAS, the Town has the contractual option to extend the bid in one-year increments, up to a maximum contract term of two (2) years, and

WHEREAS, the Town intends to extend this bid for the first renewal, NOW, THEREFORE, BE IT,

RESOLVED, that the Preventative Maintenance Generator Systems bid is hereby extended for the one-year extension period (July 1, 2015 through June 30, 2016).

Bond Release - WP-039-14 – IBM

WHEREAS, IBM, as applicant, posted check #0004195617 into the T33 account on July 30, 2014, in the amount of \$300.00 covering Wetland Permit #039-14, for work performed at the Kitchawan Road location, and

WHEREAS, the Town Engineer has informed this Board that a representative of the Engineering Department has inspected the property and determined that the work has been satisfactorily completed, and that the \$300.00 for Wetlands Permit may be released to the applicant, NOW THEREFORE BE IT,

RESOLVED, that the above-described monies be and is hereby released to I.B.M., 1101 Kitchawan Road, Yorktown Heights, NY 10598, Attn: Mr. Don Demouth.

Requests from the Engineering Department Continued

Bond Release - WP-020-15

WHEREAS, IBM, as applicant, posted check #000424676 which was deposited into the T33 account on May 5, 2015, in the amount of \$300.00 covering Wetland Permit #020-15, for work performed at the Kitchawan Road location, and

WHEREAS, the Town Engineer has informed this Board that a representative of the Engineering Department has inspected the property and determined that the work has been satisfactorily completed, and that the \$300.00 for Wetlands Permit may be released to the applicant, NOW THEREFORE BE IT,

RESOLVED, that the above-described monies be and is hereby released to I.B.M., 1101 Kitchawan Road, Yorktown Heights, NY 10598, Attn: Mr. Don Demouth.

Bond Release - WP-028-15

WHEREAS, Michael & Susan Sammarco, as applicant, posted check #9061 which was deposited into the T33 account on May 15, 2015, in the amount of \$300.00 covering Wetland Permit #028-15, for work performed at their Cecile Drive residence, and

WHEREAS, the Town Engineer has informed this Board that a representative of her Department has inspected the property and determined that the work has been satisfactorily completed, and that the \$300.00 for wetlands may be may be released to the applicant, NOW THEREFORE BE IT.

Bond Release - BSWPPP 067-14

WHEREAS, Mongero Properties LLC, as applicant, posted check #1059 in the amount of \$1,500 which was deposited into the T33 account on November 14, 2014, to serve as the Erosion Control Bond for Stormwater Permit #BSWPPP-067-14, for work performed at the Saw Mill River Road location, and

WHEREAS, the Town Engineer has informed this Board that a representative of her department has inspected the property and determined that the work has been satisfactorily completed, and that the above referenced monies may be released, NOW, THEREFORE BE IT

RESOLVED, that the above referenced Erosion Control Bond be released to Mongero Properties LLC, 114 Turnberry Court, Poughkeepsie, NY 12603.

Requests from the Engineering Department Continued

Bond Release - WP-026-14 Florida Road

WHEREAS, John Gilmore/JDG Builders, Inc., as applicant, posted check #1368 in the amount of \$750 which was deposited into the T33 account on May 30, 2014, to serve as the Erosion Control Bond for Wetland Permit #WP-026-14, for work performed at the Florida Road location, and

WHEREAS, the Town Engineer has informed this Board that a representative of her department has inspected the property and determined that the work has been satisfactorily completed, and that the above referenced monies may be released, NOW, THEREFORE BE IT

RESOLVED, that the above referenced Erosion Control Bond be released to Mr. John Gilmore, J.D.G. Builders, Inc., 40 Shallow Stream Road, Carmel, NY 10512.

Request from the Town Attorney

Authorize the Supervisor to sign an additional agreement with the Ryan Law Group

WHEREAS, the Planning Board seeks to have continued legal counsel during the site plan approval process for the Costco project, and has requested the Town Board to authorize the law firm of Ryan Law Group LLC to provide legal services;

BE IT RESOLVED, that the Town Supervisor is hereby authorized to sign an agreement with the law firm Ryan Law Group LLC to provide legal consultation services on an as-needed basis to the Planning Board during the site plan approval process for the Costco project.

*Cancel uncollectible taxes and penalties from the Town's tax roll
Please see the full text at the end of the agenda.

