

DETERMINATION AND FINDINGS

Determination and Findings by the Town of Harrison (the “Town”) pursuant to Eminent Domain Procedure Law (“EDPL”) Section 204 in connection with the proposed acquisition by eminent domain of certain real property known as Block 522, Lot 7 and more commonly known as Willow Ridge Country Club, 123 North Street, Harrison, New York (the “Property”) for use as a public recreation facility (the “Project”).

Town Law Section 64(2) states that the Town of Harrison may acquire land by eminent domain in order to serve any public use or purpose, which includes any use that would contribute to the health, safety, general welfare, convenience or prosperity of the community. The purpose for the proposed condemnation is to create a public golf course and recreation facility to provide recreational opportunities for residents.

The Town opened a public hearing on December 17, 2020 at 7pm to consider the Project. A notice of the meeting (notice attached as **Exhibit A**) was personally served on December 7, 2020 and sent by certified mail to the property owner (affidavit of service attached as **Exhibit B**). A copy of the meeting notice was published in the Journal News each day from November 24, 2020 through November 28, 2020 (affidavit of publication attached as **Exhibit C**). The public hearing was left open until the January 21, 2021 meeting of the Board when it was closed and the Board began discussion of potential environmental impacts associated with the taking. The public hearing lasted several hours over multiple meetings until everyone who wished to speak had been given the opportunity to do so. Many people spoke more than once. Written comments were also accepted up until the close of the public hearing. A transcript of all proceedings will be produced and made a part of the record. All testimony and written comments received at the hearing and additional comments received during the comment period have been reviewed, made a part of the record, and afforded full consideration.

The Project involves the acquisition by eminent domain of the Property to be used as a public golf course, pool, tennis, event and dining facility. The current owner of the Property is Willow Ridge Country Club, Inc., which operates a private 18-hole golf course and country club. The Property includes 121.756 acres of land, a golf course, clubhouse, swimming pool, tennis courts, storage and other facilities. The deed, along with a metes and bounds description of the Property is attached as **Exhibit D** and survey is attached as **Exhibit E**. The Property is zoned Residence (R-1), permitting primarily single-family residences on minimum one acre lots. The Property has approximately 1,560 feet of frontage along the east side of North Street, providing access to the clubhouse. In addition, there is approximately 294 feet of frontage along the south side of Park Drive South, at the rear of the Property.

The Property includes an 18-hole regulation length golf course that was originally designed by Maurice McCarthy and built in 1916 with a later redesign of Alfred H. Tull completed in 1947. The par 71 course measures 6,610 yards from the back tees, with a slope of 140 and a USGA rating of 71.3. The clubhouse building contains approximately 37,038 square feet of gross building area on two floors, including the finished lower level. Other improvements include an attached cart and bag storage building. Recreational amenities include an in-ground swimming pool with snack bar/cabana, six Har-Tru tennis courts and a tennis pro shop. The

maintenance functions of the golf course are contained within a u-shaped complex of metal buildings containing a total gross building area of 11,840 square feet. There is also a driving range and short game practice area. The Property includes a total of 191 paved, lined parking spaces located in two parking lots near the clubhouse building.

The Property is located in the Town of Harrison, in the southeast region of Westchester County, New York. The Town is a predominantly suburban community that is bordered to the west by the city of White Plains, to the east by Rye and Rye Brook, to the south by Mamaroneck and to the north by the town of North Castle. The Town is heavily influenced by its close proximity to New York City, located approximately 18 miles to the southwest. According to the U.S. Census, there is an estimated population of 212,259 people within five miles of the Property. The median income household income of the area contained within a five-mile radius of the Property is estimated to be \$117,130. The National Golf Foundation estimates that there are 23,596 golfers residing within five miles of the Property and 82,832 golfers residing within ten miles.

The Town retained True Club Solutions' ("TCS") to provide the Town with advisory services and a report pertaining to identifying opportunities surrounding the acquisition and operation of the Property as a public recreation facility. TCS visited the Property on November 6 to inspect its operations and existing conditions. TCS evaluated the current market demographics and competitive landscape to determine the feasibility of the Project. TCS reviewed current financial information from two other close by community owned golf clubs – Lake Isle and Rye Golf Club and visited those courses. TCS then created financial models for various scenarios, including but not limited to: memberships for residents/nonresidents; daily green fee access to residents who do not want memberships; public access; daily fee for all, with residents getting preferences on tee times and fees. These models included fees associated with retaining an outside firm to manage the facility.

TCS provided the Town with a report dated January 8, 2021 and concluded that the Project's strengths include: the Property being a high quality golf course located in one of the most affluent and desirable markets in the State; strong golf demand within 10 miles of course; the local market being underserved with public access golf, especially premium daily fee (>\$70) golf with no clubs in that category within 10 miles; a quality pool and tennis operation; and a large 250 capacity banqueting and event space. Project weaknesses outlined in the report included: the fact that the local market is oversupplied with private golf clubs; some aspects of the course layout and irrigation system should be improved; there are low cost golf alternatives in the area to play on less desirable courses; and the timing of the Project may present short-term challenges in terms of attracting members for the first year of operation.

