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STATE OF NEW YORK : COUNTY OF ULSTER
TOWN OF MARLBOROUGH PLANNING BOARD

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In the Matter of

VERIZON WIRELESS

1488 Route 9W - Property of Jason Warden
Project No. 17-1004
Section 109.1; Block 2; Lot 14

3 Young Avenue - Property of James Garofalo
Project No. 17-1005
Section 109.1; Block 3; Lot 26.2

1024 Route 9W - Property of Absolutely Auto
Project No. 17-1006
Section 108.4; Block 5; Lot 24

----- X

SKETCH - SITE PLAN

Date: April 3, 2017
Time: 7:30 p.m.
Place: Town of Marlborough
Town Hall
21 Milton Turnpike
Milton, NY 12547

BOARD MEMBERS: CHRIS BRAND, Chairman
JOEL TRUNCALI
BEN TRAPANI
CINDY LANZETTA
JOSEPH LOFARO
MANNY CAUCHI
STEVE CLARKE

ALSO PRESENT: RONALD BLASS, ESQ.
PATRICK HINES
VIRGINIA FLYNN
STACY CALTA

APPLICANT'S REPRESENTATIVE: SCOTT OLSON

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

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VERIZON WIRELESS

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CHAIRMAN BRAND: I would like to call the meeting to order with the Pledge of Allegiance to the flag of our country.

(Pledge of Allegiance.)

MR. TRUNCALI: Agenda, Town of Marlborough Planning Board, April 3, 2017. Regular meeting 7:30 p.m. Approval of stenographic minutes for 3/6. Verizon Wireless, sketch, Jason Warden property, site plan; Verizon Wireless, sketch, James Garofalo property, site plan; Verizon Wireless, sketch, Absolutely Auto property, sketch, site plan; Aldrich/Tonsing, sketch, subdivision; Kevin and Kellie Casey, sketch, subdivision. Next deadline: Friday, April 7th. Next scheduled meeting: Tuesday, April 17th.

CHAIRMAN BRAND: Okay. I believe we've all had adequate time to look at the stenographic minutes for the March 6th meeting. I'd like to have a meeting to approve those minutes.

MS. LANZETTA: I'll make the motion to approve those minutes.

CHAIRMAN BRAND: Is there a second?

MR. TRUNCALI: I'll second.

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CHAIRMAN BRAND: Just as discussion, point of order, I'm not going to correct them but there's certainly no way in the minutes I called Mr. Garofalo Jimmy as I was quoted.

All those in favor of approving the minutes, say aye.

MR. CLARKE: Aye.

MR. TRAPANI: Aye.

MS. LANZETTA: Aye.

MR. TRUNCALI: Aye.

MR. CAUCHI: Aye.

MR. LOFARO: Aye.

CHAIRMAN BRAND: Aye.

Opposed by the same sign?

(No response.)

CHAIRMAN BRAND: Those are approved.

First up, Verizon Wireless, sketch, site plan for the property of Jason Warden.

MR. OLSON: Good evening. My name is Scott Olson. It's been awhile since I've been before this Board. Anyway, I'm here representing Verizon Wireless on these three applications.

The first one -- I'll give you just a quick general overview of what we're trying

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VERIZON WIRELESS

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to --

CHAIRMAN BRAND: Please.

MR. OLSON: We call these node applications because they're not cell towers. It's not a full size cell tower in any way, shape or form. It's essentially one antenna.

Verizon has identified a number of what they call hot spots, spots -- sometimes it's very busy intersections, there might be some shopping centers, just a high volume of traffic in certain areas that traditional cell towers in the path can't really kind of reach. Sometimes there are neighborhoods behind, in this case with 9W, that are just failing our service. So what they've done, they've -- in this case we've developed eleven proposed nodes, some of which are in the Town of Marlborough, a number of which are proposed in the Town of Newburgh also. So along Route 9W basically. It's just going to provide more seamless coverage to every area, less dropped calls. That's what we're trying to do, but because we have -- because we've got different properties, we figured three separate applications would be the right way to handle it.