Requests from the Town Board

** Authorize the Supervisor to sign agreements relating to Old St. George's Winery - the full text is at the end of the agenda.

10. MONTHLY REPORTS

Receiver of Taxes – June Report

11. ADJOURN

Alice E. Roker, Town Clerk
Town of Yorktown

Dated: June 16, 2015

Town Attorney – Resolution

*Attachment1 – Cancel uncollectible taxes and penalties from the Town’s tax roll
WHEREAS, the Town’s tax collection records contain numerous uncollectible unpaid liens for taxes levied between 1996 and 2015; and

WHEREAS, such liens are uncollectible either because the Town acquired the parcels by dedication, in rem foreclosure or deed in lieu of foreclosure, or the parcels were removed from the Town’s tax maps and ceased to exist as taxable lots; and

WHEREAS, it is in the Town’s best interest to cancel such liens for record-keeping purposes;

NOW THEREFORE BE IT RESOLVED, the Town Board authorizes and directs the Receiver of Taxes to cancel all unpaid and uncollectible taxes and penalties, and remove from the Town’s electronic tax records, any and all “liens” and “open taxes” linked to the following parcels in such records:

PROPERTY LOCATION	TAX ID	FORMER OWNER
1721 CLOVER RD.	15.15-1-9	CHARNEY, CRAIG
1725 CLOVER RD.	15.15-1-10	CHARNEY, CRAIG
1717 CLOVER RD.	15.16-1-35	CHARNEY, CRAIG
1719 CLOVER RD.	15.16-1-36	CHARNEY, CRAIG
3560 FENIMORE AVE.	16.9-1-5	CATUCCI, WILLIAM &
1448 CROSSWAYS RD.	16.9-1-6	CATUCCI, WILLIAM &
DELAWARE RD.	16.9-1-12	CATUCCI, WILLIAM &
JAMES ST.	16.14-1-24	DUBOVSKY, MICHAEL ETAL
DUNNING DR.	27.18-2-1	MARX, ALBERTINE
81 UPLAND RD.	37.15-2-14	PHELAN, ROBERT

FRONT ST.	48.7-1-12	J B FRONT STRTEET, INC NORTH RIVER
DORCHESTER DR. (ROAD)	48.7-3-87.11	ASSOCIATES DEER HOLLOW ESTATES
STONY ST.	700.-1-1./0010	LLC DEER HOLLOW ESTATES
STONY ST.	700.-1-1./0011	LLC 37 CROTON DAM RD.
3320 LAKE SHORE DR.	15.20-2-7	CORP

**** Winery Requests**

**State Environmental Quality Review
NEGATIVE DECLARATION
Notice of Determination of Non-Significance**

Date: June 16, 2015

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

The Town of Yorktown Town Board has determined that the proposed action described below will not have a significant environmental impact and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Town of Yorktown Wetland, Stormwater and Tree Permit, NYSDEC wetland permit for the Thomas Dechiaro, Old St. Georges, LLC, Town of Yorktown, New York.

SEQRA Status: X Type 1

Unlisted

Conditioned Negative Declaration: ___ Yes
 X No

Description of Action: The applicant proposes to improve certain property adjacent to his existing premises known as the Winery at St. George the use of which was approved by the Town Board upon granting the applicant a zone change to Transitional Zone, wherein the allowable improved site and uses are approved with the rezoning approval. The Transitional Zone was approved on or about June 5, 2012 and the approved plan was

as set forth in the “Proposed Parking Plan for Thomas DeChiaro Old St. Georges LLC dated June 10, 2012. Said plan proposed parking areas in lands owned by the New York State Department of Transportation and the Town of Yorktown. The plans called in part for the removal of existing debris from land owned by the Town of Yorktown of approximately 6,227.03 square feet and under the jurisdiction of the by New York State Department of Environmental Conservation (NYSDEC) as a wetland buffer area. Said area to be improved by a gravel surface parking area, lighting, stormwater management structures and associated site improvements in conjunction with the adjoining parcel previously improved as per the Transitional Zone approval.

The parking area proposed will be used by both the Town of Yorktown for access to the adjoining open space area and overflow parking for the Old. St. Georges, LLC commercial establishment. The Town of Yorktown and the applicant have agreed to enter into a temporary license agreement to allow development of the approved plans as last revised June 5, 2015

The applicant proposes to permanently acquire from the Town of Yorktown the 6,227.03 square foot parcel in exchange for a 6,227.31 square foot parcel adjacent to the Ardizzone Wetlands and Mohegan Lake outlet upon New York State legislature approval to allow alienation of the Town owned piece presently designated as parkland.

