

617.20
Appendix B
Short Environmental Assessment Form

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information

Name of Action or Project:		Replacement of an existing natural grass athletic field surface with artificial turf, Navajo Fields.	
Project Location (describe, and attach a location map):		3000 Navajo Street (a/k/a 3870 Mahopac Street), Jefferson Valley, Town of Yorktown, Westchester County, New York. Tax Map Section 6.14, Block 1, Lot 2. The work area is the western multi-purpose athletic field, being the area marked by the Town Engineer on the Revised Mitigation Plan and annotated "REPLACE EXISTING GRASS FIELD WITH ARTIFICIAL TURF" (Attachment A).	
Brief Description of Proposed Action:		Installation of an artificial turf playing surface over an existing, approved and constructed natural grass multi-purpose athletic field, within the work area shown on Attachment A, as illustrated by the cross-section at Attachment B and in accordance with the approved site plan, with the wetland restoration and mitigation required by NYSDEC Order on Consent, Case No. R3-20180820-151, installed and in place as shown on Exhibit A to that Order, the Restoration and Mitigation Plan (Attachment C), and confirmed by NYSDEC on October 20, 2023. The section is approximately 1 to 1.5 inches of artificial turf over 2 inches of compacted crushed stone or gravel over natural soil — a total section of approximately 3 to 3.5 inches, the gravel course compacted to facilitate drainage. No grading, no excavation below existing grade beyond that shallow section, no fill, no tree removal, no structures, no lighting, no fencing, no change in field dimensions, no change in field count, no change in hours or programming, and no change in the permitted use of the property.	
Name of Applicant or Sponsor:	Creative Living Development, Inc., a/k/a Navajo Fields	Telephone:	(914) 403-5517
	by Charles J. Diven, Jr., President	E-Mail:	cjdiven@aol.com

Address:	3000 Navajo Street		
City/PO:	Yorktown Heights State: NY Zip Code: 10598		

1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? <i>If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.</i>	NO YES ☒ ☐
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: Town of Yorktown only. Town Engineer — Administrative MS4 Stormwater Management Permit and Administrative Wetland Permit, filed August 27, 2026. No other agency approval is required. The western field is the soccer field addressed in Item 2(c) of the Schedule of Compliance to the NYSDEC Order on Consent, which required that field to be reduced in size to create the restored no-mow area; the field as so reduced remains in recreational use under the Order and its Exhibit A (Attachment C). On September 8, 2026 the Town Engineer, Daniel Ciarcia, P.E., stated that the Engineering Department will contact NYSDEC regarding the permitting of the artificial turf installation as part of the instant application.	NO YES ☐ ☒
3.a. Total acreage of the site of the proposed action?	49.758 acres
b. Total acreage to be physically disturbed?	4.68 acres (204,000 sq. ft.) — the existing field surface marked on Attachment A. No disturbance below existing finished grade other than the section described above; no new limits of disturbance.
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?	49.758 acres

4. Check all land uses that occur on, adjoining and near the proposed action.

- ☒ Urban ☒ Rural (non-agriculture) ☐ Industrial ☐ Commercial ☒ Residential (suburban)
☒ Forest ☐ Agriculture ☒ Aquatic ☒ Other (specify): Regulated freshwater wetland and adjacent area
☒ Parkland (private park and recreation facility)

Note: "Urban" and "Residential (suburban)" are checked as adjoining and near uses. On site the uses are Parkland, Forest, Rural (non-agriculture) and regulated wetland.

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO ☐	YES ☒
b. Consistent with the adopted comprehensive plan?	NO ☐	YES ☒

5.a. Zoning district R1-80. Private and public parks and recreation facilities are an allowed use in R1-80 under Town Code § 300-21C(1)[5]. 5.b. No change from the use reviewed and approved in 2011 and 2013.

6. Is the proposed action consistent with the predominant character of the existing built or natural landscape? The field exists and is in active use; only its wearing surface changes. Artificial turf is already an existing, approved and inspected surface at this facility.	NO ☐	YES ☒
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: Not applicable. No CEA was identified in the coordinated SEQRA review conducted by the Town Board as lead agency in 2010–2011.	NO ☒	YES ☐
8.a. Will the proposed action result in a substantial increase in traffic above present levels? No increase of any kind. No field is added, no capacity is added, and no programming change is proposed.	NO ☒	YES ☐
b. Are public transportation service(s) available at or near the site of the proposed action?	NO ☒	YES ☐
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action? Existing on-site pedestrian paths and woodchip trails as shown on the approved plans. Unchanged.	NO ☐	YES ☒
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: Not applicable. No building, structure or energy-consuming system is proposed.	NO ☒	YES ☐
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: Water facilities at the site are an existing private irrigation well. No connection is proposed, and an artificial turf surface requires no irrigation.	NO ☒	YES ☐
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: Sanitary facilities at the site are existing temporary portable facilities. No connection is proposed and no change is made.	NO ☒	YES ☐
12.a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	NO ☒	YES ☐
b. Is the proposed action located in an archeological sensitive area? A cultural resources survey was completed and a State Historic Preservation Act determination issued in the 2010–2011 review. In any event no subsurface disturbance below existing grade is proposed.	NO ☒	YES ☐
13.a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO ☐	YES ☒

NYSDEC Freshwater Wetland A-4 (Class I) and its regulated 100-foot adjacent area, and Town of Yorktown regulated wetland and buffer.	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: Not applicable. The work area is an existing maintained athletic field. The restored, buffered and no-mow revegetated areas required by Exhibit A to the NYSDEC Order on Consent (Attachment C) lie outside the field and are not disturbed.	NO YES ☒ ☐

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:

- ☐ Shoreline ☒ Forest ☒ Agricultural/grasslands ☒ Early mid-successional
☒ Wetland ☐ Urban ☒ Suburban

Within the work area: maintained turf grass (mowed athletic field) only.

15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered? The Town Board received a report from the NYSDEC Natural Heritage Program dated July 20, 2010 indicating no records of known occurrences.	NO YES ☒ ☐
16. Is the project site located in the 100 year flood plain? The site contains a FEMA Zone A mapped floodplain (FIRM Panel No. 36119C0033F, effective September 28, 2007), and the work area lies within it. The proposed action places no fill, effects no change in grade, and effects no change in flood storage capacity. The existing field was itself constructed under Flood Development Permits issued by the Town. See Attachment E, Item 16, and Attachment F.	NO YES ☐ ☒
17. Will the proposed action create storm water discharge, either from point or non-point sources? No new discharge. Runoff from the field continues to be collected and conveyed by the existing approved grass swales and stormwater basin constructed under the 2011 and 2012 approvals.	NO YES ☒ ☐

- a. Will storm water discharges flow to adjacent properties? ☒ No ☐ Yes
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? ☐ No ☒ Yes

If Yes, briefly describe: To the existing approved grass swales and the on-site stormwater / detention basin. No change from the approved and constructed condition.

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: Not applicable.	NO ☒	YES ☐
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: Not applicable.	NO ☒	YES ☐
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: Not applicable. For completeness and candor, the site was the subject of a wetlands restoration and mitigation program under NYSDEC Order on Consent, Case No. R3-20180820-151, which concerned freshwater wetland disturbance and not hazardous waste. By letter dated October 20, 2023 the Department advised that "[i]t appears that the mitigation has been implemented in accordance with the approved restoration and mitigation plan."	NO ☒	YES ☐

I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

Applicant/sponsor name: Creative Living Development, Inc., a/k/a Navajo Fields, by Charles J. Diven, Jr., President	Date: _____
Signature: _____	

Original signature required. Digital signatures are not accepted by the Engineering Department.

Part 2 – Impact Assessment.

The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	☐	☐
2. Will the proposed action result in a change in the use or intensity of use of land?	☐	☐
3. Will the proposed action impair the character or quality of the existing community?	☐	☐
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	☐	☐
5. Will the proposed action result in an adverse change in the existing level of traffic or affect	☐	☐

existing infrastructure for mass transit, biking or walkway?		
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	☐	☐
7. Will the proposed action impact existing: a. public / private water supplies? b. public / private wastewater treatment utilities?	☐	☐
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	☐	☐
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	☐	☐
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	☐	☐
11. Will the proposed action create a hazard to environmental resources or human health?	☐	☐

To be completed by the Lead Agency.

Part 3 – Determination of significance.

The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.

☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

Name of Lead Agency	Date
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

ATTACHMENTS AND SUPPLEMENT

Pursuant to the instruction on page 1 of this form — "You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item" — the following are submitted with this form:

Attachment A — Revised Mitigation Plan, Proposed Site Plan prepared for Creative Living Development, Inc. a/k/a Navajo Fields, scale 1" = 60', dated October 11, 2019, Sheet 1 of 1, as marked and provided by Daniel Ciarcia, P.E., Town Engineer, showing the work area and annotated "REPLACE EXISTING GRASS FIELD WITH ARTIFICIAL TURF." Serves as the location map required by Part 1. Reproduced at the following pages, full sheet and enlarged detail of the work area.

Attachment B — Cross-section of the artificial turf system: turf fibers, backing and infill over a compacted aggregate sub-base over native soil. Illustrative; published by Turf Network (turfnetwork.org); not to scale. The section proposed is described in Part 1. Reproduced at the following page.

Attachment C — Exhibit A — Restoration and Mitigation Plan, NYSDEC Case No. R3-20180820-151, as annexed to and executed with the NYSDEC Order on Consent of March 29, 2022, and confirmed by NYSDEC on October 20, 2023 to have been implemented. Reproduced at the following pages, full sheet and enlarged detail of the western field, as executed and without alteration.

Attachment D — Supporting Statement — Entitlement Under Prior Approvals, setting out the record of disclosure, public hearing, SEQRA Negative Declaration, site plan approval and subsequent Town confirmation relating to artificial turf at this facility. The Statement is submitted herewith; the approvals and records it cites are reproduced in full at Attachment D following Attachments A and B, under the exhibit letters the Statement uses.

Attachment E — Supplemental Responses to Part 1, item by item.

Attachment F — Flood Insurance Rate Map — Citation and Currency of Panel 36119C0033F, supporting the response to Item 16.

Attachment G — The Flood Record — the Town's own floodplain development permit applications and permits for this parcel, 2011, 2012 and 2013, and the project engineer's flood certification of October 31, 2013, each reproduced in full.

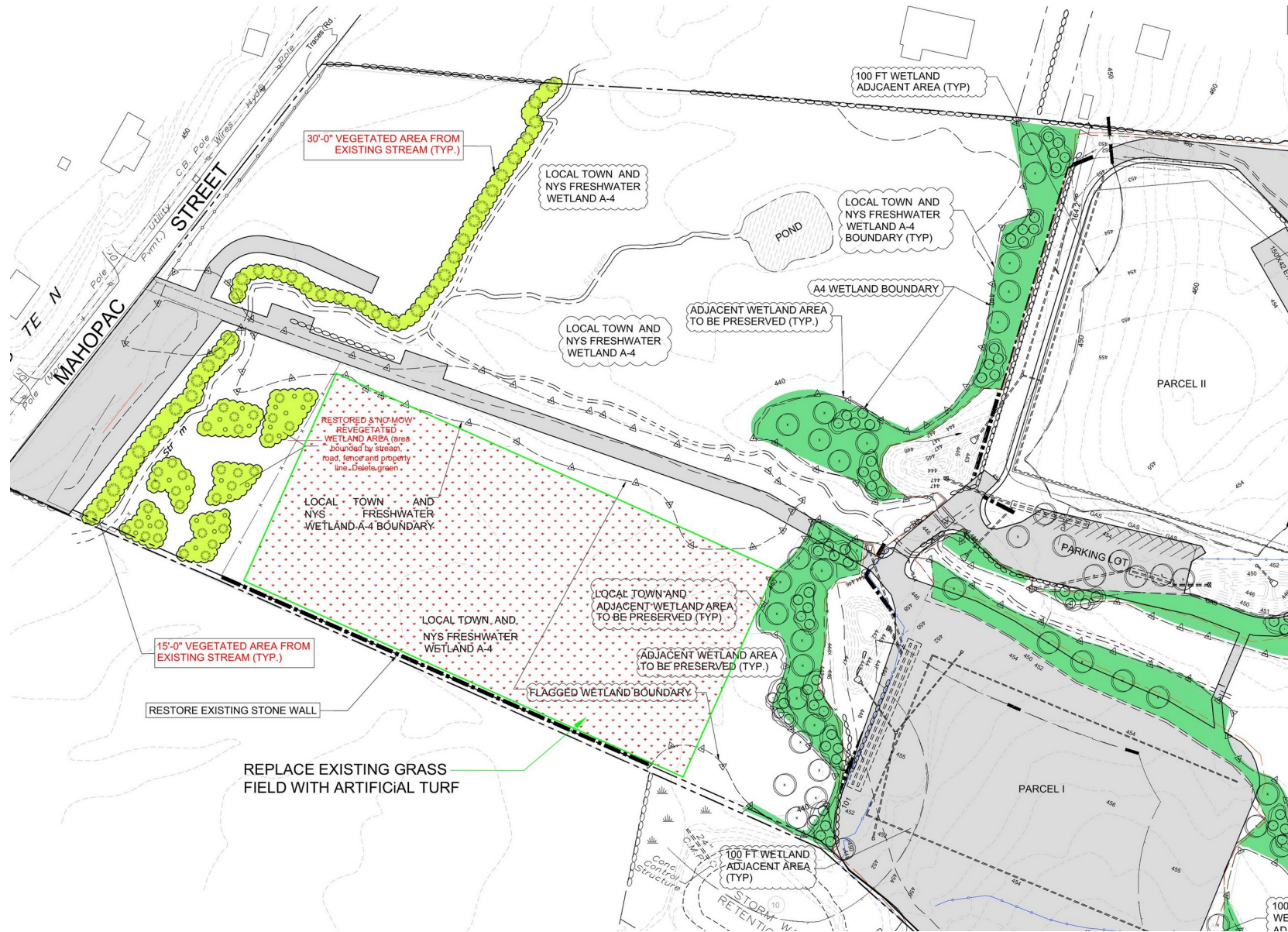
ATTACHMENT A — Revised Mitigation Plan with Work Area Marked (full sheet)

Proposed Site Plan prepared for Creative Living Development, Inc. a/k/a Navajo Fields. Scale 1" = 60' on the original 48" x 36" sheet; reduced here. Dated October 11, 2019, Sheet 1 of 1. The work area is shown by red stipple within a green outline, annotated "REPLACE EXISTING GRASS FIELD WITH ARTIFICIAL TURF."



ATTACHMENT A — Detail — the Work Area (enlarged)

Enlarged from the sheet on the preceding page, without alteration.



ATTACHMENT B — Cross-Section of the Artificial Turf System

Illustrative cross-section published by Turf Network (turfnetwork.org), reproduced as published. Not to scale and not project-specific. The section proposed is approximately 1 to 1.5 inches of artificial turf over approximately 2 inches of compacted crushed stone or gravel over native soil, as described in Part 1.

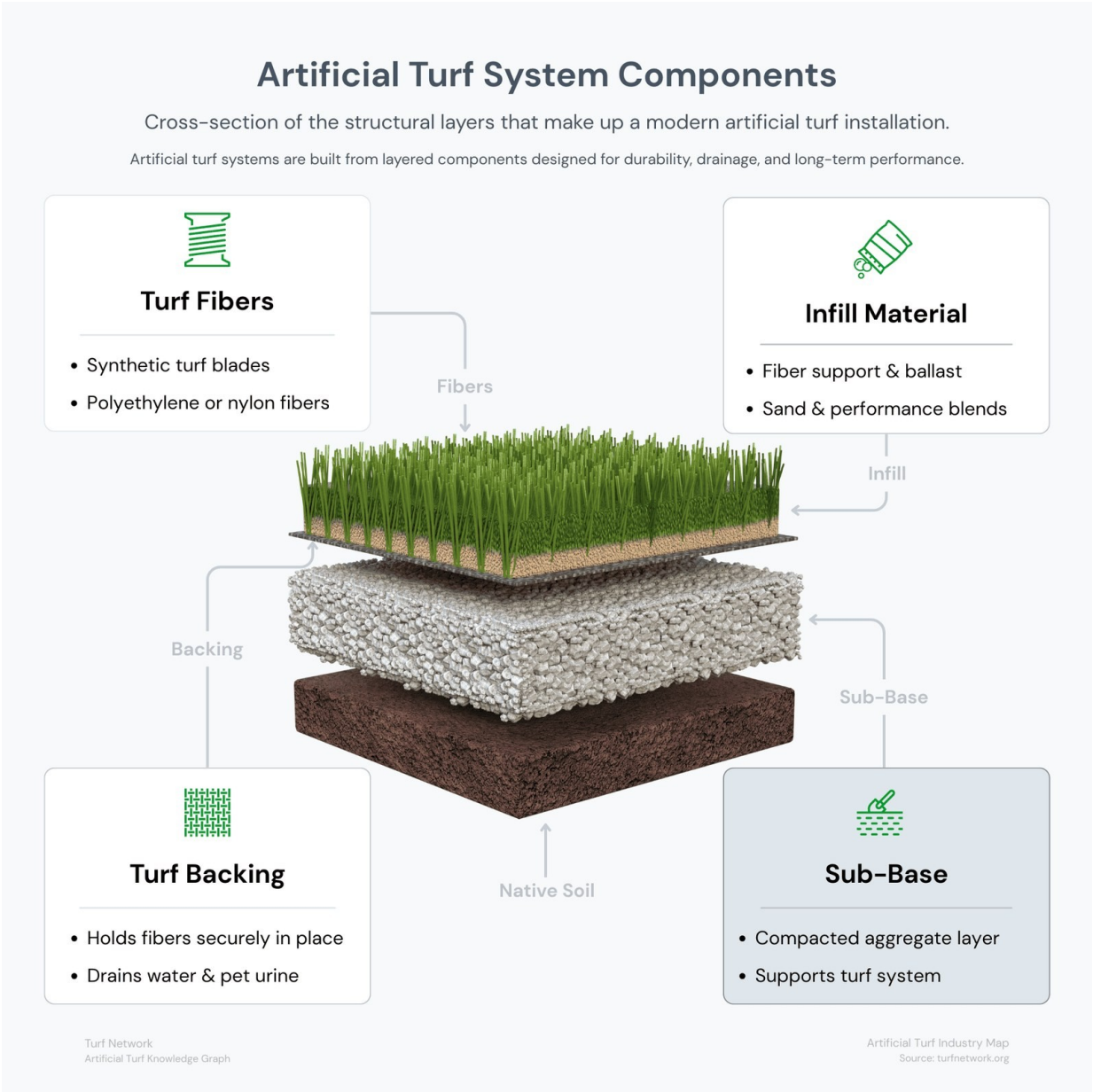
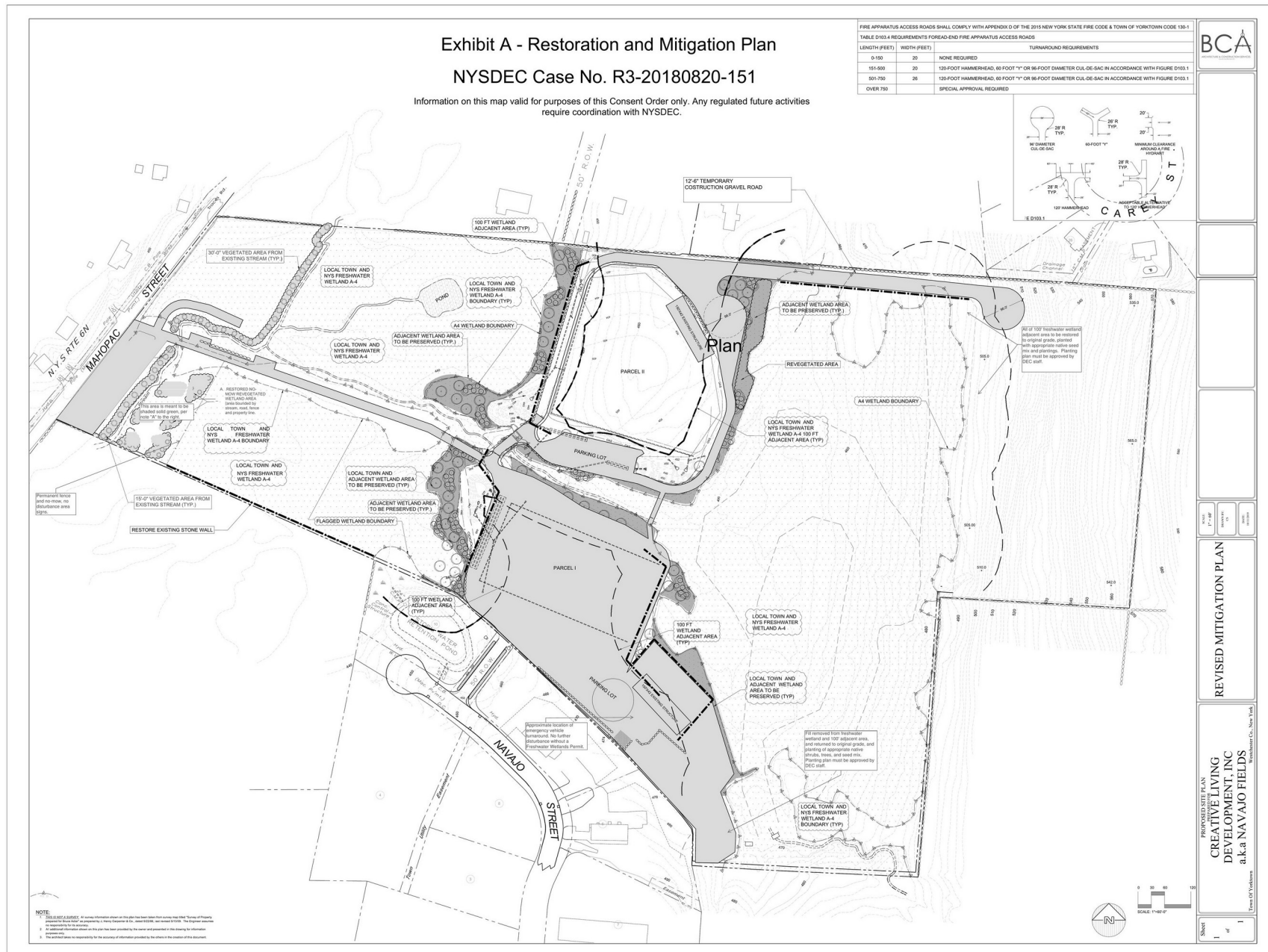
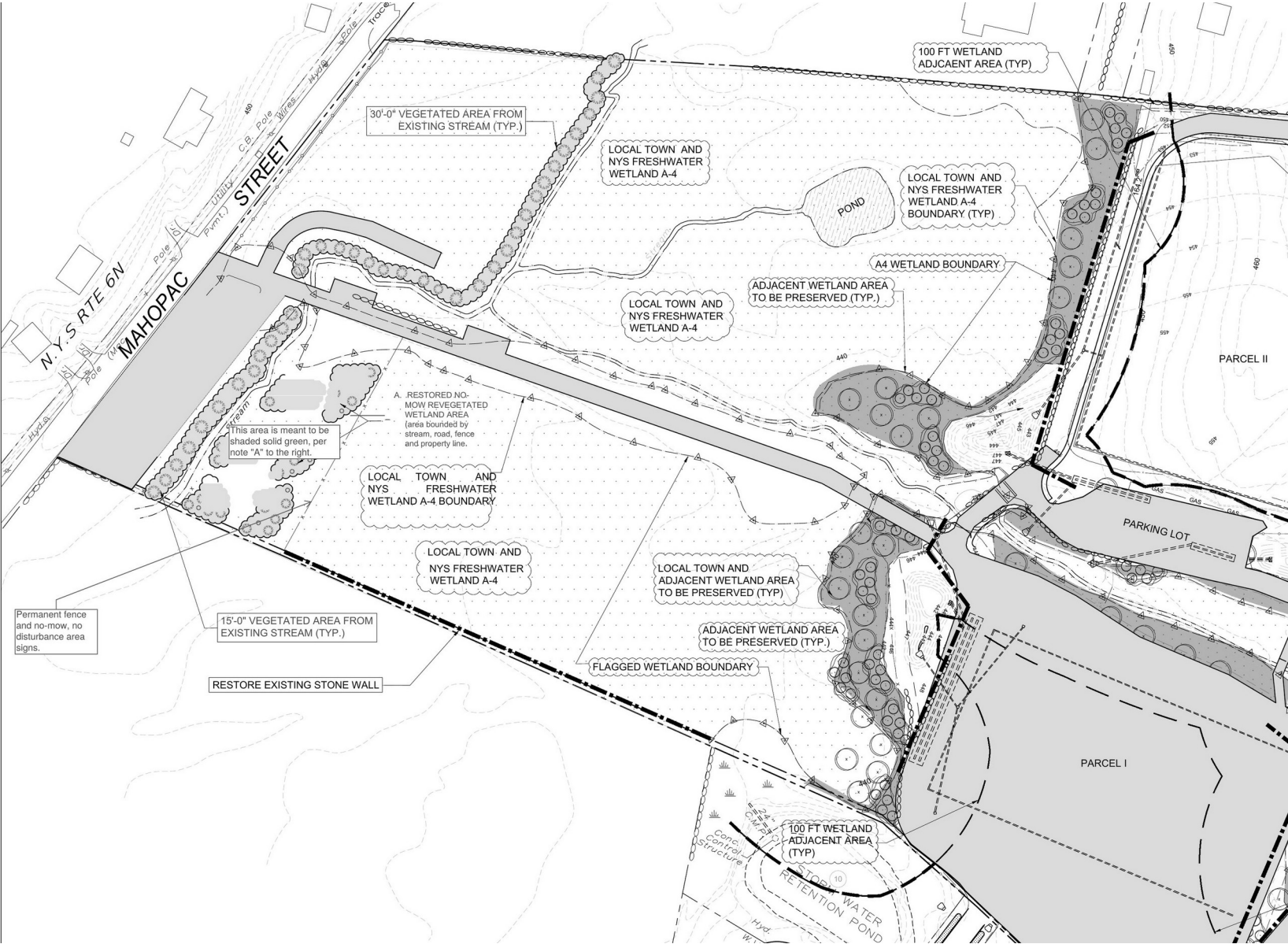


Exhibit A as annexed to and executed with the NYSDEC Order on Consent of March 29, 2022 (the final page of the executed Order, reproduced in full at Attachment D, Exhibit J). Reduced from the original sheet; reproduced as executed and without alteration.



ATTACHMENT C — Detail — the Western Field (enlarged)

Enlarged from the sheet on the preceding page, without alteration. Compare the work area shown on Attachment A.