The TCS report concluded that due to the lack of premium daily fee/public access clubs in the area, "TCS sees the primary opportunity for the Town of Harrison as being to transition Willow Ridge from a failing mid-tier private club into the premium public access club in the local market." The current public courses in market (Maple Moor, Saxon Wood, Lake Isles) are not considered premium (>\$70) and TCS stated in its report that the golf experience at Willow Ridge is far superior to current public course offerings within 10 miles of club and "is more comparable to Harbor Links (owned by Town of North Hempstead, NY), Rye Golf Course and

two Troon Affiliated Daily Fee clubs within an hour drive – Mansion Ridge and Centennial”. The report further states “in the big picture of available public golf within 20 miles of Willow Ridge, TCS sees the opportunity for Willow Ridge to be positioned above the current local offering, but below the high-end clubs such as Pound Ridge and Trump Links at Ferry Point which are both above \$200 rack rate in season.” The TCS report also provided two proforma operating models and detailed financial information for each model. The TCS report is attached as **Exhibit F**.

At its meeting on February 10, 2021, the Town Board classified the Action as “Unlisted” under the New York State Environmental Quality Review Act ("SEQRA"), determined that there were no other involved agencies and determined that the Project would not have any significant adverse impacts on the environment. The Town’s SEQRA determination and findings, along with a copy of the Environmental Assessment Form (EAF), are attached as **Exhibit G**. In the EAF prepared in connection with the proposed condemnation, no moderate to large environmental impacts were identified by the Town Board. The Board made the following findings concerning the potential for adverse impacts to the environment:

- (A) The acquisition of the Property and its conversion to a public golf course will not change its current use. Thus, it is unlikely that the change in ownership will result in any significant impacts on the environment.
- (B) Taking over operations at the Property and implementing a new membership/fee structure may moderately increase the intensity of use of the Property over current levels.
- (C) Impact on land/geological features/aesthetic resources/critical environmental areas/plants and animals: The taking will not result in the construction of new structures or the physical alteration of the Property. The Property will appear the same from the perspective of North Street and Park Drive. There are no agricultural resources in the vicinity.
- (D) Air Quality/Energy/Human Health: The taking will not result in any adverse impacts on air quality, exposure to contaminants or the use of energy.
- (E) Historic Resources: Given that the Property has been used as a golf course for many years it is unlikely that there are any archeological resources present on the site. To the extent that there are unknown resources, the change of ownership will not disturb those resources.
- (F) Open Space and Recreation: The taking will increase the availability of open space and recreation opportunities for Town residents. Activities shall include golf, tennis, a public pool and the availability of events space.
- (G) Noise, odor and light: The activities available on the Property will be the same as before the taking. Even with increased use of the golf course, Harrison does not anticipate any increases in noise, odor or light that would impact neighboring residential areas, the hospital or neighboring golf courses.
- (H) Traffic:

Golf traffic: Harrison anticipates an increase in vehicle visits after the taking. The new ownership model should increase the number of golfers at the Property from 65 to 125 per day during the golf season. However, there is no credible concern about whether the existing transportation infrastructure can support the use of the Property as a public golf course with no more than 60 new visitors per day.

Tennis/pool traffic: Harrison anticipates that the change in format from a private club to a public pool and tennis courts will generate no more than 49 additional vehicle trips per day. This calculation is based on the assumption provided by TCS that a switch to municipal ownership would increase pool and tennis use no more than 147 individual users per day for a total of 189 individual users. This calculation is based on the assumption that membership for these amenities will be capped at 450 memberships and national data indicates that approximately 14% of members are likely to use those amenities on a given day in season (63 members x average of 3 family members per membership). Given these estimates, there is no credible concern about whether the existing transportation infrastructure can support this modest increase in traffic.

Trip Generation Report: The Town retained GTS Consulting to prepare a trip generation report, dated February 9, 2021, for the Project that is attached as **Exhibit H**. The GTS report concluded that:

“The conversion of the Willow Ridge Country Club from a private country club to a municipal facility will have no significant impact on the overall traffic generated by the facility. The overall uses on the site will remain the same, therefore the peak times of traffic generation would also not materially change from the existing condition. Any minor increases in traffic generation, such as what is projected for the golf course or the tennis/pool facilities, would be negligible when distributed over a normal weekday. These minimal increases will not be noticeable to existing motorists in the area and do not warrant any further traffic evaluation.”

(I) Water: A portion of the Property is within the 100 year flood plain. There are also wetlands including freshwater ponds and a watercourse known as Beaver Swamp Brook. The taking will not impact these surface water features. The taking will not impact groundwater on the site. The Town is considering making improvements to the irrigation system. If such improvements are undertaken they will improve the quality of groundwater.

(J) Other items discussed by the Town Board:

Code Enforcement: The Town Board engaged in an extended discussion as to whether certain structures on the Property comply with the Town Zoning Code. The Town Board declined to make a determination as to whether this allegation was true, but rather, concluded that the mere change in ownership of the Property will not result in a change to any alleged existing non-conformity.