Additional improvements are proposed on the NYSDOT parcel which in part is situated within a Town of Yorktown and NYSDEC wetland buffer area.

The applicant has already obtained permission from NYSDOT to use and develop the property in accordance with the submitted plans and has obtained a NYSDEC wetlands permit.

Location: 1715 East Main Street, Town of Yorktown, Westchester County, New York. Parcels are indicated on the Town of Yorktown Tax Rolls as Section 15.12 Block 2 Lots 52, 53.

Reasons Supporting This Determination:

The Town Board has compared the proposed action with the Criteria for Determining Significance in 6 NYCRR 617.7 (c), specifically:

1. The proposed action will not result in a substantial adverse change in the existing air quality, ground or surface water quality or quantity, traffic or noise levels, or a substantial increase in solid waste production.

The applicant has provided a stormwater plan prepared by a NYS Licensed Professional Engineer which includes an erosion and sediment control plan and also a plan for post-construction stormwater treatment. The parking area is proposed to be constructed entirely of pervious material. In addition, existing debris which has been dumped in the wetland buffer shall be removed and wetland mitigation plantings shall be installed. There will be a temporary increase

in noise during construction however all work will be conducted in compliance with the Town of Yorktown Peace and Good Order ordinance. Traffic and solid waste production will not be appreciably modified from existing conditions and the proposed parking area will increase public safety as current overflow parking on Route 6 is hazardous.

New York State Department of Environmental Conservation (NYSDEC) jurisdictional wetland buffer area and construct a gravel surface parking area, lighting, stormwater management structures and associated site improvements on two parcels of land located in a Transition Zone. The parking area will be used by both the Town of Yorktown for access to the adjoining open space area and overflow parking for the Old. St. Georges, LLC commercial establishment. Under a temporary license agreement with the Town of Yorktown, twelve of the parking spaces are proposed to be located on a 6227.31 square foot area of land (Parcel A) which is owned by the Town of Yorktown and is dedicated parkland. The applicant proposes to permanently acquire Parcel A from the Town through a mutually agreed alienation process. As compensation for the acquisition of Parcel A, the applicant has offered to the Town a parcel of land which is 6,227.03 square foot in size (Parcel B) which is immediately adjacent to the Town dedicated parkland and consists of wetlands which include the Mohegan Lake outlet (the Action), and

The proposed action will not result in the removal or destruction of large quantities of natural vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impact a significant habitat area; result in substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such species; and will not result in other significant adverse impacts to natural resources.

The overflow parking will be constructed of pervious material in a previously degraded wetland buffer which presently contains a substantial amount of debris and fill. The debris and fill will be removed by the applicant in accordance with all applicable regulatory requirements. Some trees will be cut to allow construction of the parking area in the wetland buffer and a mitigation planting plan, which has been reviewed by the Town Conservation Board will be implemented. In addition the applicant proposes to take title to the wetland buffer area through partnership with the Town of Yorktown and as compensation will deed a similar area of wetlands which includes the Lake Mohegan outlet to the Town of Yorktown. This will improve natural resource protection of Mohegan Lake and the outlet due to improved maintenance and management opportunities. This deeded parcel will become part of the adjoining dedicated parkland owned by the Town of Yorktown.

2. The proposed action will not result in the impairment of the environmental characteristics of a Critical Environmental Area as designated pursuant to 6 NYCRR Part 617.14(g).
3. The proposed action will not result in a material conflict with the Town's officially

approved or adopted plans or goals.

4. The proposed action will not result in the impairment of the character or quality of important historical, archaeological, architectural, aesthetic resources, or the existing character of the community or neighborhood. The proposed action will not result in a major change in the use of either the quantity or type of energy. A substantial net increase in energy will not result.

The Winery at St. Georges building is listed on the National Registry of Historic Places. The proposed improvements will not result in any change to the building.

5. The proposed action will not create a hazard to human health and safety as all applicable health and safety regulations will be followed.
6. The proposed action will not create a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses.

The applicant proposes to acquire, through an alienation process, Parcel A which is presently dedicated parkland owned by the Town of Yorktown. As compensation, the applicant proposes to deed Parcel B which is of similar size and of superior wetland functional value to the Town which shall be annexed to the dedicated parkland resulting in no net loss of parkland area.