ATTACHMENT D — THE PRIOR APPROVALS

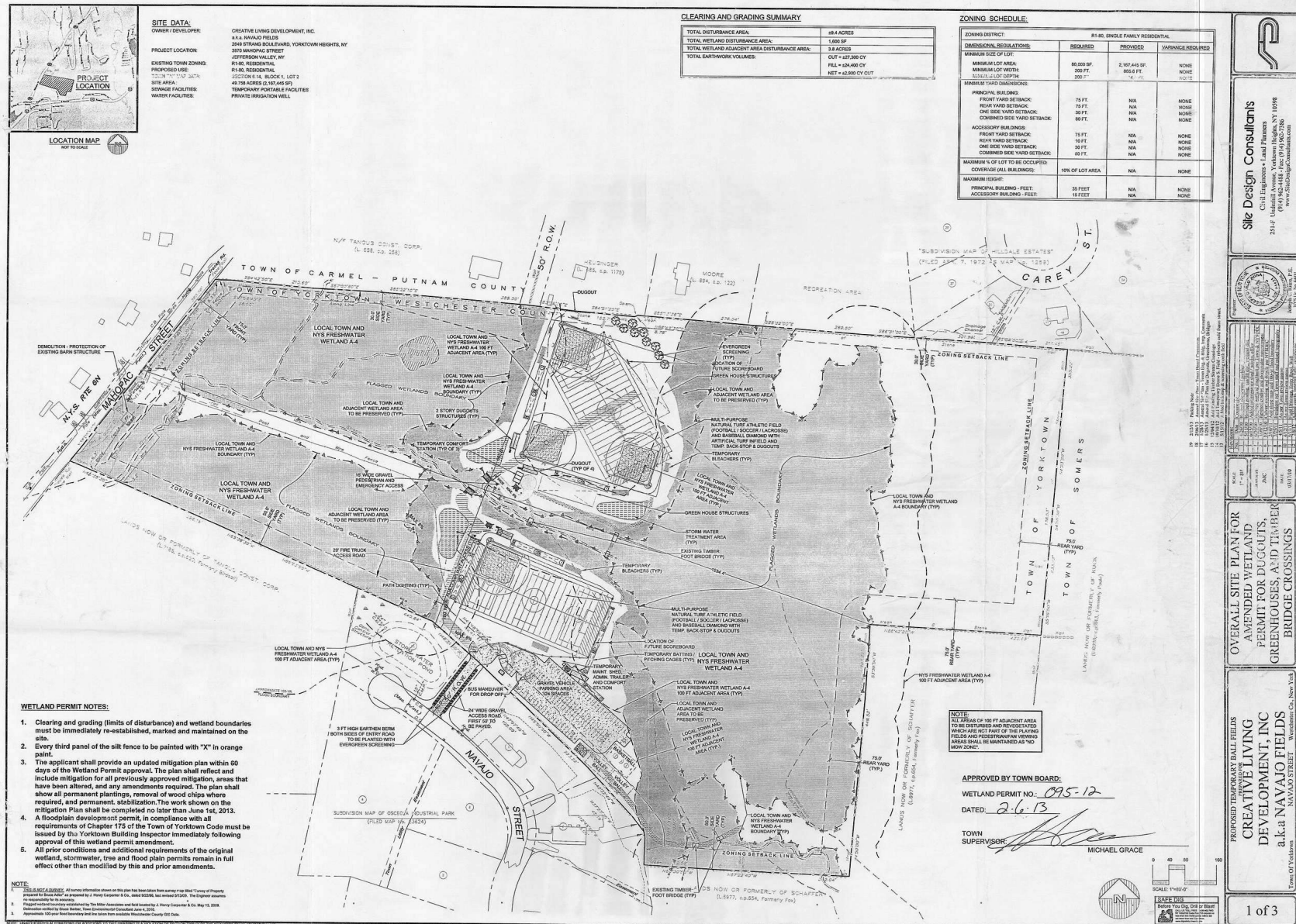
Approvals and Records Cited in the Supporting Statement of Entitlement Under Prior Approvals

The Supporting Statement submitted herewith rests on approvals already granted and records already made. Each is reproduced below, in full or by the pages concerning this parcel, under the exhibit letter the Statement uses, so that the Lead Agency need take nothing on description. Where the Statement relies on a record already reproduced elsewhere in this submission, the location is given. Where a record cited in the Statement is not reproduced, that is stated.

Ex.	Record	Where
A	Revised Mitigation Plan, marked and provided by the Town Engineer	Attachment A
B	Overall Site Plan, Field Layout Plan and Fire Access Plan, Sheets 1–3, approved by the Town Board, Wetland Permit No. 095-12, dated 2-6-13, signed by Supervisor Michael J. Grace; Town Board resolution of February 12, 2013	Reproduced
C	Town Board minutes, public hearing of June 15, 2010 (pages concerning this application)	Reproduced
D	Tim Miller Associates, Inc. to NYSDEC (A. Peterson), August 10, 2010, with Turf Management Plan	Not reproduced — to follow
E	SEQRA Negative Declaration and Town Board resolution, March 15, 2011; Town Board minutes of March 15, 2011 (pages concerning this application)	Reproduced
F	Wetland/Excavation Permit WP-E-010-10 and Tree Permit WP-T-019-11, dated 04-20-11, with the approving Town Board resolution of April 5, 2011; Resolution #198 of April 20, 2011	Reproduced
F-1	Town Board resolutions of February 21, 2012 (dugouts) and March 20, 2012, Resolution #114, amending the permit (cited in the Statement’s chronology)	Reproduced
G	Planning Board Resolution #13-36, December 9, 2013 (certified copy); Building Inspector John Winter correspondence of May 8, 2013	Resolution reproduced; Winter correspondence to follow
H	Town Clerk letter of June 8, 2016 and Town Board bond release resolution of June 7, 2016	Not reproduced — to follow
I	Letter of Supervisor Michael J. Grace, November 1, 2016	Reproduced
J	NYSDEC Order on Consent, Case No. R3-20180820-151, March 29, 2022, with Exhibit A	Reproduced; Exhibit A at Attachment C
K	E-mail of Sarah A. Pawliczak, NYSDEC Region 3, October 20, 2023	Reproduced
L	NYSDEC letter of August 23, 2013; Tim Miller Associates, Inc. to NYSDEC, October 16, 2013; notes of the NYSDEC meeting of October 2, 2013; NYSDEC closing letter of November 3, 2015	Reproduced, except the closing letter, to follow
M	Cross-section of the turf system (illustrative)	Attachment B

EXHIBIT B — Overall Site Plan, Sheet 1 of 3 — Approved by Town Board, Wetland Permit No. 095-12, Dated 2-6-13

Signed by Michael J. Grace, Town Supervisor. Reduced from the original sheet.



Site Design Consultants
 251-4 Juddville Avenue, Yorktown Heights, NY 10598
 (914) 962-4488 ext (914) 962-2286
 www.site-design.com

OVERALL SITE PLAN FOR
AMENDED WETLAND
PERMIT FOR DUGOUTS,
GREENHOUSES, AND TAILER
BRIDGE CROSSINGS

1 of 3

EXHIBIT B — Sheet 1 of 3 — Detail: Site Data, Clearing and Grading Summary and Zoning Schedule

Enlarged from the sheet on the preceding page, without alteration.



LOCATION MAP
NOT TO SCALE

SITE DATA:

OWNER / DEVELOPER: CREATIVE LIVING DEVELOPMENT, INC.
a.k.a. NAVAJO FIELDS
2548 STRANG BOULEVARD, YORKTOWN HEIGHTS, NY
PROJECT LOCATION: 3870 MAHOPAC STREET
JEFFERSON VALLEY, NY
EXISTING TOWN ZONING: R1-80, RESIDENTIAL
PROPOSED USE: R1-80, RESIDENTIAL
TOWN MAP DATA: SECTION 8.14, BLOCK 1, LOT 2
SITE AREA: 48.735 ACRES (2,157,445 SF)
SEWAGE FACILITIES: TEMPORARY PORTABLE FACILITIES
WATER FACILITIES: PRIVATE IRRIGATION WELL

CLEARING AND GRADING SUMMARY

TOTAL DISTURBANCE AREA:	±9.4 ACRES
TOTAL WETLAND DISTURBANCE AREA:	1,600 SF
TOTAL WETLAND ADJACENT AREA DISTURBANCE AREA:	3.8 ACRES
TOTAL EARTHWORK VOLUMES:	CUT = ±27,300 CY FILL = ±24,400 CY NET = ±2,900 CY CUT

ZONING SCHEDULE:

ZONING DISTRICT:
DIMENSIONAL REGULATIONS:
MINIMUM SIZE OF LOT:
MINIMUM LOT AREA:
MINIMUM LOT WIDTH:
MINIMUM LOT DEPTH:
MINIMUM YARD DIMENSIONS:
PRINCIPAL BUILDING:
FRONT YARD SETBACK:
REAR YARD SETBACK:
ONE SIDE YARD SETBACK:
COMBINED SIDE YARD SETBACK:
ACCESSORY BUILDINGS:
FRONT YARD SETBACK:
REAR YARD SETBACK:
ONE SIDE YARD SETBACK:
COMBINED SIDE YARD SETBACK:
MAXIMUM % OF LOT TO BE OCCUPIED BY BUILDINGS:
COVERAGES (ALL BUILDINGS):

EXHIBIT B — Sheet 1 of 3 — Detail: Approval Block

Enlarged from the lower right of Sheet 1, without alteration.

(TYP.)
LANDS NOW OR FOR
(L-6977, c.p.65)

APPROVED BY TOWN BOARD:

WETLAND PERMIT NO.: 095-12

DATED: 2-6-13

TOWN
SUPERVISOR: [Signature]
MICHAEL GRACE

0 40 80 16

SCALE: 1"=80'-0"

SAFE DIG
Before You Dig, Drill or Blast!
CALL US TOLL FREE 1-800-455-7912
NY Industrial Code Rule 723 requires so

Signed by Michael J. Grace, Town Supervisor. Reduced from the original sheet.



EXHIBIT B — Fire Access Plan, Sheet 3 of 3 — Approved by Town Board, Wetland Permit No. 095-12, Dated 2-6-13

Signed by Michael J. Grace, Town Supervisor. Reduced from the original sheet.

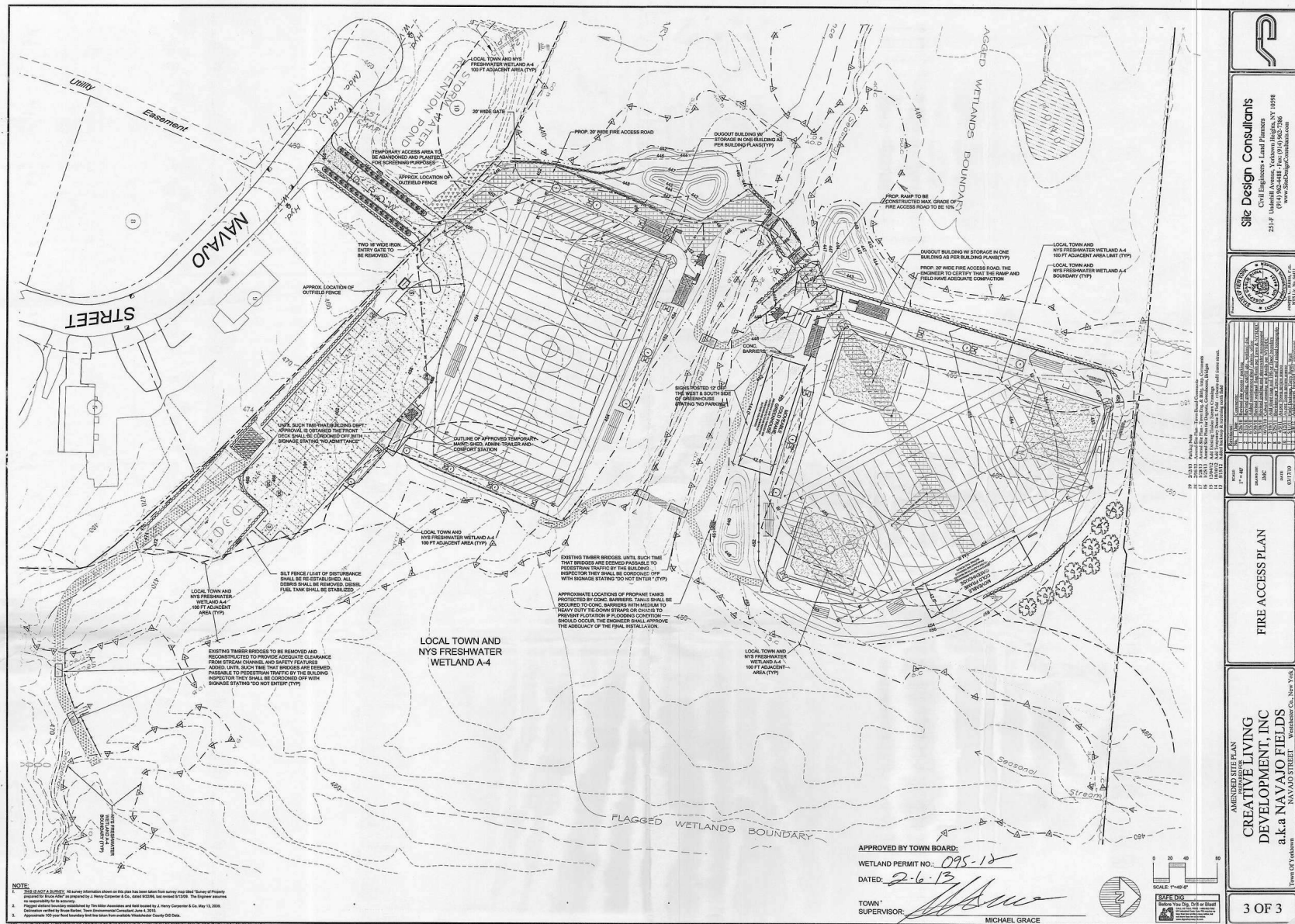


EXHIBIT B (continued) — Town Board Resolution of February 12, 2013 — Wetlands and Stormwater Permit 095-12, amending WP-E-010-10 and T-020-11

Town Board work session minutes, February 12, 2013, pages 3 and 4, as produced by the Deputy Town Clerk on February 3, 2023.

WETLANDS AND STORMWATER PERMIT: 095-12, amending WP-E-010-10 and T-020-11, TOWN OF YORKTOWN, NEW YORK, TAX MAP: SECTION 6.14 BLOCK 1 LOT 2

WHEREAS, Creative Living Development, Inc ("the applicant") is the owner of record of a 49.75 +/- acre parcel in the Town of Yorktown identified on the Town of Yorktown tax maps as Section 6.14 Block 1 Lot 2 situated on Mahopac Street and accessible from Navajo Road and situated in an R1-80 single-family zone and;

WHEREAS, the Town Board of the Town of Yorktown issued a wetland permit, excavation (stormwater) permit and tree permit (WP-E-010-10 and T-020-11, respectively) by resolution dated April 5, 2011 permitting with conditions the construction of a temporary private park complex which is a main permitted use in the R1-80 zoning classification under the Town of Yorktown zoning code; and

WHEREAS, Town of Yorktown Town Board amended the wetland, excavation and tree permit by resolution dated February 21, 2012, permitting with conditions the construction of four (4) dugouts; and

WHEREAS, Town of Yorktown Town Board amended the wetland, excavation and tree permit by resolution dated March 21, 2012, permitting with conditions the construction of a climbing wall, two volleyball courts, a basketball court and sixteen (16) batting/pitching cages (as so amended, the "Permit"); and

WHEREAS, the applicant has submitted a Town of Yorktown Wetland and Full Stormwater Permit Application number FSWPP-WP-095-12 seeking to amend the Permit to allow the applicant to: (1) construct 2 cold frame greenhouse structures, (2) modify two of the dugouts by adding two storage areas and expanding two observation decks, (3) installing propane storage tanks and associated protection, anchoring and piping used for heating the greenhouses, (4) install 5 timber bridge stream crossings with connecting wood chip paths and, (5) install a fire access road ("proposed improvements"), and;

WHEREAS, the applicant submitted the following plans in support of the instant application:

Plans entitled; "Proposed Temporary Ball fields prepared for Creative Living Development Inc a.k.a. Navajo Fields" prepared by Site Design Consultants, originally dated March 17, 2010, revised February 12, 2013, 3 total sheets: 1 of 3, 2 of 3 and 3 of 3 (the "Amended Plans");

NOW THEREFORE, BE IT RESOLVED, the Amended Plans are incorporated into the amended wetland and stormwater permit by reference; and be it further

RESOLVED, the Town Board has determined that the proposed work does not represent a substantial amendment to a previously approved, unexpired non-administrative permit and in accordance with Section 178-11(E)(5) of the Town Code of the Town of Yorktown a public hearing is not required; and be it further

RESOLVED, application FSWPP-WP-095-12 is granted; the Permit is hereby amended; and the Amended Plans are approved, subject to the signing of the Amended Plans by the Town Supervisor; and be it further

RESOLVED, all work associated with the amended Permit shall be conducted and all conditions set forth on the Amended Plans shall be met in strict compliance with the Amended Plans; and be it further

RESOLVED, all prior conditions and additional requirements of the Permit remain in full effect except as modified herein; and be it further

RESOLVED, the applicant shall return to the Town Board for a compliance review within 180 days from the date of this resolution unless an extension is requested by the applicant in writing within said 180 day period and approved by the Town Board; and be it further

RESOLVED, the amended Permit shall automatically expire upon completion of the work.

Grace, Murphy, Patel, Paganelli Voting Aye
Resolution adopted.

PROPOSED LOCAL LAW – RAISING FOWL IN RESIDENTIAL DISTRICTS

Town Attorney Jeannette Koster discussed a proposed local law with the Town Board regarding raising fowl in residential districts. The Town Board made some revisions to the proposed local law and agreed to refer it out for comment.

REFER OUT PROPOSED LOCAL LAW – RAISING FOWL IN RESIDENTIAL DISTRICTS
RESOLUTION #78

Upon motion made by Supervisor Grace, seconded by Councilman Patel,

RESOLVED, that the Town Clerk is hereby authorize to refer a Proposed Local Law amending Chapter 300 of the Code of the Town of Yorktown entitled "ZONING," concerning the keeping of fowl in residential districts.

The Board would like your comments sent or emailed to me at alice@yorktownny.org before March 12, 2013. May I also request that you respond even if you have no comments or opinions, and

BE IT FURTHER RESOLVED, the Town Board declares its intent to act as Lead Agency.

To: Ed Burroughs, Commissioner, Westchester County Planning Commissioner
Cheryl Winter Lewy, Chair Westchester County Planning Board
Dr. Sherlita Amler, Westchester County Health Commissioner

William Janeway, Regional Director, New York State Department of Environmental Conservation

Cynthia Garcia - New York City Department of Environmental Protection

JoAnn Dyckman, Town Clerk - Town of Cortlandt
Kathleen Pacella, Town Clerk - Town of Somers
Town of Putnam Valley – Town Clerk
Jill Shapiro, Town Clerk - Town of New Castle
Mary Ann Roberts, Town Clerk - Town of Ossining

Town of Yorktown Agencies

Building Inspector
Conservation Board
Planning Department/Board
Zoning Board of Appeals
Town Attorney
Town Board
File

Grace, Patel, Paganelli Voting Aye
Murphy Voting Nay
Resolution adopted.

2013 BUDGET TRANSFER
RESOLUTION #79

Upon motion made by Supervisor Grace, seconded by Councilman Patel,

Be It Resolved, upon the request of the Town Comptroller, the following 2013 budget transfers are requested:

From: A1315.101 Comptroller Salary

February 12, 2013

EXHIBIT C — Town Board Minutes — Public Hearing of June 15, 2010

Regular meeting of the Town Board, June 15, 2010, pages 7 and 8 (Public Hearing, Creative Living Development — Wetlands & Excavation Permit), as produced by the Deputy Town Clerk on February 3, 2023.

WHEREAS, consistent with SEQRA, the Town Board on June 15, 2010 adopted a SEQRA Findings Statement approving the Proposed Action; and

WHEREAS, the Town Board finds that the Comprehensive Plan will serve the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the Town and its environs which will, in accordance with present and future needs, best promote health, safety, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development, including, among other things, adequate provision for transportation, water resources, utility infrastructure, parks, recreation, and schools; the promotion of safety from fire, flood waters, and other dangers; adequate provisions for open space, distribution of population, affordable workforce housing, the promotion of good civic design and arrangement, efficient expenditure of public funds, the promotion of energy conservation; and the provision and maintenance of adequate service levels for public utilities and all other service sector departments of the Town;

NOW THEREFORE, BE IT RESOLVED that the updated Comprehensive Plan is hereby adopted as the Comprehensive Plan of the Town of Yorktown.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Supervisor Siegel	Voting	Aye	
Councilman Bianco	Voting	Nay	
Councilman Martorano	Voting	Aye	
Councilman Murphy	Voting	Aye	
Councilman Patel	Voting	Aye	

The Resolution was thereupon declared duly adopted.

PUBLIC HEARING

CREATIVE LIVING DEVELOPMENT

WETLANDS/EXCAVATION PERMIT – TEMPORARY ATHLETIC FIELDS

NAVAJO ROAD

Supervisor Siegel convened the public hearing to consider the application of Creative Living Development for a Wetlands/Excavation Permit for the construction of temporary multi-purpose athletic fields on Navajo Road, Jefferson Valley, NY 10535.

Affidavits of Posting and Publication were presented by the Town Clerk.

Mr. Albert Capellini, attorney for the applicant explained that this project, a private park will consist of two multi-purpose ball fields. The primary owner of the site is C.J. Diven. His team consists of Joseph Riina, of Site Design, the Project Engineer and Steve Marino of Tim Miller Associates who is our environmental engineer. This is an "as-of-right" use for the property under the current zoning code. The applicant is requesting an excavation permit. There will be intrusion into the wetland buffer.

Mr. Joseph Riina, P.E. stated that the site is at the northeast quadrant of the Town of Yorktown. It consists of approximately 47 acres. 15 acres are open meadow, the rest is forested. There are 26 acres of federal and local wetlands on the site. The primary access to this site is off Navajo Road. There is a 20 foot ground access road that will provide parking for 120 vehicles. There will be two fields. The northern field will be a full size baseball field. The field will also accommodate lacrosse and field hockey. It will have natural turf. The southern field will be a multi-purpose field. There will be bleachers of modest size. We will need two temporary crossings. There will be comfort stations. A mobile building will house maintenance equipment. It will also serve as an office for registration. There are minimal utilities on this site, no sewers, only water and power. We will have to drill wells to provide an irrigation system for the ball fields. Storm water will be collected. There will be no loss of wetlands. We will provide evergreen screening at the northern area of the property.

Mr. Steve Marino, stated that there are state and locally regulated wetlands on the site. Representatives of the New York State Department of Environmental Conservation and Bruce Barber, the Town's wetlands consultant

have confirmed our delineation of the wetlands boundary. The applicant is beginning to move forward getting his New York State wetlands permit. Most of the fields are out of the buffer, but there will be some grading along the wetlands buffer. Our plan is to replant 56 trees along the buffer area. The in-field of the baseball field will have artificial turf. The applicant will only use organic materials on the fields.

Mr. C.J. Diven, primary owner of the site stated that the purpose of creating these two fields is to try to have amateur athletes compete here.

Mr. Diven was asked how he would make money on this project?

He explained that the field are being created to enhance the community. We need additional fields. His goal ultimately is to build a sports complex on the site.

Mr. Howard Frank stated that he wanted to know what the Planning Board had to say about this project. He added that he believes that the site should have public water and sewers.

Mr. Joseph Visconte, President of the New Yorktown Chamber of Commerce stated that he was here to provide support for this project.

Mr. Gil Kaufman stated that if the field is going to have artificial turf, the Town Board should be aware that many injuries are caused when this type of field is used.

Mr. Steven Rosen, President of the Shrub Oak Athletic Club stated that his organization represents 1500 families who support this application. Mr. Rosen ended by stating that they desperately need these fields.

Mr. Robert Mulvey stated that he too supports this project.

Mr. Mitchell Green, representing the Yorktown Athletic Club stated that they have more than 50 recreation and travel teams and he believes that these fields are absolutely necessary.

Mr. Eric DiBartolo, Highway Superintendent for Yorktown spoke about the current condition of many of the Town's fields. This project is a homerun for the Town of Yorktown.

Mr. Charles Daughtry, manufacturer of the synthetic turf that will be used on these fields stated that kids will be able to play on these fields twelve months a year.

Supervisor Siegel stated that the general consensus amongst the members of the Town Board is to support this application. She further stated that the applicant has not fully answered all questions associated with a memorandum sent to the Town Board by the Acting Town Engineer, Planning Director and Environmental Consultant.

All those present having been given the opportunity to be heard and there being no further discussion. Councilman Bianco motioned, seconded by Councilman Martorano to adjourn the public hearing.

Siegel, Bianco, Martorano, Patel Voting Aye
Murphy Nay
Resolution adopted.

PUBLIC HEARING
CORNER CARE CAR – GASOLINE STATION
REQUEST FOR A SPECIAL USE PERMIT

Supervisor Siegel convened the public hearing to consider the application of Competition Auto Inc., d/b/a Corner Car Care at 1999 East Main Street, Mohegan Lake, NY 10547 for a Special Use Permit to restore new pumps to site and install canopy over them. Affidavits of Posting and Publication were presented by the Town Clerk.

EXHIBIT E — SEQRA Negative Declaration — Notice of Determination of Non-Significance, March 15, 2011, with the Town Board Resolution

Town of Yorktown Town Board as lead agency. Notice, pages 1 through 6 of 6, followed by the Town Board resolution of March 15, 2011 adopting the Negative Declaration (two pages).

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

Date: March 15, 2011

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

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

Name of Action: Creative Living Development, Inc.
Navajo Road
Town of Yorktown, New York

SEQRA Status: ☐ Type 1
☒ Unlisted

Conditioned Negative Declaration: ☐ Yes
☒ No

Coordinated Review: ☒ Yes
☐ No

Description of Action: Creative Living Development, Inc. is proposing to convert 9.8 +/- acres of a 49.75+/- acre parcel formerly used as pasture and paddock area into a private park complex consisting of two multiuse athletic fields and one college level baseball field. Associated site improvements include a pervious parking area designed to accommodate 121 cars, a gravel path to provide access to the fields, an on-site, non-potable water supply well and required electrical connections that shall be used for irrigation purposes, stormwater practices, two open bottom culverts which shall be installed to provide access over a watercourse, and plantings which shall serve in part as wetland mitigation and also for the purpose of screening and noise attenuation. Associated temporary or removable site fixtures include comfort stations, bleachers and backstops. The above proposed improvements shall constitute "the proposed action". There shall not be any lighting, permanent sewage disposal system or potable water supply.