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So the first one we have is what we call node 5. I think -- I don't know if you all have applications in front of you.

CHAIRMAN BRAND: Mm'hm'.

MR. OLSON: Maybe the easiest way to kind of visualize what I'm talking about is turn to -- I thought I had it marked -- it's tab 4. I'm looking at this map here. It's towards the end. Actually there are two reports. The second report is page 4. It's a colored map. You've got it. This shows you the overall plan of basically what we're trying to do along Route 9W. We have these nodes and we start down here, 4, 5, 6, all the way up to 11. We're not showing you 1 through 3 because those are in actually Newburgh.

This one is node 5. To give you an idea of where that is and what we're looking to do, it's interesting because we're not talking about a new cell tower. It's more a utility pole, what you'll see along Route 9W. That's what we're proposing here, to install basically a wooden pole. There will be one antenna attached to it. Actually, the equipment being used would be attached to it also. We show kind of what it

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looks like in a glance.

MR. CLARKE: You don't have a sketch of what this looks like visually, do you?

MR. OLSON: No, I don't.

MR. HINES: There's a detail in the packet.

MR. OLSON: Yeah. It's not like a simulation or anything. What I can do is I can certainly see if we have pictures of existing. It's pretty new. This is the first one I've done.

MR. CLARKE: We've talked about these nodes before. So these are relatively small.

MR. OLSON: So in this case we're talking about, you know, about a 40-foot wooden pole, a typical kind of telephone utility pole. And then the antenna is going to be attached about that tall, give or take a foot-and-a-half, two feet. The plans that we have, I think it's exhibit 3, will show you generally what equipment we're talking about. But relatively small. It doesn't have these antenna arrays where you have, you know, twelve antennas around a traditional cell tower. Along Route 9W it's going to match

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the existing poles that are there.

MR. CAUCHI: So you're not putting them on the telephone pole?

MR. OLSON: The existing telephone pole, no.

MR. CAUCHI: I thought we had talked about that the one time you came. When you came you said they were going to attach them to a regular telephone pole.

MR. HINES: These are proposed on their own pole.

MR. OLSON: Yeah. This is the first time --

MR. CAUCHI: Well who ever came and talked about it.

MR. OLSON: We do what we can. On these three that we have tonight, they're new poles on private property. We've intentionally put the poles as close to the right-of-way as possible so that it kind of goes with the existing poles that are out there. We can't just attach an antenna to any pole. Poles have transformers, other types of equipment that the CHG&E, they won't let us put them on. There's

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some who can and there's some who can't. In this case we're talking about three new poles that will be installed right adjacent to the right-of-way.

MR. CLARKE: These new poles you're talking about are 40 feet. What is a typical utility pole height?

MR. OLSON: Anywhere between 30 and 50 feet. I've seen one in another town, it's an existing pole, it's 50 feet tall.

MR. CLARKE: So they're going to be comparable in size. It's not going to stand out.

MR. OLSON: Absolutely. You're not going to have something over-towering. Exactly.

MS. LANZETTA: This is what the pole looks like.

CHAIRMAN BRAND: Do we have comments from the technical advisors?

MS. CALTA: We only received the application packages today. I can do like a quick look at them, but we will have our complete review done before the thirty-day review time from when the application was actually submitted even though we only just got them today.

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CHAIRMAN BRAND: Okay. Although these are separate, they're kind of together also.

Pat, did you want to run through your comments maybe, or --

MS. LANZETTA: Can you just identify yourself so the Stenographer knows who was speaking?

MS. CALTA: Stacy Calta from HDR, Wireless Consultant.

CHAIRMAN BRAND: Stacy Calta. Okay.

MR. OLSON: Just so the Board is aware, I've known Mike Musso, in fact I think I met him at the Town first when I started working. We're dealing with him up in Newburgh also. We have a bunch of applications going. So I just gave him a heads up that these are coming. He's aware of them. I just gave a quick rundown.

CHAIRMAN BRAND: Okay.