7. The proposed action will not encourage or attract a large number of people to a place or place for more than a few days, compared to the number of people who would come to such place absent the action.
8. The proposed action will not create a material demand for other actions that would result in one of the above consequences.
9. The proposed action will not result in changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment.
10. When analyzed with two or more related actions, the proposed action will not have a significant impact on the environment and when considered cumulatively, will not meet one or more of the criteria under 6 NYCRR 617.7(c).
11. The Town Board has considered reasonably related long-term, short-term, direct, indirect and cumulative impacts, including other simultaneous or subsequent actions.

**THOMAS DECHIARO
OLD ST. GEORGES, LLC.
1715 EAST MAIN STREET
STORMWATER, WETLAND AND TREE PERMIT WP-T-BSWPPP-29-15
TOWN OF YORKTOWN, NEW YORK**

**LOCATION: 1715 East Main Street, Town of Yorktown, NY
Town of Yorktown Tax Identification: Section 15.12 Block 2 Lots 52,
53**

WHEREAS, the applicant proposes to remove existing debris from a Town of Yorktown and New York State Department of Environmental Conservation (NYSDEC) jurisdictional wetland buffer area and construct a gravel surface parking area, lighting, stormwater management structures and associated site improvements on two parcels of land located in a Transition Zone. As per the “Proposed Parking Plan for Thomas DeChiaro Old ST. Georges LLC” last revised June 5, 2015. The parking area will be used by both the Town of Yorktown for access to the adjoining open space area and overflow parking for the Old. St. Georges, LLC commercial establishment. Under a license agreement with the Town of Yorktown, twelve of the parking spaces are proposed to be located on a 6,227.03 square foot area of land (Parcel A) which is owned by the Town of Yorktown and is dedicated parkland. The applicant proposes to permanently acquire Parcel A from the Town through a mutually agreed alienation process. As compensation for the acquisition of Parcel A, the applicant has offered to the Town a parcel of land which is 6,227.31 square foot in size (Parcel B) which is immediately adjacent to the Town dedicated parkland and consists of wetlands which include the Mohegan Lake outlet (the Action), and

WHEREAS, the action will require greater than 5,000 square feet of land disturbance, and

WHEREAS, pursuant to Chapter 248 of the Town of Yorktown Town Code entitled “Stormwater Management and Erosion and Sediment Control” a stormwater permit is required for the proposed action in which the Town Board of the Town of Yorktown serves as approval authority; and

WHEREAS, the action is located, in part, in a Town of Yorktown jurisdictional wetland and wetland buffer, and

WHEREAS, the applicant proposes to permanently disturb the Town of Yorktown jurisdictional buffer in order to construct the proposed improvements, and

WHEREAS, pursuant to Chapter 178 of the Town of Yorktown Town Code entitled “Freshwater Wetlands” a wetland permit is required for the proposed action in which the Town Board of the Town of Yorktown serves as approval authority; and

WHEREAS, the applicant proposes to remove protected trees on the property, and

WHEREAS, pursuant to Chapter 270 of the Town of Yorktown Town Code entitled “Trees” a tree permit is required for the proposed action in which the Town Board serves as approval authority, and

WHEREAS, the applicant has submitted a Town of Yorktown wetland, tree and stormwater permit application WP-T-BSWPP-029-15, dated April 7, 2015, and

WHEREAS, the applicant has submitted a long-form Environmental Assessment Form (EAF) dated April 17, 2015, and

WHEREAS, the Town of Yorktown Conservation Board has provided a review letter dated
May 11, 2015 in support of the action, and

WHEREAS, the Town of Yorktown Planning Board has provided a review letter dated May 21, 2015 in support of the action, and

WHEREAS, the Town of Yorktown Advisory Committee on Open Space has provided a letter dated May 15, 2015 which reiterated their position that the proposal to create the parking area should be subject to an alienation proceeding which has now become part of the
action, and

WHEREAS, the NYSDEC has previously issued a wetland permit for the proposed
action,
and

WHEREAS, the Town of Yorktown Planning Board previously issued site plan approval
for
the proposed parking plan, and

WHEREAS, the applicant has indicated that there is authorization to apply for permits and construct the proposed improvements to be located on Lands of the State of New
York,
New York State Dept. of Transportation, and

WHEREAS, the proposed action is substantially contiguous to a building that is listed on the National Registry of Historic Places and therefore it has been determined to be a
Type I
Action under the State Environmental Quality Review Act (SEQRA); and