The site is located in an R1-80 zoning district and is situated on the easterly section of Navajo Road in the Town of Yorktown and is identified on the Town of Yorktown tax

rolls as Section 6.14 Block 1 Lot 2 ("the subject property"). The subject property contains wetlands and wetland buffers that are jurisdictional to the Town of Yorktown and the New York State Department of Environmental Conservation (NYSDEC), as well as flood plain area designated as "Zone A" as indicated on the National Flood Insurance Program-Flood Insurance Rate Map #36119C0033F effective date September 28, 2007.

Location: Section 6.14 Block 1 Lot 2, Navajo Road, Town of Yorktown, Westchester County, New York.

Reasons Supporting This Determination: The Town Board has compared the proposed action with the Criteria for Determining Significance in 6 NYCRR 617.7 (c). Specifically:

1. The proposed action will not result in a substantial adverse change in the existing air quality; ground or surface water quality or quantity; traffic; noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems. Specifically:
 - a. The multi-use fields will have a sod surface and the baseball field will have a sod and "synthetic turf" surface and therefore will not reduce ambient air quality. Any dust generated during the construction will be attenuated with specific erosion and sediment control practices. Noise impacts have been mitigated through the use of evergreen screening and an operational plan and schedule. Lighting shall not be installed.
 - b. The proposed site disturbance is located, in part, within a Type I NYSDEC and Town of Yorktown jurisdictional wetland buffer area. In addition, a small area of temporary wetland disturbance at a seasonal watercourse will occur at the time of open bottom culvert installation which is necessary to provide access to the fields. The project will result in the permanent modification of 3.8 acres of wetland buffer. The majority of the impacted wetland buffer area has been previously disturbed and managed during prior use as pasture and paddock area. The wetland crossings are located in an area of existing wooden bridges which must be replaced and updated to accommodate the proposed use. The removal trees within the wetland buffer area will result in moderate fragmentation and some loss of wetland buffer function, including habitat and water quality. In order to mitigate impacts associated with the proposed wetland and wetland buffer disturbance, the applicant will be required to provide a complete wetland mitigation plan including the installation of a minimum of 68 trees, removal of invasive species, construction of stormwater quality basins, development of an integrated pest management program and re-establishment of the vegetated stream corridor. The Town Board is in receipt of correspondence from NYSDEC dated 03/01/2011 indicating that the NYSDEC wetland permit application is incomplete pending only the issuance of a negative declaration from the Town Board. A Town of

Yorktown wetland permit is required.

- c. The subject property is not located within a New York City Department of Environmental Protection (NYCDEP) jurisdictional watershed. Given the fact that the total area of disturbance is greater than one (1) acre, a full Stormwater Pollution Prevention Plan (SWPPP) is required. A Full SWPPP has been prepared and stormwater runoff will be collected and treated appropriately on-site. A Town of Yorktown Stormwater Permit is required.
 - d. A Sediment and Erosion Control Plan has been developed in accordance with the latest *"New York State Standards and Specifications for Erosion and Sediment Control"* manual. Particular attention has been paid to properly protect Town/NYSDEC wetlands.
 - e. The subject property is located within a "Zone A" FEMA mapped floodplain. Proposed activity will result in the installation of approximately 9,680 cubic feet of fill within the floodplain resulting in a 2.7" increase in post-construction floodplain elevation. Engineering analysis has determined that there will not be any negative impacts to properties associated within this activity. The applicant is required to obtain a Town of Yorktown Floodplain Permit.
 - f. A traffic study has been conducted which indicates a maximum increase of 57 peak hour trips. The study concludes that the project will result in a very small percentage increase in traffic on US Route 6.
 - g. The proposed action is a "carry-in/carry-out" facility and therefore will not generate substantial solid waste and therefore there will not be any substantial increase in solid waste.
2. The proposed action will not result in the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impact a significant habitat area; result in substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such species; and will not result in other significant adverse impacts to natural resources. Specifically:
- a. The majority of the subject property, as a former pasture and paddock area, has been previously disturbed and managed and exhibits early succession growth consisting predominately of herbaceous plants. The proposed action will replace the existing herbaceous plants in the within the area of disturbance with turf grass. The baseball infield is proposed to be constructed of synthetic turf. Trees along the periphery of the fields will be removed. The majority of the trees are less than 6" in diameter at direct breast height and are impacted by vines and invasive plant growth,

A Town of Yorktown Tree Permit is required. Tree removal shall be mitigated in accordance with the Town of Yorktown Tree Ordinance. Temporary areas of disturbance outside of the fields shall be replanted with a meadow/shrub seed mix.

- b. The Town Board received a report from the NYSDEC Natural Heritage Program, dated July 20, 2010 which indicates that there are no records of rare or state-listed animals or plants, significant natural communities, or other significant habitats, on or in the immediate vicinity of the site.
3. The proposed action will not result in the impairment of the environmental characteristics of a Critical Environmental Area as designated pursuant to 6 NYCRR Part 617.14(g). Specifically:
 - a. The subject property does not contain and is not in the immediate vicinity of a Critical Environmental Area.
4. The proposed action will not create a material conflict with the Town's current plans or goals as officially approved or adopted. Specifically:
 - a. The proposed use of the subject property as a private park is an allowable use under the current zoning designation. The site is designed to be ADA accessible.
5. The proposed action will not result in the impairment of the character or quality of important historical, archaeological, or aesthetic resources or of existing community or neighborhood character. Specifically:
 - a. The Town Board is in receipt of a letter from the NYS Office of Parks, Recreation and Historic Preservation, dated August 26, 2010, which states that the proposed action will have no effect upon cultural resources in or eligible for inclusion on the National Registers of Historic Places.
 - b. The site is situated adjacent to a large area of open land, small industrial buildings located along Navajo Road and single-family residences. The subject proposal shall serve as a managed, transition area and buffer between industrial and residential properties.
6. The proposed action will not result in a major change in the use of either the quantity or type of energy. Specifically:
 - a. The proposed action will result in a nominal increase in electrical usage in order to provide power to the well and irrigation pump system. Arrangements for bus transportation and car pool parking have been made to reduce gasoline consumption.

7. The proposed action will not create a hazard to human health. Specifically:
 - a. The conversion of existing pasture and paddock area to managed ballfields and associated site improvements will not result in identified hazards to human health. Access to the fields for emergency service providers has been designed. The use of fertilizers and pesticides shall be limited by an integrated pest management program.
8. The proposed action will not create a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses. Specifically:
 - a. The subject property is currently vacant and unimproved and was formerly used for recreational purposes. The proposed action will result in an alteration of the existing use of the property to a private park and will remain a recreational resource.
9. The proposed action will not encourage or attract a large number of people to a place or place for more than a few days, compared to the number of people who would come to such place absent the action. Specifically:
 - a. The proposed facility will attract a large number of people. The number of people present on site has been limited to a maximum of 200. The hours of operation have been limited.
10. The proposed action will not create a material demand for other actions that would result in one of the above consequences. Specifically:
 - a. The proposed action will fill, in part, an existing shortage of active recreational fields in the surrounding area. Town of Yorktown residents shall be given preference to use the fields.
11. The proposed action will not result in changes in two (2) or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment.
12. When analyzed with two (2) or more related actions, the proposed action will not have a significant impact on the environment and when considered cumulatively, will not meet one or more of the criteria under 6 NYCRR 617.7(c).
13. The Town Board has considered reasonably related long-term, short-term, direct, indirect and cumulative impacts, including other simultaneous or subsequent actions.

For further information contact:

Alice Roker, Town of Yorktown Town Clerk
363 Underhill Avenue
Yorktown Heights, NY 10598
Phone: 962-5722 x 209

This notice is being filed with:

1. Town of Yorktown Planning Board
2. Town of Yorktown Conservation Board
6. Westchester County Planning Board
7. New York State Department of Environmental Conservation
8. New York State Department of Transportation
9. U.S. Army Corps of Engineers

RESOLUTION

TOWN OF YORKTOWN TOWN BOARD

363 Underhill Avenue
Yorktown Heights, New York 10598

March 15, 2011

NEGATIVE DECLARATION

**CREATIVE LIVING DEVELOPMENT, INC.
SECTION 6.14 BLOCK 1 LOT 2
NAVAJO ROAD
TOWN OF YORKTOWN, NEW YORK**

WHEREAS, the owner has applied for a Town of Yorktown Wetland Permit and Excavation Permit (WP-E-010-10) and is required to apply for a Town of Yorktown Tree Permit and Town of Yorktown Flood Permit; and

WHEREAS, the applicant has applied for a New York State Department of Environmental Conservation (NYSDEC) wetland permit and has received a Notice of Incomplete Application from NYSDEC dated 03/01/2011; and

WHEREAS, the Notice of Incomplete Application from NYSDEC indicates that the applicant has satisfied NYSDEC requirements for a wetland permit other than obtaining a negative declaration from the lead agency; and

WHEREAS, the Town of Yorktown Town Board has declared lead agency; and

WHEREAS, extensive materials in the form of a long-form EAF (Parts I, II and III) as well as associated plans and reports have been provided by the applicant relative to this application; and

WHEREAS, these materials have been circulated to and reviewed by town staff, departments and boards; and

WHEREAS, the town staff, departments and boards have substantially completed review of the project with only minor open items remaining; and

WHEREAS, upon satisfactory response to all open items the Town Board will review the jurisdictional town permit applications and render decision; and

WHEREAS, proposed action has been determined to be an Unlisted Action under the State Environmental Quality Review Act (SEQRA),

NOW THEREFORE BE IT RESOLVED, that the Town Board has compared the proposed action with the Criteria for Determining Significance in 6 NYCRR 617.7 (c) and determined that the proposed action will not have a significant adverse impact on the environment.

Motion: Councilman Martorano

Second: Councilman Murphy

Supervisor Siegel.	Voting Aye
Councilman Bianco	Voting Aye
Councilman Martorano	Voting Aye
Councilman Murphy	Voting Aye
Councilman Patel	Voting Aye

BY: 
Alice E. Roker, Town Clerk

Filed at the Office of the Town Clerk, Town of Yorktown, New York, on the Date of:
March 15, 2011

To: Creative Living Development, Inc.

cc: Supervisor Susan Siegel
Acting Town Engineer Sharon Robinson
Yorktown Planner John Tegeder
Yorktown Planning Board
Yorktown Conservation Board
Yorktown Building Department
Wetlands Consultant Bruce Barber
NYS Department of Environmental Conservation
NYS Department of Transportation
US Army Corp. of Engineers

EXHIBIT E (continued) — Town Board Minutes of March 15, 2011 — Reconvened Public Hearing

Pages 6 and 7 of the minutes (Reconvene Public Hearing, Creative Living Development — Request Wetlands & Excavation Permits), as produced by the Deputy Town Clerk on February 3, 2023.

The Councilman asked Mr. & Mrs. Reed when they began to notice flooding on their property.

Councilman Patel stated that he was very concerned to hear about all of the drainage problems.

Councilman Murphy stated that the equipment purchased with money from the Trust and Agency Account did buy equipment to construct the Legacy Ballfields. But, before we sell the equipment, we hope to construct fields on the Granite Knolls property.

March 15, 2011

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RECONVENE PUBLIC HEARING

CREATIVE LIVING DEVELOPMENT - REQUEST WETLANDS & EXCAVATION PERMITS

Supervisor Siegel reconvened a public hearing to consider the application of Creative Living Development Inc. for a Wetlands / Excavation Permit for the construction of temporary multi-purpose athletic fields on Navajo Road, Jefferson Valley, NY 10535. Proposed activities include: Construction of athletic fields, wood chip pedestrian trails, drainage conveyance system and stormwater management basins and associated regrading activities. Reconstruction of two existing wood foot bridges. The Town Clerk presented affidavits of posting and publication.

Mr. Albert Capellini, attorney for the applicant stated that they have been in discussions with the New York State Department of Environmental Protection since August on this application. They are finally satisfied with the plan. Before they can issue a permit, the Town of Yorktown must issue a negative declaration for the project. Our wetlands consultant and engineer will update the application for you.

Using drawings of the site, Mr. Steve Marino, a representative of Tim Miller Associates showed the difference between the plan they presented to the New York State Department of Environmental Conservation in August and the new plan that was given to the Town several weeks ago. Some of the highlights of the new plan show that less disturbance to the wetlands boundary; the original plan called for a disturbance of 4.5 acres. The new plan reduces the amount of disturbance to 3.8 acres. The total disturbance to the site was also reduced from 9.8 acres to 9.2 acres. 63 new trees will also be planted.

Mr. Joseph Riina, the principal owner of Site Design, the engineering firm stated that this site is subject to Flood Damage Protection Law. The applicant will be presenting a letter to the Building Inspector from FEMA for a permit. He also showed the 9600 square feet of flood storage

Mr. Richard Campanero, President of the Yorktown Athletic Club (YAC) spoke in favor of this application. Just recently kids trying out for Lacrosse had to travel to West Point for tryouts because of the lack of fields in Yorktown. This project would also benefit teenagers in this community by creating new jobs.

Mr. Ed Ciffone stated that he was in favor of this project. But, he wanted to know where the building was. He also wanted to know if these were soccer or lacrosse fields.

Councilman Murphy stated that they were multi-purpose fields.

Mr. Ed Killeen stated that he supports this project because it is privately owned. He also stated that it is obvious that applicant took great concern with the environment. Mr. Killeen further stated that the Legacy Field will give us a legacy of debt.

Mr. Dave Pagnelli showed his support for the project.

Supervisor Siegel asked if the fields would be free for Yorktowners.

The applicant, C.J. Divens stated that the cost of Yorktown teams will be borne by their opponents in tournaments.

Several members of the Town staff, Acting Town Engineer Sharon Robinson, Wetlands Consultant Bruce Barber and Yorktown Planner John Tegeder presented a memorandum to the Board. The memorandum was generated after meeting with the applicant and representatives.

Mrs. Robinson went over the list of requirements that are still outstanding including a Status Update - the Stormwater Prevention Permit dated July 2010 must be updated to account for all modifications made to the plans since that date. Indicate soil testing location on plans. The applicant will also address such issues as getting water to the site, details on what the comfort station will provide.

March 15, 2011

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Mr. Barber stated that the wetlands have been validated. They need to show the lines of the town's wetlands boundary.

Mr. Capellini stated that the applicant is looking for the Town Board to close its SEQRA hearings tonight and adopt a negative declaration.

CLOSE SEQRA HEARINGS - CREATIVE LIVING, INC.
RESOLUTION #117

Upon motion by Councilman Martorano, seconded by Councilman Murphy,

RESOLVED, to close the SEQRA Hearings on the application for a wetlands and excavation permit for Creative Living, Inc.

Siegel, Bianco, Martorano, Murphy, Patel Voting Aye
Resolution adopted.

All those present having been given the opportunity to be heard and there being no further discussion the hearing on the wetlands and excavation permits, the hearing was adjourned. Councilman Bianco motioned, seconded by Councilman Murphy.

SEQRA - NEGATIVE DECLARATION
CREATIVE LIVING DEVELOPMENT - WETLANDS & EXCAVATION PERMITS
RESOLUTION #118

Upon motion made by Councilman Martorano, seconded by Councilman Murphy

WHEREAS, the owner has applied for a Town of Yorktown Wetland Permit and Excavation Permit (WP-E-010-10) and is required to apply for a Town of Yorktown Tree Permit and Town of Yorktown Flood Permit; and

WHEREAS, the applicant has applied for a New York State Department of Environmental Conservation (NYSDEC) wetland permit and has received a Notice of Incomplete Application from NYSDEC dated 03/01/2011; and

WHEREAS, the Notice of Incomplete Application from NYSDEC indicates that the applicant has satisfied NYSDEC requirements for a wetland permit other than obtaining a negative declaration from the lead agency; and

WHEREAS, the Town of Yorktown Town Board has declared lead agency; and

EXHIBIT F — Wetland/Excavation Permit WP-E-010-10 and Tree Permit WP-T-019-11, Dated 04-20-11, with the Approving Town Board Resolution of April 5, 2011

Issued over the signature of Sharon L. Robinson, P.E., Approval Authority. Eight pages.

5th permit

#WP-E-010-10
#WP-T-019-11

**TOWN OF YORKTOWN
TOWN BOARD
WETLAND/EXCAVATION/TREE PERMIT**

Additional Conditions of Permit

Description of Permitted Activity

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See attached approving Town Board resolution.

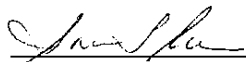
Additional Conditions of Permit

=====

Conditions to be followed are on Town Board approving resolution dated April 5, 2011.

See attached.

Permit #WP-E-010-10
#WP-T-019-11
Dated: 04-20-11


Sharon L. Robinson, P.E.
Approval Authority

REVIEWED BY ENVIRONMENTAL PANEL ☒ Yes ☐ No

ALICE E. ROKER
TOWN CLERK

REGISTRAR OF VITAL STATISTICS
TELEPHONE 914 962-5722 EXT. 209
FAX 914 962-6591
alice@yorktownny.org

TOWN OF YORKTOWN
363 UNDERHILL AVENUE, P.O. BOX 703
YORKTOWN HEIGHTS, N.Y. 10598

This is a resolution adopted by the Town Board of the Town of Yorktown at its meeting held on Tuesday, April 5, 2011

CREATIVE LIVING DEVELOPMENT, INC.

WETLANDS AND EXCAVATION PERMIT: WP-E-010-10
TREE PERMIT: T-011-11

TOWN OF YORKTOWN, NEW YORK
TAX MAP: SECTION 6.14 BLOCK 1 LOT 2

WHEREAS, Creative Living Development, Inc. ("the applicant") is the owner/contract vendee of a 49.75 +/- acre parcel in the Town of Yorktown identified on the Town of Yorktown tax maps as Section 6.14 Block 1 Lot 2 situated on Mahopac Street and accessible from Navajo Road and situated in an R1-80 single-family zone and;

WHEREAS, Creative Living Development, Inc. has filed applications with the Town Board of the Town of Yorktown for a wetland permit and excavation permit and a tree permit for the construction of a temporary private park complex which is a main permitted use in the R1-80 zoning classification under the Town of Yorktown zoning code and;

WHEREAS, the applicant proposes to convert 9.8 +/- acres of a 49.75 +/- acre parcel formerly used as pasture and paddock area into two multiuse fields and one college level baseball field and,

WHEREAS, the applicant proposes to provide associated site improvements including a pervious parking area designed to accommodate 121 cars, a gravel drive to provide access to the fields, an on-site, non-potable water supply well and required electrical connections, stormwater practices, two open bottom culverts which shall be installed to provide access over a watercourse, temporary comfort stations, temporary bleachers and backstops, a temporary shed and administration trailer, and plantings which shall serve in part as wetland and tree mitigation and also for the purpose of screening and noise attenuation and;

Handwritten notes in right margin:
- 121 cars
- gravel drive
- on-site, non-potable water supply well
- required electrical connections
- stormwater practices
- two open bottom culverts
- temporary comfort stations
- temporary bleachers and backstops
- temporary shed and administration trailer
- plantings
- wetland and tree mitigation
- screening and noise attenuation

WHEREAS, the following plans and documents have been submitted in support of the applications:

- Plans entitled; "Proposed Temporary Ballfields prepared for Creative Living Development Inc a.k.a. Navajo Fields" prepared by Site Design Consultants, originally dated March 10, 2010 with most recent revision date of April 5, 2011, 12 total sheets: T-1, G-1, C-101, C-102, C-103, C-104, C-105, C-106, C-107, C-501, C-502 and C-503.
- Plan entitled; "Tree Inventory Map" prepared by Site Design Consultants dated March 31, 2011 (revised date), 1 sheet C-103.
- Plan entitled; "Overall Site Plan and Buffer Mitigation Plan" prepared by Site Design Consultants (not signed or sealed) dated April 4, 2011, 1 sheet: Sheet 1 of 1.
- Stormwater Pollution Prevention Plan prepared by Site Design Consultants dated March 25, 2011 (most recent revision date).
- Memo dated March 29, 2011 executed by Joseph Riina, P.E. of Site Design Consultants, 2 pages.
- Memo dated February 23, 2011 executed by Joseph Cermele, P.E. of Site Design Consultants, 2 pages.
- Memo dated March 29, 2011 executed by Albert Capellini, Esq, 2 pages with 2 page attachment.
- Memo dated March 24, 2011, prepared by Steve Marino, PWS of Tim Miller Associates (unsigned), 2 pages with 5 pages attachment.

and;

WHEREAS, there shall not be any lighting or permanent sewage disposal; and

WHEREAS, there shall not be any potable water supply on the site unless a well is infeasible; and

WHEREAS, the fields and all associated improvements are with the exception of the mitigation and stormwater structures temporary, and;

WHEREAS, there are New York State and Town of Yorktown regulated wetlands and associated buffers located on the site; and

WHEREAS, the applicant proposes to permanently alter 3.8 acres of Town of Yorktown jurisdictional wetland buffer and temporarily disturb a Town of Yorktown watercourse and;

WHEREAS, the applicant has provided satisfactory documentation that there is a critical social need for additional ballfields within the Town of Yorktown and;

WHEREAS, the proposed wetland and wetland buffer disturbance is necessary to construct the proposed ballfields to address in part the critical social need for additional ballfields within the Town of Yorktown and;

WHEREAS, the applicant has provided a written plan which details how Town of Yorktown residents will be given priority in the use of the proposed fields to address the critical social need for ballfields and;

WHEREAS, this said plan is incorporated into the wetland permit by reference and;

WHEREAS, the applicant has provided an event management plan which will provide protocols and mitigation for periodic events where the persons in attendance exceed 200 total and said event plan will be reviewed and accepted according to the thresholds and parameters established therein and;

WHEREAS, access to the ballfields shall be from Navajo Road only and there shall not be any access to the ballfields including vehicular or pedestrian from Route 6N and;

WHEREAS, the applicant has provided a comprehensive plan to mitigate wetland and wetland buffer impacts and;

WHEREAS, the applicant proposes 9.5 +/- acres of land disturbance and;

WHEREAS, the applicant has submitted a comprehensive stormwater pollution prevention plan (SWPPP) including an erosion and sediment control plan and a stormwater design plan in compliance with the requirements of New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges from Construction Activity GP-0-10-001 and;

WHEREAS, the applicant proposes to remove approximately 6.7% of the total site woodland area and certain specimen trees and;

WHEREAS, the applicant has provided a comprehensive plan to mitigate the loss of trees as a result of this action and;

WHEREAS, the applicant proposes grading and filling within a designated flood plain area and;

WHEREAS, a floodplain development permit is required to be approved by the Town of Yorktown Building Inspector which, in part, requires certification from a New York State Licensed Professional Engineer that there shall not be any adverse impact on adjoining properties or adjoining structures and;

WHEREAS, the applicant has submitted a Long Environmental Assessment Form

(EAF), dated February 23, 2011 and,

WHEREAS, the proposed action has been determined to be an Unlisted Action under the State Environmental Quality Review Act (SEQRA); and

WHEREAS, a public hearing was convened on June 15, 2010 in order to solicit comments from the public regarding the proposed action and;

WHEREAS, the public hearing was reconvened on March 15, 2011 in order to solicit comments from the public regarding the proposed action and;

WHEREAS, following a coordinated review, the Town of Yorktown Town Board declared Lead Agency on March 15, 2011 and;

WHEREAS, the Town of Yorktown determined that the action will not have a significant adverse impact on the environment and a Notice of Determination of Non-Significance dated March 15, 2011 was issued and;

WHEREAS, the public hearing regarding the Town of Yorktown permit applications was reconvened on April 5, 2011;

NOW THEREFORE BE IT RESOLVED THAT, after considering all public input, the public hearing for the Wetlands and Erosion Control and Tree Permit is hereby closed and;

BE IT FURTHER RESOLVED THAT, the Wetlands and Excavation Permit and Tree Permit are granted and the plans enumerated herein are approved subject to the signing of said plans by the Town Supervisor and all work associated with the Wetland and Excavation Permit and Tree Permit shall be conducted in strict compliance with the approved plans; and

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

BE IT FURTHER RESOLVED THAT, the following conditions must be met prior to the Town Supervisor signing the Plans:

1. Submission of all applicable fees and escrows.
2. A floodplain development permit, in compliance with all requirements of Chapter 175 of the Town of Yorktown Town Code must be issued by the Town of Yorktown Building Inspector.

3. All comments contained in the April 4, 2011 memo drafted by the Acting Town Engineer, Town Environmental Consultant and Town Planner must be addressed to their written satisfaction. Final reports from the Acting Town Engineer, the Town Environmental Consultant and the Town Planner shall be submitted to the Town Board, which shall ensure that all comments have been satisfied and shall also address resolution conformance
4. A construction monitoring escrow in the amount of \$5,000 must be submitted to the Engineer Department Clerk.
5. The Town Attorney must provide written notification to the Town Board that she has reviewed this document and finds the form and content satisfactory.
6. The Town Supervisor shall sign the EAF.
7. The Town Stormwater Management Officer shall sign the MS4 acceptance form upon written recommendation from the Town Engineer.
8. An Erosion and Sediment Control Bond, or other collateral acceptable to the Town Board and in form acceptable to the Town Attorney, shall be submitted to the Engineering Department. Said security shall be in the amount of \$15,000.00 which shall be released upon required documentation of satisfactory completion of all work.
9. An Wetland and Tree Bond, or other collateral acceptable to the Town Board and in form acceptable to the Town Attorney, shall be submitted to the Engineering Department. Said security shall be in the amount of \$25,000 which shall be released after a five-year period as measured upon receipt of the as-built survey and upon written documentation by the Town of Yorktown that a minimum of 85% of the planted species as indicated on the as-built survey are viable.
10. Four original copies of the approved plans and SWPPP, as revised to meet the conditions of this Resolution, with all plan sheets signed by a NYS Professional Engineer shall be submitted for the Town Supervisor's signature.
11. Prior to the Town Supervisor signing the plans, the Town Clerk shall confirm with the Engineering Department Clerk that all consultant fees have been paid in full.
12. A valid New York State Department of Environmental Protection wetland permit must be provided.
13. A valid Westchester County Department of Health permit to install the well and associated equipment must be provided.
14. Copies of the event management plan and plan which details the priority of use by Town of Yorktown residents executed by the owners.

