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AGENDA
NOVEMBER 5, 2014
BOARD OF TRUSTEES
VILLAGE OF BRIARCLIFF MANOR, NEW YORK
REGULAR MEETING – 7:30 PM

1. Continued Public Hearing to Amend Chapter 220, Zoning to Add a New Section 220-9.2 for the Regulation of Residential Use of Dwelling Units in Existing Accessory Buildings in the R80A, the R60A, the R40A, and the R40B Single-Family Residence Zoning Districts

Board of Trustees Announcements

Village Managers Report

Public Comments

2. Authorize Village Manager to Continue Village Counsel Services with Clinton Smith and Retain General Provision Legal Services with McCarthy Fingar, LLP
3. Budget Transfer Between Funds
4. Tax Certiorari – 1181 Pleasantville Road
5. Acceptance of Assistance to Firefighters Grant
6. Award of Bid – Breathing Equipment for the Fire Department
7. Re-Schedule Public Hearing Amending the Third Amended and Restated Special Permit and Tree Removal Permit, Briarcliff Manor Investors LLC and Integrated Development Group LLC (The Club at Briarcliff Manor)
8. Election Resolution for Annual Village Election 2015
9. Fire Department Memberships
10. Minutes
 - October 15, 2014

NEXT REGULAR BOARD OF TRUSTEES MEETING – NOVEMBER 19, 2014

VILLAGE OF BRIARCLIFF MANOR
BOARD OF TRUSTEES AGENDA
NOVEMBER 5, 2014

- 1. CONTINUED PUBLIC HEARING: CHAPTER 220-2, ZONING, TO ADD A NEW SECTION 220-9.2 FOR THE REGULATION OF RESIDENTIAL USE OF DWELLING UNITS IN EXISTING ACCESSORY BUILDINGS IN THE R80A, THE R60A, THE R40A, AND THE R40B SINGLE-FAMILY RESIDENCE ZONING DISTRICTS**

SEQRA

**State Environmental Quality Review Act Determination
Negative Declaration
Accessory Residential Zoning**

WHEREAS, the Board of Trustees ("Board of Trustees") of the Village of Briarcliff Manor, New York ("Village") is considering amendments to Village Code Chapter 220, Zoning to add a new Section 220-9.2 to permit and regulate certain residential use of dwelling units in existing accessory buildings in the R80A, the R60A, the R40A, and the R40B single-family residence zoning districts ("Proposed Action"); and

WHEREAS, the Board of Trustees has determined that the Proposed Action is subject to the State Environmental Quality Review Act ("SEQRA"), that it does not involve any federal agency, and that it will not involve other agencies, and that the Board of Trustees is Lead Agency for the Proposed Action under SEQR Regulation §617.6(b)(1); and

WHEREAS, the Board of Trustees reviewed a full Environmental Assessment Form, Parts 1 & 2, dated October 3, 2013, prepared on its behalf by the Village Planning Consultant BFJ Planning for assessment of the Proposed Action ("Full EAF"); and

WHEREAS, a duly advertised public hearing pursuant to NYS Village Law §7-708 was held on the Proposed Action by the Board of Trustees at Village Hall, 1111 Pleasantville Road, Briarcliff Manor, New York, at 7:30 PM on October 15, 2014, and at 7:30 PM on November 5, 2014, at which times all those wishing to be heard were given the opportunity to be heard, and the hearing was closed on November 5, 2014; and

WHEREAS, the Board of Trustees received and considered written comments on the Proposed Action from the Village Planning Board and the Westchester County Department of Planning ***and written and oral comments on the Proposed Action from _____, among others***;

NOW THEREFORE BE IT:

RESOLVED, that the Board of Trustees, having considered the facts and conclusions set forth in the Full EAF regarding the potential environmental impacts of the Proposed Action, hereby determines that the Proposed Action is a Type 1 Action under SEQR and that adoption of the amendments to Village Code Chapter 220, Zoning contemplated as the Proposed Action will not have any significant adverse impact on the environment as set forth in the "Negative Declaration" attached hereto; and be it

FURTHER RESOLVED, that the Mayor or his designee is authorized to execute the Full EAF and, for the reasons set forth, to execute and file a Negative Declaration in accordance with the applicable provisions of law.

LOCAL LAW

BE IT FURTHER RESOLVED that the proposed local amending Chapter 220, Zoning to Add a New Section 220-9.2 for the Regulation of Residential Use of Dwelling Units in Existing Accessory Buildings in the R80A, the R60A, the R40A, and the R40B Single-Family Residence Zoning Districts is hereby adopted.

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

Project Number

Date:

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

The Village of Briarcliff Board of Trustees as lead agency, has determined that the proposed action described below will not have a significant environmental impact and a Draft Impact Statement will not be prepared.

Name of Action:

Residential Use in Existing Accessory Buildings in the R80A, R60A, R40A, and R40B Single Family Residence Zoning Districts – Zoning Text Amendments

SEQR Status: Type 1
 Unlisted

Conditioned Negative Declaration: Yes
 No

Description of Action:

The Village of Briarcliff Manor Board of Trustees ("BOT") proposes to adopt a local law to add a new Section 220-9.2 to permit and regulate certain residential use of dwelling units in existing accessory buildings in the R80A, R60A, R40A, and R40B Single-family Residence Zoning Districts. The Village of Briarcliff Manor has several properties with accessory buildings that contain or at one time contained separate dwelling units. The buildings that contain these dwelling units or otherwise separate residences are not specifically addressed in the Code and are simply categorized as preexisting, nonconforming uses. By recognizing and regulating these existing uses under the Code, the Village will encourage their being modernized in accordance with the Code and New York State building codes. In addition, within the R80A, R60A, R40A, and R40B Single-Family Residence Districts a number of lots currently contain nonresidential accessory buildings that could, under certain circumstances, be converted to accessory residential use and thus provide additional opportunities for housing in the Village in support of the Village Comprehensive Plan goal to "[p]rovide a range of housing styles and alternatives to meet the needs of a varied and diverse population."

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

R80A, R60A, R40A, and R40B Single-family Residence Zoning District, Village of Briarcliff Manor, Westchester County, NY (See attached map)

Reasons Supporting This Determination:

(See 617.7(a)-(c) for requirements of this determination ; see 617.7(d) for Conditioned Negative Declaration)

In accord with 6 NYCRR Part 617.7, the Board of Trustees, as lead agency, has determined that the adoption of the amendments to Chapter 220, Zoning to add a new Section 220-9.2 to permit and regulate certain residential use of dwelling units in existing accessory buildings in the R80A, R60A, R40A, and R40B Single-Family Residence Zoning Districts will have no adverse environmental impacts. The trustees have assessed all relevant potential impacts in making this decision. This assessment relies upon the trustees' preparation of a Full Environmental Assessment Form (EAF) dated October 3, 2014, the criteria for determining significance in 617.7 (c), the multi-year zoning text amendment drafting process, and two public hearings held on October 15, 2014 and November 5, 2014. The proposed Zoning Text Amendments are consistent with and supportive of the goals of the Village's Comprehensive Plan, as well as the long-range planning policies of Westchester County. The Board of Trustees note that the Westchester County Planning Department reviewed the proposed Zoning Text Amendments under Section 239 L, M, and N of the General Municipal Law and Section 277.61 of the County Administrative Code and they are supportive of the amendments and the opportunity they provide to increase the potential for a more diverse range of housing types in the Village.

If Conditioned Negative Declaration, provide on attachment the specific mitigation measures imposed, and identify comment period (not less than 30 days from date of publication in the ENB)

For Further Information:

Contact Person: William Vescio, Mayor, Village of Briarcliff Manor

Address: 1111 Pleasantville Road, Briarcliff Manor, NY 10510

Telephone Number: 914-944-2777

For Type 1 Actions and Conditioned Negative Declarations, a Copy of this Notice is sent to:

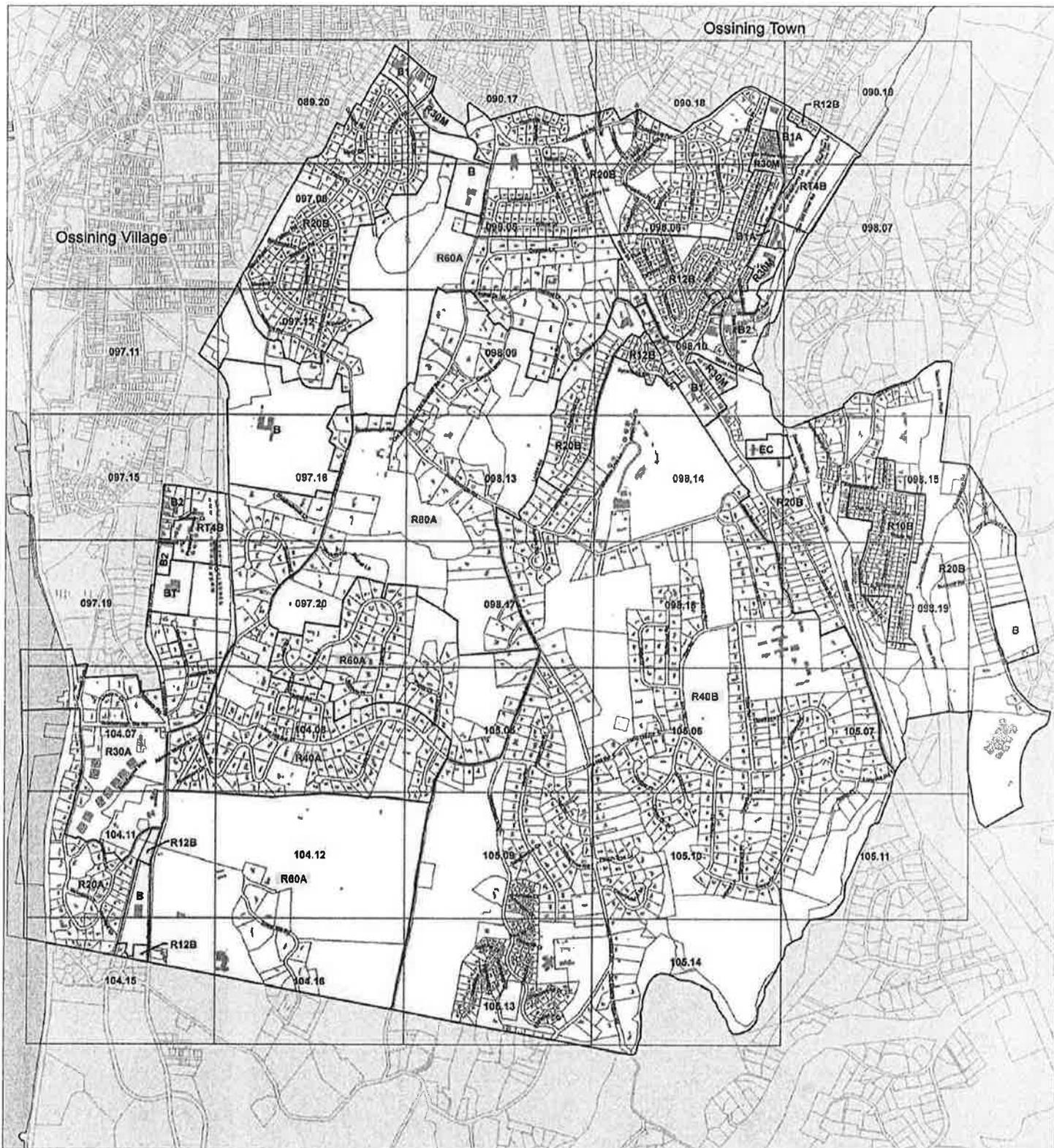
Chief Executive Officer , Town / City / Village of Briarcliff Manor