WHEREAS, the Town of Yorktown Town Board declared intent to act as Lead Agency on April 28, 2015, and has conducted a coordinated review and having received no objection is therefore Lead Agency for this action, and

WHEREAS, a public hearing was held opened on June 2, 2015 order to solicit comments from the public regarding the proposed action, and

WHEREAS, public comments at the hearing were supportive of the action and questions were answered at that time, and

WHEREAS, the Town Board received 27 (twenty-seven) letters and emails which indicated support of the action, and

WHEREAS, the Town Board did not receive any comments, letters or emails from the public that were not in support of the application and therefore the Town Board closed the public hearing on June 2, 2015, and

WHEREAS, the Town Board has considered all reasonably related long-term, short-term, direct, indirect, and cumulative environmental effects associated with the proposed action including other simultaneous or subsequent actions; and

WHEREAS, the Town Board of the Town of Yorktown has determined that the action will not have a significant adverse impact on the environment, and a Notice of Determination of Non-Significance dated June 16, 2015 is issued and:

BE IT FURTHER RESOLVED THAT, the following plans and documents are approved subject to the below-listed conditions;

- Plans entitled: “Thomas Dechairo, Old St. Georges, LLC” prepared by Jeffrey A. Econom, P.E., originally dated 09/26/10 with the most recent revision date of 06/05/15, 3 total sheets: 1 of 3, 2 of 3 and 3 of 3.
- Long-form Environmental Assessment Form executed by Jeffrey A. Econom for Thomas Dechairo dated 04/17/15.
- Town of Yorktown Combined Stormwater Pollution Prevention Permit Application, Wetland Permit Application and/or Tree Permit Application executed by Thomas Dechairo for Old St Georges, LLC dated 04/07/15.1/11.

BE IT FURTHER RESOLVED THAT, the Wetland, Tree and Stormwater Permit is granted subject to the signing of the plans by the Town Supervisor and shall be valid for a period of one year from date of this resolution. All work associated with the Wetland Tree and Stormwater Permit shall be conducted in strict compliance with the approved plans; and

BE IT FURTHER RESOLVED THAT, the Town Environmental Consultant will provide the Town Board with a report stating whether the applicant has complied with the requirements of this Resolution and the approved drawings by the end of the term of this permit, and

BE IT FURTHER RESOLVED THAT, the Wetland, Tree and Stormwater Permit shall automatically expire upon completion of work; and

BE IT FURTHER RESOLVED THAT, the below-listed conditions must be completed within six months of the date of this Resolution. Should the below-listed conditions not be completed within the allotted time frame, this Resolution shall become null and void unless an extension is requested by the applicant (in writing) within said six month period and granted by the Town Board.

Conditions that must be met prior to the Supervisor signing the Plans:

1. The Town Stormwater Officer shall sign the MS4 acceptance form.
2. All outstanding comments of the Acting Town Engineer and Town Environmental Consultant must be addressed to their written satisfaction. Final reports from the Acting Town Engineer and the Town Environmental Consultant shall be submitted to the Town Board, which shall ensure that all outstanding comments have been satisfied and shall also address resolution conformance.
3. A construction monitoring fee in the amount of \$1,000.00 must be submitted to the Engineering Department Clerk.
4. An Erosion and Sediment Control Bond, or other collateral acceptable to the Town Board and in form acceptable to the Town Attorney, shall be submitted the Engineering Department. Said security shall be in the amount of \$5,000.00 which shall be released upon required documentation of satisfactory completion of all work and when the Town confirms that a minimum of 85% of the site is stabilized and all temporary erosion controls have been removed.
5. A Wetland Bond or other collateral acceptable to the Town Board and in form acceptable to the Town Attorney shall be submitted to the Engineering Department. Said security shall be in the amount of \$3,000.00 which shall be released at the end of the five year period as measured from the date of planting when the Town of Yorktown confirms that a minimum of 85% of the planted species are viable.
6. The applicant shall provide a current NYSDEC wetland permit for the proposed action.
7. The applicant shall provide documentation which from the New York State Department of Transportation which authorizes permit application and construction of the action on the parcel identified on the approved plans as Lands of the State of New York.
8. The applicant shall execute a license agreement with Town Board to construct improvements on Parcel A and shall complete all applicable conditions/terms.
9. The applicant shall execute a contract with the Town Board in which Parcel A shall be acquired by the applicant through alienation and Parcel B shall be

acquired by the Town and shall complete all applicable conditions/terms. The Town Board shall immediately take the necessary steps to obtain alienation approval and the license agreement shall remain in full force and effect until the alienation process is complete.