15. A tree mitigation plan which has been approved by the Town Engineer.
 16. A wetland mitigation plan which has been approved by the Town Engineer
- and;

BE IT FURTHER RESOLVED THAT, the Wetlands and Excavation Permit, Tree Permit and Floodplain Disturbance Permit are subject to the following conditions:

1. A pre-construction meeting with the applicants, the applicant's contractors, applicant's engineer, the Acting Town Engineer, Town Environmental Consultant, Town Planner and Town Building Inspector must be held a minimum of 72 hours in advance of the commencement of tree cutting and/or land disturbance. The applicant must contact the Town Engineering Department at 914-962-5722 x220 at least 72 hours in advance of the meeting date to schedule the pre-construction meeting.
 2. The applicant agrees to allow periodic inspections by the Town and its consultants.
 3. The Acting Town Engineer, Town Environmental Consultant, the Town Planner and the Town Building Inspector shall inspect the site at the end of construction, but prior to the issuance of a notice of satisfactory completion or any certificate of occupancy, to ensure compliance with the wetland and excavation permit, tree permit and floodplain development permit.
 4. No additional disturbance or modifications is permitted.
 5. Inspection reports prepared by the qualified stormwater inspector shall be furnished to the Town Engineer with 3 calendar days of the date of inspection. There shall be no modifications of the approved plans without prior written consent of the Town Engineer
- and;

BE IT FURTHER RESOLVED THAT, the following Additional Requirements shall be Satisfied Subsequent to the Signing of the Plans:

1. Applicant must provide an as-built survey prepared by a NYS Licensed Land Surveyor which confirms that the permitted work including but not limited to grading, structures and mitigation has been installed in accordance with the approved plans.
2. The Acting Town Engineer, Town Environmental Consultant, Town Planner and Town Building Inspector must provide a written report, no later than at the expiration date of the wetland and excavation permit, tree permit and floodplain development permit documenting the status of the implementation of the requirements of this resolution.

WHEREAS, upon satisfactory response to all open items the Town Board will review the jurisdictional town permit applications and render decision; and

WHEREAS, proposed action has been determined to be an Unlisted Action under the State Environmental Quality Review Act (SEQRA),

NOW THEREFORE BE IT RESOLVED, that the Town Board has compared the proposed action with the Criteria for Determining Significance in 6 NYCRR 617.7 (c) and determined that the proposed action will not have a significant adverse impact on the environment.

Motion: Councilman Martorano

Second: Councilman Murphy

Supervisor Siegel.	Voting Aye
Councilman Bianco	Voting Aye
Councilman Martorano	Voting Aye
Councilman Murphy	Voting Aye
Councilman Patel	Voting Aye

BY:


Alice E. Roker, Town Clerk

Filed at the Office of the Town Clerk, Town of Yorktown, New York, on the Date of:
April 15, 2011

To: Creative Living Development, Inc.

cc: Supervisor Susan Siegel
Acting Town Engineer Sharon Robinson
Yorktown Planner John Tegeder
Yorktown Planning Board
Yorktown Conservation Board
Yorktown Building Department
Wetlands Consultant Bruce Barber
NYS Department of Environmental Conservation
NYS Department of Transportation
US Army Corp. of Engineers

EXHIBIT F (continued) — Resolution #198, April 20, 2011 — Approved Modifications for Creative Living
Town Board minutes, April 20, 2011, page 13, as produced by the Deputy Town Clerk on February 3, 2023.

AUTHORIZE DAVID RAMBO TO ATTEND THE AMERICAN WATER WORKS ASSOCIATION TRAINING COURSE
RESOLUTION #197

Upon motion by Councilman Martorano, seconded by Councilman Bianco,

WHEREAS, the Town Board updated the town conference attendance and trip policy on February 2, 2010,

WHEREAS, Distribution Superintendent, David Rambo, has requested authorization to attend a three day management training class sponsored by the American Water Works Association at a cost of \$499.00 which includes all instruction workbook and handout materials; \$260.00 for two day lodging; and approximately \$60 per day for meals.

WHEREAS, SW8310.423 has sufficient funds to cover this training request.

April 20, 2011

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RESOLVED, Town Board authorization is granted for David Rambo to attend this leadership class on May 4th, 5th and 6th in Long Island, NY.

Siegel, Bianco, Martorano, Patel Voting Aye
Resolution adopted.

APPROVE AMENDED RESOLUTION FOR CREATIVE LIVING
WETLANDS AND EXCAVATION PERMIT AND TREE PERMIT
RESOLUTIONS #198

Upon motion by Councilman Martorano, seconded by Councilman Bianco,

RESOLVED, that the Town Board approves the modifications in form and content prepared by the Town Attorney to the April 5th resolution approving the Wetlands and Excavation Permit and Tree Permit for Creative Living Inc's development that was transmitted to the Town Clerk by email on April 15 at 4:20PM.

Siegel, Bianco, Martorano, Patel Voting Aye
Resolution adopted.

VOLUNTEER BOARD APPOINTMENTS:
RESOLUTION #199

Upon motion by Councilman Martorano, seconded by Councilman Bianco,

RESOLVED, that the Town Board re-appoints Galina Kanevsky to a three (3) year term on the Advisory Board of architecture and Community Appearance (ABACA) from March 1, 2011 to February 28, 2014.

Siegel, Bianco, Martorano, Patel Voting Aye
Resolution adopted.

REFUND DUPLICATE TAX PAYMENTS
ACCOUNT #1674500
RESOLUTION #200

Upon motion made by Councilman Martorano, seconded by Councilman Murphy,

RESOLVED, that records of the Receiver of Taxes indicate that the following duplicate payments were made:

EXHIBIT F-1 — Town Board Resolution of February 21, 2012 — Amend Wetlands Permit, Creative Living Ball Fields (Dugouts)

Town Board minutes, February 21, 2012, page 9, as produced by the Deputy Town Clerk on February 3, 2023.

Upon motion made by Councilman Bianco, seconded by Councilman Murphy,

WHEREAS, bids for the Microfilm and Microfiche reader/Printer Maintenance, repair and Supplies received and opened on March 21, 2011; and

WHEREAS, said bid was awarded to Metro Imaging, Inc. 10 Merry Lane, East Hanover, NJ 07936; and

WHEREAS, the town has the option to extend said bid for one additional year; and

WHEREAS, said bid commenced April 1, 2011 through March 31, 2012 with additional Year beginning April 1, 2012 through March 31, 2013; SO THEREFORE BE IT

RESOLVED, that the Town Clerk hereby recommends to the Town Board that the Town exercise its option to renew the contract per the terms of the bid; and be it

FURTHER RESOLVED, the date of the extension will commence April 1, 2012 through March 31, 2013.

Grace, Bianco, Murphy, Patel, Paganelli Voting Aye
Resolution adopted.

RATIFY THE STIPULATION OF SETTLEMENT BETWEEN THE TOWN OF YORKTOWN AND POLICE DEPARTMENT SIGNED BY SUPERVISOR RELATING TO OVERTIME PAY
RESOLUTION#77

Upon motion made by Councilman Bianco, seconded by Councilman Murphy,

RESOLVED, that the Town Board does hereby ratify the stipulation of settlement of the grievance filed by the Yorktown Policemen's Benevolent Association, as signed by former Supervisor Susan Siegel for the Town on June 29, 2011.

Grace, Bianco, Murphy, Patel, Paganelli Voting Aye
Resolution adopted.

AMEND WETLANDS PERMIT
CREATIVE LIVING BALL FIELDS
RESOLUTION#78

Upon motion made by Councilman Bianco, seconded by Councilman Murphy,

RESOLVED, the Town Board approves an amendment to Wetlands and Excavation Permit: WP-E-010 issued to Creative Living Development Inc. include the construction of 4 baseball dugouts as shown on page C-401 on plans prepared by Site Design Consultants last modified on 2/8/12 and on the building construction plans drawn on 2/9/12 by Site Design Consultants, and

BE IT FURTHER RESOLVED, that this amended permit does not absolve the applicant from obtaining any other permits or approvals from any other regulatory agency having jurisdiction over this project.

Grace, Bianco, Murphy, Patel, Paganelli Voting Aye
Resolution adopted.

APPROVE SETTLEMENT IN THE MATTER OF THE FAIR HOUSING JUSTICE CENTER AND THE TOWN OF YORKTOWN
RESOLUTION#79

Upon motion made by Councilman Bianco, seconded by Councilman Murphy,

EXHIBIT F-1 (continued) — Town Board Resolution #114, March 20, 2012 — Amend Wetlands Permit, Creative Living Development

Town Board minutes, March 20, 2012, pages 6 through 15, as produced by the Deputy Town Clerk on February 3, 2023. The Supporting Statement's chronology dates this amendment March 21, 2012; the minutes are dated March 20, 2012.

2011, 2012 and 2013, Now, Therefore Be It

Resolved, that the Superintendent of Highway Eric DiBartolo hereby recommends to the Town Board that the Town exercise its option to renew the contract for one year, per the terms of the bid, and Be It,

Further Resolved, the date of the extension will commence February 2, 2012 through February 1, 2013.

Grace, Bianco, Murphy, Patel, Paganelli Voting Aye
Resolution adopted.

AMEND WETLANDS PERMIT – CREATIVE LIVING DEVELOPMENT
RESOLUTION #114

Upon motion made by Supervisor Grace, seconded by Councilman Murphy,

WHEREAS, the Town Board of the Town of Yorktown is authorized to issue freshwater wetlands and excavation permits under Chapter 178 of the Town Code and tree permits under Chapter 270 of the Town Code; and

WHEREAS, Creative Living Development, Inc. ("the applicant") is the record owner of a 49.75 +/- acre parcel in the Town of Yorktown identified on the Town of Yorktown tax maps as Section 6.14 Block 1 Lot 2 situated on Mahopac Street and accessible from Navajo Road and situated in an R1-80 single-family zone; and

WHEREAS, Creative Living Development, Inc. was issued wetlands and excavation permit number WP-E-010-10 and tree permit number T-020-11 on April 15, 2011 by the Town Board of the Town of Yorktown for the construction of a temporary private park complex which is a main permitted use in the R1-80 zoning classification under the Town of Yorktown zoning code, which the applicant has requested be amended as set forth below to permit additional work; and

WHEREAS, the applicant in 2011 proposed to convert 9.8 +/- acres of a 49.75 +/- acre parcel formerly used as pasture and paddock area into two multiuse fields and one college level baseball field, and obtained an amendment to the wetlands permit on February 21, 2012 to permit the installation of four dugouts, and seeks approval for the installation of a climbing wall, two volleyball courts, a basketball court, and sixteen batting/pitching cages ("additional recreational facilities"); and

WHEREAS, the applicant proposes to provide associated site improvements including a pervious parking area designed to accommodate 129 cars, a gravel drive to provide access to the fields, an on-site, non-potable water supply well and required electrical connections, stormwater practices, two open bottom culverts which shall be installed to provide access over a watercourse, temporary comfort stations, temporary bleachers and backstops, a temporary shed and administration trailer, and plantings which shall serve in part as wetland and tree mitigation and also for the purpose of screening and noise attenuation; and

WHEREAS, the following plans and documents were submitted in support of the original applications:

Plans entitled; "Proposed Temporary Ballfields prepared for Creative Living Development Inc a.k.a. Navajo Fields" prepared by Site Design Consultants, originally dated March 10, 2010 with most recent revision date of April 5, 2011, 12 total sheets: T-1, G-1, C-101, C-102, C-103, C-104, C-105, C-106, C-107, C-501, C-502 and C-503.

Plan entitled; "Tree Inventory Map" prepared by Site Design Consultants dated March 31, 2011 (revised date), 1 sheet C-103.

Plan entitled; "Overall Site Plan and Buffer Mitigation Plan" prepared by Site Design Consultants (not signed or sealed) dated April 4, 2011, 1 sheet: Sheet 1 of 1.

Stormwater Pollution Prevention Plan prepared by Site Design Consultants dated March 25, 2011 (most recent revision date).

Memo dated March 29, 2011 executed by Joseph Riina, P.E. of Site Design Consultants, 2 pages.
Memo dated February 23, 2011 executed by Joseph Cermele, P.E. of Site Design Consultants, 2 pages.
Memo dated March 29, 2011 executed by Albert Capellini, Esq, 2 pages with 2 page attachment.
Memo dated March 24, 2011, prepared by Steve Marino, PWS of Tim Miller Associates (unsigned), 2 pages with 5 pages attachment; and

WHEREAS, there shall not be any lighting, except pedestrian lighting on the path to the fields, or permanent sewage disposal; and

WHEREAS, there shall not be any potable water supply on the site unless a well is infeasible; and

WHEREAS, there are New York State and Town of Yorktown regulated wetlands and associated buffers located on the site; and

WHEREAS, the applicant proposes to permanently alter 3.8 acres of Town of Yorktown jurisdictional wetland buffer and temporarily disturb a Town of Yorktown watercourse; and

WHEREAS, the applicant has provided satisfactory documentation that there is a critical social need for additional ballfields within the Town of Yorktown; and

WHEREAS, the proposed wetland and wetland buffer disturbance is necessary to construct the proposed ballfields to address in part the critical social need for additional ballfields within the Town of Yorktown; and

WHEREAS, the applicant has provided a written plan which details how Town of Yorktown residents will be given priority in the use of the proposed fields to address the critical social need for ballfields; and

WHEREAS, this said plan is incorporated into the wetland permit by reference; and

WHEREAS, for the original applications, the applicant provided an event management plan which provided protocols and mitigation for periodic events where the persons in attendance exceed 200 total and said event plan was reviewed and accepted according to the thresholds and parameters established therein; and

WHEREAS, access to the ballfields and additional recreational facilities shall be from Navajo Road only and there shall not be any access to the ballfields or additional recreational facilities including vehicular or pedestrian from Route 6N; and

WHEREAS, the applicant has provided a comprehensive plan to mitigate wetland and wetland buffer impacts; and

WHEREAS, the applicant proposes 9.8 +/- acres of land disturbance; and

WHEREAS, the applicant has submitted a comprehensive stormwater pollution prevention plan (SWPPP) including an erosion and sediment control plan and a stormwater design plan in compliance with the requirements of New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges from Construction Activity GP-0-10-001; and

WHEREAS, the applicant proposes to remove approximately 6.7% of the total site woodland area and certain specimen trees; and

WHEREAS, the applicant has provided a comprehensive plan to mitigate the loss of trees as a result of this action; and

WHEREAS, the applicant proposes grading and filling within a designated flood plain area; and

WHEREAS, a floodplain development permit was approved by the Town of Yorktown Building Inspector

in 2011, and applicant has applied for a revised floodplain development permit; and

WHEREAS, the applicant submitted a Long Environmental Assessment Form (EAF), dated February 23, 2011; and

WHEREAS, the proposed action was determined to be an Unlisted Action under the State Environmental Quality Review Act (SEQRA); and

WHEREAS, a public hearing was convened on June 15, 2010 in order to solicit comments from the public regarding the proposed action and;

WHEREAS, the public hearing was reconvened on March 15, 2011 in order to solicit comments from the public regarding the proposed action; and

WHEREAS, following a coordinated review, the Town of Yorktown Town Board declared Lead Agency on March 15, 2011; and

WHEREAS, the Town of Yorktown determined in 2011 that the action will not have a significant adverse impact on the environment and a Notice of Determination of Non-Significance dated March 15, 2011 was issued; and

WHEREAS, the public hearing regarding the Town of Yorktown permit applications was reconvened on April 5, 2011; and

WHEREAS, prior to the issuance of the wetland/excavation and tree permits to applicant on April 15, 2011, the applicant fulfilled to the satisfaction of the Town the following conditions:

1. Submission of all then-applicable fees and escrows.
2. Issuance of a floodplain development permit, in compliance with all requirements of Chapter 175 of the Town Code by the Town of Yorktown Building Inspector.
3. All comments contained in the April 4, 2011 memo drafted by the Acting Town Engineer, Town Environmental Consultant and Town Planner were addressed by applicant to their written satisfaction.
4. The Town Attorney provided written notification to the Town Board that she reviewed the April 5, 2011 draft permit resolution and found the form and content satisfactory.
5. The Town Supervisor signed the EAF.
6. The Town Stormwater Management Officer signed the MS4 acceptance form upon written recommendation from the Town Engineer.
7. Erosion and Sediment Control: Collateral in the form of an assignment of security of a Certificate of Deposit # 44957 in the amount of \$15,000.00 issued by Gotham Bank of New York, was accepted by Town as security for the satisfactory completion of erosion and sediment control work.
8. Wetland and Trees: Collateral in the form of an assignment of security of a Certificate of Deposit # 44957 in the amount of \$25,000.00 issued by Gotham Bank of New York, was accepted by Town, which shall be released after a five-year period as measured upon receipt of the as-built survey and upon written documentation by the Town of Yorktown that a minimum of 85% of the planted species as indicated on the as-built survey are viable.
9. Four original copies of the approved plans and SWPPP, as revised to meet the conditions of this Resolution, with all plan sheets signed by a NYS Professional Engineer were submitted for the Town

Supervisor's signature.

10. A valid New York State Department of Environmental Conservation wetland permit was provided.
11. Copies of the event management plan and plan which details the priority of use by Town of Yorktown residents was executed by the owners.
12. A tree mitigation plan was approved by the Town Engineer.
13. A wetland mitigation plan was approved by the Town Engineer.

WHEREAS, the applicant applied for an amendment to Wetlands Permit WP-E-010-10 to add four dugouts and the Town Board approved such application on February 21, 2012; and

WHEREAS, the applicant has now applied to amend Wetlands Permit WP-E-010-10 to provide for additional recreational facilities; and

WHEREAS, the Town Board finds that the proposed modification does not conflict with the most recent prior approval and determines that the proposed alterations are minor in nature and there is no need to hold a public hearing on the proposed alteration; and

WHEREAS, the following documents have been submitted in support of the application to amend wetland and excavation permit number WP-E-010-10:

Plans entitled: "Proposed Temporary Ballfields prepared for Creative Living Development Inc a.k.a. Navajo Fields" prepared by Site Design Consultants, originally dated March 10, 2010 with most recent revision date of February 8, 2012, 13 total sheets: T-1, G-1, C-101, C-102, C-103, C-104, C-105, C-401, C-402, C-403, C-501, C-502, C-503, and C-504.

An application for a building permit for the dugouts.

An application for a revised floodplain permit.

An amended Event Management Plan, submitted on March 20, 2012.

A letter dated March 20, 2012 from applicant's engineer stating that the previously submitted SWPP does not require amendment as a result of this amendment application

An application for area variances from the Zoning Board of Appeals for the climbing wall and rock wall;

NOW THEREFORE BE IT RESOLVED THAT, the application for an amendment to Wetlands and Excavation Permit WP-E-010-10 issued on April 15, 2011, as amended February 21, 2012, and the plans enumerated herein are approved subject to the signing of the plans bearing revision date February 8, 2012 by the Town Supervisor, and all work associated with the Wetland and Excavation Permit and Tree Permit, as amended, shall be conducted in strict compliance with the approved plans; and

BE IT FURTHER RESOLVED THAT, the following conditions must be met prior to the Town Supervisor signing the February 8, 2012 Plans:

14. Submission of all applicable fees and charges;
15. Four original copies of the approved plans as most recently revised on February 8, 2012, with all plan sheets signed by a NYS Professional Engineer, shall be submitted for the Town Supervisor's signature.
16. An updated valid New York State Department of Environmental Conservation wetland permit must be provided, if applicable.
17. A revised floodplain development permit, in compliance with all requirements of Chapter 175 of the Town Code by the Town of Yorktown Building Inspector.

BE IT FURTHER RESOLVED THAT, the Wetlands and Excavation Permit, Tree Permit and Floodplain Disturbance Permit are subject to the following conditions:

1. A pre-construction meeting with the applicants, the applicant's contractors, applicant's engineer, the Acting Town Engineer, Town Environmental Consultant, Town Planner and Town Building Inspector must be held a minimum of 72 hours in advance of the commencement of land disturbance work needed for additional recreational facilities under the amended permit. The applicant must contact the Town Engineering Department at 914-962-5722 x220 at least 72 hours in advance of the meeting date to schedule the pre-construction meeting.
2. The applicant agrees to allow periodic inspections by the Town and its consultants.
3. The Acting Town Engineer, Town Environmental Consultant, the Town Planner and the Town Building Inspector shall inspect the site at the end of construction, but prior to the issuance of a notice of satisfactory completion or any certificate of occupancy, to ensure compliance with the wetland and excavation permit, tree permit and floodplain development permit.
4. No additional disturbance or modifications is permitted.
22. Inspection reports prepared by the qualified stormwater inspector shall be furnished to the Town Engineer within 3 calendar days of the date of inspection. There shall be no modifications of the approved plans without prior written consent of the Town Engineer; and

BE IT FURTHER RESOLVED THAT, the following Additional Requirements shall be satisfied subsequent to the signing of the Plans:

19. Prior to commencing work within the setbacks affected by the variance application, applicant shall obtain a determination permitting such work.
20. Applicant must provide an as-built survey prepared by a NYS Licensed Land Surveyor which confirms that the permitted work including but not limited to grading, structures and mitigation has been installed in accordance with the approved plans.
21. The Acting Town Engineer, Town Environmental Consultant, Town Planner and Town Building Inspector must provide a written report, no later than at the expiration date of the wetland and excavation permit, tree permit and floodplain development permit documenting the status of the implementation of the requirements of this resolution.
22. Prior to the issuance of a notice of satisfactory completion, applicant shall provide any/all approvals and permits from the Army Corps of Engineers (ACOE), New York State Department of Transportation (NYSDOT), the Town of Yorktown Highway Department, the Town of Yorktown Building Department, and the New York State Department of Environmental Conservation, to the extent applicable.

WHEREAS, the Town Board of the Town of Yorktown is authorized to issue freshwater wetlands and excavation permits under Chapter 178 of the Town Code and tree permits under Chapter 270 of the Town Code; and

WHEREAS, Creative Living Development, Inc. ("the applicant") is the record owner of a 49.75 +/- acre parcel in the Town of Yorktown identified on the Town of Yorktown tax maps as Section 6.14 Block 1 Lot 2 situated on Mahopac Street and accessible from Navajo Road and situated in an R1-80 single-family zone; and

WHEREAS, Creative Living Development, Inc. was issued wetlands and excavation permit number WP-E-010-10 and tree permit number T-020-11 on April 15, 2011 by the Town Board of the Town of Yorktown for the construction of a temporary private park complex which is a main permitted use in the R1-80 zoning classification under the Town of Yorktown zoning code, which the applicant has requested be amended as set forth below to permit additional work; and

WHEREAS, the applicant in 2011 proposed to convert 9.8 +/- acres of a 49.75 +/- acre parcel formerly used as pasture and paddock area into two multiuse fields and one college level baseball field, and obtained an amendment to the wetlands permit on February 21, 2012 to permit the installation of four dugouts, and seeks approval for the installation of a climbing wall, two volleyball courts, a basketball court, and sixteen batting/pitching cages ("additional recreational facilities:"); and

WHEREAS, the applicant proposes to provide associated site improvements including a pervious parking area designed to accommodate 129 cars, a gravel drive to provide access to the fields, an on-site, non-potable water supply well and required electrical connections, stormwater practices, two open bottom culverts which shall be installed to provide access over a watercourse, temporary comfort stations, temporary bleachers and backstops, a temporary shed and administration trailer, and plantings which shall serve in part as wetland and tree mitigation and also for the purpose of screening and noise attenuation; and

WHEREAS, the following plans and documents were submitted in support of the original applications:

Plans entitled; "Proposed Temporary Ballfields prepared for Creative Living Development Inc a.k.a. Navajo Fields" prepared by Site Design Consultants, originally dated March 10, 2010 with most recent revision date of April 5, 2011, 12 total sheets: T-1, G-1, C-101, C-102, C-103, C-104, C-105, C-106, C-107, C-501, C-502 and C-503.

Plan entitled; "Tree Inventory Map" prepared by Site Design Consultants dated March 31, 2011 (revised date), 1 sheet C-103.

Plan entitled; "Overall Site Plan and Buffer Mitigation Plan" prepared by Site Design Consultants (not signed or sealed) dated April 4, 2011, 1 sheet: Sheet 1 of 1.

Stormwater Pollution Prevention Plan prepared by Site Design Consultants dated March 25, 2011 (most recent revision date).

Memo dated March 29, 2011 executed by Joseph Riina, P.E. of Site Design Consultants, 2 pages.

Memo dated February 23, 2011 executed by Joseph Cerniele, P.E. of Site Design Consultants, 2 pages.

Memo dated March 29, 2011 executed by Albert Capellini, Esq, 2 pages with 2 page attachment.

Memo dated March 24, 2011, prepared by Steve Marino, PWS of Tim Miller Associates (unsigned), 2 pages with 5 pages attachment; and

WHEREAS, there shall not be any lighting, except pedestrian lighting on the path to the fields, or permanent sewage disposal; and

WHEREAS, there shall not be any potable water supply on the site unless a well is infeasible; and

WHEREAS, there are New York State and Town of Yorktown regulated wetlands and associated buffers located on the site; and

WHEREAS, the applicant proposes to permanently alter 3.8 acres of Town of Yorktown jurisdictional wetland buffer and temporarily disturb a Town of Yorktown watercourse; and

WHEREAS, the applicant has provided satisfactory documentation that there is a critical social need for additional ballfields within the Town of Yorktown; and

WHEREAS, the proposed wetland and wetland buffer disturbance is necessary to construct the proposed ballfields to address in part the critical social need for additional ballfields within the Town of Yorktown; and

WHEREAS, the applicant has provided a written plan which details how Town of Yorktown residents will be given priority in the use of the proposed fields to address the critical social need for ballfields; and

WHEREAS, this said plan is incorporated into the wetland permit by reference; and

WHEREAS, for the original applications, the applicant provided an event management plan which

provided protocols and mitigation for periodic events where the persons in attendance exceed 200 total and said event plan was reviewed and accepted according to the thresholds and parameters established therein; and

WHEREAS, access to the ballfields and additional recreational facilities shall be from Navajo Road only and there shall not be any access to the ballfields or additional recreational facilities including vehicular or pedestrian from Route 6N; and

WHEREAS, the applicant has provided a comprehensive plan to mitigate wetland and wetland buffer impacts; and

WHEREAS, the applicant proposes 9.8 +/- acres of land disturbance; and

WHEREAS, the applicant has submitted a comprehensive stormwater pollution prevention plan (SWPPP) including an erosion and sediment control plan and a stormwater design plan in compliance with the requirements of New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges from Construction Activity GP-0-10-001; and

WHEREAS, the applicant proposes to remove approximately 6.7% of the total site woodland area and certain specimen trees; and

WHEREAS, the applicant has provided a comprehensive plan to mitigate the loss of trees as a result of this action; and

WHEREAS, the applicant proposes grading and filling within a designated flood plain area; and

WHEREAS, a floodplain development permit was approved by the Town of Yorktown Building Inspector in 2011, and applicant has applied for a revised floodplain development permit; and

WHEREAS, the applicant submitted a Long Environmental Assessment Form (EAF), dated February 23, 2011; and

WHEREAS, the proposed action was determined to be an Unlisted Action under the State Environmental Quality Review Act (SEQRA); and

WHEREAS, a public hearing was convened on June 15, 2010 in order to solicit comments from the public regarding the proposed action and;

WHEREAS, the public hearing was reconvened on March 15, 2011 in order to solicit comments from the public regarding the proposed action; and

WHEREAS, following a coordinated review, the Town of Yorktown Town Board declared Lead Agency on March 15, 2011; and

WHEREAS, the Town of Yorktown determined in 2011 that the action will not have a significant adverse impact on the environment and a Notice of Determination of Non Significance dated March 15, 2011 was issued; and

WHEREAS, the public hearing regarding the Town of Yorktown permit applications was reconvened on April 5, 2011; and

WHEREAS, prior to the issuance of the wetland/excavation and tree permits to applicant on April 15, 2011, the applicant fulfilled to the satisfaction of the Town the following conditions:

23. Submission of all then-applicable fees and escrows.

24. Issuance of a floodplain development permit, in compliance with all requirements of Chapter 175 of the Town Code by the Town of Yorktown Building Inspector.
25. All comments contained in the April 4, 2011 memo drafted by the Acting Town Engineer, Town Environmental Consultant and Town Planner were addressed by applicant to their written satisfaction.
26. A construction monitoring escrow in the amount of \$5,000 was submitted to the Engineer Department Clerk.
27. The Town Attorney provided written notification to the Town Board that she reviewed the April 5, 2011 draft permit resolution and found the form and content satisfactory.
28. The Town Supervisor signed the EAF.
29. The Town Stormwater Management Officer signed the MS4 acceptance form upon written recommendation from the Town Engineer.
30. Erosion and Sediment Control: Collateral in the form of an assignment of security of a Certificate of Deposit # 44957 in the amount of \$15,000.00 issued by Gotham Bank of New York, was accepted by Town as security for the satisfactory completion of erosion and sediment control work.
31. Wetland and Trees: Collateral in the form of an assignment of security of a Certificate of Deposit # 44957 in the amount of \$25,000.00 issued by Gotham Bank of New York, was accepted by Town, which shall be released after a five-year period as measured upon receipt of the as-built survey and upon written documentation by the Town of Yorktown that a minimum of 85% of the planted species as indicated on the as-built survey are viable.
32. Four original copies of the approved plans and SWPPP, as revised to meet the conditions of this Resolution, with all plan sheets signed by a NYS Professional Engineer were submitted for the Town Supervisor's signature.
33. Prior to the Town Supervisor signing the plans as amended through April 5, 2011, the Town Clerk confirmed with the Engineering Department Clerk that all then-due consultant fees had been paid in full.
34. A valid New York State Department of Environmental Conservation wetland permit was provided.
35. Copies of the event management plan and plan which details the priority of use by Town of Yorktown residents was executed by the owners.
36. A tree mitigation plan was approved by the Town Engineer.
37. A wetland mitigation plan was approved by the Town Engineer.