MR. TRUNCALI: So in other towns are you also doing it on private property?

MR. OLSON: It's all on private property, existing, yes.

CHAIRMAN BRAND: Do you want to run through your comments, Pat?

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MR. HINES: I provided my comments.

MR. OLSON: I have them.

MR. HINES: My first comment has to do with the building inspector's efficiency -- I treated them all as three as the applicant's representative has, and the comments were the same for each of them. The building inspector has identified several issues. They have to go to the Zoning Board of Appeals. Ron may want to weigh in on that after. The second one is there's no indication the property owners have authorized this application. We don't have a letter. We need a letter from the lessee. Then we have in the packet an incomplete lease. So I think the Board should get a letter of agent, which is normally required from the property owner, just letting them know this is an application that's happening on their property.

The mapping information provided in section 4 -- section 3, I'm sorry, is based on -- it specifically says it's based on a tax map and that they're not actual surveys. I think because of the proximity of each of these to the property lines, we have 14 feet, I think 8 feet in one of

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them, it's important there's going to need to be a survey of the properties showing that these are actually on the properties they're proposing, especially in areas of DOT right-of-way. They're using tax maps, they don't in any way reflect any DOT right-of-way takings. Tax maps are not to be used for surveys and for designs such as this. It can cause some issues here with right-of-way areas and takings. So I'm suggesting that they provide actual survey maps depicting the actual property lines. The long form E.A.F.s were not filled out utilizing DEC's website.

MR. OLSON: We started to -- go ahead. I'm sorry.

MR. HINES: I did it today and they gave us different information that isn't on the website. Things like endangered species, National Historic Registry locations I think I detailed in here later. Several of them are identified as archeologically sensitive areas. I don't know what they are, threatened or endangered species. We're suggesting that that should go to the National Heritage Foundation.

Each of the projects states that

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they're not located in a coastal zone but they in fact are in the coastal zone for Department of State purposes. So I think those E.A.F.s need to be updated appropriately.

The project has to go to Ulster County Planning because of their proximity to the 9W corridor, and the Town of Newburgh/Orange County municipal boundaries.

And then we're suggesting Mike Musso's office also have input on these.

So I think the major part of my comments is the reference to the fact that these are -- the property lines shown hereon are approximate based on tax maps and are for orientation purposes only. They do not represent a property boundary by a land surveyor. But each of these, if they were in the center of a big parcel I don't think I'd have much concern. Again, the first one I'm looking at here is 14 feet off the property line.

CHAIRMAN BRAND: Ron, did you want to jump in as well?

MR. BLASS: So this is an application which is governed by Federal regulations to a

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degree. The first order of business is for the Planning Board to solicit and to receive any comments from any consultants with respect to the completeness or incompleteness of the application within 30 days of the date of application, which is March 16th. So by April 16th, to comply with Federal regulation, you would want to get a full and complete report from all consultants regarding the completeness or incompleteness of the application.

MS. LANZETTA: But aren't we saying tonight, right now, that we don't feel like we have a complete application for our purposes?

MR. BLASS: Well, that's true. I think that's how Pat's report should be read. But there may be other aspects of incompleteness that are not yet addressed and --

MS. LANZETTA: But I mean the time clock doesn't start until we decide that we have a complete application. Isn't that true?

MR. BLASS: If you were to not go through the exercise of making a list of incompleteness, the clock would begin to run on the date of the application, which is March 16,

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2017. That clock has a duration of 150 days for new facilities such as this. The benefit of getting a full report of incompleteness is that the clock doesn't begin to run until the elements of incompleteness are addressed. Now, Pat's report is a first step towards that. Stacy and HDR may have other elements of incompleteness, so they should -- if they find something different or more, they should report that to you by April 15, 2017.

MR. CLARKE: Ron, because this technology is different than other cell towers, is this covered -- how is this covered in our code?

MR. BLASS: It's governed just the way that large towers are governed, unless it's within the right-of-way. The Town Board made some amendments within the last few months to the effect that if a small cell node, such as this, is on a pole within the right-of-way it would not need to go through this procedure and could proceed by building permit alone.