Other involved agencies (If any)

N/A

Applicant (If any)

Environmental Notice Bulletin, Room 538, 50 Wolf Road, Albany NY, 12233-1750 (Type One Actions only)



ACCESSORY RESIDENTIAL USE ZONING
 BRIARCLIFF MANOR, NY
 ENVIRONMENTAL ASSESSMENT FORM

FIGURE: ZONING MAP
 SOURCE: VILLAGE OF BRIARCLIFF MANOR, 2011



NTS

BFJ Planning



VILLAGE OF BRIARCLIFF MANOR PLANNING BOARD

To: Mayor William Vescio and the Village Board of Trustees

From: Village Planning Board

Date: October 15, 2014

Subject: Residential Use in Existing Accessory Buildings – Zoning Text Amendments

The Planning Board received a referral from the Village Board of Trustees requesting the Planning Board's review and comments on a draft Zoning Text Amendment to Chapter 220-2 of the Zoning Code, to add a new Section 220-9.2 for the regulation of residential use of dwelling units in existing accessory buildings in the R80A, R60A, R40A, and R40B Single-family Residence Zoning District. The Planning Board reviewed the draft Zoning Text Amendment at its October 14, 2014 meeting with the assistance of the Village's Planning Consultant and Village Zoning Inspector/Assistant Building Inspector. The Planning Board does not have any comments on the draft Zoning Text Amendment.

If you have any questions please do not hesitate to contact David Turiano, Village Engineer/Building Inspector at (914) 944-2770.

Sincerely,

Edward Nolan, Chairman

A LOCAL LAW TO ADD A NEW SECTION 220-9.2 TO PERMIT AND REGULATE CERTAIN RESIDENTIAL USE OF DWELLING UNITS IN EXISTING ACCESSORY BUILDINGS IN THE R80A, THE R60A, THE R40A, AND THE R40B SINGLE-FAMILY RESIDENCE ZONING DISTRICTS

Be it enacted by the Village Board of Trustees of the Village of Briarcliff Manor, as follows:

Section 1. The Village Code of the Village of Briarcliff Manor is amended at Section 220-2, Definitions to add a new definition of “PERMITTED ACCESSORY BUILDING DWELLING UNIT” after the definition “PARKING SPACE” and before the definition “PRINCIPAL BUILDING” to read as follows:

PERMITTED ACCESSORY BUILDING DWELLING UNIT – A dwelling unit in an accessory building for which a certificate of occupancy has been issued under Chapter 90 and Section 220-9.2 of this Chapter 220.

Section 2. The Village Code of the Village of Briarcliff Manor is amended to renumber Section 220-9.2, Mandatory tree planting plan (MTPP) as Section 220-9.3 Mandatory tree planting plan (MTPP).

Section 3. The Village Code of the Village of Briarcliff Manor is amended to add a new Section 220-9.2 to read as follows:

“§220-9.2. Regulation of residential use of dwelling units in accessory buildings

"A Statement of Purpose. The Village of Briarcliff Manor has several properties with accessory buildings that contain or at one time contained separate dwelling units. The buildings that contain these dwelling units or otherwise separate residences are not specifically addressed in the Code and are simply categorized as a preexisting, nonconforming uses. By recognizing and regulating these existing uses under the Code, the Village will encourage their being modernized in accordance with the Code and New York State building codes. In addition, within the R80A, R60A, R40A, and R40B Single-Family Residence Districts a number of lots currently contain non-residential accessory buildings that could, under certain circumstances, be converted to accessory residential use and thus provide additional opportunities for housing in the Village in support of the Village Comprehensive Plan goal to “[p]rovide a range of housing styles and alternatives to meet the needs of a varied and diverse population.” This Section shall be read and construed in furtherance of the foregoing purposes and is enacted under the authority granted by New York State Village Law §7-700.

"B Generally Applicable Standards. All dwelling units in accessory buildings shall be subject to the following requirements to qualify as permitted accessory building dwelling units:

- "(1) All permitted accessory building dwelling units shall be in the R80A, R60A, R40A, or R40B Single-Family Residence District.
- "(2) Permitted accessory building dwelling units shall be permitted only in accessory buildings existing on July 1, 2014.
- "(3) Only one permitted accessory building dwelling unit shall be permitted in any one accessory building, except that if more than one dwelling unit currently exists in an accessory building as preexisting, nonconforming uses under Section 220-16.A(3), then they all may be permitted subject to compliance with Section 220-9.2.C(1), below.
- "(4) Only one permitted accessory building dwelling unit shall be permitted on any lot, except that if more than one dwelling unit currently exist on a lot as preexisting, nonconforming uses under Section 220-16.A(3), then they all may be permitted subject to compliance with Section 220-9.2.C(1) below.
- "(5) Every permitted accessory building dwelling unit must meet current requirements for residential occupancy under the "Codes of the State of New York" identified in Chapter 90.
- "(6) The exterior dimensions of an accessory building may not be or have been materially altered to accommodate a permitted accessory building dwelling unit or a permitted accessory building dwelling unit and other accessory uses, except that window dormers and similar features may be added to meet any requirement for residential occupancy under the "Codes of the State of New York" identified in Chapter 90 provided that no such window dormer or other feature materially alters the roof line of the accessory building.

"C Additional Standards; Existing dwelling units in accessory buildings. Existing dwelling units in accessory buildings shall be subject to the following requirements to qualify as permitted accessory building dwelling units:

- "(1) Dwelling units that qualify as preexisting, nonconforming uses under Section 220-16.A(3) shall be subject to the following requirements:
 - "(a) All of the requirements of Section 220-9.2.B above must be met.
 - "(b) Application for a certificate of occupancy or a building permit for improvements to meet current requirements for residential occupancy under the "Codes of the State of New York" identified in Chapter 90 must be made before December 31, 2016; provided, however, that if the

dwelling unit is registered with the Building Department as a preexisting nonconforming use before December 31, 2016, then application for a certificate of occupancy or a building permit may be made anytime thereafter.

- "(c) All improvements necessary to meet current requirements for residential occupancy under the “Codes of the State of New York” identified in Chapter 90, if any, must be completed and a certificate of occupancy issued within 3 years of application for a building permit for the same.
- "(2) Dwelling units that do not qualify as preexisting, nonconforming uses under Section 220-16.A(3) shall be subject to the following requirements:
 - "(a) All of the requirements of Section 220-9.2.B above must be met.
 - "(b) Application for a certificate of occupancy or a building permit for improvements to meet current requirements for residential occupancy under the “Codes of the State of New York” identified in Chapter 90 must be made before December 31, 2016.
 - "(c) All improvements necessary to meet current requirements for residential occupancy under the “Codes of the State of New York” identified in Chapter 90, if any, must be completed and a certificate of occupancy issued by December 31, 2019.
 - "(d) All of the requirements of Section 220-9.2.D below must be met.
- "D Additional Standards; Dwelling units to be developed in accessory buildings. Dwelling units to be developed in accessory buildings shall be subject to the following requirements to qualify as permitted accessory building dwelling units:
 - "(1) All of the requirements of Section 220-9.2.B above must be met.
 - "(2) Application for a building permit for improvements that meet current requirements for residential occupancy under the “Codes of the State of New York” identified in Chapter 90 must be made before December 31, 2016.
 - "(3) All improvements necessary to meet current requirements for residential occupancy under the “Codes of the State of New York” identified in Chapter 90, must be completed and a certificate of occupancy issued by December 31, 2019.

- "(4) All of the dwelling units in the aggregate on the lot on which the permitted accessory building dwelling unit is to be located must meet the multi-family parking requirements of Section 220-12.
- "(5) Any necessary Westchester County Health Department approval of water service and sewer service or septic treatment and system must be obtained.
- "(6) The accessory building in which the permitted accessory building dwelling unit is to be located must meet the requirements applicable to an accessory building on the lot under Schedule 220 Attachment 2, "Schedule Limiting the Use of Buildings and Land and the Location, Arrangement and Size of Buildings."

"E Variances. Any variance to the requirements of this Section 220-9.2 shall be determined by the Zoning Board of Appeals under the standards applicable to:

- "(1) Use variances under Section 220-17.B(1) if the variance is from the limitation of the permitted accessory building dwelling unit to use by one family only.
- "(2) Area variances under Section 220-107.B(2) if the variance is from any other requirement.
- "(3) Notwithstanding the foregoing, nothing contained in this Section 220-9.2 shall be construed to expand the jurisdiction or authority of the Zoning Board of Appeals to hear or decide any appeal or other application for a variance or an interpretation."

Section 4. Village Code Schedule 220 Attachment 1, "Schedule Limiting the Use of Buildings and Land and the Location, Arrangement and Size of Buildings" adopted pursuant to Village Code Section 220-4(A) is amended at Column 3, Permitted Accessory Uses to add a new Item 14 to read as follows:

**Village of Briarcliff Manor
Schedule Limiting the Use of Buildings and Land and the
Location, Arrangement and Size of Buildings**

[Amended 5-15-1997 by L.L. No. 2-1997; 12-17-2009 by L.L. No. 5-2009; [The Date of Enactment of This Local Law] by L.L. No. *-20]**

| 1 | 2 | 3 |
|------------------------------|--------------------------|--|
| Class of District and Symbol | Permitted Principal Uses | Permitted Accessory Uses |
| ***** | ***** | 13. In the R80A, R60A, R40A, and R40B districts, dwelling units in accessory buildings for occupancy by people related to, affiliated with, or independent of the owner or occupant of the principal building on the lot; provided, however, that any such dwelling unit must comply with the provisions of Section 220-9.2. |

Draft 9/30/14
Briarcliff/Accessory Uses – Local Law
F:\9476\039\Local Law Chapter 220.Accessory Residential Uses.01.doc

Section 5. Severability. The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any part of this local law which can be given effect without such valid part or parts.

Section 6. Effective Date. This local law shall take effect immediately upon filing in the Office of the Secretary of State of New York within the provisions of the Municipal Home Rule Law.