WHEREAS, the applicant applied for an amendment to Wetlands Permit WP-E-010-10 to add four dugouts and the Town Board approved such application on February 21, 2012; and

WHEREAS, the applicant has now applied to amend Wetlands Permit WP-F-010-10 to provide for additional recreational facilities; and

WHEREAS, the Town Board finds that the proposed modification does not conflict with the most recent prior approval and determines that the proposed alterations are minor in nature and there is no need to hold a public hearing on the proposed alteration; and

WHEREAS, the following documents have been submitted in support of the application to amend wetland and excavation permit number WP-E-010-10:

Plans entitled: "Proposed Temporary Ballfields prepared for Creative Living Development Inc a.k.a. Navajo Fields" prepared by Site Design Consultants, originally dated March 10, 2010 with most recent revision date of February 8, 2012, 13 total sheets: T-1, G-1, C-101, C-102, C-103, C-104, C-105, C-401, C-402, C-403, C-501, C-502, C-503, and C-504.

An application for a building permit for the dugouts.

An application for a revised floodplain permit.

An amended Event Management Plan, submitted on March 20, 2012.

A letter dated March 20, 2012 from applicant's engineer stating that the previously submitted SWPP does not require amendment as a result of this amendment application

An application for area variances from the Zoning Board of Appeals for the climbing wall and rock wall;

NOW THEREFORE BE IT RESOLVED THAT, the application for an amendment to Wetlands and Excavation Permit WP-E-010-10 issued on April 15, 2011, as amended February 21, 2012, and the plans enumerated herein are approved subject to the signing of the plans bearing revision date February 8, 2012 by the Town Supervisor, and all work associated with the Wetland and Excavation Permit and Tree Permit, as amended, shall be conducted in strict compliance with the approved plans; and

BE IT FURTHER RESOLVED THAT, the following conditions must be met prior to the Town Supervisor signing the February 8, 2012 Plans:

38. Submission of all applicable fees and charges;
39. Four original copies of the approved plans as most recently revised on February 8, 2012, with all plan sheets signed by a NYS Professional Engineer, shall be submitted for the Town Supervisor's signature.
40. An updated valid New York State Department of Environmental Conservation wetland permit must be provided, if applicable.
41. A revised floodplain development permit, in compliance with all requirements of Chapter 175 of the Town Code by the Town of Yorktown Building Inspector.

BE IT FURTHER RESOLVED THAT, the Wetlands and Excavation Permit, Tree Permit and Floodplain Disturbance Permit are subject to the following conditions:

1. A pre-construction meeting with the applicants, the applicant's contractors, applicant's engineer, the Acting Town Engineer, Town Environmental Consultant, Town Planner and Town Building Inspector must be held a minimum of 72 hours in advance of the commencement of land disturbance work needed for additional recreational facilities under the amended permit. The applicant must contact the Town Engineering Department at 914-962-5722 x220 at least 72 hours in advance of the meeting date to schedule the pre-construction meeting.
2. The applicant agrees to allow periodic inspections by the Town and its consultants.
3. The Acting Town Engineer, Town Environmental Consultant, the Town Planner and the Town Building Inspector shall inspect the site at the end of construction, but prior to the issuance of a notice of satisfactory completion or any certificate of occupancy, to ensure compliance with the wetland and excavation permit, tree permit and floodplain development permit.
4. No additional disturbance or modifications is permitted.
46. Inspection reports prepared by the qualified stormwater inspector shall be furnished to the Town

Engineer within 3 calendar days of the date of inspection. There shall be no modifications of the approved plans without prior written consent of the Town Engineer; and

BE IT FURTHER RESOLVED THAT, the following Additional Requirements shall be satisfied subsequent to the signing of the Plans:

43. Prior to commencing work within the setbacks affected by the variance application, applicant shall obtain a determination permitting such work.
44. Applicant must provide an as-built survey prepared by a NYS Licensed Land Surveyor which confirms that the permitted work including but not limited to grading, structures and mitigation has been installed in accordance with the approved plans.
45. The Acting Town Engineer, Town Environmental Consultant, Town Planner and Town Building Inspector must provide a written report, no later than at the expiration date of the wetland and excavation permit, tree permit and floodplain development permit documenting the status of the implementation of the requirements of this resolution.
46. Prior to the issuance of a notice of satisfactory completion, the Town Clerk shall confirm with the Town Engineer that all consultant fees have been paid in full.
47. Prior to the issuance of a notice of satisfactory completion, applicant shall provide any/all approvals and permits from the Army Corps of Engineers (ACOE), New York State Department of Transportation (NYSDOT), the Town of Yorktown Highway Department, the Town of Yorktown Building Department, and the New York State Department of Environmental Conservation, to the extent applicable.

Grace, Bianco, Murphy, Patel, Paganelli Voting Aye
Resolution adopted.

APPROVE BRIAN SOKOLOFF, ESQ. AS THE ATTORNEY WHO WILL REPRESENT HIGHWAY
SUPERINTENDENT ERIC DIBARTOLO IN A LAWSUIT
RESOLUTION #115

Upon motion made by Councilman Bianco, seconded by Councilman Paganelli,

WHEREAS, the Town Board passed a resolution on March 13, 2012 directing the Town Attorney to notify Highway Superintendent Eric DiBartolo in writing of the Town Board's determination that he is entitled to be represented by private counsel at town expense in the case LaPierre v. DiBartolo, et al., the choice of which counsel was to be subject to the Town Board's approval; and

WHEREAS, such notification was duly made by the Town Attorney; and

WHEREAS, Mr. DiBartolo has informed the Town Board that he has retained Brian Sokoloff, Esq., a partner in the firm Sokoloff Stern LLP, 355 Post Avenue, Suite 201, Westbury, New York 11590, and now requests that the Town Board approve his choice of defense counsel; and

WHEREAS, Mr. Sokoloff competently and satisfactorily represented a Town councilmember in a recent lawsuit unrelated to the LaPierre case, and is currently representing the Town and certain police officers competently and satisfactorily in another unrelated lawsuit; and

WHEREAS, Town Attorney Jeannette Koster has considered the issue of potential conflict of interest and has opined that the Town's agreement to pay legal fees to Mr. Sokoloff in the LaPierre case will not create a conflict of interest or an appearance of conflict of interest by virtue of Mr. Sokoloff's representation of the Town and town officials in the two other cases, because those cases were and continue to be entirely unrelated cases to the LaPierre case, in that neither case involved or involves the Highway Department or Mr. DiBartolo, nor are any of the issues in the two other cases in any way related to the issues raised in the LaPierre case;

EXHIBIT G — Planning Board Resolution #13-36, December 9, 2013 — Site Plan, Lighting Plan, Wetland Mitigation Plan, Wetland Permit, and Stormwater Pollution Prevention Plan & Permit

Certified copy, with the Secretary's certification. Twelve pages. The Building Inspector's correspondence of May 8, 2013 cited with it in the Statement is to follow.

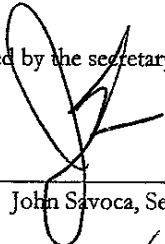
THIS IS TO CERTIFY that the attached copy is a true and correct copy of the Town of Yorktown Planning Board Resolution:

**PLANNING BOARD
TOWN OF YORKTOWN**

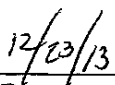
**RESOLUTION APPROVING
A SITE PLAN, LIGHTING PLAN, WETLAND MITIGATION
PLAN, WETLAND PERMIT, AND A STORMWATER
POLLUTION PREVENTION PLAN & PERMIT
FOR CREATIVE LIVING DEVELOPMENT, INC.
AKA NAVAJO FIELDS**

DATE OF RESOLUTION: DECEMBER 9, 2013

HEREBY signed by the secretary of the Planning Board:



John Savoca, Secretary



Date

**PLANNING BOARD
TOWN OF YORKTOWN**

**RESOLUTION APPROVING
A SITE PLAN, LIGHTING PLAN, WETLAND MITIGATION
PLAN, WETLAND PERMIT, AND A STORMWATER
POLLUTION PREVENTION PLAN & PERMIT
FOR CREATIVE LIVING DEVELOPMENT, INC.
AKA NAVAJO FIELDS**

RESOLUTION NUMBER: #13-36

DATE: DECEMBER 9, 2013

On motion of John Savoca, seconded by Darlene Rivera, and unanimously voted in favor by Fon, Flynn, Savoca, and Rivera, the following resolution was adopted:

WHEREAS, in accordance with the Planning Board's Land Development Regulations adopted February 13, 1969 and as last revised July 1, 1999, a formal application for the approval of a site plan entitled Proposed Air Supported Dome Structure Plan for South Athletic Field" (hereinafter the "South Dome-Only Site Plan"), Sheet 2 of 3, known on the Town of Yorktown tax maps as Section 6.14 Block 1 Lot 2 ("the Property"), prepared by Site Design Consultants, dated March 22, 2013 and last revised October 25, 2013, was submitted to the Planning Board (the "Board") on behalf of Creative Living Development, Inc. a.k.a. Navajo Fields (hereinafter referred to as "the Applicant") and the Applicant has represented to this Board that it is the lawful owner of the land proposed to be improved per South Dome-Only Site Plan; and

WHEREAS, an application fee of \$9,439.00 covering 14 acres has not been received by this board; and

WHEREAS, pursuant to SEQRA:

1. The action has been identified as an Unlisted action.
2. The Planning Board has been declared lead agency on December 9, 2013; and
3. The Planning Board makes the following findings pursuant to §617.3(g)(1) of SEQRA that "circumstances warrant a segmented review" and ultimately finds that the standards for permissive segmentation have been met with this Application for the following supporting reasons per §617.3(g)(1):

WHEREAS, as stated and represented to this Board by the Applicant in the Full "Expanded" EAF dated June 3, 2013, (hereinafter "Expanded EAF"); and as represented in a letter from the Applicant's attorney Albert A. Capellini, Esq., dated July 29, 2013, (hereinafter the "Capellini Letter"), the Applicant is considering a possible future additional development on the subject property which, in addition to covering the two existing fields with domes, could consist of a 669,600 SF, four-story, mixed use, indoor recreation facility with 500 underground parking spaces, and including various sport fields, ice rinks, medical support offices, food outlets, and

pro shops, in addition to horse paddocks at another location on the Property (hereinafter "Possible Future Phases"); and

WHEREAS, when before the Town Board for other approvals, the Applicant was required to submit a plan showing the Possible Future Phases which was originally submitted on April 10, 2013, entitled "Concept Plan for Full Site Build-Out Based on CR Zone," Sheet 1 of 3, prepared by Site Design Consultants, dated March 22, 2013 and last revised October 25, 2013 (hereinafter the "Concept Plan"); and

WHEREAS, the Planning Board reviewed said Concept Plan, the accompanying data, and the Expanded EAF and the Capellini Letter provided by the Applicant; and

WHEREAS, the Applicant has represented in the Expanded EAF (see Expanded EAF Part III pp. 1-4) and Capellini Letter that to construct the Possible Future Phases would require a financial and operational model that operates as a for-profit entity, which under Yorktown Zoning Code is not a permitted use within the current zone of R1-80, under which the instant Application is proposed; and

WHEREAS, the Applicant has represented that the Possible Future Phases do not have a projected date or time frame for its inception or completion, do not have financing, and do not have a company or corporation formed which would own and/or operate the facility;

WHEREAS, the Applicant has affirmatively represented to this Board in the Expanded EAF and the Capellini Letter that the Possible Future Plans may occur at some future date, at which time a request for a change of zone to the Commercial Recreation zone and significant text changes will be requested to be made to the Zoning Code or a new zone created to accommodate for the proposed use to be permitted on the Property; and

WHEREAS, based upon the foregoing findings this Board has demonstrated its review is "no less protective of the environment" as defined by §617.3(g)(1) of SEQRA. The SEQRA Handbook specifies that:

Under certain circumstances, segmentation may be permitted. For example, the following circumstances, when considered together, may permit segmentation when a project has several phases:

- information on future project phase(s) is too speculative;
- future phase(s) may not occur;
- future phase(s) are functionally independent of current phase(s).

WHEREAS, the Planning Board, having considered all of the evidence pursuant to the Possible Future Development, makes the following determinations:

- a) The future indoor recreation facility, while complementary to the two existing outdoor playing fields, is not functionally dependent on them nor is the latter dependent on the

former, in that each can viably exist without the other, as the two existing fields, currently approved and operating, have demonstrated, and further that the services and programs offered by each, while somewhat overlapping, are unique; and

- b) The scope of the Possible Future Phases, their size and position on the site, access, and other ancillary requirements cannot be determined given that the Applicant has not researched similar facilities, has not formed a company or corporation to finance, guide, develop and operate the project, and therefore has not formed a plan for the facility that responds to specifics of the indoor recreation market nor the needs of an entity experienced in the design, construction, and operation of such a facility; and
 - c) For the Possible Future Phases to proceed, it would require a re-zoning from the Town Board, and may require changes to that zone to accommodate such a development, and would require the Applicant to form or partner with an entity organized as a for-profit concern; and
 - d) The approval of the instant South Dome-Only Site Plan application to provide a seasonal, air-supported structure over the southernmost playing field of the two existing and approved fields, expressly does not commit the Planning Board, nor any other approving entities, to approve the Possible Future Phases; and
 - e) The Board further determines as indicated in the foregoing, that the instant Application's review and evaluation under the State Environmental Quality Review Act can be segmented from the future development concept and that a segmented review will be no less protective of the environment; and
4. A negative declaration has been adopted on December 9, 2013 on the basis of a Full EAF dated June 7, 2013.

WHEREAS, in support of this Application the Applicant has submitted the following maps and documents:

- 1. "Expanded" Full Environmental Assessment Form, dated June 3, 2013; and
- 2. Correspondence from the Applicant's Attorney, Albert Capellini, including correspondence dated July 29, 2013; and
- 3. A map, Sheet 2 of 3, titled "Proposed Air Supported Dome Structure Plan for South Athletic Field," prepared by Site Design Consultants, dated March 22, 2013, and last revised October 25, 2013; and
- 4. A drawing, Sheet 3 of 3, titled "Proposed Air Supported Dome Structure plan Detailed View," prepared by Site Design Consultants, dated October 25, 2013, with no revisions; and

5. A drawing, Sheet AA1.01, titled "Floor Plan," prepared by Arizon Structures Worldwide, LLC, dated April 16, 2013; and
6. A drawing, Sheet AA2.01, titled "Dome Elevations," prepared by Arizon Structures Worldwide, LLC, dated April 16, 2013; and
7. A drawing, Sheet 1 of 1, titled "Site Line Profiles Map," prepared by Site Design Consultants, dated May 22, 2013, no revisions; and
8. A drawing, Sheet 1 of 1, titled "Site Line Profiles," prepared by Site Design Consultants, dated May 22, 2013, no revisions; and
9. A drawing, Sheet 1 of 1, titled "Proposed Buffer Mitigation Plan for Air Supported Dome Structure," dated March 22, 2013, and last revised July 29, 2013; and
10. A drawing, Sheet 2 of 3, titled "Wetland Buffer Mitigation Plan," dated March 22, 2013, and last revised November 5, 2013;
11. A report titled, "Navajo Fields Visual Study," prepared by Tim Miller Associates and submitted to the Planning Department on August 8, 2013; and
12. A map, Sheet 1 of 3, titled "Concept Plan for Full Site Build-Out Based on CR Zone," dated March 22, 2013, and last revised October 25, 2013; and
13. A letter from Steve Marino to Joseph Murray of the NYS DEC dated October 16, 2013, summarizing a meeting between the Applicant and the NYS DEC held on October 2, 2013;

WHEREAS, as per Section §300-21C(1)(1)[5], private and public parks and recreation facilities, but not including a commercial facility, are allowed uses in the R1-80 zone; and

WHEREAS, the Town of Yorktown Town Board approved on April 5, 2011 and subsequently amended on February 21, 2012, March 21, 2012, and February 12, 2013 Wetland permit #WP-E-010-10 (hereinafter "the Town Board Approvals"); and

WHEREAS, the Planning Board has reviewed the plans and supporting documents of the Town Board's approval establishing the use of the property as a private park, of which required the following conditions be met:

1. There shall not be any lighting, except for pedestrian lighting on the path to the fields, or permanent sewage disposal; and
2. There shall not be any [public] potable water supply on the site unless a well is infeasible; and
3. The Applicant provided an event management plan which will provide protocols and mitigation for periodic events where the persons in attendance exceed 200 total and said

- event plan will be reviewed and accepted according to the thresholds and parameters established therein (hereinafter the "EMP"); and
4. Access to the ball fields and additional recreational facilities shall be from Navajo Road only and there shall not be any access to the ball fields or additional recreational facilities including vehicular or pedestrian from Route 6N; and

WHEREAS, pursuant to Section §300-182B of the Town of Yorktown Town Code, the Planning Board has determined that a reasonable and appropriate off-street parking requirement of one hundred twenty-four (124) parking spaces as shown on the site plan to serve the existing two fields with one proposed air supported structure is adequate for the safe and efficient operation of the site; and

WHEREAS, although the Town Board Approvals did not allow for site lighting except for pedestrian lighting, the Planning Board acknowledges that the lighting fixtures shown on the South Dome-Only Site Plan are necessary to light the pathways to and from the north and south fields for the purpose of providing safety for the public and therefore a Lighting Plan has been submitted for review and shall be approved by this Board; and

WHEREAS, although the Town Board Approvals did not allow public water supply, pursuant to a memo from the Yorktown Fire Advisory Board dated May 15, 2013, a standpipe system consisting of two dry fire hydrants shall be installed on either side of the air-supported dome as shown on the South Dome-Only Site Plan; and

WHEREAS, although the Town Board Approvals stated public access to the ball fields and additional recreational facilities shall be from Navajo Road only, incidental pedestrian access to the site from Route 6N shall not be expressly prohibited; and

WHEREAS, a Landscaping Plan, exclusive of the Wetland Mitigation Plan, must be developed to the satisfaction of the Planning Board in order to provide aesthetic landscaping outside the wetland buffer and proper screening of the project from surrounding properties; and

WHEREAS, a variance to permit erection of the South Dome structure to have an overall height of 82 feet and a mean height of 41 feet where a maximum of 35 feet is allowed and a side yard setback of 25 feet where a minimum of 30 feet is required was granted by the Town of Yorktown Zoning Board of Appeals on June 27, 2013; and

WHEREAS, pursuant to a memo from the Fire Inspector dated November 1, 2013, a fire access road circling the structure shall be required in order to provide full emergency access around the air-supported dome as shown on the South Dome-Only Site Plan; and

WHEREAS, this Board referred to the Building Inspector the issue of whether the proposed use under the South Dome-Only Site Plan complies with the Zoning Ordinance, specifically Section 300-21(C)(1)(a)[5] and by correspondence dated May 8, 2013, Building Inspector John Winter advised this Board that the proposed use was permitted; and

WHEREAS, the Planning Board has referred this application to the following boards and agencies and has received and considered reports of the following:

Boards & Agencies	Report Date
Building Inspector	04/04/13, 05/08/13
Conservation Board	04/05/13, 08/09/13, 09/13/13
Fire Advisory Board	05/15/13
Fire Inspector	11/01/13
Planning Department	07/12/13
Wetlands Inspector	07/13/13, 11/14/13
NYS DEC	07/11/13
NYS DOT	06/26/13
W. Cnty Planning Board	05/14/13, 07/02/13
Putnam County	07/08/13

WHEREAS, the requirements of this Board's Land Development Regulations have been met except as noted below; and

WHEREAS, a Public Informational Hearing was held in accordance with §195-22A(5) of the Yorktown Town Code on the said site plan application at the Yorktown Community & Cultural Center, located at 1974 Commerce Street in Yorktown Heights, New York commenced and closed on May 20, 2013; and

WHEREAS, having reviewed all current site plans, building plans, environmental plans and reports, comments and reports from Town professional staff, the public, and other interested and involved agencies associated with the application before it; and having conducted a public hearing on the said site plan application commencing and closing on July 15, 2013 at Town Hall in Yorktown Heights, New York; and therefore

BE IT NOW RESOLVED, that the application of Creative Living Development, Inc for the approval of a stormwater pollution prevention plan, wetland permit, and South Dome-Only Site Plan as prepared by Site Design Consultants, dated March 22, 2013 and last revised October 25, 2013, and the supporting plans and maps enumerated herein be approved subject to the modifications and conditions listed below, and that the Chairman of this Board be and hereby is authorized to endorse this Board's approval of said plan upon compliance by the Applicant with such modifications and requirements as noted below; and

RESOLVED, that this approval in no way extinguishes, diminishes, or replaces the requirements of the Applicant under the prior Town Board Approvals and conditions of the Town Board Approvals set forth in the resolutions associated with the Town Board Approvals, except as modified herein; and

RESOLVED, that this approval is limited to the elements shown on the South Dome Only Site Plan and in no way shall be construed as an approval of nor an endorsement of any other proposed improvement depicted on the Concept Plan, Sheet 1 of 2, entitled "Concept Plan for Full Site Build-

Out Based on CR Zone,” which was initially requested by the Town Board during the review of Town Board Approvals prior wetland permit approvals; and

RESOLVED, that should the Applicant determine to proceed with any other proposed improvements depicted on the Concept Plan, the Planning Board will conduct and require a full and complete environmental review of the impacts of any elements of the Concept Plan on the Property including, but not limited to: zoning text and bulk regulation considerations, traffic impacts, parking impacts, lighting impacts, visual and aesthetic impacts, noise impacts, stormwater and drainage impacts, and wetland impacts; and

RESOLVED, that pursuant to the New York State Department of Environmental Conservation request, the “Moveable Cold Frame Greenhouse” structure on the northern field shall be relocated no later than May 30, 2014, into the parking lot as shown on the South Dome-Only Site Plan;

RESOLVED, that the following conditions must be met prior to the signature by the Planning Board Chairman:

1. Submission of all applicable fees and charges.
2. A Lighting Plan is approved to the satisfaction of the Advisory Board on Architecture & Community Appearance and the Planning Board. All lights on the site shall comply with the Town Lighting Ordinance, Chapter 200 of the Town Code.
3. A Landscaping Plan exclusive of the Wetland Mitigation Plan, to the satisfaction of the Advisory Board on Architecture & Community Appearance and review and approval of the Planning Board.
4. The EMP shall be amended to include use of the South dome and submitted to the Planning Board for review and approval.
5. Public access to the ball fields shall be from Navajo Road only and there shall not be any access vehicular access to the ball fields from Route 6N, also known as Mahopac Street, except for maintenance purposes. Pedestrian access is not expressly prohibited.
6. The comprehensive plan to mitigate the loss of trees shall be amended to reflect the current application, if necessary, and submitted to the Planning Board.
7. The wetland mitigation plan shall be revised to the satisfaction of the Town Engineer, Wetlands Inspector, and approved by the Planning Board.
8. The stormwater pollution prevention plan shall be revised and approved to the satisfaction of the Town Engineer and Planning Board.
9. Applicant must obtain a wetland permit approval from the New York State Department of

Environmental Conservation for all the proposed development shown on the site plan listed herein.

10. Applicant must obtain a revised floodplain development permit, in compliance with all requirements of Chapter 175 of the Town Code by the Town of Yorktown Building Inspector, if applicable.
11. The structures labeled as "Moveable Cold Frame Greenhouse (permanent structure)" shall comply with the Town Code and New York State Building Code either as temporary or permanent structures.
12. The site plans shall be modified to show:
 - a. Show proposed comfort stations inside the south dome.
 - b. Add a note indicating all lighting fixtures and lighting fixture & bulb specifications.
 - c. Add a note indicating all lighting fixtures are to be facing down at the ground.
 - d. The two structures labeled as "Moveable Cold Frame Greenhouse (permanent structure)" shall be relabeled to reflect their actual use, to the satisfaction of the Planning Board.
 - e. The proposed emergency access road with cul-de-sac at the north field should be redesigned to minimize the limit of disturbance and provide more area for wetland mitigation to the greatest extent practicable to the satisfaction of the Planning Board.
 - f. Details of the proposed ring road should be provided and additional stormwater measures should be designed and constructed between the road and the wetland/wetland buffer.
 - g. Revise the Wetland Buffer Mitigation Plan adding labels indicating the number and species of all existing and proposed trees and shrubs that are graphically shown on the plan.
 - h. Revise the Wetland Buffer Mitigation Plan to include a dense planting design shall be provided along the existing watercourse and wetland/wetland buffer area.