10. Plan shall be modified to include recommendations included in the letter of the Town of Yorktown Conservation Board dated May 11, 2015.

Conditions of the Wetland, Tree and Stormwater Permit

1. The applicant agrees to allow periodic inspections by the Town and its consultants.
2. The Town Environmental Consultant shall inspect the site at the end of construction, but prior to the issuance of a notice of satisfactory completion, to ensure compliance with the permit.
3. No additional disturbance or modifications is permitted without prior written approval from the Acting Town Engineer.
4. Inspection reports shall be provided on a weekly basis and shall be prepared by a qualified inspector and furnished to the Acting Town Engineer with 3 calendar days of the date of inspection. Modifications to the approved plans shall be made only with prior Town Engineer approval.
5. A pre-construction meeting with the applicant's contractors and the Town Environmental Consultant must be held prior to the commencement of work. The applicant must contact the Town Engineering Department at 914-962-5722 x220 at least 72 hours in advance of the meeting date to schedule the pre-construction meeting.
6. Written certification must be provided to the Town Engineer that all debris and stockpiled material have been removed in accordance with any/all applicable regulatory requirements.
7. Any/all conditions and terms of the license agreement shall be complied with.
8. Any/all conditions and terms of the alienation and contract shall be complied with.

Additional Requirements to be Satisfied Subsequent to the Signing of the Plans:

1. The Acting Town Engineer and Town Environmental Consultant must provide written report, no later than at the expiration date of the wetland, tree and stormwater permit, documenting the status of the implementation of the requirements of this resolution.
2. Prior to the issuance of a Notice of Satisfactory Completion, all conditions of this permit must be completed to the satisfaction of the Acting Town Engineer and Town Environmental Consultant.

ACCESS AND USE LICENSE

Licensor: Town of Yorktown

Licensee: Old St. Georges, LLC

Site: 1715 East Main Street, Town of Yorktown, NY

Tax ID (Licensee's Line List): 15.12 Block 2 Lots 52-53

This LICENSE AGREEMENT ("License Agreement") is made as of the 16th day of _____ June, 2015 between **OLD ST. GEORGES, LLC**, a New York limited liability company, having an office located at 1715 East Main Street, Mohegan Lake, New York 10547 ("Licensee") and **the TOWN OF YORKTOWN**, a municipal corporation of the State of New York, having an office at 363 Underhill Avenue, Yorktown Heights, NY 10598 ("Licensor"). Licensee and Licensor are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

WITNESSETH:

Whereas, Licensor is the owner of certain property known as "Ardizzone Wetlands" which is comprised of approximately 12 acres and is located south of East Main Street in Mohegan Lake and west of Mohegan Avenue and is also known as tax section 15.12 block 2 lot 52;

Whereas, Licensee is the owner of a certain parcel of land adjacent to the "Ardizzone Wetlands" designated as tax section 15.12 block 2 lot 53 and is presently improved by an old stone church which is presently being used and occupied as a restaurant pursuant to a transitional zone approval granted in 2012, and:

Whereas, Licensee upon obtaining an approval for a transitional zone use and occupancy was therewith approved to occupy approximately 6,227.31 square feet of lands owned by Licensor as and for additional parking area, and;

Whereas, Licensor is desirous of Licensee to provide for use of the general public parking for access to the Licensee's property, access which presently does not exist nor could be accommodated without condemnation of or upon lands owned by Licensor, and;

Whereas Licensee is willing to improve Licensor's property to provide said access at Licensee's sole costs and expense, and;

Whereas, Licensor is desirous of obtaining certain real property presently owned by Licensee contiguous to the "Ardizzone Wetlands" and the Mohegan Lake outlet, and;

Whereas, Licensee is willing to convey said property to Licensor in exchange for the license granted herein and for the promise to convey the lands over which the license is granted, upon Licensor obtaining New York State legislature approval to alienate said land;

The parties hereto agree as follows:

Licensor grants Licensee a license to improve, use and occupy a certain portion of property presently owned by licensor consisting of approximately 6,227.31 feet, more fully described in schedule A attached hereto.