VILLAGE OF BRIARCLIFF MANOR
BOARD OF TRUSTEES AGENDA
NOVEMBER 5, 2014

2. AUTHORIZE VILLAGE MANAGER TO CONTINUE VILLAGE COUNSEL SERVICES WITH CLINTON SMITH AND RETAIN GENERAL PROVISION LEGAL SERVICES WITH MCCARTHY FINGAR LLP

WHEREAS, by appointment made April 9, 2014, the Board of Trustees ("Board of Trustees") of the Village of Briarcliff Manor, New York ("Village") continued the appointment of Clinton Smith of the law firm of Wormser, Kiely, Galef & Jacobs LLP as Village Counsel; and

WHEREAS, prior to and since the date of that appointment, Mr. Smith and other attorneys with whom he has practiced at Wormser, Kiely, Galef & Jacobs have provided legal assistance to the Village in various matters; and

WHEREAS, as of November 1, 2014, Mr. Smith and certain other attorneys with whom he practices are relocating their practice to the law firm of McCarthy Fingar LLP; and

WHEREAS, the Village would like to continue the services of Mr. Smith and other attorneys with whom he has practiced to maintain, among other things, a continuity of service on active matters; and

NOW, THEREFORE, BE IT

RESOLVED, that the appointment of Clinton Smith as Village Counsel made April 9, 2014, is continued in accordance with its terms, without modification or extension but subject to such further action as the Board deems appropriate; and be it

FURTHER RESOLVED, that the Village Manager be and hereby is authorized to retain McCarthy Fingar LLP for general provision of legal services effective as of November 1, 2014, but otherwise on the same terms and basis as Wormser, Kiely, Galef & Jacobs LLP has been retained, without modification or extension but subject to such further action as the Board deems appropriate; and be it

FURTHER RESOLVED, that if the Village retains McCarthy Fingar for general provision of legal services, Village officials and staff are authorized to call upon and utilize the services of attorneys at McCarthy Fingar on the same terms and basis as they called upon and utilized the services of attorneys at Wormser, Kiely, Galef & Jacobs; and be it

FURTHER RESOLVED, that as may be appropriate to maintain continuity of service on active matters, the Village Manager is authorized to engage other attorneys as special counsel on the same terms and basis as Wormser, Kiely, Galef & Jacobs has been retained, without modification or extension but subject to such further action as the Board deems appropriate; and be it

FURTHER RESOLVED, that the Village Manager is authorized to take all steps necessary to implement the provisions of this Resolution.

VILLAGE OF BRIARCLIFF MANOR
BOARD OF TRUSTEES AGENDA
NOVEMBER 5, 2014

3. BUDGET TRANSFERS

BE IT RESOLVED that the Board of Trustees does hereby authorize the following budget transfers between funds for FY 2014-2015 totaling \$5,400:

STAUFFER SUBDIVISION

| | | |
|----------------------|-------------------------------|-------|
| From: TE 8022 | Stauffer Inspection Fees | \$900 |
| To: A3620.103 | Safety Inspection (Part Time) | \$900 |

445 NORTH STATE ROAD

| | | |
|----------------------|-------------------------------|---------|
| From: TA 0970 | 445 N. State Rd Escrow | \$4,500 |
| To: A3620.103 | Safety Inspection (Part Time) | \$4,500 |

General Fund Inter-fund Transfers

Increase Budget:

| | |
|-------------------------|---------|
| From: A0102.5031 | \$5,400 |
| To: A3620.103 | \$5,400 |

VILLAGE OF
BRIARCLIFF MANOR
www.briarcliffmanor.org



1111 PLEASANTVILLE ROAD
BRIARCLIFF MANOR, N.Y. 10510
TELEPHONE: (914) 941-4801
FAX: (914) 941-4837

MEMORANDUM

TO: Philip E. Zegarelli, Village Manager
FROM: Robin Rizzo, Village Treasurer
DATE: October 28, 2014
RE: Account Balance Transfers

We need to transfer two account balances to the General Fund.

- 1) TE8022 --Stauffer 3% inspection fee. The project is complete and these are non-refundable fees.
- 2) TA 0970 --445 North State Road inspection fees. The inspections are complete and these are fees that represent time spent by the Engineer and Building department reviewing documents. \$124.80 will be refunded to 445 LLC.

These funds should be transferred to the General Fund.

Increase Revenue: A0102.5031 Interfund Transfer In - \$5,400.00

Increase Expense: A3620.103 Safety Inspection Part Time - \$5,400.00

VILLAGE OF BRIARCLIFF MANOR
BOARD OF TRUSTEES AGENDA
NOVEMBER 5, 2014

4. TAX CERTIORARI – 1181 PLEASANTVILLE ROAD

WHEREAS, Arthur Malsin, Jr. (1181 Pleasantville Road) instituted tax certiorari proceedings pursuant to Article 7 of the Real Property Tax Law of the State of New York; and

WHEREAS, the tax certiorari filings were for Town of Ossining assessment years 2010-2013; and

WHEREAS, the tax certiorari filings relate to Village of Briarcliff Manor fiscal years 2011-2012, 2012-2013, 2013-2014 and 2014-2015; and

WHEREAS, a Consent Order of the Supreme Court of the State of New York, County of Westchester, was entered on September 24, 2014;

WHEREAS, the Consent Order was received after the finalization of the approval of the Village budget for Fiscal Years 2011-2012, 2012-2013, 2013-2014 and 2014-2015;

WHEREAS, the Consent Order reduced the tax assessment for the subject property for the Fiscal Years 2011-2012, 2012-2013, 2013-2014 and 2014-2015 assessment roll; and

NOW THEREFORE, BE IT RESOLVED that the Board of Trustees does hereby authorize the refund of the tax bill for Fiscal Years 2011-2012, 2012-2013, 2013-2014 and first half of 2014-2015 in the amount of \$1,572.12 and the abatement of the second half tax bill in the amount of \$205.75 based upon the reduced assessment values in the Consent Order.

| Year | Address | Assessed Value | New Assessed Value | Assessment Reduction | Original Tax Amount | Reduced Tax Amount | Refund | Abatement |
|------|-----------------------|----------------|--------------------|---------------------------|---------------------|--------------------|--------------------------------|-------------------|
| 2011 | 1181 Pleasantville Rd | \$38,500 | \$33,100 | \$5,400 | \$3,426.50 | \$2,945.90 | \$480.60 | |
| 2012 | 1181 Pleasantville Rd | \$38,500 | \$33,100 | \$5,400 | \$3,477.32 | \$2,989.59 | \$487.73 | |
| 2013 | 1181 Pleasantville Rd | \$38,500 | \$34,265 | \$4,235 | \$3,618.54 | \$3,220.50 | \$398.04 | |
| 2014 | 1181 Pleasantville Rd | \$38,500 | \$34,265 | \$4,235 | \$3,740.89 | \$3,329.39 | \$205.75 | \$205.75 |
| | | | | \$19,270 | | | \$1,572.12 | |
| | | | | TOTAL AV REDUCTION | | | TOTAL REVENUE REDUCTION | \$1,777.87 |

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

**FILED
AND
ENTERED**
ON 9/24 2014
WESTCHESTER
COUNTY CLERK

-----X
In the Matter of
The Application for a Review under Article 7 of the
Real Property Tax Law of a Tax Assessment by
MALSIN ARTHUR JR.

File Under:
Index Nos.
25039-10
15892-11
65165-12
64503-13

TOWN OF OSSINING

OCT 1 2014
Petitioner(s),

- against -

ASSESSORS OFFICE

THE ASSESSOR of the Town of Ossining
AND THE BOARD OF ASSESSMENT REVIEW of the
Town of Ossining

Respondent(s)

CONSENT JUDGMENT

Premises:

1181 Pleasantville Rd.
Ossining, NY
District 554201
Section 98.10
Block 1
Lot 67

-----X
Petitions with due notice thereof having been presented to this Court in connection with proceedings to review certain real property tax assessments which were filed by the Town of Ossining with respect to premises owned by Petitioner herein and located at 1181 Pleasantville Rd., Ossining, New York, also designated as District 554201, Section, 98.10 Block 1, Lot 67 on the Official Assessment Map of the Town of Ossining, for assessment years 2010, 2011, 2012 and 2013, County tax years 2011, 2012, 2013 and 2014 and School tax years 2011, 2012, 2013 and 2014 and

Said proceedings having duly come on to be heard at an IAS Term of this Court, and the Petitioner having appeared by Reilly, Like & Tenety, Esqs. and the Respondent Town of Ossining, having appeared by Wayne Spector, Esq., for assessment years 2010, 2011, 2012 and 2013 and the parties having agreed to settle said proceedings as appears hereinafter,
it is

ORDERED, ADJUDGED AND DECREED that the assessments on Petitioner's said real property known as District 554201 Section 98.10 Block 1 Lot 67 on the Official Assessment

Map of the Town of Ossining which were filed for the years involved herein as follows:

Assessment Years 2010 thru 2013

Total Assessment:

\$38,500

be and the said assessments are hereby corrected and reduced to the following amounts:

| Assessment Year | Tax Year | Total Current Assessment | Reduction in Assessment | Proposed New Assessment |
|-----------------|----------|--------------------------|-------------------------|-------------------------|
| 2010 | 2011 | 38,500 | 5,400 | 33,100 |
| 2011 | 2012 | 38,500 | 5,400 | 33,100 |
| 2012 | 2013 | 38,500 | 4,235 | 34,265 |
| 2013 | 2014 | 38,500 | 4,235 | 34,265 |

and it is further

ORDERED, ADJUDGED AND DECREED that the allocation of the stipulated assessed values as between land and improvements shall be left to the sole discretion of the Assessor of the Town of Ossining, and it is further

ORDERED, ADJUDGED AND DECREED that the officers having custody of the rolls upon which the above-mentioned assessments are entered, shall forthwith correct said entries in conformity with this judgment and shall note upon the margin of said rolls, opposition said entries, that the same have been corrected by the authorization of this judgment; and it is further

ORDERED, ADJUDGED AND DECREED that there shall be audited, allowed and paid by the Town of Ossining, and the appropriate fiscal officers thereof are hereby directed to refund to Petitioner, the amount paid as Town taxes and taxes relating to any special district for which said Town collects such taxes upon the basis of said erroneous assessments in excess of what the taxes would have been if said assessments had been fixed in accordance with this

judgment, with interest thereon in accordance with the provisions of the Real Property Tax Law of the State of New York; and it is further

ORDERED, ADJUDGED AND DECREED that there shall be audited, allowed and paid by the Briarcliff Manor School District and the appropriate fiscal officers thereof are hereby directed to refund to Petitioner, the amount paid as School District taxes upon the basis of said erroneous assessments in excess of what the taxes would have been if said assessments had been fixed in accordance with this judgment, with interest thereon in accordance with the provisions of the Real Property Tax Law of the State of New York; and it is further

ORDERED, ADJUDGED AND DECREED that the County Board of Legislators of Westchester County be and it is hereby authorized and directed to audit, allow and pay the amount of State, County, Judiciary, Refuse and Sewer District Taxes paid upon the basis of said erroneous assessments in excess of what the taxes would have been if said assessments had been fixed in accordance with this judgment, with interest thereon in accordance with the provisions of the Real Property Tax Law of the State of New York; and it is further

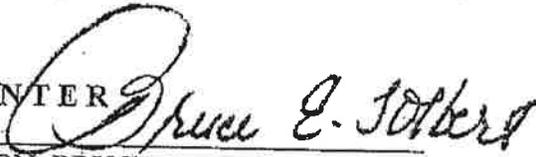
ORDERED, ADJUDGED AND DECREED that all payments directed to be made hereunder shall be drawn to the order of Reilly, Like & Tenety as Attorneys for Petitioner; and it is further

ORDERED, ADJUDGED AND DECREED that the contrary provisions of the fourth, fifth and sixth decretal paragraphs hereof notwithstanding, if any such tax refund payable pursuant to this judgment shall be paid within sixty days of the service hereof upon the Clerks or Financial Officers of the City and School District, and in the case of the County tax refund upon the Westchester County Department of Finance with proof of payment of taxes, no interest shall

be paid thereon. Taxes refunded thereafter shall be paid with interest from the date of each tax payment in accordance with the provisions of the fourth, fifth and sixth decretal paragraphs hereof; and it is further

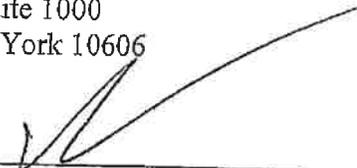
ORDERED, ADJUDGED AND DECREED that this judgment shall be entered without costs to either party.