BE IT RESOLVED a pre-construction meeting with the Applicant, the Applicant's contractors, Applicant's engineer, the Acting Town Engineer, Town Environmental Consultant, Town Planning, and Town Building Inspector must be held a minimum of 72 hours in advance of the commencement of land disturbance work needed for the dome under this approval. The Applicant must contact the Town Engineering Department at 914-962-5722 x220 at least 72 hours in advance of the meeting date to schedule the pre-construction meeting; and

BE IT RESOLVED the Applicant will retain an independent third-party Environmental Systems Planner, a "Qualified Inspector" as defined by the New York State Department of Environmental Conservation in the SPDES General Permit for Stormwater Discharges from Construction Activity, to supervise and be present during the construction of the erosion control measures, and which Environmental Systems Planner will provide bi-weekly inspection reports regarding the status of erosion control measures to the approval authority via the Environmental Inspector and the Planning Department throughout construction; and

BE IT RESOLVED the Applicant must notify the Planning Board in writing stating the name of the Environmental Systems Planner or Firm that will be completing the bi-weekly inspection reports and shall notify the Planning Board in writing if this Planner or Firm changes; and

BE IT RESOLVED the Applicant agrees to allow periodic inspections by the Town and its consultants; and

BE IT RESOLVED that the site improvements and conditions of approval established by Town Board Wetland Permit #WP-E-010-10 are hereby made part of this site plan and shall constitute the approved site plan except as modified herein or by the plans, maps, and supporting documents approved herein; and

BE IT RESOLVED that the following additional requirements are met:

1. Pursuant to the New York State Department of Environmental Conservation request, the "Moveable Cold Frame Greenhouse" structure on the northern field shall be relocated no later than May 30, 2014, into the parking lot as shown on the South Dome-Only Site Plan;
2. Applicant must provide both paper copies and a digital copy in AutoCAD DWG format of an as-built survey prepared by a NYS License Land Surveyor which confirms that the permitted work has been installed in accordance with the approved plans.
2. Proposed plan must comply with all current applicable ADA standards.
3. Applicant must obtain all necessary permits from outside agencies in order to complete project.
4. No additional disturbance or modifications to the site plan are permitted without the approval of the Planning Board.

BE IT FURTHER RESOLVED that Stormwater Pollution Prevention Plan & Wetland Permit #FSWPPP-WP-095-12 is hereby amended and approved by the Planning Board and is subject to the conditions listed therein; and

BE IT FURTHER RESOLVED that said amended Permit #FSWPPP-WP-095-12 shall not be valid until the site plan and permit are signed by the Planning Board Chairman;

BE IT FURTHER RESOLVED that unless a building permit has been issued within 360 days of the date of this resolution, **December 4, 2014**, this approval will be null and void.

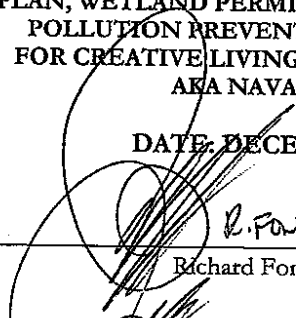
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PLANNING BOARD
TOWN OF YORKTOWN

RESOLUTION APPROVING
A SITE PLAN, LIGHTING PLAN, WETLAND MITIGATION
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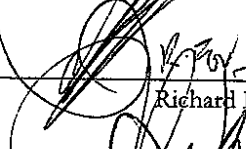
DATE: DECEMBER 9, 2013

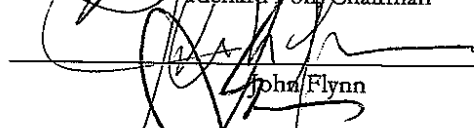
SIGNED BY: _____

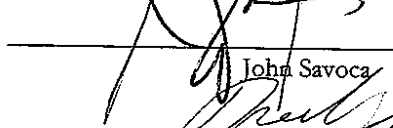

Richard Fon, Chairman

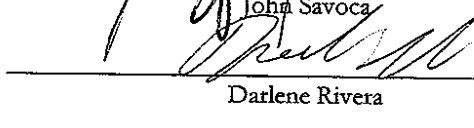
ROLL CALL: _____

AYES: _____


Richard Fon, Chairman


John Flynn


John Savoca


Darlene Rivera

NAYS: _____

ABSTAIN: _____

EXHIBIT H — Town Clerk Letter of June 8, 2016 and Town Board Bond Release Resolution of June 7, 2016

Not reproduced in this submission. These records are cited in the Supporting Statement and will be furnished. They are also records of the Town Clerk and the Town Board.

EXHIBIT D — Tim Miller Associates, Inc. to NYSDEC (A. Peterson), August 10, 2010, with the Turf Management Plan

Not reproduced in this submission. Cited in the Supporting Statement; to be furnished.

**EXHIBIT I — Letter of Supervisor Michael J. Grace, November 1, 2016 — Creative Living Development Inc.
(Facility Use and Maintenance)**

One page.



Yorktown Town Hall
363 Underhill Avenue, P.O. Box 703
Yorktown Heights, NY 10598

(914) 962-5722
www.yorktownny.org

November 1, 2016

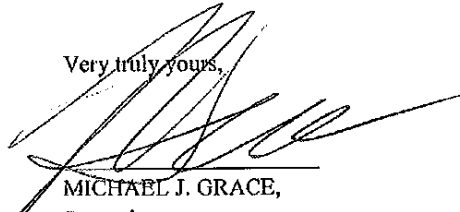
Creative Living Development Inc.
3000 Navajo Street
Yorktown Heights, NY 10598

Re: Creative Living Development, Inc. (Facility Use and Maintenance)

The purpose of this letter is to advise that the Town conducted a staff meeting in which maintenance issues arose regarding the detention basin, the farm road and the western fields formerly horse pastures now being maintained as open grass recreational fields.

After discussions were had from engineering, environmental, building and planning department representatives, it was determined that uses and maintenance were in compliance with applicable regulations.

Very truly yours,



MICHAEL J. GRACE,
Supervisor

/mlc

EXHIBIT J — NYSDEC Order on Consent, Case No. R3-20180820-151, Executed March 29, 2022

Pages 1 through 12. The final page of the executed Order, Exhibit A — Restoration and Mitigation Plan, is reproduced at Attachment C.

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

-----X

In the Matter of the Violations of Article 24 of the New
York State Environmental Conservation Law and Title
6, Part 663 of the Official Compilation of Codes, Rules
and Regulations of the State of New York,

ORDER ON CONSENT

-by-

**NYSDEC File No.
R3-20180820-151**

CREATIVE LIVING DEVELOPMENT INC.,

Respondent.

-----X

WHEREAS:

1. The New York State Department of Environmental Conservation (NYSDEC or the Department) is an agency of the State of New York with jurisdiction over the environmental laws of the state pursuant to New York State Environmental Conservation Law (ECL) section 3-0301, and has administrative jurisdiction over the management of freshwater wetlands and adjacent areas of the state and thus regulates, among other activities, the excavation, construction and/or placement of fill and other materials therein by requiring permits for such activities pursuant to Article 24 of the ECL (the Freshwater Wetlands Act), and Title 6, Part 663 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR);
2. It is the Department's responsibility to conserve, improve and protect New York State's natural resources and environment, and control pollution to enhance the health, safety, welfare and overall economic and social well-being of the people of the state;
3. The Respondent, Creative Living Development Inc., is listed with the New York State Department of State as an inactive domestic business corporation, having

been dissolved by proclamation/annulment of authority on June 29, 2016. The Respondent is engaged in the development of the property at 3000 Navajo Street, Yorktown Heights, New York (the Site); and

4. The Site includes New York State-regulated wetland A-4 (Wetland A-4) and the associated 100-foot adjacent area.

5. The violations remain unresolved for over a year as of November 19, 2019 despite three meetings with the Department including a mediation session on May 1, 2019, five site visits with Department staff, three Notices of Violation and three proposed Orders on Consent, and many phone calls and emails.

6. Four new violations have occurred as of November 5, 2019 despite the above communications and attempts to reach a settlement.

APPLICABLE LAW

7. ECL § 24-0701 and 6 NYCRR 663.4 prohibit unpermitted regulated activities within a freshwater wetland, including any form of excavation, clear-cutting vegetation other than trees, dumping, altering water levels, filling or deposition of any soil, stones, sand, gravel, mud, rubbish or fill of any kind, and "any other activity which substantially impairs any of the several functions or benefits of wetlands which are set forth in section 24-0105 of the [Freshwater Wetlands] Act." ECL § 24-0701.

8. Pursuant to ECL § 71-2303, violations of ECL § 24-0701 and 6 NYCRR 663.4 are punishable by civil penalties of up to \$11,000 per violation, as well as restoration of the affected area to its condition prior to the illegal activity.

VIOLATIONS

9. By clearing, placing fill material, and grading east of the northern baseball

field within Wetland A-4 and the associated 100-foot adjacent area without a permit, the Respondent violated ECL § 24-0701 and 6 NYCRR 663.4 on three counts.

10. By clearing, placing fill material, and grading west of the baseball fields within Wetland A-4 and the associated 100-foot adjacent area without a permit, the Respondent violated ECL § 24-0701 and 6 NYCRR 663.4 on three counts.

11. By clearing within Wetland A-4 without a permit at the northwestern portion of the property where a paintball field currently exists, the Respondent violated ECL § 24-0701 and 6 NYCRR 663.4.

12. By depositing gravel within Wetland A-4 without a permit and constructing a gravel road at the northwestern portion of the property where a paintball field currently exists, the Respondent violated ECL § 24-0701 and 6 NYCRR 663.4.

13. By clearing and filling within the adjacent area of Wetland A-4 without a permit at the southeast portion of the property adjacent to the greenhouse, the Respondent violated ECL § 24-0701 and 6 NYCRR 663.4 on two counts.

14. By clearing, grading placing filling material to create a dirtbike/go-cart area within the adjacent area of Wetland A-4 without a permit, the Respondent violated ECL §24-0701 and 6 NYCRR 663.4 on three counts.

CONSENT

15. The Respondent admits the violations set forth above, waives the right to a public hearing in this matter, consents to the issuing and entering of this Order, and agrees to be bound by the terms, provisions and conditions of this Order including the attached Schedule of Compliance.

NOW, having considered this matter and being duly advised, it is

ORDERED that:

I. Civil Penalty

A. The Respondent is hereby assessed a civil penalty in the amount of SIXTY THOUSAND dollars (\$60,000). Of that amount, THIRTY THOUSAND dollars (\$30,000) is payable to the Department upon the Respondent's execution of this Order. The remaining penalty amount, THIRTY THOUSAND dollars (\$30,000) is suspended provided the Respondent complies strictly with the terms of this Order. If the Respondent violates any term of this Order, the entire suspended penalty shall be due within 10 days of receiving a notice of noncompliance from the Department.

B. Payment shall be either by electronic transfer at the following web address: <http://www.dec.ny.gov/about/61016.html> or by check or money order payable to the "New York State Department of Environmental Conservation" with the NYSDEC case number of this Order written in the memo section of the check, and sent to NYSDEC, Division of Management and Budget, 625 Broadway, 10th Floor, Albany, NY 12233-4900 along with the enclosed invoice.

C. The executed original of this Order and completed Tax Information Form shall be forwarded to the Regional Attorney, NYSDEC Region 3, 21 South Putt Corners Road, New Paltz, NY 12561.

II. Full Settlement

Compliance with this Order shall be in full settlement of all claims for civil penalties that could be asserted by the Department against the Respondent, its trustees, officers, employees, successors and assigns, for the above-referenced

violations. Any failure to comply with this Order shall be determined by the Department. This Order shall not be construed as being in settlement of events regarding which the Department lacks knowledge, or which occur after the effective date of this Order.

III. Schedule of Compliance

The Respondent shall strictly comply with the terms of this Order and any Schedule of Compliance attached to this Order. The Schedule of Compliance and any submissions made pursuant thereto are hereby deemed incorporated into this Order, upon approval by the Department if such approval is required, and shall be fully enforceable as part of this Order.

IV. Review of Submitted Remedial Plans and Proposals

If the Department approves any submission required under this Order, the Respondent shall implement it in accordance with its schedule and terms. If the Department disapproves the submission, the Department shall specify the grounds for disapproval. Within 15 days after receiving notice of disapproval, the Respondent shall submit a revision that fully responds to each of the Department's grounds for disapproval. If the Department approves the revised submission, the Respondent shall implement it in accordance with its schedule and terms as approved. If the revised submission is not approvable, the Department may approve it on condition that the Respondent accept such modifications as may be specified by the Department. If the Respondent does not accept such modifications, and the Department disapproves the revised submission, the Respondent shall be in violation of this Order. The Respondent shall be in violation of this Order if any submission is of such poor quality that it does not constitute a good faith effort to comply with the provisions of this Order.

V. Inspections

Department representatives shall be permitted access to the subject site and facility and to relevant records during regular hours to inspect and/or perform such tests and other activities to ensure compliance with this Order and applicable law.

VI. Other Approvals

This Order is not a permit, or a modification of a permit, under any federal, state or local laws or regulations. Unless otherwise allowed by law or regulation, the Respondent must comply with all applicable federal, state and local laws, regulations and permits. The Respondent shall obtain whatever permits, easements, rights of entry, approvals or authorizations necessary to comply with this Order.

VII. Other Remedies; Natural Resource Damages

A. Nothing in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting (1) any rights or claims, actions, suits, causes of action or demands that the Department may have against anyone other than the Respondent; (2) the Department's right to enforce the terms of this Order against the Respondent, its directors, officers, employees, servants, agents, successors and assigns in the event that the Respondent shall be in breach of its provisions; (3) the Department's right to bring any action against the Respondent, its directors, officers, employees, servants, agents, successors and assigns that the Department could otherwise maintain with respect to areas or resources that may have been affected or contaminated as a result of the release or migration of wastes from the site or its vicinity, or to require that the Respondent take such additional measures as may be necessary for the protection of public health or the environment, including interim

remedial measures; (4) the Department's right to commence any action or proceeding relating to any disposal of hazardous wastes at or from the site, as those wastes are defined by applicable regulation; or (5) the Respondent's right to challenge any such action by the Department, whether by administrative hearing or otherwise, to the extent otherwise permitted by law.

B. Nothing in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting the Department's rights or authorities, including the right to recover natural resource damages against any party including the Respondent and the right to seek reimbursement of any expenditures from the New York State Environmental Protection and Spill Compensation Fund.

C. This Order shall not be construed to prohibit the Commissioner or the Commissioner's authorized representative from exercising any summary abatement powers, either at common law or as granted pursuant to statute or regulation.

VIII. Indemnification

The Respondent or any successors, assigns or transferees, shall indemnify and hold harmless the Department, the State of New York, and their representatives and employees, for all claims, suits, actions, damages and costs of every description arising out of or resulting from the fulfillment or attempted fulfillment of this Order by the Respondent, its directors, officers, employees, servants, agents, successors or assigns.

IX. Force Majeure

If the Respondent cannot comply with this Order because of a natural disaster, war, terrorist attack, strike, riot, judicial injunction, federal- or state-ordered state of emergency related to an epidemic or pandemic, or other, similar unforeseeable event

which was not caused by the negligence or willful misconduct of the Respondent and which could not have been avoided through the exercise of due care, the Respondent shall apply in writing within 21 days of obtaining knowledge of such fact to request a modification of the deadline or requirement. Such application shall include the measures taken to prevent and/or minimize any delays. Failure to give such notice constitutes a waiver of any claim that a delay is not subject to penalties. The Respondent shall have the burden of proving that an event is a defense to a claim of non-compliance with this Order pursuant to this subparagraph.

X. Default of Payment

The penalty assessed in the Order is a debt owed to the State of New York. Failure to pay the penalty, or any part thereof, in accordance with the requirements of this Order, may result in referral to the New York State Attorney General for collection of the entire amount owed (including the assessment of interest, and a charge to cover the cost of collecting the debt), and/or referral to the New York State Department of Taxation and Finance, which may offset any tax refund or other monies that may be owed to the Respondent by the State of New York. Any suspended and/or stipulated penalty provided for in this Order will constitute a debt owed to the State of New York when and if such penalty becomes due.

XI. Failure, Default and Violation of Order

The failure of the Respondent to comply with any provision of this Order shall constitute a default, a violation of this Order and the ECL, and ground for revocation of

any Department-issued permit, license, certification or approval.

XII. Entire Agreement

The provisions hereof constitute the complete and entire Order between the Respondent and the Department concerning the violations set forth above. No change or modification shall be effective except as may be specifically set forth in writing by the Department. No informal advice, guidance, suggestion or comment by the Department shall be construed as relieving the Respondent of its obligations to obtain such formal approvals required by this Order.

XIII. Binding Effect

This Order shall bind the Respondent, its officers, directors, agents, employees, contractors, successors and assigns, and all persons, firms and corporations acting under or for the Respondent including any subsequent operator of the facility, and any successor in title to the facility or any interest therein.

XIV. Effective Date and Termination

This Order shall become effective when signed by the Regional Director on behalf of the Commissioner, and shall terminate when its requirements are completed to the Department's satisfaction.

Dated: New Paltz, New York
3/29, 2022

BASIL SEGGOS
Commissioner, NYSDEC

By: Kelly R. Turturro
KELLY R. TURTURRO
Regional Director
NYSDEC Region 3

NYSDEC Case No. R3-20180820-151

CONSENT BY RESPONDENT

The Respondent, CREATIVE LIVING DEVELOPMENT INC., hereby consents to the issuance and entry of this Order without further notice, agrees to be bound by its terms and conditions, and waives the right to a hearing in this matter. The undersigned represents and affirms that he/she has the legal authority to bind the Respondent to the terms and conditions of this Order.

CREATIVE LIVING DEVELOPMENT INC.

By: Bruce H. Adler

Print name: BRUCE H. ADLER

Title: PRESIDENT

Date: 3.24.22

ACKNOWLEDGMENT

On this 24th day of March, in the year 2022, before me, the undersigned, personally appeared Bruce H. Adler, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity as shown in the instrument, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

MICHAEL J GRACE
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 02GR6312635
Qualified in Westchester County
My Commission Expires: 4/12/23

Schedule of Compliance

NYSDEC Case No. R3-20180820-151

Respondent: CREATIVE LIVING DEVELOPMENT INC.
Facility: 300 Navajo Street, Yorktown Heights, New York

1.	Immediately	The Respondent shall cease all disturbance to Wetland A-4 and its 100-foot Adjacent Area (Adjacent Area). The Respondent shall submit an application for a Freshwater Wetlands Permit for any new disturbance within the wetland or its adjacent area (for example, any disturbance related to changes to the existing emergency turnaround area located in the adjacent area).
2.	Within 30 days of the effective date of this Order	In accordance with the Restoration and Mitigation Map, Exhibit A (attached, and PDF file via email), the Respondent shall submit a Draft Restoration & Mitigation Plan which includes a proposed schedule of implementation. This Plan must include: a. a 15-foot buffer area along the stream by Mahopac Street (southern portion), b. a 30-foot buffer area along the stream by Mahopac Street (northern portion), c. decrease the size of the soccer field such that the restored area plus the buffer areas in a. and b. above result in an area of not less than 1.25 acres as a no-mow area with permanent fencing and "no disturbance" signage, d. mitigation and restoration of 2,000 square feet near Navajo Street on property owned by the Respondent. Mitigation shall be in the form of wetland creation and must be in areas that are not already wetland or which are connected to Wetland A-4, and, e. the northeastern portion of the map: return the regulated area to original grade and plant with native vegetation. The existing temporary road shall remain at 12.5 feet wide. Any new disturbance other than shown on the Map shall require a Freshwater Wetland Permit.
3.	By August 15, 2022	All work in the approved final Restoration and Mitigation Plan shall be completed. Upon completion, the Respondent shall notify Department staff of such completion in writing.

All submissions pursuant to this Schedule of Compliance shall be

made to Department staff:
Brian Drumm
NYSDEC Region 3, 21 South Putt Corners Road, New Paltz, NY, 12561
brian.drumm@dec.ny.gov

EXHIBIT K — E-mail of Sarah A. Pawliczak, Biologist, Bureau of Ecosystem Health, NYSDEC Region 3, October 20, 2023

Following the site meeting of October 5, 2023, as forwarded. Two pages.

Fw: Navajo Fields - Creative Living Development, 3000 Navajo Street, Yorktown Heights

From: cjdiven@aol.com (cjdiven@aol.com)

To: jeriole@abramslaw.com

Date: Monday, July 7, 2025 at 03:00 PM EDT

----- Forwarded Message -----

From: Pawliczak, Sarah A (DEC) <sarah.pawliczak@dec.ny.gov>

To: cjdiven@aol.com <cjdiven@aol.com>; James Bates <jbates@4ecological.com>

Sent: Friday, October 20, 2023 at 10:08:10 AM EDT

Subject: Navajo Fields - Creative Living Development, 3000 Navajo Street, Yorktown Heights

Good morning CJ,

Department staff met with you and your consultant, Jim Bates, on October 5, 2023, to review the restoration and mitigation plan for Navajo Fields aka Creative Living Development, Inc. I am attaching the Order on Consent (NYSDEC File No. R3-20180820-151) for your reference. The restoration and mitigation plan can be found on the last page. It appears that the mitigation has been implemented in accordance with the approved restoration and mitigation plan. There was one small area that we discussed not mowing to add a little more of a buffer to the stream/wetland. I'm including a screenshot of the area I'm referencing below.



For any future disturbances to the wetland or 100-foot adjacent area, including repairing or replacing any stream crossings, you must obtain an Article 24 Freshwater Wetlands permit. You can find application materials here: <https://www.dec.ny.gov/permits/6277.html>. Please submit application materials to the Division of Environmental Permits at dep.r3@dec.ny.gov. I am also attaching our stream crossing guidance for your reference.

If you have any questions, please let me know.

Thank you,

Sarah Pawliczak (she/her/hers)

Biologist, Bureau of Ecosystem Health

New York State Department of Environmental Conservation

21 South Putt Corners Road, New Paltz, NY 12561

P: (845) 256-3050 | sarah.pawliczak@dec.ny.gov

www.dec.ny.gov |



Department of
Environmental
Conservation



Order.R3-20180820-151_Creative_Living_Development_Inc.20220329.pdf
5.1 MB



streamcrossing brochure.pdf
242.7 kB

EXHIBIT L — NYSDEC Letter of August 23, 2013

New York State Department of Environmental Conservation, Division of Environmental Permits, Region 3, to Creative Living Development, Inc.
Three pages.

New York State Department of Environmental Conservation
Division of Environmental Permits, Region 3
21 South Putt Corners Road, New Paltz, New York 12561-1620
Phone: (845) 256-3054 FAX: (845) 255-4659
Website: www.dec.ny.gov



August 23, 2013

Charles Diven
Creative Living Development Inc.
3000 Navajo Street
Yorktown Heights, New York 10598

Re: Creative Living Development Inc. aka Navajo Fields
Town of Yorktown, Westchester County
Freshwater Wetland A-4, Class I
DEC No. 3-5554-00292/00002

Dear Mr. Diven:

This letter shall serve to summarize the meeting occurring at Navajo Fields on August 16, 2013 between representatives of Creative Living Development Inc., the Town of Yorktown, and the New York State Department of Environmental Conservation (DEC). The purpose of the meeting was to determine the extent of activities occurring on site that do not conform to the approved plans, referenced in the Freshwater Wetland Permit (DEC No. 3-5554-00292/00002) issued to Creative Living Development Inc. on 4/19/2011, and recommend appropriate mitigation measures in order to bring the facility into compliance.

DEC identified the following activities and structures occurring on site that do not conform to the approved plans referenced in the Freshwater Wetland Permit (DEC No. 3-5554-00292/00002) and, therefore, in non-compliance with the issued permit:

1. Wetland Trail. Woodchips have been placed within Freshwater Wetland A-4 and its regulated 100 foot adjacent area to establish and/or maintain a trail located at the southeast portion of the property. The amount of woodchips used for this purpose is considered fill by the Department. The placement of fill within a wetland is an activity that is incompatible with a wetland and its functions and benefits. The permittee shall remove the woodchips located within Freshwater Wetland A-4 and its 100 foot adjacent area. These woodchips shall be stockpiled outside the DEC regulated area and be stabilized so that it can not reasonably re-enter the wetland and its 100 foot adjacent area. In addition, the replacement, or removal, of the log bridges deemed unsafe by Town is an activity that will require coverage under a DEC permit. The Department recommends that any replacement structures be reduced in size.
2. Administration Trailer. The approved plans referenced in the issued Freshwater Wetland Permit (DEC No. 3-5540-00292/00002) depicts the administration trailer and maintenance shed entirely outside the DEC regulated area. The actual configuration of the administration trailer and maintenance shed is located partially within the regulated 100 foot adjacent area. No action is required at this time.
3. South Athletic Field Access Path. Woodchips have been placed entirely within the 100 foot adjacent area of Freshwater Wetland A-4 in order to construct an access path to the east and north of the South Athletic Field. The approved plans referenced in the issued Freshwater Wetland Permit (DEC No. 3-5554-00292/00002) designated this area as both "existing adjacent area to be preserved/enhanced with new plantings and use of seed mix as specified" and "existing adjacent area to be disturbed than re-vegetated." The access path currently located east and north of the South Athletic Field, and entirely within the 100 foot adjacent area of Freshwater Wetland A-4, shall be removed. The woodchips shall be stockpiled outside the DEC regulated area and be stabilized so that it can not

Re: Creative Living Development Inc. aka Navajo Fields
Town of Yorktown, Westchester County
Freshwater Wetland A-4, Class 1
DEC No. 3-5554-00292/00002

reasonably re-enter the wetland and its 100 foot adjacent area. The permittee shall establish vegetation as specified by the Wetland Buffer Mitigation Plan (Sheet C – 106 of the approved plans) and as conditioned by the issued Freshwater Wetland Permit (DEC No. 3-5554-00292/00002).

4. Foot Bridges. Three (3) hand railed foot bridges have been placed within Freshwater Wetland A-4 to establish two crossings of the regulated area providing pedestrian access between the South Athletic Field and the North Athletic Field. The easternmost of the two crossings includes two foot bridges and the placement of woodchips. The two foot bridges can remain; however, the woodchips shall be removed from the regulated area. The woodchips shall be stockpiled outside the DEC regulated area and be stabilized so that it can not reasonably re-enter the wetland and its 100 foot adjacent area.