Licensee, in consideration thereof shall improve the licensed property as per the approved site plan last revised June 5., 2015 and approved by resolution of the Town Board and signed by the Town Supervisor June 16, 2015. Further, Licensee shall execute a contract to convey to the Licensor certain real property owned by Licensee consisting of approximately 6,227.03 square feet and located adjacent to Licensor's "Ardizzone Wetlands" and adjacent to the Mohegan Lake outlet and more particularly described in schedule B attached hereto. Licensee agrees to enter said contract obligating Licensee and it's assigns and successors in title to convey the property described in schedule B upon Licensor obtaining permission from the New York State legislature to alienate the lands now owed by Licensor and as described in schedule A. (contracts for conveyance are attached hereto as Exhibit A.)

1. Effective Date of License Agreement and Term for Permitted Use.

This License Agreement is effective on the date signed by all Parties and unless this License Agreement is terminated prior to such time in accordance herewith shall continue until such time as the parties mutual are able to convey the property described in schedule A to Licensee and Licensee conveys the property described in schedule B to licensor .

2. Permitted Use. This License Agreement grants Licensee access to the licensed property for the purposes of improving said land in accordance with the approved plans last revised June 5, 2015 and signed as the approved site plan by the Town Supervisor.

(a) Licensee acknowledges and agrees that: (a) the Licensor has made no representations or warranties regarding the licensed property's physical condition or the presence or absence of conditions, including contamination, that might pose a danger to persons entering thereon; and (b) Licensee knowingly and intentionally assumes, for itself and for its contractors, subcontractors, employees, agents, representatives, and all other persons associated with or involved in the Permitted Use, all risk of loss or injury that might occur during the Permitted Use as a result of any site conditions or otherwise. The licensed property shall be open at all times to the reasonable inspection of Licensor and all governmental entities with oversight authority.

(b) Licensee shall use the licensed property in compliance with all applicable local and state environmental, health and/or safety-related laws, regulations, standards, permits or permit conditions, currently existing or as amended or adapted in the future which are to become applicable to Licensee.

THIS IS A SHORT-TERM REVOCABLE ACCESS AND USE LICENSE, TERMINABLE AT WILL BY EITHER PARTY. NO OWNERSHIP, LEASEHOLD OR OTHER SITE INTEREST SHALL VEST IN LICENSEE BY VIRTUE OF THIS ACCESS AND USE LICENSE.

3. **Consideration.** Licensee in consideration for the license shall be obligated to convey the property described in schedule B to Licensors and shall covenant to allow public access to the licensed property for purposes of parking once improved in perpetuity or unless said right of access is abandoned by Licensors.

4. **Insurance.** Licensee shall submit a copy of an insurance certificate(s) demonstrating that adequate liability coverage in the amounts listed below is in effect prior to Licensee's commencing work in the licensed property

(A) Types of Insurance Coverage

1. **Commercial General Liability Insurance Policy**, issued by a company duly authorized to do business in the State of New York, on an occurrence basis, with no environmental exclusion clause, with a combined single limit per occurrence of not less than One Million Dollars (\$1,000,000), two million dollar aggregate (\$2,000,00.00) for any policy year for personal injury, bodily injury and death, and for property damage and, if obtainable, sudden and accidental pollution, and shall include coverage for contractual liability (designating all indemnity provisions of any agreements related to the Permitted Use or any aspect thereof), and shall cover Licensee's contractors and subcontractors and shall contain an endorsement that underground operations are covered and shall state that the "XCU Exclusions" have been deleted.

2. **Comprehensive Automobile Liability Insurance**, for all vehicles that are used in connection with this License Agreement, whether owned or not owned, with not less than \$1,000,000 per occurrence combined single limit for death, personal or bodily injury and property damage;

3. **Workers' Compensation Insurance and Disability Insurance** in such amounts as may be legally required and **Employers Liability Insurance** with a minimum limit of \$1,000,000 per occurrence;

(B) All policies of insurance required by this paragraph 4 shall contain the terms and conditions of policies and endorsements generally available from insurance companies that meet the minimum requirements set forth in paragraph "C" below for such risks and a written waiver of the right of subrogation with respect to all of the named insureds and additional insureds. Licensee further agrees to execute and deliver any additional instruments and to do or cause to be done all acts and things that may be reasonably requested by Licensors properly and

fully to insure Licensor against all damage and loss as herein provided for and to effectuate and carry out the intents and purposes of this License Agreement. All policies shall be primary protection and Licensor will be called upon to contribute to a loss that would otherwise be paid by Licensee's insurer.