MR. CLARKE: Because it's on private property it falls within our purview?

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MR. BLASS: Right. Right. It's a new pole on private property.

CHAIRMAN BRAND: Does this also require notification to adjacent landowners? I mean we're talking about a cell tower that's 8 feet away from somebody else's property.

MR. BLASS: This is a special permit so it's governed by 152-19 as well as the special permit section within 155 Zoning of the Town Code. So I'm pretty sure that there's a notice to adjoining owners and a public hearing requirement in both chapters.

If I may, to address Pat's comment about the building inspector's determination of the code, enforcement determinations, I believe you have determinations in front of you to the effect that the location of one or more of the three sites does not meet the setback requirement of two times the height.

CHAIRMAN BRAND: Yes. The building inspector rejected the Warden application and the Garofalo application.

MR. BLASS: With respect to one or more of the three applications --

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CHAIRMAN BRAND: Actually, he rejected all three. And the Absolutely Automotive as well.

MR. BLASS: And with respect to one or more of the three applications, are they all rejected due to lack of 4-acre minimum within the R-1 Zone?

MR. HINES: I believe only one of those is.

CHAIRMAN BRAND: Two of the --

MR. HINES: One is in the HD Zone.

CHAIRMAN BRAND: One was for the lot size requirement and the others were apparently setback distances and --

MR. CLARKE: Tower heights.

CHAIRMAN BRAND: Yeah, tower height and setback.

MR. BLASS: So all of them fall short of the minimum setback, which is two times the tower height, and one is in the R1 Zone and is --

CHAIRMAN BRAND: Correct.

MR. BLASS: So as we were talking about earlier, ordinarily you would expect the applicant to go to the ZBA to pursue the area

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variances. However, with respect to Chapter 152 of the Town Code, telecommunication facilities, if the applicant requests waivers of any of the specific requirements, the Planning Board has the jurisdiction to entertain them without the need to go to the ZBA. Meaning you have the jurisdiction to go thumbs up or thumbs down on any waiver of any requirement, such as the two we mentioned.

MR. OLSON: We did make -- we included in our application a bunch of waivers. We don't know those specifically. I don't have the building inspector's determination. I understand what you're saying. What we were saying is we'd certainly amend our waivers if it's the wise thing to do. We thought it was more important to have these poles closer to the rights-of-way so it just looks, you know, like the existing right-of-way poles look like, instead of putting them back 80 feet, looking like a parking lot or what have you. That was our thinking on that, it would look kind of natural.

MR. BLASS: Scott, where are the waivers in the application?

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MR. OLSON: I put them in my narrative which is right behind the application, but I don't think -- oh, I do ask for a tower setback. I don't know if I did the four acre one, though, honestly. So it's on page 5, Ron, --

MR. BLASS: Page 5.

MR. OLSON: -- of the -- it's right behind the application form.

MS. LANZETTA: Tower setbacks.

MR. OLSON: I'm sorry. Statement of intent.

CHAIRMAN BRAND: Page what?

MR. OLSON: Page 5 of my statement of intent which is right behind the application form.

CHAIRMAN BRAND: Which tab am I in?

MR. OLSON: It's not even a tab. It's just -- keep going. It's right behind that. Keep going. There is page 5 of that.

We ask for waivers in the middle of the page I think.

MR. BLASS: So the length of the list of waivers is probably directly proportional to the fact it's a 40-foot pole.

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CHAIRMAN BRAND: So in regards to this application, obviously the applicant needs to resubmit the E.A.F. or do some work on the E.A.F., he needs to clarify his waiver for the lot size for the Garofalo site, and then once that's received we give it to Stacy for review before April 15th, and it gets sent to County before we review it again?

MR. BLASS: Right.