The western pedestrian crossing includes one foot bridge and the placement of woodchips to establish a path. The foot bridge and woodchip path at this location must be completely removed from the regulated area. This crossing is redundant considering its proximity to the approved crossing depicted in the plans referenced in the issued Freshwater Wetland Permit (DEC No. 3-5554-00292/00002) and presents an unnecessary constriction of the stream channel during high flow events. The permittee shall restore this area as specified by the Wetland Buffer Mitigation Plan (Sheet C- 106 of the approved plans) and as conditioned by the issued Freshwater Wetland Permit (DEC No. 3-5554-00292/00002).

5. North Athletic Field Access Path. Woodchips have been placed within the 100 foot adjacent area of Freshwater Wetland A-4 in order to construct an access path to the south, east, and north of the North Athletic Field. The approved plans referenced in the issued Freshwater Wetland Permit (DEC No. 3-5554-00292/00002) designated portions of this area as “existing adjacent area to be preserved/enhanced with new plantings and use of seed mix as specified” and “existing adjacent area to be disturbed than re-vegetated.” In addition, grass swales designed for stormwater pollution prevention considerations were to be constructed at this location. The access path currently located south, east, and north of the North Athletic Field, and within the 100 foot adjacent area of Freshwater Wetland A-4, shall be removed. The woodchips shall be stockpiled outside the DEC regulated area and be stabilized so that it can not reasonably re-enter the wetland and its 100 foot adjacent area. The permittee shall establish vegetation as specified by the Wetland Buffer Mitigation Plan (Sheet C – 106 of the approved plans), and construct other necessary structures (i.e. grass swales), as conditioned by the issued Freshwater Wetland Permit (DEC No. 3-5554-00292/00002).
6. Artificial Turf. Artificial turf has been placed at two locations within the North Athletic Field. An artificial turf infield has been constructed within the 100 foot adjacent area of Freshwater Wetland A-4 at the southeast portion of the North Athletic Field. An artificial turf outfield has been constructed around the infield located at the southwest portion of North Athletic Field. The plans referenced in the issued Freshwater Wetland Permit (DEC No. 3-5554-00292/00002) were considered to meet permit issuance standards in part because the proposed athletic fields were to remain natural grass and, thereby, minimized the unavoidable impact to Freshwater Wetland A-4. The permittee must provide adequate justification on why these changes to the approved plans meet permit issuance standards and offer additional mitigation to offset the additional impact to the wetland. If adequate justification can not be provided, the permittee should remove all artificial turf currently located within the 100 foot adjacent area.
7. Greenhouses. Two (2) greenhouses (~144' long x 42' wide) have been placed at the North Athletic Field for the purpose of providing indoor batting cages. The greenhouse currently located in the northeast portion of the North Athletic Field was constructed partially within the 100 foot adjacent area of Freshwater Wetland A-4. No action is required at this time.

Re: Creative Living Development Inc. aka Navajo Fields
Town of Yorktown, Westchester County
Freshwater Wetland A-4, Class I
DEC No. 3-5554-00292/00002

However, the greenhouse currently located in the southern portion of the North Athletic Field was constructed entirely within the 100 foot adjacent area of Freshwater Wetland A-4. The approved plans referenced in the issued Freshwater Wetland Permit (DEC No. 3-5554-00292/00002) designated portions of this area as "existing adjacent area to be disturbed than re-vegetated." The greenhouse at this location constitutes an increase in impervious surface adjacent to the wetland and a change of cover type away from the permitted natural grass and other vegetation. Constructing a non-residential structure within the adjacent area of the wetland is an activity that is incompatible with a wetland and its function and benefits. The greenhouse located in the southern portion of the North Athletic Field, and entirely within the 100 foot adjacent area of Freshwater Wetland A-4, shall be removed from the DEC regulated area. The permittee shall establish vegetation as specified by the Wetland Buffer Mitigation Plan (Sheet C -- 106 of the approved plans), and construct other necessary structures (i.e. grass swales), as conditioned by the issued Freshwater Wetland Permit (DEC No. 3-5554-00292/00002).

8. Dugouts. Four (4) dugouts have been constructed onsite that are either entirely or partially located within the 100 foot adjacent area of Freshwater Wetland A-4. No action is required at this time.
9. South Athletic Field Expansion. It appears the southwest portion of the South Athletic Field has been expanded to accommodate the construction of a baseball diamond at the northwest portion of the South Athletic Field. Please note that the approved plans referenced in the issued Freshwater Wetland Permit (DEC No. 3-5554-00292/00002) depicted only one baseball diamond for the entire site located at the North Athletic Field. Navajo Fields currently contains four baseball diamonds. The construction of these baseball diamonds have enabled increased encroachment of facility structures within the DEC regulated area (i.e. dugouts, artificial turf, field expansion, etc.). The permittee must provide adequate justification on why these changes to the approved plans meet permit issuance standards and offer additional mitigation to offset the additional impact to the wetland.

The Department requests that a plan to implement the above noted mitigation measures, designed to bring the facility into compliance, be submitted to the Department for review by September, 13, 2013. Once acceptable plans are received, the Department will move to modify the current permit to allow for the disturbance to the DEC regulated area required to implement the approved mitigation plan. Please note that failure to submit the requested information by September 13, 2013 will result in the referral of this matter to the Department's Office of General Council.

If you have any questions or comments about this letter, please contact me at (845) 256-3040.

Sincerely,


Joseph R. Murray
Environmental Analyst
Division of Environmental Permits

cc: H. Gierloff, DEC Bureau of Habitat
J. Giudice, DEC General Council
Town of Yorktown Planning Board
S. Marino, Tim Miller Associates
J. Riina, Site Design Consultants
A. Capellini, Attorney

EXHIBIT L (continued) — Tim Miller Associates, Inc. to NYSDEC, October 16, 2013 — Request for Article 24 Wetland Permit Modification

Four pages.

**TIM
MILLER
ASSOCIATES, INC.**

10 North Street, Cold Spring, NY 10516 (845) 265-4400 265-4418 fax www.timmillerasociates.com

October 16, 2013

Mr. Joseph Murray, Permit Administrator
New York State DEC Region 3
21 South Putt Corners Road
New Paltz, NY 12561

Re: Request for Article 24 Wetland Permit Modification – 3-5554-00292/00002
Navajo Fields/Creative Living Development
Navajo Street
Town of Yorktown, Westchester County, New York

Dear Mr. Murray:

In response to our continuing discussions and our recent meeting at your office on October 2, 2013, we have prepared a revised site plan for the proposed modifications to the existing Article 24 Permit. We request these modifications because as the site has developed and the programs using the site have evolved slight adjustments to the site configuration and facilities were determined to be appropriate for maximum efficiency and enjoyment of the facilities. Most of the modifications are necessary for pedestrian access and safety of the players. We will use your letter dated August 23, 2013 as a template for presenting the revised plan and summarizing the issues we discussed at the meeting.

Item 1. Wetland Trail. Work has been done since the meeting to remove the excess wood chips that were observed on the trail in the southeast corner of the site. While DEC staff conceded that there were historic equestrian and walking trails in this area, the width and depth of the wood chips placed in this area exceeds what is usually considered to be "routine maintenance". The applicant has begun the process of removing these extra wood chips and bringing them off site, and is proposing on the new plan that a path 8 feet wide with a maximum depth of four inches of wood chips remain. This work will be completed by November 15, 2013. Likewise, the logs that are currently being used as bridges over two narrow watercourses will be removed and replaced with bridges similar to those used at the central stream corridor. A schematic of this bridge design is attached. As discussed, the span of the bridge will be a minimum of 1.2 times the existing bank to bank channel width.

Item 2. Administration Trailer. The applicant is requesting that the administration trailer be allowed to remain in its current location. Electrical and other infrastructure would have to be reconfigured and the trailer moved slightly to the west, with no significant improvement to the adjacent area since the intervening areas are also disturbed and/or being used for pedestrian paths.

Item 3. South Athletic Field Access Path. Woodchips in the 100 foot adjacent area north and east of the south field have been removed, and the entire areas scarified and re-seeded, with the following exceptions based on our on-site discussions.

East of the field, a path that is eight feet wide and approximately four inches thick remains. Based on our discussion, this has been reduced to six feet wide. This path is now within the area that was previously shown on the approved plans as batting cages. The batting cage idea has been abandoned and replaced with the wood chip trail, as shown on the attached revised site plans. We formally request that this path be allowed to remain for pedestrian access to the north field and the existing wooden foot bridge (discussed below).

North of the field, the wood chip path between the two foot bridges has been removed entirely.

Item 4. Foot Bridges. As requested, the thick layer of wood chips between the two bridges on the eastern part of the stream corridor have been removed. A shallow topcoat of chips remains as a trail base, and stones placed along either side of the path to capture any remaining chip or soil movement. The eight foot wide path leading to and from the foot bridge also remains as per previous discussions. These are now specifically shown on the revised plans.

The western foot bridge and its associated wood chip paths will be removed as per your letter, and the area restored as per the approved mitigation plan (or subsequent approved revisions). A short "stub" of the path from the existing access road will remain at the northwestern corner as we discussed for access to the northern dugout at the south field. The majority of the trees and shrubs that were to be planted in this area has been completed; it remains to plant four trees along the stream corridor. The entire area is seeded and stabilized.

Item 5. North Athletic Field Access Path. The wood chip paths within the regulated adjacent area have been removed from the north and east of the field, and either removed off site or safely stockpiled outside of the adjacent areas. All previously disturbed areas have been re-seeded. In the southeast corner of the north field there remains a shallow, eight foot wide path that is consistent with prior discussions about pedestrian access to and from the southeast corner of the field and the footbridge. This path has been narrowed to six feet and moved to the west as far as possible to maintain distance between the activity area and the wetland while still allowing a safe distance from the field of play and function of the drainage swale along the eastern edge of the field. It is our request that this be allowed to remain in place as indicated in the notes on the original approved plan.

Item 6. Artificial Turf. As noted in your letter, two infields are currently being maintained as artificial turf. The majority of both infield areas are outside of the regulated adjacent area. We feel this is the wisest course for heavily used fields due to the minimal maintenance requirements and no need for the application of fertilizers, irrigation or pesticides to maintain healthy grass. The subsurface preparation for the application of artificial turf provides for excellent drainage. In drainage calculations, artificial turf is treated the same as natural grass for perviousness. Runoff from the artificial turf is captured and conveyed to the existing detention basin. Only a narrow strip (ranging from 20 to 25 feet wide over an 85 foot length) is within the regulated area. We request as part of our permit modification that these two infield areas be allowed to remain as artificial turf.

Item 7. Greenhouses. As noted, there are two greenhouse structures on the site that were originally placed with the intention of being temporary structures for winter time use. As the logistics of using the field for tournament play and training sessions became more clear with time and experience, these structures have become more permanent in nature. Based on the operations of the fields as it has developed over time, the applicant requests permission to continue to utilize these structures in the following manner.

The north greenhouse, which is currently located in centerfield of the northern field, will remain in its current location per our discussion. This dome is used primarily for training exercises, mostly during the winter months. The trees and shrubs which were scheduled to be planted in the area between the greenhouse and the wetland have been planted and the area seeded with native seed mix. A portion of this seed has germinated and the area is stable. Only a small portion of the greenhouse structure is located in the adjacent area.

The applicant will move the southern greenhouse to the eastern corner of the parking lot, outside of regulated areas. It is requested that it be allowed to remain for this coming winter, to be moved in May of 2014 to a location entirely outside of the adjacent area. This will again re-establish the preserved stream corridor as originally envisioned in the permit approval. The previously approved access road will dead end in a cul de sac in this general area as per the approved plan. With the exception of one tree, the plantings in this area have been completed.

Item 8. Dugouts. There has been extended discussion over the past year regarding the dugout buildings. It is our understanding that the Department is satisfied that the dugouts do not represent a significant potential adverse impact to the regulated areas. The applicant formally requests that the dugouts be allowed to remain. The drainage system as designed and maintained has excess capacity to handle the small change in runoff from these structures.

Item 9. South Field Athletic Expansion. Some clarification is required regarding the use and layout of the south field. While it was shown on the original plans as a multipurpose field with the access road wrapping around the southern and western part of the field, it was always the intention to use this field seasonally as a baseball diamond. The original plans did not show this clearly and we apologize for that. The use of the field for baseball does not alter the activities that are occurring within the adjacent area, as the access road is now actually a part of the field. Being an access road primarily for emergency vehicles only, it has a gravel base and no need for asphalt or curbing. The access road is part of the field and acts as a "warning track" for the players that they are nearing the outfield fence. Access to the road is provided by a gate that must be opened onto the field for vehicles, which of course can only occur during a stoppage in play.

The additional infield diamonds on the north field seem to be located entirely within the space allowed for the one larger field. Fields for different age groups have different dimensions, with baseline lengths of 60, 65 and 90 feet required for different age groups and either softball or baseball. So the amount of turf area is not affected by the layout of additional baselines, and the intensity of the use of the site is not affected because several games can not go on simultaneously due to safety concerns.

Approved Mitigation Plan. We recognize that our current permit is valid until 2015, and although we have begun the final preparations for fully implementing the mitigation plan, some work remains to be done before it can be completed. The majority of areas have been seeded and planted, with the significant exception being the area north of the access road, adjacent to the open field wetland to the west. It is still our plan to complete the plantings this season, but if the weather does not cooperate it will be completed in the Spring of 2014.

To summarize, we request that the DEC consider the following revisions to the approved plan:

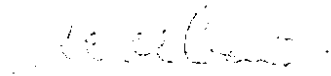
- 1) Leaving in place the northern greenhouse structure, a portion of which is within the adjacent area;
- 2) Leaving the four dugout structures, three of which are in the adjacent area;

- 3) Leaving the eastern footbridge across the stream corridor and the shallow six foot wide woodchip trail that leads to and from it;
- 4) Leaving the administrative trailer in its current location, a small corner of which is in the adjacent area;
- 5) Leaving the southern greenhouse structure in place until May of 2014, when it will be moved to an area outside of the regulated adjacent area;
- 6) Accepting the site plan revisions that show the southern field for use as a baseball as well as multipurpose field, and the installation of artificial turf partially within the adjacent area;
- 7) Placement of an eight foot wide wood chip trail and wooden foot bridges on the former equestrian trails in the southeast portion of the site.

We request that the DEC consider these modifications to the existing permit in light of the current use and operation of the fields. We are available for a meeting with staff to discuss the new plans and requests in detail.

Please contact me if you have any comments or questions prior to the meeting.

Respectfully,



Steve Marino, PWS
Tim Miller Associates

C: C. Diven, Creative Living Development Inc.
A. Cappelini, Attorney
J. Riina, P.E., Site Design Consultants
H. Gierloff, DEC
J. Giudice, DEC Counsel
Town of Yorktown

EXHIBIT L (continued) — Notes of the NYSDEC Meeting of October 2, 2013

Word document in the applicant's file, reproduced as it stands. It records the attendees and the statements of Department staff as noted at the meeting. It is not a record issued by NYSDEC, and its author is not stated on its face.

DEC Meeting Minutes October 2, 2013

Attendees:

DEC Attorney
Joe DEC
Heather DEC
Joe Riina
Steve Marino
CJ Diven

(Joe DEC)Reference was made to the site visit had 8/16/13. DEC observed things that were at the site and requested that the applicant get a letter to DEC stating how they intended to get the site in compliance with the permit. The submitted by the applicant indicated that some but not all of the site would be brought into compliance with the original permit. We are here to day to attempt to Bridge that gap.

Path East of Parking Lot

(JR) indicated there has been no change to the path at the eastern end of the parking lot since the visit. Applicant wishes to maintain the path 8' wide as a trail for pedestrian / equestrian access. Applicant will keep the depth to approximately 4". Applicant requests and intends to install the bridges to the east of the trail as shown and intends and requests permission to install bridges consistent with the wooden bridges at the site now in accord with Town code.

(JR) applicant has removed the chip oaths at northern side southern field southern side northern field eastern end of the northern field as well as a rock barrier to chip path at eastern stream crossings. .

(H DEC) Our concern at the stream channel is storm events. Bridges need to extend beyond width of the channel. DEC bridge width is typically 1.2 time the channel width.

(H DEC) would be okay with the bridges and the chip trail.

Office

(HDEC) office trailer is not as shown on original permit it extends partially into the buffer. DEC is okay with this amendment.

Path at South field eastern end

(HDEC) okay with the two eastern bridges crossing the stream. The stream corridor is what connects one wetland (referring to the wetlands to the east of south field to another (referring to the meadow to the west on the northern side of the farm road). Concern is water quality, habitat and flow. Wants a nub at the western end of the subject path that extends to the west side of the third base dugout. Wants the rest of the path from there to eastern bridges removed.

(JR) most of that area is replanted and chips are removed and applicant agrees to make the nub.

(JR) confirmed applicant willing to remove the single wood bridge to the east

North Field Eastern Access

(HDEC) we are constantly picking away at the buffer that protects the wetland.

(SM) pointed out the trail along the eastern end was identified on the drawings in the original permit making reference to the notes on the mitigation plan.

(JR) chips have been removed from the first base side of the dugout to the far greenhouse including chips to the north of the greenhouse.

Applicant desires restore path for access and (HDEC) is amenable to the suggestion with an attempt to pull same closer to the right field line of the northern field.

(JR) noted after meeting that the swale location is closer to the field than noted and current (former) location may meet this request anyway.

Dugouts

(JDEC) dugouts would have met the standards in the original application and therefore they are okay as proposed by applicant.

(JDEC) indicated that there are 4 baseball fields instead of three and one of the additional fields has artificial turf.

It was explained that all fit within the proposed and approved limits of the 2 multi-purpose fields.

(HDEC) indicated that there is little remaining buffer at the eastern end and that the additional traffic driven by the extra field is picking away at the buffer.

It was explained that only a small portion of the artificial infield is in the buffer.

(HDEC) asked about fields drainage

It was explained that there is gravel below the turf and it drains into soil with runoff to swales.

(JDEC) that this amendment would have met standards

Greenhouses

(HDEC) the original permit was granted because there were not any structures. Fundamental concern is the stream corridor and the greenhouse affects the buffer that protects it therefore it would not have passed standards under the original application and cannot be allowed.

(ADEC) there are at least 4 or 5 violations that can be issued with extensive fines for things that are at the site and not included in the permit. DEC is being generous in letting you keep what they are letting you keep.

(HDEC) northern dome is acceptable as located.

(CD) the greenhouse as it is located is the heart and soul of the facility. It provides safe haven to each location for kids in rain and it serves for training purposes at a location proximate to the field where players are taken. There is no other fitting location for the southern dome then where it is placed. The area on which it is placed would have been a road, a bathroom and bleachers plus trails accessing them. There is little to any loss of vegetation to protect the wetland at this location. Runoff at the area is to the retention pond anyway and we can certainly do more at the southern slope of the corridor with planting to add greater protection to the buffer. An overlay in demonstration was presented. Further we would be willing to clean the town retention that sends overflow, untreated, to both this wetland and the adjacent wetland at the far western location. Requested permission for an opportunity to present the benefit to the wetland to be protected.

(JDEC) no. I can violate you now. You have no application for a greenhouse. You would have to remove it before you could file one. The cost of the fines would be too high. You must remove it we are not going to look at any such application. We want to amend the permit without that greenhouse now.

(CD) our permit expires in 2015 can we move it to the parking lot next season say in May 2014

(HDEC) yes as long as you give us a letter confirming that you will move it and summarizing the action agreed to be taken here today in this meeting.

(AL) can we appeal this decision

(ADEC) no the time to appeal the permit (issued in 2010) has passed.

(CD) I think AL is referring to the denial to allow the amendment.

(JDEC) there is no amendment application and there cannot be one until the site is brought in compliance with the permit.

(CD) we will get the DEC the letter within 2 weeks

DEC confirmed acceptability.

EXHIBIT L (continued) — NYSDEC Closing Letter of November 3, 2015

Not reproduced in this submission. Cited in the Supporting Statement; to be furnished.

ATTACHMENT E — SUPPLEMENTAL RESPONSES TO PART 1

The following supplements the responses given in Part 1, item by item, pursuant to the instruction on page 1 of the form. Nothing here varies any answer given on the form; each entry states the record support for the answer.

Item 2. Does the proposed action require a permit, approval or funding from any other governmental Agency?

Town of Yorktown only. Town Engineer — Administrative MS4 Stormwater Management Permit and Administrative Wetland Permit (this application), and written consent to a plan modification under the standing condition of Wetland/Excavation Permit WP-E-010-10 that “[t]here shall be no modifications of the approved plans without prior written consent of the Town Engineer.” No State or federal approval is required. The mitigation works separating the field from the regulated areas are built and were confirmed by NYSDEC on October 20, 2023 to have been “implemented in accordance with the approved restoration and mitigation plan,” which is Exhibit A to the NYSDEC Order on Consent and is reproduced at Attachment C. The western field is the soccer field addressed in Item 2(c) of the Schedule of Compliance to the NYSDEC Order on Consent, which required that field to be reduced in size to create the restored no-mow area; the field as so reduced remains in recreational use under the Order and its Exhibit A (Attachment C). On September 8, 2026 the Town Engineer, Daniel Ciarcia, P.E., stated that the Engineering Department will contact NYSDEC regarding the permitting of the artificial turf installation as part of the instant application.

Item 3.a. Total acreage of the site.

49.758 acres (2,167,445 square feet), per the Site Data block, Sheet 1 of 3 of the Overall Site Plan approved by the Town Board, Wetland Permit No. 095-12, dated February 6, 2013.

Item 3.b. Total acreage to be physically disturbed — 4.68 acres (204,000 square feet).

The 4.68 acres, or 204,000 square feet, is the existing field surface marked by the Town Engineer on Attachment A. There is no disturbance below existing finished grade other than the approximately 3 to 3.5 inch section described in Part 1. There are no new limits of disturbance: the work area lies wholly within the limits of disturbance approved in 2011 and depicted on the approved plans.

Item 4. Land uses on, adjoining and near the proposed action.

On site: Parkland (private park and recreation facility); Forest; Rural (non-agriculture); regulated wetland. Adjoining and near: Residential (suburban); Rural (non-agriculture); Forest.

Item 5.a. Permitted use under the zoning regulations.

Zoning district R1-80. Private and public parks and recreation facilities are an allowed use in R1-80 under Town Code § 300-21C(1)[5]. Building Inspector John Winter so advised the Planning Board by correspondence of May 8, 2013 upon the Planning Board’s referral of the zoning question. Planning Board Resolution #13-36 recites that the Town Board’s approvals established the use of the property as a private park. The Town Board resolution of April 5, 2011 states on its face that the approved use is “a temporary private park complex which is a main permitted use in the R1-80 zoning classification.” The Zoning Schedule on Sheet 1 of 3 of the approved plan reads “NONE” under “Variance Required” for every dimensional regulation.

Item 6. Consistency with the predominant character of the existing built or natural landscape.

The field exists and is in active use; only its wearing surface changes. Artificial turf is already an existing, approved and inspected surface at this facility: the approved Overall Site Plan annotates the north field as a “MULTI-PURPOSE NATURAL TURF ATHLETIC FIELD (FOOTBALL / SOCCER / LACROSSE) AND BASEBALL DIAMOND WITH ARTIFICIAL TURF INFIELD.”

Item 7. Critical Environmental Area.

No CEA was identified in the coordinated SEQRA review conducted by the Town Board as lead agency in 2010–2011.

Item 8.a. Increase in traffic above present levels.

No increase of any kind. No field is added, no capacity is added and no programming change is proposed. The traffic study accepted in the 2011 review indicated a maximum increase of 57 peak hour trips for the entire complex and concluded the project would result in “a very small percentage increase in traffic on US Route 6.” This application changes nothing in that analysis.

Item 9. State energy code.

Not applicable. No building, structure or energy-consuming system is proposed.

Item 10. Connection to water supply.

Water facilities at the site are an existing private irrigation well (Site Data block, Sheet 1 of 3). No connection is proposed, and an artificial turf surface requires no irrigation.

Item 11. Connection to wastewater utilities.

Sanitary facilities at the site are existing temporary portable facilities (Site Data block, Sheet 1 of 3). No connection is proposed and no change is made.

Item 12.b. Archeological sensitivity.

A cultural resources survey was completed and a State Historic Preservation Act determination issued in the 2010–2011 review. In any event no subsurface disturbance below existing grade is proposed.

Item 13.a. Wetlands or other regulated waterbodies.

NYSDEC Freshwater Wetland A-4 (Class I) and its regulated 100-foot adjacent area, and Town of Yorktown regulated wetlands and wetland control area, are present on the site. This is disclosed affirmatively and is the reason the accompanying Wetland Permit application is filed.

Item 13.b. Physical alteration of or encroachment into a wetland or waterbody.

The work area is an existing maintained athletic field. The restored, buffered and no-mow revegetated areas required by Exhibit A to the NYSDEC Order on Consent (Attachment C) lie outside the field, which is the soccer field as reduced under Item 2(c) of the Order's Schedule of Compliance (Attachment D, Exhibit J), and separate it from the regulated areas, together with the stone wall Creative Living was required to restore. The work area is the area marked by the Town Engineer on Attachment A. That the separating mitigation is built and accepted is confirmed by NYSDEC: following a site meeting on October 5, 2023 with the applicant and its ecological consultant, Sarah A. Pawliczak, Biologist, Bureau of Ecosystem Health, NYSDEC Region 3, wrote on October 20, 2023 that "[i]t appears that the mitigation has been implemented in accordance with the approved restoration and mitigation plan."

Item 14. Habitat types.

Within the work area: maintained turf grass (mowed athletic field) only. Elsewhere on the site: forested, wetland, meadow/grassland and early successional.

Item 15. Threatened or endangered species.

The Town Board received a report from the NYSDEC Natural Heritage Program dated July 20, 2010 indicating "that there are no records of rare or state-listed animals or plants, significant natural communities; or other significant habitats, on or in the immediate vicinity of the site."

Item 16. 100 year flood plain — the work area lies within the mapped Zone A.

The site contains a FEMA Zone A mapped floodplain (FIRM Panel No. 36119C0033F, effective September 28, 2007), and the work area lies within it. Zone A is a Special Flood Hazard Area for which no Base Flood Elevation has been determined. The proposed action places no fill, effects no change in grade, and effects no change in floodplain storage volume. The section is approximately 1 to 1.5 inches of artificial turf over 2 inches of compacted crushed stone or gravel over natural soil, laid upon the existing field surface; it displaces no floodwater and alters no flood-carrying capacity. Development of this field within the mapped floodplain has already been permitted by the Town: Flood Development Permit No. 20110001FD was issued April 12, 2011, and further Flood Development Permits were issued in 2012 and 2013, each appearing on the Town's parcel history for Parcel ID 6.14-1-2. The applicant does not seek to alter any condition addressed by those permits. The currency of the cited panel, and the Town of Yorktown's own adoption of it by local law, are set out in Attachment F.

Item 17. Storm water discharge.