Parking: The Town Board engaged in an extended discussion as to whether the Property had adequate parking in its existing configuration for the proposed use. Though there was disagreement amongst board members on this point, the Board concluded that the existing 191 paved lined parking spaces was adequate for the Project. The Town Board further concluded that if an unforeseen parking problem did arise in the future that it could be dealt with by limiting the number guests permitted to use the facility or even adding additional parking on unutilized land adjacent to the existing parking.

Pursuant to EDPL Section 204(B)(1), the Town concludes that the Project will serve a legitimate public purpose. The proposed use of the Property as a public golf course, tennis courts, pool, event and dining facility will contribute to the health, safety, general welfare, convenience and prosperity of the community by expanding recreational opportunities for residents and the general public. The Project will also attract new visitors to the community which will benefit local businesses.

Pursuant to EDPL Section 204(B)(2), the Town concludes that the Property is the appropriate location for the Project because it is currently used as private golf and tennis club. Changing the ownership of the Property will not fundamentally change the use of the Property in terms of impacts on the neighborhood. Two other golf courses are adjacent to the Property to the north and east. Given the amount of land required to create the public recreation facility contemplated by the Town, there are no other suitable locations to consider within the Town. The fact that the existing private club has already been developed over a long period of time, is currently underutilized and failing due to low membership provides the perfect opportunity for the Town to proceed with the Project.

Pursuant to EDPL Section 204(B)(3), the Town concludes that the general effect of the Project on the Environment will be negligible. The Project does not require any new construction. The current use of the Property will remain the same, however, the Town Board does anticipate an increase in the intensity of use of the Property under the new ownership model. The Town Board has considered projections provided by TCS and GTS. Based on the information provided by the Town's consultants, the Town Board has concluded that any increase in traffic to the Property will not be noticeable to neighboring residents and the existing infrastructure is more than adequate to accommodate the anticipated increase.

Pursuant to EDPL Section 204(B)(3), the Town concludes that the general effect of the Project on the residents of the locality will be overwhelmingly positive. The Project provides a unique opportunity for the Town to provide golf, pool, tennis and dining facilities to the public that were previously only available to private members. The Project will greatly benefit residents of all ages seeking additional recreational opportunities within the Town.

Pursuant to EDPL Section 204(B)(4), the Town Board considered other factors raised by residents during the public hearing process. Multiple residents expressed the desire to see this land remain open space rather than allow for the possibility that it may be sold to residential developers. The Town Board considered the comments provided by current members of the Willow Ridge Country Club that expressed disapproval of the eminent domain process and that they believed that the Town planned to undercompensate them for the taking. In response to this

criticism the Town Board retained a qualified appraiser to value the Property and made a written offer to either purchase it or enter into an advance payment agreement. Multiple members of the public stated that they believed that the purchase of the Property and the operation of the Project will be too expensive. In response to these criticisms, the Town Board obtained advice from TCS on the economics of the Project and how it should be managed.

All comments have been given careful, extensive and due consideration by the Town Board.

DETERMINATION

Based on due consideration of the record and the foregoing findings, it is determined that the Town should exercise its power of eminent domain to acquire the above-described property in order to promote and permit the purposes of the Project to be achieved.

Copies of this Determination and Findings by the Town are available and will be forwarded without cost and upon request, by writing to the Town Clerk.

ATTENTION: ANY PERSON WHO WISHES TO SEEK JUDICIAL REVIEW OF THIS DETERMINATION AND FINDINGS, OR WHO CLAIMS TO BE AGGRIEVED BY SUCH DETERMINATION AND FINDINGS AND WISHES TO CHALLENGE SAME, MUST DO SO, IF AT ALL, (1) BY DULY COMMENCING A LEGAL PROCEEDING IN THE APPELLATE DIVISION, SECOND DEPARTMENT, SUPREME COURT, STATE OF NEW YORK, APPELLATE DIVISION, SECOND DEPARTMENT, 45 MONROE PLACE BROOKLYN, NY 11201, NO LATER THAN _____, OTHERWISE ANY SUCH CHALLENGE OR JUDICIAL REVIEW MAY BE TIME BARRED, AND (2) BY DULY SERVING A DEMAND UPON THE TOWN TO FILE THE RECORD UNDERLYING THIS DETERMINATION AND FINDINGS. THE APPELLATE DIVISION MAY CONSIDER THE PUBLIC USE, BENEFIT OR PURPOSE TO BE SERVED BY THE PROPOSED ACQUISITION AND OTHER MATTERS SET FORTH IN NEW YORK EMINENT DOMAIN PROCEDURE LAW SECTION 207. UNDER SECTIONS 207 AND 208 OF THE EMINENT DOMAIN PROCEDURE LAW, THE EXCLUSIVE VENUE FOR ANY CHALLENGE TO THIS DETERMINATION AND FINDINGS IS THE ABOVE-DESCRIBED APPELLATE DIVISION. ANYONE WISHING TO CHALLENGE THIS DETERMINATION AND FINDINGS IS ADVISED TO CONSULT AN ATTORNEY PROMPTLY.