

RESOLUTION

Resolution No.: ___ of 2015

Roll Call Vote Name	Ayes	Noes	Abstain	Absent
<i>Mayor</i> Mr. Philip Valastro	X			
<i>Deputy Mayor</i> Ms. Carole Duffy	X			
<i>Trustee</i> Ms. Betty-Jo Bono	X			
<i>Trustee</i> Mr. John T. Bell	X			
<i>Trustee</i> Mr. Christopher Battiato	X			
TOTAL	5			

The following was presented

By Trustee Betty-Jo Bono

Seconded by Trustee J. Tom Bell

Date of Adoption: May 20, 2015

RESOLUTION RECOGNIZING VESTED RIGHTS

WHEREAS, the Village of Chester, New York (“Village”) having previously annexed certain property from the Town of Chester, New York (“Town”); and

WHEREAS, subsequent to the annexation, a review of applicable zoning requirements was undertaken by the Village concerning the property formerly within the Town’s land use jurisdiction and more fully described herein as the “Property”; and

WHEREAS, New York State Law recognizes the concept of “vested rights” to provide for an equitable consideration of property and land use issues whenever any change in zoning laws, rules or regulations or other related actions taken place; and

WHEREAS, the Board of Trustees (“Board”) for the Village is still considering the appropriate zoning designation for any parcels of property not currently zoned specifically by actions of the Board; and

WHEREAS, prior to the annexation of the Property from the Town to the Village, the Town had designated this Property that was the subject matter of annexation as containing SR-6 Zoning classification that provided for up to 120 single-family detached dwelling units to be constructed; and

WHEREAS, the process to be followed under the Town classification for SR-6 for approval of up to 120 single-family detached dwelling units was set forth in the then provisions of the Town Code; and

WHEREAS, the Village continues to review the proper zoning classification that will be applied to all parcels of property within the Village, but has not yet placed a new Zoning District classification on all parcels of property within the Village; and

WHEREAS, the Village is committed to continue to review what should be the new Zoning District classification for all parcels not so classified to date; and

WHEREAS, the Board notwithstanding any current consideration over the appropriate zoning for the aforementioned Property recognizes that the doctrine of vested rights equitably allows the current owner of the Property to utilize certain equitable benefits of that SR-6 zoning to build up to 120 single-family detached dwelling units; and

WHEREAS, in the prior SEQRA review that involved BT Holdings LLC, the Property as more fully described hereinafter had an alternative use considered for SEQRA review the potential build-out of the Property for up to 120 single-family detached dwelling units as the first alternative to the proposed Project; and

WHEREAS, the Board having prior to this Resolution received an Opinion from Special Litigation Counsel, Feerick Lynch MacCartney, Esqs., on the applicable law concerning vested rights; and

WHEREAS, the Village having previously undertaken a review under SEQRA and issued a Findings Statement that was adopted on or about December 12, 2011 in which the Proposed Action was principally the annexation of 60.6 acres into the Village from the Town as well as the consideration of RM-N Zoning District for the subject Property and the re-zoning of three additional parcels currently within the Village to RM-N Zoning; and

WHEREAS, at no time did the Findings Statement effectuate the change of zoning to the RM-N Zone for any of the parcels of property or for this Property; and

WHEREAS, in litigation commenced by BT Holdings LLC against the Village and the Village Trustees the said Plaintiff alleged that the failure of the Village to adopt zoning constitutes a taking of the property of BT Holdings LLC; and

WHEREAS, at no time had BT Holdings LLC requested the Village to determine if any zoning rights including any equitable considerations under the doctrine of vested rights applied to benefit BT Holdings LLC with regard to said Property or parcels of property; and

WHEREAS, the Village at all times wishes to lawfully and equitably consider the property rights of BT Holdings LLC as well as all other property owners including application of the lawfully recognized doctrine of vested rights.

NOW THEREFORE, it is resolved by the Village Board as follows:

Section 1. All "WHEREAS" paragraphs are incorporated herein by reference as though set forth in full herein.

Section 2. The Property of BT Holdings LLC previously known as Town of Chester Tax Parcel 2-1-39 consisting of approximately 60.6 acres is hereby determined and declared by the Village to have vested rights to build up to 120 single-family detached dwelling units as previously referenced in the Town's SR-6 Zoning District so that BT Holdings LLC is entitled at this time to have vested rights to build up to 120 single-family detached dwelling units at that site pursuant to the criteria previously provided for under the SR-6 Zoning District to construct up to 120 single-family detached dwelling units that was in effect by the Town immediately prior to annexation of that property from the Town to the Village.

Section 3. After consultation with the Village Planner, Special Counsel Feerick Lynch MacCartney for the Village is hereby instructed to draft any appropriate Local Law or other legislation required to so designate said Property to recognize the right to build up to 120 single-family detached dwelling units and in the event BT Holdings LLC requires such confirmation of its right to build up to 120 single-family detached dwelling units before adoption of the aforementioned Local Law that BT Holdings is entitled to rely upon this Resolution to confirm its vested rights to do so and Special Counsel is directed to issue any such letter to any lending institution or other appropriate entity to that effect..

Section 4. Notwithstanding anything to the contrary, the Village will continue to consult with the Village Planning Board, other Village Officials and professionals as well as others to determine any more appropriate zoning classifications for the Property. Nothing herein shall constitute a waiver of the right or interest by the Village to do so.

Section 5. This Resolution shall take effect immediately.

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

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Hon. Philip Valastro	[X]	[]	[]	[]
Deputy Mayor Carole Duffy	[X]	[]	[]	[]
Trustee Betty-Jo Bono	[X]	[]	[]	[]
Trustee John Bell	[X]	[]	[]	[]
Trustee Christopher Battiato	[X]	[]	[]	[]

The Resolution was thereupon duly adopted.

**BY ORDER OF THE VILLAGE BOARD OF THE
VILLAGE OF CHESTER, NEW YORK.**

DATED: May 20, 2015

Rebecca Rivera
Village Clerk