Dated: White Plains, New York
September 24, 2014

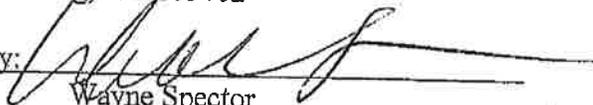
ENTER 
HON. BRUCE E. TOLBERT J.S.C.

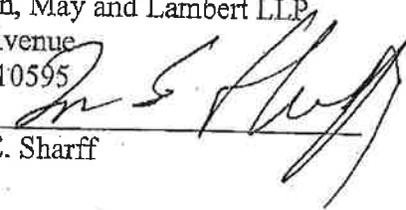
SIGNING AND ENTRY OF THE WITHIN JUDGMENT IS HEREBY CONSENTED TO:

REILLY, LIKE & TENETY
Attorneys for Petitioner (s)
50 Main Street - Suite 1000
White Plains, New York 10606
(914) 682-6851

By: 
Vincent C. Tenety

Wayne Spector, Esq.
Town Attorney, Town of Ossining
Attorney for Respondent
16 Croton Avenue
Ossining, NY 105462

By: 
Wayne Spector

Marc E. Sharff, Attorney for Briarcliff Manor School District
Shaw, Perelson, May and Lambert LLP
115 Stevens Avenue
Valhalla, NY 10595
By: 
Marc E. Sharff

THE OFFICE OF THE WESTCHESTER COUNTY ATTORNEY HAS NO OBJECTION TO THE ENTERING OF THE WITHIN ORDER.

DATED: September 18, 2014


COUNTY ATTORNEY
THE COUNTY OF WESTCHESTER

9/24/2014 2007 2008 2009 2010 2011 2012 2013 2014
 Rate -Town of Ossining 81,0456 84,8943 86,5802 \$ 87.30 \$ 89.00 90.32 93.988 97.166
 Bill Year VSM Bill Year VSM

| Year | Owner on Bill | # | Address | Parcel | Value | Assessed | Current Tax Bill | Reduction | New Assessed | Reduction | New Tax Amount | Change In Tax | Refund Yrs | Refund Prior | Refund Current Yr | Abate Yrs |
|--------|-------------------|----------|-------------------------|------------|--------------|-------------|------------------|--------------|--------------|-------------|----------------|---------------|-------------|--------------|-------------------|-----------|
| 2010 | Arthur Maisin Jr. | 20112358 | 1181 Pleasantville Road | 98.10-1-67 | \$ 38,500.00 | \$ 3,426.50 | \$ (5,400.00) | \$ 33,100.00 | \$ (480.60) | \$ 2,945.90 | \$ 480.60 | \$ 480.60 | | | | |
| 2011 | Arthur Maisin Jr. | 20121180 | 1181 Pleasantville Road | 98.10-1-67 | \$ 38,500.00 | \$ 3,477.32 | \$ (5,400.00) | \$ 33,100.00 | \$ (487.73) | \$ 2,989.59 | \$ 487.73 | \$ 487.73 | | | | |
| 2012 | Arthur Maisin Jr. | 20130766 | 1181 Pleasantville Road | 98.10-1-67 | \$ 38,500.00 | \$ 3,618.54 | \$ (4,235.00) | \$ 34,265.00 | \$ (398.04) | \$ 3,220.50 | \$ 398.04 | \$ 398.04 | | | | |
| 2013 | Arthur Maisin Jr. | 1502 | 1181 Pleasantville Road | 98.10-1-67 | \$ 38,500.00 | \$ 3,740.89 | \$ (4,235.00) | \$ 34,265.00 | \$ (411.50) | \$ 3,329.39 | \$ 411.50 | \$ 411.50 | | | | |
| Totals | | | | | | | | | | | | | \$ 1,777.87 | \$ 1,366.37 | \$ 205.75 | \$ 205.75 |

A1964.423 Budget \$ 100,000.00
 Prior Refunds \$ (38,273.14)
 Balance \$ 61,726.86

A1964.423 Refund of Real Prop \$ 1,366.37
 A0102.1001 Real Prop Tax Rev. \$ 411.50

VILLAGE OF BRIARCLIFF MANOR
BOARD OF TRUSTEES AGENDA
NOVEMBER 5, 2014

5. ACCEPTANCE OF ASSISTANCE TO FIREFIGHTERS GRANT

BE IT RESOLVED, that the Board of Trustees hereby accepts the Assistance to Firefighters grant from FEMA in the amount of \$176,264.

Increase Revenue– Fire Fighters Grant A0104.4389 by \$176,264

Increase Expense –Fire Fighters Grant A3410.201.4389 by \$176,264

Summary Award Memo

**SUMMARY OF ASSISTANCE ACTION
ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM
Application**

INSTRUMENT: GRANT
AGREEMENT NUMBER: EMW-2013-FO-06479
GRANTEE: Briarcliff Manor Fire Department
AMOUNT: \$176,264.00, Operations and Safety

Project Description

The purpose of the Assistance to Firefighters Program is to protect the health and safety of the public and firefighting personnel against fire and fire-related hazards.

After careful consideration, FEMA has determined that the recipient's project submitted as part of the recipient's application, and detailed in the project narrative as well as the request details section of the application - including budget information - was consistent with the Assistance to Firefighters Grant program's purpose and worthy of award. The recipient shall perform the work described in the approved grant application as itemized in the request details section of the application and further described in the grant application narrative. These sections of the application are made a part of these grant agreement articles by reference. The recipient may not change or make any material deviations from the approved scope of work outlined in the above referenced sections of the application without prior written approval, via amendment request, from FEMA.

Grantee Concurrence

By providing the Primary Contact's electronic signature and indicating acceptance of the award, the recipient accepts and agrees to abide by the terms and conditions of the grant as set forth in this document. Recipients agree that they will use the funds provided through the Fiscal Year 2013 Assistance to Firefighters grant in accordance with these Articles of Agreement and the program guidelines provided in the Fiscal Year 2013 Assistance to Firefighters program guidance. All documents submitted as part of the original grant application are made a part of this agreement by reference.

Period of Performance

26-JUN-14 to 25-JUN-15

Amount Awarded

The amount of the award is detailed in the attached Obligating Document for Award. The following are the budgeted estimates for object classes for this grant (including Federal share plus recipient match):

| | |
|------------------|--------------|
| Personnel: | \$0.00 |
| Fringe Benefits | \$0.00 |
| Travel | \$0.00 |
| Equipment | \$175,464.00 |
| Supplies | \$0.00 |
| Contractual | \$0.00 |
| Construction | \$0.00 |
| Other | \$800.00 |
| Indirect Charges | \$0.00 |
| Total | \$176,264.00 |

EMW-2013-FO-06479
 Firefighters Grant

| | | |
|--------------------------|--------------|--------------|
| Federal Funds Authorized | \$167,451.00 | 95% |
| Recipient Share (VBM) | \$8,813.00 | 5% |
| Revenue | Total | \$176,264.00 |

Expenditures

| YEAR | Item Description | Purchase Order | Amount | Vendor |
|------|----------------------------|----------------|--------------|--------------------------|
| 2015 | ComputerSystAllAparatusFE | 23578 | \$70,784.00 | Island Tech Services LLC |
| 2015 | Pagers FEMA Grant Program | 23574 | \$31,380.00 | Motorola Solutions |
| 2015 | GPS Software/Trng FEMA Gr | 23575 | \$14,080.00 | SCM Products Inc |
| 2015 | Minitor Pagers Engraving F | 23576 | \$1,200.00 | Ess |
| | | | \$117,444.00 | |

Breathing Air Compressor and Fill Station
 not yet awarded

| | |
|--------------------|--------------|
| Grant Writing Cost | \$800.00 |
| Expenditures | Total |
| | \$181,234.00 |

Increase revenue and expenditures:

| | | |
|----------------------------|----------------|--------------|
| Approve Grant Revenue | A0104.4389 | \$167,451.00 |
| Approve Grant Expenditures | A3410.201.4389 | \$167,451.00 |

VILLAGE OF BRIARCLIFF MANOR
BOARD OF TRUSTEES AGENDA
NOVEMBER 5, 2014

6. AWARD OF BID – BREATHING AIR COMPRESSOR & FILL STATION

WHEREAS the Village received 1 bid for the Breathing Air Compressor & Fill Station Project (VM-1415-4); and

NOW, THEREFORE, BE IT RESOLVED that the bid for the Breathing Air Compressor & Fill Station Project (VM-1415-4) is hereby awarded to AAA Emergency Supply Co. Inc. with their bid proposal of \$62,990 which will be charged to budget code A3410.201.4389.

BE IT FURTHER RESOLVED that the Village Manager is hereby authorized and directed to execute a contract with AAA Emergency Supply Co. Inc. for said project.



MEMORANDUM

October 10, 2014

To: Philip E. Zegarelli – Village Manager
From: David J. Turiano, P.E. *DAVIR*
Re: **VM-1415-4 – Breathing Air Compressor & Fill Station**

Bids were opened on September 30, 2014 at 11:00 a.m. for the above referenced project. Present at the bid opening were David J. Turiano, Village Engineer, and Gerald Quartuccio, Assistant Building Inspector. One (1) bid was received

The scope of work includes the delivery of a breathing air compressor and fill station. These units will provide a reliable source of compressed air to fill SCBA's close to most fire calls and at the fire house. Presently, the FD utilizes the County fill station that is frequently out of service.

The Fire Department was successful in securing an *Assistance to Firefighters Grant* for this equipment among other equipment in the amount of one hundred seventy six thousand two hundred sixty four dollars (\$176,264) of which eight thousand eight hundred thirteen dollars (\$8,813.00) is the Village's obligation, for a net award of one hundred sixty seven thousand four hundred fifty one dollars (\$167,451). Fifty thousand dollars (\$50,000) of this grant was allocated for this equipment.

Knowing that the breathing air compressor and fill station is a specialty item, the Village and the Fire Department conducted a rather extensive solicitation process to secure as many bids as possible. Approximately ten (10) bid notices were sent out along with five (5) bid packages, to vendors known to supply this equipment. Despite the Village's efforts only one bid was received.

The sole bidder for this work is AAA Emergency Supply Co. Inc with a total bid price of sixty two thousand nine hundred ninety dollars (\$62,990.00) leaving a shortfall of twelve thousand nine hundred ninety (\$12,990).

The above grant expenditure budget is available under A3410.201.4389.

Based on the above, it is my recommendation that the Village award the contract to AAA Emergency Supply Inc. Co. of White Plains N.Y. in the amount of sixty two thousand nine hundred ninety dollars (\$62,990.00).