(C) The Town of Yorktown shall be named as additional insured on all required insurance policies as evidenced by such insurance certificate except for workers' compensation and employers' liability coverage and comprehensive automobile liability insurance.

(E) Licensee, however, shall be, continue and remain liable for any uninsured destruction, loss or damage from any cause arising from breach of the covenants of this License Agreement by Licensee. In the event of any such loss or damage for which Licensee becomes liable as aforesaid, Licensee shall, at its sole cost and expense, promptly repair or replace the property so lost or damaged in accordance with plans and specifications approved by Licensor. Notwithstanding the foregoing, Licensor, at its sole discretion, may elect to receive in cash the value of repairs, restoration or rebuilding by Licensee in lieu of performance of such repairs, restoration to or rebuilding of the Work Site.

5. **Assumption of Risk and Indemnification.** Licensee assumes the risk of, and shall be responsible for and reimburse Licensor for any loss, cost or expense arising out of any personal or bodily injury, death, or loss or damage to any property arising out of this License Agreement or Licensee's operations hereunder or any of the acts, omissions, events, conditions, occurrences or causes described in the next sentence. Licensee shall forever defend, indemnify and hold harmless Licensor and their respective officials, officers, agents, representatives and employees from and against any and all liabilities, claims, demands, penalties, fines, settlements, damages, costs, expenses and judgments of whatever kind or nature, known or unknown, contingent or otherwise:

(A) arising from personal or bodily injury to any person or persons, including death, or any damage to property of any nature, occasioned wholly or in part by any act(s) or omission(s) of Licensee or of the employees, guests, invitees, contractors, independent contractors, subcontractors, representatives, officials, officers, servants or agents of Licensee, arising out of or as a result of this License Agreement, including, without limitation, any personal or bodily injury, including death, or property damage related to any collapse or failure of all or any part of the Work Site or Easement Area (except to the extent such personal or bodily injury or any damage to property are caused by the gross negligence or willful misconduct of Licensor), or

6. **Utilities, Maintenance and Service:** Licensee understands that there are no utility connections to the licensed property and agrees that Licensee must provide for all of its utilities and pay for utility costs incurred in connection with Licensee's use of the property..

7. **Governing Law:** This License Agreement and its performance shall be governed by and construed in accordance with the laws of the State of New York, excluding New York's rules regarding conflict of laws and any rule requiring construction against the party drafting this License Agreement.

8. **Termination; Expiration:** Licensor may terminate this License Agreement at will for any reason or no reason at any time by giving Licensee thirty (30) days' written notice. However, Licensor shall be obligated to reimburse Licensee for all work performed in the licensed property in reliance on the mutual agreements made herein.

9. **Notices:** Notices and communications hereunder required to be in writing shall be personally delivered, or mailed by registered or certified mail, to the mailing address provided below, with a courtesy copy simultaneously sent by email or fax to the email address or fax number provided below. A party may change its mailing address, fax number or email address for receipt of written notices by notifying the other party in writing of such change pursuant to this Section.

If to Licensor:

Town of Yorktown
363 Underhill Avenue
Yorktown Heights, NY 10598
Attention: Town Supervisor

TownSupervisor@yorktownny.org
Fax #: 914-962-1004

With a copy emailed or faxed to:

TownAttorney@yorktownny.org
Fax #: 914-962-3473

If to Licensee:

Thomas Dechiaro
Old St. Georges, LLC
1715 East Main Street
Mohegan Lake, New York 10547

tom@winerymail.com

Such notice or other communication shall be deemed duly given when received or when receipt is refused by the addressee.

10. **Prior Understandings; No Oral Modification, Signature in Counterparts and Survival:** This License Agreement states the entire and integrated agreement between Licensor and Licensee regarding the Work Site and supersedes all prior negotiations, representations and agreements, whether written or oral. This License Agreement may not be altered, modified or amended in any manner whatsoever except by a written instrument signed by Licensor and Licensee. This License Agreement may be executed in one or more counterparts, each of which shall be deemed an original and which collectively shall constitute one and the same agreement. Any and all obligations, liabilities, covenants, representations, and warranties of Licensee under this License Agreement which accrue prior to the expiration of the Term or which survive by the express terms of this License Agreement shall survive the expiration or termination of this License Agreement.