No new discharge. Runoff from the field continues to be collected and conveyed by the existing approved grass swales and stormwater basin constructed under the 2011 and 2012 approvals. The proposed section is permeable: artificial turf over a compacted gravel drainage course over natural soil, the gravel compacted specifically to facilitate drainage. The project engineer's position of record, stated to NYSDEC, is that "[i]n drainage calculations, artificial turf is treated the same as natural grass for perviousness. Runoff from the artificial turf is captured and conveyed to the existing detention basin."

Item 20. Remediation for hazardous waste.

The site was the subject of a wetlands restoration and mitigation program under NYSDEC Order on Consent, Case No. R3-20180820-151, a freshwater wetlands matter under ECL Article 24 and 6 NYCRR Part 663. It is not hazardous waste remediation, and no hazardous waste, petroleum or solid waste remediation has been required or undertaken at this site. Exhibit A to that Order, the Restoration and Mitigation Plan, is reproduced at Attachment C. The mitigation was confirmed by NYSDEC on October 20, 2023.

Reservation.

This Short Environmental Assessment Form is submitted without waiver of, and expressly subject to, Creative Living's position that the proposed action is a Type II action under 6 NYCRR 617.5(c) requiring no environmental review, and that the relief sought is administrative and assigned by the Town's own application form to the Town Engineer. Part 1 is completed in full so that, if the Town Engineer treats the action as Unlisted, the record before him is complete and no further submission is required.

ATTACHMENT F — FLOOD INSURANCE RATE MAP

Citation and Currency of Panel No. 36119C0033F

1. The panel cited in Item 16.

Item 16 of Part 1 and Attachment E, Item 16, identify the applicable Flood Insurance Rate Map as Panel No. 36119C0033F of the Flood Insurance Rate Map for Westchester County, New York (All Jurisdictions), with an effective date of September 28, 2007. That is the panel and effective date adopted by the Town of Yorktown itself, and it remains the panel in force for this parcel.

2. The Town of Yorktown's own adoption of the panel.

Chapter 175 of the Code of the Town of Yorktown, "Flood Damage Prevention," § 175-6A, "Basis for establishing areas of special flood hazard," identifies by number the very panels the Town administers. Subsection A(1) provides, in pertinent part:

"The following Flood Insurance Rate Map Panel Numbers, whose effective date is September 28, 2007, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction: 36119C0028F, 36119C0029F, 36119C0033F, ..."

Subsection A(2) adopts the accompanying engineering report:

"A scientific and engineering report entitled 'Flood Insurance Study, Westchester County, New York, All Jurisdictions,' dated September 28, 2007."

Town of Yorktown Code § 175-6A(1), (2) (eCode360, Town of Yorktown, N.Y., <https://ecode360.com/>, Ch. 175, Flood Damage Prevention, § 175-6). The Town's floodplain administration therefore rests on the identical panel number and identical effective date stated in Item 16. The applicant has cited the map the Town has enacted.

3. The panel has not been superseded as to this parcel.

Two points bear on currency. First, § 175-6A(1) is drafted to absorb later map changes that do not reach Yorktown — it adopts the listed panels "and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction." A revision elsewhere in Westchester County does not displace the panel the Town administers here.

Second, the Risk MAP activity in Westchester County since 2007 has been coastal. The Federal Emergency Management Agency issued preliminary Flood Insurance Rate Maps for Westchester County dated December 9, 2014 as part of the Region II coastal flood study for the Atlantic Ocean and Long Island Sound shoreline. Those preliminary maps were the subject of appeal and have not been adopted as effective for this County. They are in any event coastal, addressing still-water elevations and wave effects along tidal waters; they do not revise inland riverine panels such as the panel covering this parcel, which lies in the interior of the Town on a freshwater watercourse and associated NYSDEC Freshwater Wetland A-4.

The Town has not amended § 175-6A to adopt any later panel, and the Code as presently in force continues to recite the September 28, 2007 effective date. Accordingly the effective panel for this parcel is Panel No. 36119C0033F, effective September 28, 2007.

4. What Zone A means, and why the proposed action does not disturb it.

Zone A is a Special Flood Hazard Area — the area inundated by the flood having a one percent chance of being equaled or exceeded in any given year — for which the flood study performed no detailed hydraulic analysis and therefore published no Base Flood Elevation. It is distinguished from Zone AE, where Base Flood Elevations are determined and printed, and from Zone X, which lies outside the Special Flood Hazard Area. The consequence of a Zone A designation is regulatory, not physical: development within it requires a floodplain development permit and, where the Town requires one, a Base Flood Elevation developed from the best available data.

That regulatory step has already been taken at this field, three times. The Town has issued to Creative Living, for Parcel ID 6.14-1-2, Flood Development Permit No. 20110001FD, filed April 12, 2011 and signed by Building Inspector William D. Gregory, for the "FLOOD DEVELOPMENT PERMIT FOR CONSTRUCTION OF BALLFIELDS"; Flood Development Permit No. 20120001FD, filed April 11, 2012 and signed by Building Inspector John Winter, on Floodplain Development Permit Application No. 2012-2082FD received April 11, 2012 for the construction of four dugouts and two temporary membrane structures; and Flood Development Permit No. 20130001FD, filed February 14, 2013 and signed by Assistant Building Inspector Joe Venitucci, on a Floodplain Development Permit Application received February 12, 2013 for "various permitted work in flood zone." Each application was made, and each permit issued, under Chapter 175 of the Code of the Town of Yorktown. Each of those applications and permits, together with the project engineer's 2013 flood certification to the Building Inspector, is reproduced in full at Attachment G. The proposed action places no fill, effects no change in grade, and effects no change in flood storage capacity: it lays an approximately 1 to 1.5 inch artificial turf carpet over an approximately 2 inch compacted crushed stone or gravel drainage course upon the existing field surface. The section is permeable and is compacted specifically to drain. No floodwater is displaced and no flood-carrying capacity is altered.

5. Sources.

Town of Yorktown Code § 175-6A(1), (2) (Flood Damage Prevention), eCode360, <https://ecode360.com/> (Town of Yorktown, N.Y.); Flood Insurance Study, Westchester County, New York, All Jurisdictions, dated September 28, 2007; Flood Insurance Rate Map, Westchester County, New York, Panel 33 of 200, Map No. 36119C0033F, effective September 28, 2007; FEMA Flood Map Service Center, <https://msc.fema.gov/portal/home>; FEMA Region II Coastal Analysis and Mapping, Westchester County preliminary FIRMs dated December 9, 2014 (preliminary; not adopted).

ATTACHMENT G — THE FLOOD RECORD

Floodplain Development Permit Applications, Permits Issued, and Engineer's Flood Certification

The responses at Item 16 and at Attachment E, Item 16, rest on a permitting record already made by the Town of Yorktown at this parcel. That record is reproduced here in full so that the Lead Agency need take nothing on description. Six of the seven documents that follow are the Town's own records, produced by the Building Department; the seventh is the project engineer's certification addressed to the Building Inspector and copied to the Planning Board, the Town Board, the Planning Department and the Engineering Department.

Taken together they establish three things. First, that development of this field within the mapped Zone A floodplain has been applied for and permitted by the Town three separate times, in 2011, 2012 and 2013, on Parcel ID 6.14-1-2, each time under Chapter 175 of the Town Code. Second, that the Town has been on written notice since 2013 of the extent of the floodplain at this site and of encroachment within it, and permitted the work notwithstanding. Third, that the present application proposes materially less than any of them: no fill, no change in grade, no change in flood storage capacity, and no structure.

A note on the state of the Town's production is required for candor. The 2011 application bears the legend "Page 1 of 2." The 2012 and 2013 applications each bear the legend "Page 1 of 4." Only the first page of each was produced to the applicant. The pages not produced are the Local Administrator's portions of the form, on which the Town records the Flood Insurance Rate Map panel consulted, the flood zone, the base flood elevation developed for a Zone A site, and the certification of compliance. The applicant reproduces what it has and reserves the right to supplement upon production of the balance.

WHAT THE TOWN HAS ALREADY PROVIDED

The significance of Attachment G is not that Creative Living once applied. It is that **the Town of Yorktown has already made, and already granted, every floodplain determination this site requires.** On each of three occasions the Town received a Chapter 175 application, reviewed it, fixed and collected the \$350 flood development fee, and issued a permit over the signature of its own Building Inspector or Assistant Building Inspector. The Town did not refer the applicant to FEMA, did not require a Letter of Map Amendment, and did not condition any permit on the applicant producing a base flood elevation. **It made the determination itself, as the Local Administrator, and it kept the record of having made it.**

The engineer's certification at Exhibit G-7 says so in terms. Writing to the Building Inspector in 2013 about an encroachment of some 2,500 square feet beyond the Zone A limit, the project engineer advised that "[a] flood permit was previously issued for this project in conjunction with the original Wetland Permit in 2011," and that the encroachment would have no measurable or adverse effect on the flood zone **"nor will any changes be necessary to the information previously provided."** The information had been provided. The Town had it, acted on it, and permitted the work.

That is the posture in which this application arrives. **The present action proposes materially less than anything the Town has previously permitted here:** no structure, no fill, no change in grade, no change in flood storage capacity — a wearing surface laid on a field the Town permitted into existence. If the work permitted in 2011, again in 2012 and again in 2013 satisfied Chapter 175 on this parcel, **a change of surface on the same field cannot require more.**

Exhibit G-1**Application for Development Permit — Area of Special Flood Hazard**

Town of Yorktown Building Department. Permit No. 20110001FD, dated 4/12/11. Owner: Creative Living Development, Inc. Section 6.14, Block 1, Lot 2. Proposed construction: sports fields. Total estimated cost of development: \$2.5 million. Fee of \$350 received the 4th day of April, 2011, signed by the Building Inspector. Page 1 of 2; page 2 not produced.

**APPLICATION FOR DEVELOPMENT PERMIT
AREA OF SPECIAL FLOOD HAZARD
BUILDING DEPARTMENT
TOWN OF YORKTOWN, NEW YORK**

Page 1 of 2

(Office use only)	
APPLICATION No. _____	DATE _____
PERMIT No. <u>20110001 FD</u>	DATE <u>4/12/11</u>

Name of Owner CREATIVE LIVING DEVELOPMENT, INC. Phone # 914-403-5517
Present Address of Owner 600 STREET BLVD. SUITE 303 YORKTOWN HTS, NY 10598
If owner is a Company or Corporation, list names of officers and titles.
Address/Location of Subject Property NAVARO ROAD
SECTION 6.14 BLOCK 1 LOT(S) 2 VERIFIED BY AKS DATE _____
PROPOSED CONST. SPORTS FIELDS
Contractor OWNED
Address _____ Phone _____
Architect or Engineer SITE DESIGN CONSULTANTS - JOSEPH C. RUVO, P.E.
Address 251 E UNDERHILL AVE YORKTOWN HTS, NY 10598 Phone 914-462-8488
TOTAL ESTIMATED COST OF DEVELOPMENT IS \$ 2.5 MILLION

The undersigned applicant hereby agrees to comply with all applicable provisions of Chapter 175 of the Code of the Town of Yorktown, and all other Laws, Codes, Rules and Regulations applicable to the proposed development.

<u>CHARLES DIUBO</u> NAME OF CONTACT PERSON (Print) <u>914-455-2909</u> DAYTIME PHONE NUMBER: <u>CJDIUBO@aol.com</u> EMAIL ADDRESS	_____ SIGNATURE OF OWNER OR AGENT <u>914-455-2945</u> FAX NUMBER OF CONTACT PERSON:
---	--

All applications for a floodplain development permit shall be accompanied by an application fee of \$350. In addition, the applicant shall be responsible for reimbursing the Town of Yorktown for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit of no more than \$500 to cover these additional costs.

(Office use only)	
W.C.D.H. CONST. PERMIT # _____	DATED _____
SEWER PERMIT # _____	DATE _____ SEQRA _____ DATE _____
DRIVEWAY PERMIT # _____	DATE _____ ZBA _____ DATE _____
STREET OPENING PERMIT # _____	DATE _____
WATER PERMIT # _____	DATE _____ ABACA _____ DATE _____
TOWN WETLANDS PERMIT # _____	DATE _____
N.Y.S. D.E.C. WETLANDS PERMIT # _____	DATE _____
U.S. ARMY CORPS. OF ENGINEERS PERMIT # _____	DATE _____
EROSION AND SEDIMENTATION CONTROL PERMIT # _____	DATE _____
N.Y.S. D.E.P. PERMIT # _____	DATE _____
OTHER _____	
The plans as reviewed substantially comply with Chapter 175, FLOOD DAMAGE PREVENTION, of the Code of the Town of Yorktown and the same are approved subject to compliance with these and any other applicable Laws, Codes, Rules or Regulations.	
THE VALUATION OF THE WORK IS DETERMINED TO BE \$ _____	
THE DEVELOPMENT APPLICATION FEE IS FIXED AT \$ _____	
Fee of \$ <u>350⁰⁰</u> received on the <u>4th</u> day of <u>April</u> , 20 <u>11</u>	
DATE _____	SIGNED <u>[Signature]</u> BUILDING INSPECTOR

Exhibit G-2

Building Permit No. 20110001FD

Town of Yorktown Building Department. SBL 6.14-1-2. Zoned R1-80. File Date 4/12/2011. Project Description: "FLOOD DEVELOPMENT PERMIT FOR CONSTRUCTION OF BALLFIELDS." Type of Permit: FLOOD DEVELOPMENT. Signed William D. Gregory, Building Inspector.



Town of Yorktown
363 Underhill Avenue
Yorktown Heights, NY 10598
BUILDING DEPARTMENT

Building Permit

Permit #: 20110001FD

SBL #: 6.14-1-2

Zoned: R1-80

Location: MAHOPAC ST.

Owner:

CREATIVE LIVING DEV INC

25 OLD NEVERSINK RD.

ATTN.: HENRY STEENECK

DANBURY CT 08661

File Date: 4/12/2011

Expiration Date: 1/1/1900

Cost of Construction: \$0.00

BPTFE: \$350.00

A permit is hereby given by the Building Department, TOWN OF YORKTOWN, COUNTY OF WESTCHESTER, for the structure described herein:

Project Description:

FLOOD DEVELOPMENT PERMIT FOR CONSTRUCTION OF BALLFIELDS

Type of Permit: FLOOD DEVELOPMENT

IMPORTANT

1. A permit under which no work has commenced within twelve (12) months after issuance, shall expire by limitation, and a new permit must be secured before work can begin.
2. It is the responsibility of the owner and/or contractor to comply with all applicable Town and State ordinances and to call for the required inspections at least one day in advance.
3. Occupancy of these premises is prohibited until after final inspection and Certificate of Occupancy or Compliance has been issued.
4. Any change in construction or design of this project requires new plans submitted and approved by the Town Building Department.
5. Certificate of Occupancy or Compliance will not be issued until all due fees have been paid.

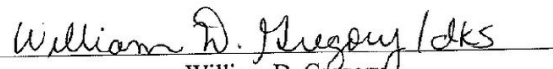

William D. Gregory
Building Inspector

Exhibit G-3

Floodplain Development Permit Application No. 2012-2082FD

Town of Yorktown Building Department. Date received 4-11-12; applicant and owner signatures dated 2-9-12. Section 6.14, Block 1, Lot 2. Proposed work: "Construction of (4) dugouts & (2) temp. membrane structures." Page 1 of 4; pages 2 through 4 not produced.



Town of Yorktown www.yorktownny.org

Building Department

Town Hall, 363 Underhill Avenue, Yorktown Heights, NY 10598
Tel. (914) 962-5722 ext.233 Fax (914) 962-1731

Page 1 of 4

FLOODPLAIN DEVELOPMENT PERMIT APPLICATION

Application # 2012-2082FD Date Received: 4-11-12

Please submit **2 copies** of this entire application, 4 pages).

SECTION 1: GENERAL PROVISIONS (Applicant to read and sign):

1. No work may start until a permit is issued.
2. The permit may be revoked if any false statements are made herein.
3. If revoked, all work must cease until permit is re-issued.
4. Development shall not be used or occupied until a Certificate of Compliance is issued.
5. The permit will expire if no work is commenced within six months of issuance.
6. Applicant is hereby informed that other permits may be required to fulfill local, state and federal regulatory requirements.
7. Applicant hereby gives consent to the Local Administrator or his/her representative to make reasonable inspections required to verify compliance.
8. **I, THE APPLICANT, CERTIFY THAT ALL STATEMENTS HEREIN PAGES #s 1 through 4, AND IN ATTACHMENTS THERETO, TO THE BEST OF MY KNOWLEDGE, ARE TRUE AND ACCURATE.**

APPLICANT'S SIGNATURE: [Signature] DATE: 2-9-12

OWNER'S SIGNATURE: [Signature] DATE: 2-9-12
(If different from Applicant)

SECTION 2: PROPOSED DEVELOPMENT (To be completed by APPLICANT):

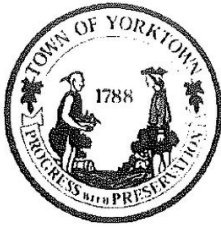
Applicant: Complete all information lines, below, except those marked "Office use only".

Name of Owner: CLONIVE LIVING DEV. INC. Telephone #: 914-403-5577
Primary Contact for This Project: CJ Diven Jr. Telephone #: 914-403-5577
Fax: _____ Email: CJ.DIVEN@CLONIVE.COM
Present Address of Owner*: 2649 SPRING BLVD YORKTOWN HEIGHTS NY 10598 303
Address/Location of Proposed Work: 3870 MIDDLE RD
Section: 6-14 Block: 1 Lot(s): 2 Verified by: _____ Date: _____
Proposed Work: CONSTRUCTION OF (4) DUGOUTS & (2) TEMP. MEMBRANE STRUCTURES
Contractor: 102-104 1ST AVE N Telephone #: 914-403-5577
Address: 2649 SPRING BLVD YORKTOWN NY 10598 303
Westchester County Home Improvement Contractors Lic. # _____
Architect or Engineer SHEPHERD CONSULTANTS Telephone # 962-4488
Address 251-F UNDERHILL AVENUE YORKTOWN Fax/Email 962-7386

Exhibit G-4

Building Permit No. 20120001FD

Town of Yorktown Building Department. SBL 6.14-1-2. File Date 4/11/2012; Expiration Date 4/11/2013. Project Description: "FLOOD DEVELOPMENT PERMIT." Type of Permit: FLOOD DEVELOPMENT. Flood Development Fee \$350.00. Signed John Winter, Building Inspector.



Town of Yorktown
363 Underhill Avenue
Yorktown Heights, NY 10598
BUILDING DEPARTMENT

Building Permit

Permit #: 20120001FD

SBL #: 6.14-1-2

Zoned:

Location: MAHOPAC ST.

Owner:

CREATIVE LIVING DEV INC

96 LINWOOD PLZ.

C/O BRUCE H. ADLER

FORT LEE NJ 07024

File Date: 4/11/2012

Expiration Date: 4/11/2013

Cost of Construction: \$0.00

FLOOD DEVELOPMENT FEE: \$350.00

A permit is hereby given by the Building Department, TOWN OF YORKTOWN, COUNTY OF WESTCHESTER, for the structure described herein:

Project Description:

FLOOD DEVELOPMENT PERMIT

Type of Permit: FLOOD DEVELOPMENT

IMPORTANT

1. A permit under which no work has commenced within twelve (12) months after issuance, shall expire by limitation, and a new permit must be secured before work can begin.
2. It is the responsibility of the owner and/or contractor to comply with all applicable Town and State ordinances and to call for the required inspections at least one day in advance.
3. Occupancy of these premises is prohibited until after final inspection and Certificate of Occupancy or Compliance has been issued.
4. Any change in construction or design of this project requires new plans submitted and approved by the Town Building Department.
5. Certificate of Occupancy or Compliance will not be issued until all due fees have been paid.



John Winter
Building Inspector

Exhibit G-5

Floodplain Development Permit Application — 2013

Town of Yorktown Building Department. Date received 2-12-13. Address/location of proposed work: 3000 Navajo Street. Section 6.14, Block 1, Lot 2. Proposed work: "various permitted work in flood zone." Page 1 of 4; pages 2 through 4 not produced.



Town of Yorktown www.yorktownny.org

Building Department

Town Hall, 363 Underhill Avenue, Yorktown Heights, NY 10598
Tel. (914) 962-5722 ext.233 Fax (914) 962-1731

Page 1 of 4

FLOODPLAIN DEVELOPMENT PERMIT APPLICATION

Application # _____

Date Received: 2-12-13

Please submit 2 copies of this entire application, 4 pages).

SECTION 1: GENERAL PROVISIONS (Applicant to read and sign):

1. No work may start until a permit is issued.
2. The permit may be revoked if any false statements are made herein.
3. If revoked, all work must cease until permit is re-issued.
4. Development shall not be used or occupied until a Certificate of Compliance is issued.
5. The permit will expire if no work is commenced within six months of issuance.
6. Applicant is hereby informed that other permits may be required to fulfill local, state and federal regulatory requirements.
7. Applicant hereby gives consent to the Local Administrator or his/her representative to make reasonable inspections required to verify compliance.
8. I, THE APPLICANT, CERTIFY THAT ALL STATEMENTS HEREIN PAGES #s 1 through 4, AND IN ATTACHMENTS THERETO, TO THE BEST OF MY KNOWLEDGE, ARE TRUE AND ACCURATE.

APPLICANT'S SIGNATURE: _____ DATE: _____

OWNER'S SIGNATURE: _____ DATE: _____
(If different from Applicant)

SECTION 2: PROPOSED DEVELOPMENT (To be completed by APPLICANT):

Applicant: Complete all information lines, below, except those marked "Office use only".

Name of Owner: CALCITIVE LIVING DO. INC Telephone #: 914 403-5517

Primary Contact for This Project: CJ DIVEN Telephone #: 914 403-5517

Fax: _____ Email: CJ.DIVEN@TOL.COM

Present Address of Owner*: 3000 NAVAJO STREET YORKTOWN HEIGHTS NY 10598

Address/Location of Proposed Work: 3000 NAVAJO STREET

Section: 6.14 Block: 1 Lot(s): 2 Verified by: _____ Date: _____

Proposed Work: VARIOUS PERMITTED WORK IN FLOOD ZONE

Contractor: 102-104 18th AVE IN Telephone #: 914 403-5517

Address: 3000 NAVAJO STREET YORKTOWN HEIGHTS NY 10598

Westchester County Home Improvement Contractors Lic. # N/A

Architect or Engineer SITE DESIGN CONSULTING INC Telephone # 914 962-7386

Address 257 F CAMPBELL AVE YORKTOWN HEIGHTS NY 10598 Fax/Email STAND
J ALLAN @ SITE DESIGN . INC

Exhibit G-6

Building Permit No. 20130001FD

Town of Yorktown Building Department. SBL 6.14-1-2. File Date 2/14/2013; Expiration Date 2/14/2014. Project Description: "FLOOD DEVELOPMENT." Type of Permit: FLOOD DEVELOPMENT. Flood Development Fee \$350.00. Signed Joe Venitucci, Assistant Building Inspector.



Town of Yorktown
363 Underhill Avenue
Yorktown Heights, NY 10598
BUILDING DEPARTMENT

Building Permit

Permit #: 20130001FD

SBL #: 6.14-1-2

Zoned:

Location: MAHOPAC ST.

Owner:

CREATIVE LIVING DEV INC

96 LINWOOD PLZ.

C/O BRUCE H. ADLER

FORT LEE NJ 07024

File Date: 2/14/2013

Expiration Date: 2/14/2014

Cost of Construction: \$0.00

FLOOD DEVELOPMENT FEE: \$350.00

FLOOD DEVELOPMENT FEE: \$0.00

A permit is hereby given by the Building Department, TOWN OF YORKTOWN, COUNTY OF WESTCHESTER, for the structure described herein:

Project Description:

FLOOD DEVELOPMENT

Type of Permit: FLOOD DEVELOPMENT

IMPORTANT

1. A permit under which no work has commenced within twelve (12) months after issuance, shall expire by limitation, and a new permit must be secured before work can begin.
2. It is the responsibility of the owner and/or contractor to comply with all applicable Town and State ordinances and to call for the required inspections at least one day in advance.
3. Occupancy of these premises is prohibited until after final inspection and Certificate of Occupancy or Compliance has been issued.
4. Any change in construction or design of this project requires new plans submitted and approved by the Town Building Department.
5. Certificate of Occupancy or Compliance will not be issued until all due fees have been paid.

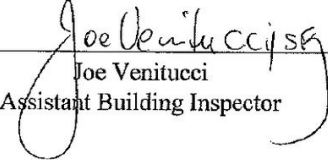

Joe Venitucci
Assistant Building Inspector

Exhibit G-7

Engineer's Flood Certification to the Building Inspector, October 31, 2013

Letter to Mr. John Winter, Building Inspector, Town of Yorktown, re Navajo Fields — Creative Living. Copied to the Planning Board, Town Board, Planning Department, Engineering Department, Environmental Consultant, Creative Living Development, A. Capellini and S. Marino.

Site Design Consultants

Civil Engineers • Land Planners

October 31, 2013

Mr. John Winter, Building Inspector
Town of Yorktown
363 Underhill Avenue
Yorktown Heights, NY 10598

Re: Navajo Fields – Creative Living
Navajo Street
Jefferson Valley

Dear Mr. Winter:

The current proposal for the air supported dome structure on the South Field will encroach within the flood boundary established by FEMA. Approximately 2500 SF of the proposed structure will extend beyond the Zone "A" limit. A flood permit was previously issued for this project in conjunction with the original Wetland Permit in 2011. We are requesting at this time to update this Permit to reflect this current proposal for the site. The encroachment as proposed will have no measurable or adverse effects on the flood zone nor will any changes be necessary to the information previously provided.

Should you have any questions or require additional information please do not hesitate to contact me.

Yours Truly,


Joseph C. Riina, PE

Cc: Planning Board
Town Board
Planning Department
Engineering Department
Environmental Consultant
Creative Living Development
A. Capellini
S. Marino

JCR/cm/ sdc 0831

251-F Underhill Avenue • Yorktown Heights, New York 10598

60 Walnut Grove Road • Ridgefield, Connecticut 08877

(914) 962-4488

(203) 431-9504

Fax (914) 962-7386



The certification at Exhibit G-7 states that the then-proposed air supported dome structure on the South Field "will encroach within the flood boundary established by FEMA," that "[a]pproximately 2500 SF of the proposed structure will extend beyond the Zone "A" limit," that "[a] flood permit was previously issued for this project in conjunction with the original Wetland Permit in 2011," and that "[t]he encroachment as proposed will have no measurable or adverse effects on the flood zone nor will any changes be necessary to the information previously provided." The present application proposes no structure and no encroachment of any kind; it replaces the wearing surface of a field that is already there.