Please feel free to contact me if you have any questions with the above.

VILLAGE OF BRIARCLIFF MANOR
BOARD OF TRUSTEES AGENDA
NOVEMBER 5, 2014

7. RESCHEDULE PUBLIC HEARING, AMENDING THE THIRD AMENDED AND RESTATED SPECIAL PERMIT AND TREE REMOVAL PERMIT, BRIARCLIFF MANOR INVESTORS LLC AND INTEGRATED DEVELOPMENT LLC (THE CLUB AT BRIARCLIFF MANOR)

BE IT RESOLVED that a Public Hearing is hereby scheduled for December 3, 2014 at 7:30pm or as soon thereafter as practicable in Village Hall located at 1111 Pleasantville Road, Briarcliff Manor, NY to hear and consider an application to amend the Third Amended and Restated Special Permit and Tree Removal Permit issued to Briarcliff Manor Investors LLC and Integrated Development Group LLC (The Club at Briarcliff Manor).

**RESOLUTION OF THE
VILLAGE OF BRIARCLIFF MANOR
BOARD OF TRUSTEES**

**SECOND MODIFICATION OF THIRD AMENDED AND
RESTATED SPECIAL PERMIT
AND TREE REMOVAL PERMIT
BRIARCLIFF MANOR INVESTORS LLC AND INTEGRATED DEVELOPMENT GROUP LLC**

WHEREAS, on November 6, 2008, the Board of Trustees of the Village of Briarcliff Manor adopted a resolution entitled “Third Amended and Restated Special Permit and Tree Removal Permit, Briarcliff Manor Investors LLC and Integrated Development Group LLC” which was filed in the Office of the Village Clerk of the Village of Briarcliff Manor on November 7, 2008, (the “Third SP Amendment”)¹; and

WHEREAS, upon the application of Briarcliff Manor Investors LLC and Integrated Development Group LLC, the current owner and proposed developer respectively of the Project Site and the Project (collectively “BMI”) the Board of Trustees, on February 18, 2010, adopted a resolution entitled “First Modification of the Third Amended Special Permit and Tree Removal Permit” relative to the zoning and development density of the Project Site in light of recent re-zoning initiatives in the Village²; and

WHEREAS, by letter dated January 22, 2014, and through subsequent discussions and communications, BMI, requested among other things that the Village Board consider modifying the Project from a CCRC to a Senior Care Community as defined under Section 220-2 of the Village Code, to be operated in accordance with subsection B.4. of such definition in order to permit BMI to broaden its residency offerings to attract a larger senior resident customer base, offering multiple residency agreements to seniors either with or without entrance fee programs and including senior services, all operated as a senior community in accordance with New York State Public Health Law, and limited to residents 55 years of age and older (the “2014 Modifications”); and

WHEREAS, the Third SP Amendment was conditioned on BMI making certain public infrastructure improvements that would serve the Village public at large as well as the Project; and

WHEREAS, the existing public infrastructure that was to be replaced by BMI under the Third SP Amendment has deteriorated to such a degree that the Village has heretofore determined (i) that those public infrastructure improvements are required whether or not the Project proceeds, (ii) that the Village can no longer wait for BMI’s construction of same, and (iii) that the Village will proceed to make and finance said public infrastructure improvements itself

¹ Capitalized terms that are not otherwise defined in this Resolution shall have the same definition as ascribed to them in the Third Special Permit Amendment.

² A more detailed description of the history of these Resolutions is annexed hereto as Schedule A.

under authority to do so under the State Constitution, Local Finance Law and Village Law. Such improvements, portions of which shall be located on the Project Site, shall be herein referred to collectively as the “Public Purpose Infrastructure Improvements” and which are more particularly described on the spreadsheet annexed hereto and made a part hereof as Schedule B, and include the following categories:

1. Project 1 - Phase 1 Utility Improvements;
2. Project 2 - Water Pump Station and Comfort Station within Club Easement Area,
3. Project 3 - Offsite Sanitary Sewer Including Holbrook Road Lift Station, and
4. Project 4 - 2 Water and Sewer Extensions; and

WHEREAS, the Public Purpose Infrastructure Improvements of Village Project 2, includes: a pumping station and hydro pneumatic tank system designed to serve the residential/domestic water requirements of the Project and the Village’s so-called High Zone Water Service Area which is comprised of approximately fifty-two (52) existing private homes and the Trump National Golf Course and Residential Development as presently approved to consist of: eighty-seven (87) dwelling units (i.e., sixteen (16) residential townhouses and seventy-one (71) condominium units), and one (1) clubhouse and six (6) guest suites and provides for the installation of an 8” diameter bypass check valve in a concrete vault at a point to be designated by the Village Engineer in the vicinity of Cypress Lane between the Village’s High Zone Water Service Area and Low Zone Water Service Area. Said pumping station and hydropneumatic tank system and check valve are also collectively referred to herein as the Water System Improvement Facilities; and

WHEREAS, the Public Purpose Infrastructure Improvements of Village Project 3, include construction of 800 feet of gravity sewer through private property, a new pump station near Holbrook Road, and 500 feet of force main along Holbrook Road to Scarborough Road to benefit both the Project and the 50-plus surrounding properties (the “Holbrook Road Improvements”) and connection of a sewer main in Central Drive in order to eliminate an old section of the public sewer system consisting of 800 feet of 6” and 8” wooden siphon that currently runs through private property between Holbrook Road and Old Briarcliff Road and the Village has acquired or shall acquire all easements and land necessary for same; and

WHEREAS, BMI will grant to the Village such necessary easements for the construction and installation of the Public Purpose Infrastructure Improvements and entry upon the Project Site by the Village, its contractors, employees, and agents for such purposes; and

WHEREAS, BMI will work closely with the Village and the Village’s contractors in coordinating all site construction activities in a manner which will avoid interference with the installation and construction of the Public Purpose Infrastructure Improvements, while enabling BMI to facilitate their own improvements on the private aspects of this Project; and

WHEREAS, BMI has offered to make a voluntary mitigation and contributory payment to the Village in recognition of the Village’s completion of the Public Purpose Infrastructure Improvements, the terms of which are set forth herein below; and

WHEREAS, BMI's prior activities in connection with the Project, BMI's current application and the Village's determination to proceed with the Public Purpose Infrastructure Improvements, will result in certain changes to the Third Special Permit; and

WHEREAS, on June 18, 2014, upon application of BMI, the Village of Briarcliff Manor amended Section 220-2 of the Briarcliff Manor Zoning Code and Section 220-6.J. (14) thereof to provide "Senior Care Community" as a newly defined category of use by Special Permit; and

WHEREAS, pursuant to Village Code Section 220-6.J.(14) as so amended, the Board of Trustees is the approving authority for a Senior Care Community and as set forth herein, has conducted this review of the Special Permit in connection therewith; and

WHEREAS, the Board of Trustees duly noticed and held a public hearing on June 18, 2014, in connection with the 2014 Modifications, at which time all those wishing to be heard were given the opportunity to comment; and

WHEREAS, the Board of Trustees referred the application of BMI for this further amendment of the Special Permit for the Project to the Planning Board and the Westchester County Planning Board; and

WHEREAS, by memorandum dated June 11, 2014, the Planning Board responded to the referral recommending approval of same; and

WHEREAS, by letter dated June 16, 2014, the Westchester County Planning Board responded to the referral confirming that there are no County or intermunicipal planning issues of concern to the County Planning Board and that this action is a matter for local determination in accordance with the Village's planning and zoning policies; and

WHEREAS, at the public hearing the Board of Trustees heard statements and presentations from BMI and its representatives; and

WHEREAS, the Board of Trustees wishes to further modify the Third SP Amendment in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The recitals and statements set forth above are adopted and incorporated in these "Resolved" provisions as if fully set forth and resolved herein.
2. The Board of Trustees hereby determines that (i) the proposed modifications to the Third SP Amendment are within the scope of the prior review under the State Environmental Quality Review Act (SEQRA) and they will not have any environmental impact different from those that were previously addressed in the SEQRA review of the Project, and as a result, no further environmental review is required in connection with this further modification of the Third SP Amendment and (ii) this Project, as further amended fully conforms to and

complies with all requirements of the Village Code, Section 220-6, Special Permit Use, including Sections 220-6(J)(14)(a) & (b):

3. The special permit approval as set forth in the Third SP Amendment as modified by the First Modification and by this Resolution, and the conditions thereof and herein, in accordance with Village Code Section 220-6, Special Permit Use, runs with the land and binds all current and future owners of the Project Site, their successors, heirs and assigns.
4. Subject to the conditions set forth in this Resolution and otherwise in the approval of the Project and its various components, the Board of Trustees further modifies the Third SP Amendment as follows:
 - a. All references to “CCRC” in the “Resolved” paragraphs of the Third Special Permit Amendment shall be deemed changed to “Village Code 220-2 Senior Care Community – B.4.”
 - b. All residents of the Project shall be 55 years of age and older.
 - c. Paragraph 4.d. of the Third Special Permit Amendment is modified to reflect the existing site plan approval of the Planning Board granted on February 14, 2006, as amended by the Planning Board on November 18, 2008.
 - d. Paragraph 4.e. of the Third Special Permit Amendment is modified to add an additional subparagraph iv. to read as follows:
 - iv. Establishing that all residents of the Project shall be age 55 or older.
 - e. Paragraph 4.f.viii. of the Third Special Permit Amendment is modified to: provide that “Provider Antennas” as defined herein, also will be mounted on the Stealth Monopole; and to note that the Ground Equipment will not be mounted on the Stealth Monopole, but located on the ground nearby.
 - f. Paragraph 4.n. of the Third Special Permit Amendment is hereby modified to reflect the following, and otherwise to remain in full force and effect:
 - i. The Village has accepted completion of the Recreation Easement Area referred to in subparagraphs 4.n.i., and 4.n.iv.1.
 - ii. The Village has accepted completion of the Parking Area referred to in subparagraph 4.n.iv.2 relative to the Parking Area only
 - iii. Subparagraph 4.n.iv.2 shall be revised such that construction of the Restroom facilities as described therein shall be deemed a part of the Public Purpose Infrastructure Improvements as defined herein, to be constructed by the Village.

g. Paragraph 4.o.iii. of the Third Special Permit Amendment is hereby modified to require that any entity having an interest in Developer be an additional insured on the Village's certificate of insurance.

h. Paragraph 4.q. of the Third Special Permit Amendment entitled "Water System Improvements" is hereby deleted in its entirety and replaced with the following:

"The Old Water Tank. The Developer shall remain responsible at its sole cost and expense for removal of the Old Water Tank from the Project Site."

i. In Paragraph 4.r., 4.s. and 4.u. of the Third Special Permit Amendment the term "Existing Antennas", and "Existing Antenna" as used therein shall mean the Provider Antennas and Village Antennas existing on the Old Water Tank as of this date.

j. Paragraph 4.w. of the Third Special Permit Amendment entitled "Developer's Additional Requirements regarding Water System Improvement Facilities and the Stealth Monopole Facilities" is hereby modified to acknowledge the satisfaction of subsection i.

k. Paragraph 4.y. of the Third Special Permit Amendment entitled "Public Water Improvements" is hereby modified to read as follows:

"i. Decommissioning of Dalmeny Road Pump: That portion of the Public Purpose Infrastructure Improvements designated herein as the Water System Improvement Facilities constructed and installed on the Project Site by the Village will replace the existing Dalmeny Road water pump, and the Village shall disconnect the pumps and pipes. The Developer shall thereupon join the pipes of any main that shall remain in service but has otherwise been severed by disconnection of the pumps. The Developer shall not be responsible for disassembling or disposing of the Dalmeny Road water pump or any related facility, addressing any existing subsurface or other conditions thereat, or otherwise decommissioning the pump.

ii. Back-up Water Supply for Fire Department: The Developer shall at its sole cost and expense install as a secondary source of water for fire fighting purposes a reservoir with a minimum capacity of 20,000 gallons in accordance with the Fire Code of the State of New York. In addition, the "Dry Hydrant Detail" indicated on plan drawing C-505 of the Approved Site Plan is to remain as designed and approved."

l. Paragraph 4.z.i. of the Third Special Permit is hereby modified to read as follows:

"Holbrook Road Improvements: Pursuant to its offer, the Developer has contributed to the Village the sum of \$5,000.00 as reimbursement for the

Village obtaining the necessary easements for the Holbrook Road Improvements.”

m. Paragraph 4.z.iii. of the Third Special Permit is hereby modified to read as follows:

“Restoration of Disturbed Areas: To the extent that the Village disturbs any land area in the course of the work described in this condition of approval, the Village shall reasonably restore any such disturbed area(s) to substantially the condition that existed prior thereto at the Village’s sole cost and expense.”

n. Paragraph 4.aa. of the Third Special Permit is hereby modified to read as follows:

“Contributory Mitigation Payment for Library and Community Center Improvements: Pursuant to its voluntary offer, BMI shall make a non-refundable mitigation and contribution payment to the Village of Two Million (\$2,000,000.00) Dollars to fund improvements and enhancements of the Village’s library and/or community center including their services, programs and/or facilities, which payment shall be due and payable, prior to and as a condition of the issuance of the First Building Permit.

o. Paragraph 4.bb. of the Third Special Permit is hereby modified to read as follows:

“Contributory Mitigation Payment for Emergency Equipment: Pursuant to its voluntary offer, BMI shall make a non-refundable mitigation and contribution payment to the Village in the amount of Five Hundred Thousand (\$500,000.00) Dollars to fund the purchase of emergency equipment, which may include, but not be limited to a new fire truck for improved firefighting capability at the Project Site, which sum shall be paid to the Village prior to and as a condition of the issuance of the First Building Permit.”

p. A new Paragraph 4.oo is hereby incorporated into the Third Special Permit Amendment to read as follows:

“Contributory Mitigation Payment in Recognition of the Village’s Completion of the Public Purpose Infrastructure Improvements: Pursuant to its voluntary offer, BMI shall make a non-refundable mitigation and contribution payment to the Village of Eight Million Seven Hundred Forty Seven Thousand, Eight Hundred Seventy Three and 70/100 (\$8,747,873.70) Dollars in recognition of the Village’s undertaking construction of the Public Purpose Infrastructure Improvements, as defined in this Second Modification of Third Amended and Restated Special Permit and Tree Removal Permit, and timely completion of same and correspondingly, relief of BMI from the condition that BMI make the Public

Purpose Infrastructure Improvements. Said payment shall be made by BMI (i) in a single lump sum or (ii) in thirty (30) semi-annual equal installments of Two Hundred Ninety One Thousand Five Hundred Ninety Five and 79/100 (\$291,595.79) Dollars each, which includes a component for the value of said funds as paid over time, commencing on the date which is ten (10) days from the BMI's receipt of written notice from the Village to commence such payments (the "Commencement Date") but in no event prior to September 1, 2015. Said payments shall be due and payable on the Commencement Date and on each six (6) month anniversary thereof until paid in full. Said payments to the Village shall be utilized and applied by the Village in its sole and absolute discretion. "

q. Paragraph 8. of the Third Special Permit is hereby modified to read as follows:

"Timing for Issuance of Building Permits: This Special Permit shall not permit construction of any improvements on the Project Site except the Public Purpose Infrastructure Improvements by the Village, and any work to be performed by BMI related thereto, and no building permits or approvals for construction of improvements to the Project Site shall be issued, except with regard to the buildings, structures and/or improvements conforming with the Site Plan Approval, or Amended Site Plan Approval, as the case may be, as granted by the Planning Board and conditions thereof."

r. Paragraph 9. of the Third Special Permit is hereby modified to recognize the completion and delivery to the Village of the Ballfield.

s. Paragraph 12. of the Third Special Permit is hereby modified to read as follows:

"Term of Special Permit: Based upon the conveyance of the Recreation Easement to the Village, this Special Permit approval shall not expire. However, Developer and BMI shall not assign their respective obligations under this Special Permit approval, nor assign or otherwise convey any of their respective interests in all or part of the Project and/or the Project Site to a third party or parties, without prior written notice to the Village.

For purposes of this Paragraph 12, the term "assignment" shall be deemed to include without limitation the sale or other transfer of a majority of the shares or other equity interests in either Developer or BMI, in one transaction or a series of related transactions, and shall include any event which by operation of law vests either's interest in any person or entity other than Developer and/or BMI as the case may be."

t. Except as otherwise modified hereby, all provisions of the Third SP Amendment as modified by the First Modification shall remain in full force and effect.

u. This Resolution modifying the Third Special Permit Amendment as modified by the

First Modification shall run with the land and be binding upon and inure to the benefit of all current and future owners of the Project Site, their successors, heirs and assigns.

5. The Village may finance the Public Purpose Infrastructure Improvements under its powers to borrow for such improvements under the State Constitution, Local Finance Law, and Village Law and any such borrowing shall be backed by the full faith and credit of the Village. The payments to be made by BMI as set forth in Paragraph 4.p. above shall be utilized and applied by the Village in its sole and absolute discretion but shall in no way be made in connection with any Village borrowing to finance the Public Purpose Infrastructure Improvements.

SCHEDULE A

SECOND MODIFICATION OF THIRD AMENDED AND RESTATED SPECIAL PERMIT AND TREE REMOVAL PERMIT BRIARCLIFF MANOR INVESTORS LLC AND INTEGRATED DEVELOPMENT GROUP LLC

BACKGROUND

A. Special Permit Approval

1. By resolution filed in the Office of the Village Clerk of the Village of Briarcliff Manor on June 12, 2003 (the "Special Permit Resolution"),³ the Village of Briarcliff Manor Board of Trustees granted a Special Permit and a Tree Removal Permit to Barrington Venture LLC and The Garlands of Briarcliff Manor, LLC (collectively, "Barrington") for construction and operation of a Continuing Care Retirement Community ("CCRC") comprised of a mix of independent living, assisted living and skilled nursing units to accommodate a maximum of 550 residents (the "Project") to be located on the approximately 58.91 acre parcel of land that was formerly the campus of The Kings College in the Village (the "Project Site"); and

B. Project Site

2. The Project Site, which is identified on the Village's Tax Map as 98.13-1-13, 14, 15, and 19 and 98.09-1-29 and was formerly shown as Section 4.17, Block 11, Lots 4.D, 36 and 50 and Section 4.18, Block 11, Lots 2 and 13 is located in the central portion of the Village of Briarcliff Manor in the west-central portion of Westchester County, New York and is situated north of Scarborough Road with direct access provided from Scarborough Road, Central Drive, and Lodge Road; and

3. The Project Site was originally zoned R-60A, Single Family Residence but since the adoption of the Special Permit Resolution, was re-zoned R-80A, Single Family Residence; and

4. The Village owns a small parcel of land measuring approximately 52 feet by 52 feet located within the Project Site south of the former Main Lodge building (the "Village Parcel"), upon which stands a ±150,000 gallon water tank (the "Old Water Tank") and related facilities which shall be conveyed to BMI pursuant to this Approval; and

5. Several easements that benefit the Village traverse the Project Site (the "Village Easements"), and they include easements: (a) granting access to the Village Parcel, (b) permitting the planting of landscaping around the Village Parcel, (c) granting the right to obtain electrical power and telephone service from the existing facilities on the Project Site to serve the

³ Capitalized terms that are defined in the Special Permit Resolution and used but not defined in this Resolution have the same definition in this Resolution as they are given in the Special Permit Resolution.

Village Parcel, and (d) allowing construction, maintenance, and replacement of a water line connecting to the Village Parcel from property adjoining the subject Project Site to the east; an

6. In addition to the Village Easements, other easements that benefit adjacent properties traverse the Property site, and they include easements (a) for the benefit of property now 100 Lodge Road, that is for sewer service, 10 feet wide, and runs through the Project site and connects to the said property in the northern portion of the Project Site near Lodge Road, the maintenance of which is the responsibility of the owner of 100 Lodge Road and (b) for the benefit of the 100 Lodge Road that is for access and runs through the Project Site from the southerly end of the Lodge Road and connects to a driveway on the 100 Lodge Road; and

C. Village Authority

7. Pursuant to Village Code Section 220-6(J)(14), the Board of Trustees is the approving authority for a CCRC and has conducted the review of the Special Permit issued in connection therewith; and

8. Pursuant to Village Code Section 202-4, the Board of Trustees is the approving authority for the regulation and preservation of trees within the Village of Briarcliff Manor, and governs the issuance of permits for tree cutting and removal, with applications for permits to conduct such regulated activities being regulated in Section 202-3.A(2) thereof; and

9. In this case approval by the Board of Trustees of the Special Permit included action related to the Tree Removal Permit or Tree Protection Plan as provided in said Chapter 202 of the Village Code (the "Tree Removal Permit"), based upon a recommendation from the Planning Board, which Tree Removal Permit constituted an integral part of the Special Permit Resolution; and

D. SEQRA

10. The Project has been subject to a coordinated review under the New York State Environmental Quality Review Act ("SEQRA") by the Village of Briarcliff Manor Planning Board (the "Planning Board") as the Lead Agency, which included the preparation of a Draft Environmental Impact Statement ("DEIS") and a Final Environmental Impact Statement ("FEIS"); and

11. The Planning Board addressed the Project's conformance to the general Special Permit standards of the Village's Zoning Law in the FEIS and found that the Project conforms to and furthers the intent of the requirements of those standards and further that the Project more particularly conforms to the Special Permit standards of the zoning established for CCRC use under Village Code Section 220-6(J)(14); and

12. The Board of Trustees has participated in the SEQRA review of the Project as an Involved Agency throughout the course of the review; and

13. The Planning Board as Lead Agency adopted a Findings Statement dated April 28, 2003, which concluded that significant adverse impacts identified had been satisfactorily minimized or mitigated to the maximum extent practicable subject to certain project modifications; and

14. As an Involved Agency and in accordance with the requirements of Part 617 of the SEQRA regulations, the Board of Trustees adopted its own Environmental Findings Statement dated May 29, 2003; and

E. First Special Permit Amendment

15. On March 17, 2005 the Board of Trustees formally referred to the Planning Board an application submitted by CC-Briarcliff LLP and/or CC-Briarcliff Inc., as the case may be, and Classic Residence by Hyatt (collectively "Hyatt"), which entities were then contract-vendee(s) and developer(s) of the Project Site and which application sought to amend the Special Permit Resolution with the following modifications collectively referred to herein as "First SP Modifications" to:

- a) Utilize a pumping, hydropneumatic tank, and check valve system to supply water to the Project Site and the area of the Village served by the Old Water Tank (the "Water System Improvement Facilities") and eliminate the need to replace the Old Water Tank with the previously approved New Water Tank, and
- b) Install a stealth monopole, designed to appear as an approximately 160-foot tall evergreen tree (the "Stealth Monopole"), rather than constructing the New Water Tank, as a structure on which to relocate the Briarcliff Manor Police and Fire Department radio communication antennas presently located on the Old Water Tank (the "Village Antennas"), and other telecommunications antennas that may be located on the Old Water Tank ("Provider Antennas"), with appurtenant telecommunications equipment boxes (the "Ground Equipment") being relocated to a structure to be situated near the Stealth Monopole such as the Stealth Monopole facilities to include wireless telecommunications facilities that could have been in the future mounted on the Old Water Tank and located on the ground of the Village Parcel, including those of new or additional telecommunications companies and their associated Ground Equipment ("Future Antennas") (collectively the "Stealth Monopole Facilities"); and

16. Upon separate application of Hyatt, the Planning Board on April 12, 2005, approved a temporary sales center for the Project in accordance with the Zoning Law and adopted a Resolution entitled, "CC-Briarcliff LLP - Classic Residence by Hyatt, Temporary Sales Office - Resolution of Site Plan Approval for a Temporary Facility;" and

17. On August 9, 2005, the Planning Board as Lead Agency relative to the First SP Modifications adopted a Negative Declaration in accordance with SEQRA regarding the proposed amendment to the Special Permit Resolution, and on August 26, 2005, adopted Amended Lead Agency Findings; and

18. In connection with the proposed First SP Modifications, the Board of Trustees opened and held a public hearing on September 8, 2005, at which an Amended Environmental Findings Statement under SEQRA was adopted, which addressed the impacts associated with the First SP Modifications; and

19. On September 15, 2005, the said public hearing was continued, at which time, the Board of Trustees adopted a resolution amending the Special Permit Resolution entitled "Resolution of the Village of Briarcliff Manor Board of Trustees, Amended Special Permit CC-Briarcliff LLP and Classic Residence by Hyatt (formerly Barrington Venture LLC and the Garlands at Briarcliff)" to permit the First SP Modifications (the "First SP Amendment"); and

F. Second Special Permit Amendment

20. In November 2005, Hyatt proposed certain program and design changes, modifications to operational features and technical amendments to the Special Permit Resolution and First SP Amendment, including but not limited to the following (the "Second SP Modifications"):

- a) No surround-sound theater would be required;
- b) Three (3), rather than twenty (20), guest suites;
- c) No Pavilion or Formal Garden Area with formal hedges would be required, but a less formal landscaping scheme would be implemented;
- d) No Reforestation Plan in the area of the ballfields would be required, although supplemental landscaping would be required therein to the extent it would not interfere with the provision of the playing fields;
- e) No Performing Arts Center would be required, although the Lodge Room would be constructed and access to the public would be provided to the assembly rooms as initially provided in the Special Permit Resolution;
- f) Reduced parking and authorization for both valet parking (for up to 90 vehicles) and tandem parking would be implemented;
- g) Parking by the public within the CCRC and beyond the Recreation Easement would not be required;
- h) On-site emergency call system would continue to be required, but not need to be based upon a telephone network;
- i) Any dredging or clearing of Lodge Pool would be subject to review by, and issuance of a permit from New York State Department of Environmental Conservation ("NYSDEC");
- j) Elimination of the requirement that an on-site concrete batch plant be utilized in the construction of the Project;
- k) No dry hydrant at the Dalmeny Pump Station would be required, but a dry fire line would be provided in the vicinity of the intersection of the Project Site and Lodge Road;
- l) The Dalmeny Water Pump would not be replaced; and
- m) The Developer would design the water pump for the Water System Improvement Facilities; and

21. The Board of Trustees held a duly noticed public hearing concerning the Second SP Modifications on December 1, 2005, and continued to December 15, 2005, at which time all those wishing to be heard were provided an opportunity to comment; and

22. On December 13, 2005, the Planning Board adopted a Further Amended Findings Statement under SEQRA which addressed impacts that may arise in connection with the Second SP Modifications; and

23. On December 15, 2005, the Board of Trustees adopted a Resolution further amending the Special Permit Resolution and the First SP Amendment, entitled "Resolution of the Village of Briarcliff Manor Board of Trustees, Second Amended Special Permit, CC-Briarcliff LLP and Classic Residence by Hyatt (formerly Barrington Venture LLC and The Garlands of Briarcliff)", which approved the Second SP Modifications (the "Second SP Amendment"); and

24. On February 14, 2006, the Planning Board adopted a Resolution (the filing date of which was March 3, 2006) entitled, "CC-Briarcliff LLP - Classic Residence by Hyatt: Resolution of Site Plan, Steep Slopes and Wetlands Permit Approval" for the construction of the Project as it had been amended during the previous Special Permit, First SP Amendment and Second SP Amendment reviews conducted by the Board of Trustees (the "Site Plan Resolution"), and as detailed on the various plans submitted to the Planning Board; and

25. In August 2006, Hyatt advised the Board of Trustees that it was withdrawing from pursuing the Project; and

G. Third Special Permit Approval

26. On November 28, 2007, Briarcliff Manor Investors LLC and Integrated Development Group LLC, the owner and proposed developer respectively of the Project Site and the Project (collectively "BMI") submitted an application to the Board of Trustees to amend the Special Permit, First SP Amendment and Second SP Amendment to facilitate the redesign and reconfiguration of the Project to construct, maintain and operate the CCRC in accordance with a new site plan and pursuant to Article 46A of the Public Health Law of the State of New York (the "Third SP Modifications"); and

27. The Third SP Modifications include the following changes to the Project, among other things:

- a) Reducing the size of the Supportive Living Center (formerly designated by Hyatt as the Health Center, or Care Center) from 70 to 60 units and from approximately 71,816 s.f. to approximately 49,635 s.f. (the "Supportive Living Center");
- b) Relocating the Supportive Living Center from the lower portion of the Project Site (the "Lower Village") to the upper portion of the Project Site (the "Upper Village") in order to:
 - i. Provide residents of the Supportive Living Center a home closer and with more convenient accessibility to their spouses and neighbors living in the independent living units in the Upper Village;
 - ii. Allow for greater operating efficiencies for the CCRC staff; and
 - iii. Eliminate the need to construct a connecting pedestrian bridge and elevator structure between the Supportive Living Center and the Main building in the CRbH Site Plan;
- c) Reducing the size of the Main Independent Living buildings (collectively, the "Main Building") from approximately 613,915 s.f. to approximately 501,442 s.f.;

- d) Eliminating the below-building parking to reduce blasting and, instead, constructing a parking structure adjacent to the Main Building in the Upper Village;
- e) Providing a mix of 325 Independent Living Units (“ILUs”) that will include 288 ILUs in the Main Buildings and 37 ILUs in Villas in the Lower Village (as compared to only 27 Villas provided in the Hyatt Site Plan);
- f) Eliminating any Guest Suites (where Hyatt had provided 3 Guest Suites);
- g) Providing a new free-standing Pool/Spa building comprising approximately 28,020 s.f. (the “Spa & Wellness Center”);
- h) Modifying the size of the multi-purpose community room and common space, while preserving the Lodge Room;
- i) Relocating of Stealth Monopole Facilities slightly southerly within Upper Village;
- j) Providing approximately 602 parking spaces by a combination of self-park, tandem and valet spaces with some overflow reserve valet parking and land-banked parking areas;
- k) Providing two tennis courts in the Lower Village for use by the CCRC residents; and

28. The Third SP Modifications were referred by the Board of Trustees to the Planning Board, which forwarded its recommendations thereon; and

29. Thereafter, certain additional changes to the Project were requested by BMI, including permitting twenty (20) of the ILUs to be constructed to a size greater than the “900 square feet or less” limitation of the Special Permit, provided such units are less than approximately 1,000 square feet in livable area to be more affordable to individuals; and

30. On July 8, 2008, the Planning Board adopted a Further Amended Lead Agency Findings Statement under SEQRA in connection with the Third SP Modifications and the additions thereto noted above; and

31. The Board of Trustees duly noticed and held a public hearing on October 16, 2008, in connection with the Third SP Modifications and the additions thereto noted above, at which time all those wishing to be heard were given the opportunity to comment at which BMI and their representatives submitted additional plans including (i) Overall Site Plan, C-100 drawing of Perkins Eastman dated April 8, 2008, and (ii) Section Comparison, Elevation Comparison, and Cell Tower and Accessory Building drawings of Perkins Eastman dated October 14, 2008 and

32. On November 6, 2008, the Board of Trustees adopted a Resolution of Third Amended and Restated Special Permit and Tree Removal Permit (the “Third SP Amendment”), relative to the Third SP Modifications as detailed therein, in connection with the construction and operation of a CCRC, which Project is comprised of a mix of independent living, assisted living and skilled nursing units to be located on the approximately 58.91 acre Project Site; and

33. On November 18, 2008, the Planning Board adopted a resolution entitled, “Briarcliff Manor Investors LLC and Integrated Development Group LLC: Resolution of Amended Site Plan, Steep Slopes and Wetlands Permit Approval (the “Amended Site Plan Resolution”) amending the Site Plan Resolution relative to the Third SP Modifications; and

H. First Modification of Third Special Permit Approval

34. After a comprehensive re-zoning in the Village resulted in the change of the zoning of the Project Site from R60A to R80A, BMI submitted an application to the Board of Trustees, on February 18, 2010, whereupon the Board of Trustees adopted a resolution entitled "First Modification of the Third Amended Special Permit and Tree Removal Permit" (the "First Modification") providing for the following:

- a) During the period commencing January 1, 2010, and ending on December 31, 2015 ("Interim Period"), in connection with any residential development on the Project Site, BMI shall be entitled to a development density calculation on the basis of the Village's R60A Zoning regardless of the classification of the zoning district in which the Project Site is located; and
- b) In calculating the permitted development density during the Interim Period, the Recreation Parcel shall be considered part of the Project Site and counted towards meeting the recreation set-aside required under the Village Code; and

SCHEDULE B

**SECOND MODIFICATION OF THIRD AMENDED AND
RESTATED SPECIAL PERMIT
AND TREE REMOVAL PERMIT**

BRIARCLIFF MANOR INVESTORS LLC AND INTEGRATED DEVELOPMENT GROUP LLC

| <u>VILLAGE PUBLIC PURPOSE INFRASTRUCTURE IMPROVEMENTS</u> <u>VM 1.0 PHASE 1 UTILITY IMPROVEMENTS</u> | |
|---|---|
| Item | Description |
| <u>Design and Construction Phase Services</u> | |
| 1.1A | Prepare Bid Package - Plans, specifications, revisions to DOH approvals due to phasing changes, meetings with Village |
| 1.1A.1 | Survey of as-built conditions for parking lot, entrance road, etc. |
| 1.1B | Bid Phase Support |
| 1.1C | Construction Phase Services - Shop Drawings, RFI, project meetings, observe testing, site visits |
| 1.2 | Village Construction Services including inspections, as- built and project closeout Reimbursable Cost- Printing, etc. |
| <u>Construction Phase</u> | |
| 1.3 | Water main intake from Scarborough Road to pump station |
| 1.4 | Water main intake from Scarborough Road to pump station |
| 1.5 | Water pump station to discharge main to existing entrance road |
| 1.6 | 8" Check valve in pit in Cypress Lane between High Service Zone and Low Service Zone |
| 1.7 | Water tank disconnect and miscellaneous piping work at Dalmeny Road pump house |
| 1.8 | Scarborough Road to Restroom Building - Sewer |
| 1.9 | Water Main from Pump House to Comfort Station |
| 1.10 | Allowance for Rock Excavation |
| 1.11 | Wet Tap |
| 1.12 | Road Patch |
| 1.13 | Meter Pit |

VILLAGE PUBLIC PURPOSE INFRASTRUCTURE IMPROVEMENTS
VM 2.0 WATER PUMP STATION AND COMFORT STATION

| Item | Description |
|---|---|
| Design and Construction Phase Services | |
| 2.1A | Civil Package - Grading, Sediment control, Paving, Coordination of all other consultants |
| 2.1A.1 | Architectural design services, including approvals and bid package preparation, Electrical Design, ConEd Service, Generator, Plans, Specifications, Coordination with ConEd, Architectural/Engineering Design Service during construction including inspections, as-built and project close-out |
| 2.1.B | Bid Phase Support |
| 2.1.C | Engineering/Architectural design service during construction including inspections, as-built and project closeout, Arch/MEP included in 2.1 |
| 2.2 | Village Engineering design service during construction including inspections, as-built and project closeout |
| Construction Phase | |
| 2.3 | Prepackaged pump station EFI Cost Start-up and Testing |
| 2.4 | Architectural/MEP building surround and foundations Comfort Station Pump House, includes generator |
| 2.5 | Site Work including connection to water intake mains built by others, grading, sediment control, repaving parking lot. Site Work, final sidewalk, minor landscaping |
| 2.6 | Electric Service Scarborough Road to Pump House Pump House to Comfort Station |

VILLAGE PUBLIC PURPOSE INFRASTRUCTURE IMPROVEMENTS
VM 3.0 OFFSITE SANITARY SEWER INCLUDING HOLBROOK ROAD LIFT STATION

| Item | Description |
|--|--|
| <u>Design and Construction Phase Services</u> | |
| 3.1A | Prepare Bid Package - Plans, specifications, revisions to DOH approvals, meetings with engineers |
| 3.1B | Design of Village Sewer - Survey , Plans, DOH approval specifications, meetings with engineers |
| 3.1C | Design of Village Pump Station - Design, DOH approval, architectural design |
| 3.1D | Bid Phase Support |
| 3.1E | Construction Phase Services - Shop Drawings, RFI, project meetings, observe testing, site visits |
| 3.2 | Construction Phase Services - Full time field inspections as directed by the Village |
| <u>Construction Phase</u> | |
| 3.3 | Lift Station construction complete, including site work, walls, etc. |
| 3.4 | Force Main from Pump Station |
| 3.5 | Replacement of wooden siphon through Irani property with gravity piping |
| 3.6 | Replacement of third leg of siphon along Holbrook Road |
| 3.7 | Allowance for Rock Excavation |

| VILLAGE PUBLIC PURPOSE INFRASTRUCTURE IMPROVEMENTS VM 4.0A PHASE 2 WATER AND SEWER EXTENSIONS | |
|--|---|
| Item | Description |
| Design and Construction Phase Services | |
| 4.1A | Prepare Bid Package - Plans, specifications, revisions to DOH approvals due to phasing changes, meetings with engineers |
| 4.1B | Bid Phase Support |
| 4.1C | Construction Phase Services - Shop Drawings, RFI, project meetings, observe testing, site visits |
| 4.2 | Village Engineering design service during construction including inspections, as-built and project closeout |
| Construction Phase | |
| 4.3 | New water main ("F" Line) The Club lower Village to Central Avenue |
| 4.4 | Class 52 water main - dry fire line from Lodge pool to The Club's upper Village |
| 4.5 | Sewer from Lodge Road to Central Avenue |
| 4.6 | Allowance for Rock |
| 4.7 | Wet Tap |
| 4.8 | Road Patch |

VILLAGE OF BRIARCLIFF MANOR
BOARD OF TRUSTEES AGENDA
NOVEMBER 5, 2014

8. ELECTION RESOLUTION FOR ANNUAL VILLAGE ELECTION 2015

BE IT RESOLVED that the annual Village Election will be held in the Village of Briarcliff Manor on Wednesday, March 18, 2015 between the hours of 6:00am and 9:00pm during which the polls will be open.

BE IT FURTHER RESOLVED that the following Village Offices are to be elected at the annual Village Election of March 18, 2015 for the terms as set forth herein:

| <u>Office</u> | <u>Term</u> |
|---------------|-------------|
| Mayor | 2 Years |
| Trustee (2) | 2 Years |

VILLAGE OF BRIARCLIFF MANOR
BOARD OF TRUSTEES AGENDA
NOVEMBER 5, 2014

9. FIRE DEPARTMENT MEMBERSHIP

BE IT RESOLVED, that the Board of Trustees of the Village of Briarcliff Manor hereby approves the under 18 membership of **Jenna Heitzler** to the Briarcliff Manor Hook and Ladder Company.

BE IT RESOLVED, that the Board of Trustees of the Village of Briarcliff Manor hereby approves the under 18 membership of **Patrick Curran** to the Briarcliff Manor Hook and Ladder Company.

BE IT RESOLVED, that the Board of Trustees of the Village of Briarcliff Manor hereby approves the membership of **Keith Sherman** to the Briarcliff Manor Hook and Ladder Company.

Village Board of Trustees
Regular Meeting
October 15, 2014
7:30 p.m.

The Regular Meeting of the Board of Trustees of the Village of Briarcliff Manor, New York was held in the Village of Briarcliff Manor Village Hall, at 1111 Pleasantville Road, Briarcliff Manor, New York on the 15th of October, 2014 commencing at 7:30 p.m.

Present

William J. Vescio, Mayor
Lori A. Sullivan, Deputy Mayor
Cesare DeRose, Jr.
Mark Pohar, Trustee
Mark L. Wilson, Trustee

Also Present

Philip Zegarelli, Village Manager
Christine Dennett, Village Clerk
Robin Rizzo, Village Treasurer
Clinton Smith, Village Counsel

Public Hearing to Amend Chapter 220, Zoning to Add a New Section 220-9.2 for the Regulation of Residential Use of Dwelling Units in Existing Accessory Buildings in the R80A, the R60A, the R40A, and the R40B Single-Family Residence Zoning Districts

Upon motion by Trustee Wilson, seconded by Trustee Pohar, the Board voted unanimously to open the Public Hearing.

Mayor Vescio gave a synopsis of the proposed legislation and stated it was in compliance with the Village Comprehensive Plan and would address affordable housing units in the Village. He read an excerpt from a letter from the Westchester County Planning Board regarding the legislation and stated the Village was ahead of the curve.

Village Attorney Smith stated he was preparing a negative declaration for SEQRA and the legislation was consistent with the EAF.

Upon motion by Trustee Pohar, seconded by Deputy Mayor Sullivan, the Board voted unanimously to continue the hearing to November 5, 2014 at 7:30pm.

Village and Justice Court Annual Auditor's Report FY 13-14

Mr. Chris Kopf of O'Connor Davies reviewed the Annual Auditor's Report for Fiscal Year 2013-2014 and stated the Village received an unqualified opinion.

He stated everything was in balance with both the Village and the Court and thanked the Village Manager and Village Treasurer for their help during the audit.

The Board thanked Mr. Kopf for his presentation.

Board of Trustees Announcements by Trustee Pohar

- The Library programs are well attended.
- The Fire Department Inspection will be on October 18th with a dinner following.
- The Youth Center is hosting a haunted graveyard trip to Lake Compounce will be on October 24th.
- Window painting will be on October 18th. Registration is required.
- The Ragamuffin Parade will be on October 25th at 9:30am.
- Tennis season has ended but Platform tennis season has begun. Permits are required.

Village Managers Report by Village Manager Zegarelli

Village Manager Zegarelli gave a presentation on the closeout of Fiscal Year 2013-2014 and the first 4 months of Fiscal Year 2014-2015.

- The 150th Anniversary of the Scarborough Post Office is in December. Events are being planned.
- The Round Hill Road Cement Lining Project began on September 8th and is expected to last for 60 days.
- The Community Center Project will be re-bid in January 2015.
- Leaf Pickup has begun. Please do not put leaves in the streets or on the sidewalks. Violations will be issued.
-

Public Comments

There were no public comments.

Budget Transfers – FY 14-15 First Quarter

Upon motion by Deputy Mayor Sullivan, seconded by Trustee DeRose, the Board voted unanimously to approve the following resolution:

BE IT RESOLVED that the Board of Trustees does hereby authorize the following budget transfers for FY 2014-2015 totaling \$84,645.97:

GENERAL FUND

WORKERS COMPENSATION

From: A1990.499 Contingency \$13,381.40
To: A1230.890 WC \$13,381.40

PARKS OVERTIME

From: A1990.499 Contingency \$27,022.36
To: A7110.102 Overtime \$27,022.36

From: A1990.499 Contingency \$2,067.21
To: A7110.850 FICA/Medicare \$2,067.21

WATER FUND

EDITH MACY WATER TANK

From: F1990.499 Contingency \$42,175.00
To: F8320.402 Equipment \$42,175.00

Ratification of CSEA Recall Pay Settlement Agreement

Upon motion by Trustee DeRose, seconded by Trustee Wilson, the Board voted unanimously to approve the following resolution:

BE IT RESOLVED that the Board of Trustees hereby ratifies an agreement with the CSEA regarding the settlement of PERB Case No. U-33286 and AAA Case 15 390 00382 13.

Fire Department Memberships

The Board thanked the new members for volunteering.

Upon motion by Trustee Wilson, seconded by Trustee Pohar, the Board voted unanimously to approve the following resolution:

BE IT RESOLVED, that the Board of Trustees of the Village of Briarcliff Manor hereby approves the under 18 membership of **Nicole Silberman** to the Briarcliff Manor Fire Company.

BE IT RESOLVED, that the Board of Trustees of the Village of Briarcliff Manor hereby approves the membership of **Barbara Wachtel** to the Briarcliff Manor Fire Company.

Minutes

Upon motion by Trustee DeRose, seconded by Trustee Wilson, with abstentions from Deputy Mayor Sullivan and Trustee Pohar, the Board voted to approve the minutes of September 30, 2014.

Adjournment

The Historical Society is having their Gala on October 19th and honoring longtime residents Keith and Joan Austin. The Board thanked the Historical Society for their work and wished them continued success.

There will be a Work Session on Tuesday, October 28th at 6:45pm.

Upon motion by Trustee Wilson, seconded by Trustee DeRose, the Board voted unanimously to adjourn the regular meeting at 8:30pm.

Respectfully Submitted By,

Christine Dennett
Village Clerk