MR. OLSON: If I could just quickly address one of Mr. Hines' -- a couple of them. They did start to use that DEC online map, or whatever it is. I spoke to Steve Matthews, the engineer, today and he said they started using it but then when they get to a point where it's -- I think the automotive site, it's right next to a parking lot. So he kind of goes and says clearly this is not going to be habitat for endangered species or threatened species. So he will try to make it a little more accurate. If he relies upon the DEC, it may just be -- the DEC just may be too generic. Since he's been to the site he knows it's a parking lot, there's no endangered species in the parking lot right next to it. But

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your comment, we understand it and we'll certainly work to clarify it.

MR. HINES: An example of that is the very same site you're discussing is located next to a national historic registry site, the Gomez Mill House, and that would have shown up if you utilized that. I ran them all today.

MR. OLSON: I understand.

MR. HINES: I plugged them in today.

MR. OLSON: Maybe it doesn't work all the time. It wasn't an intent to try to deceive. It's like the engineer said, I'm just trying to make sure it's not too generic and have it site specific. We can work with Pat.

MS. LANZETTA: I would suggest to you that when you do the E.A.F. for that site, because it is adjacent to that national historic site, that you also provide a visual because that's -- that's something that's going to be very important to the community to be able to see, and I'm sure anybody else that's reviewing it.

MR. OLSON: We can do that. I think because you mentioned that, you know, do we have

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a picture or something, a representation. I'll try to find something.

MR. CLARKE: I think it's easier to visualize. You're saying it's just a large telephone pole.

MR. OLSON: No. I understand. This is being separately run through the SHPPPO office. Because of that site, the historic site, they have to technically review it. I'll be a zealous advocate for my client. I run into historical stuff all the time. Quite frankly, in my humble opinion, the utility pole is not going to have any negative impact on any historic structure. I don't see that being a real issue but it still has to be addressed. This was kind of a frustrating process. It's not directed at anybody here. I think only because you said, sir, what does the Town Zoning Law or tower law apply to. Clearly it's meant to apply to towers. However, it is broad enough to capture this application. As I'm writing it up I'm saying but as sure as I'm standing here, a utility company is going to come into a right-of-way and drop a pole, they're not going to care one iota about

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any historical house, they're not going to come to you for zoning, they're not going to comply with setbacks because clearly none of the utility poles comply with setbacks. Actually, I would say probably some of them could probably fall under your definitions. Again, that's my argument. It's kind of a frustrating process because it seems like they're being treated possibly a little differently. You're not doing it intentionally, it's just the way the law is written and the way the world is.

MS. LANZETTA: That's right.

MR. OLSON: That was my frustration, ahh this is kind of tough. That's where we're coming from, though.

MR. HINES: I just want to make it clear for the Board, too. We're talking telephone poles but there are accessory features that are on these poles. There's equipment cabinets, there's electrical.

MR. OLSON: Yeah. No doubt about it.

MR. HINES: He has the detail in there, if you want to see it, in your packet. There's a detail sheet that shows the equipment.

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MR. CLARKE: Who is this technology aimed at?

MR. OLSON: Right now it's aimed at, like I just said, you have a very small area that needs the coverage because it's usually high volume, high traffic areas.

MR. CLARKE: Yeah, but when you're in high traffic you're not supposed to be using your cell phone.

MR. OLSON: Hands free. Hands free.

MR. CLARKE: Okay.

MR. OLSON: I agree with you. A lot of times -- I'm sorry. High volume traffic, it doesn't necessarily mean only vehicle traffic. It also means -- a high traffic area could be just a lot of users because --

MR. HINES: It's a system capacity issue.

MR. OLSON: It's capacity, yeah. These things can only handle only so many people who call in the same area at one time or use the system. Sometimes it's --

MR. CLARKE: We're not talking about streaming video.

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MR. OLSON: If they're driving doing that, they have some issues. I can't say I haven't seen it.

CHAIRMAN BRAND: Unfortunately me either.

So I guess you're going to resubmit things to our office. Then, once we have all these things, we can again review them. Once we're sure that we have a complete application, we can then send it to County. I think I'd like to hear back from them before we go ahead and schedule any public hearing.

MR. OLSON: Yeah. I think I can get some additional information that's being requested. If I have questions maybe I'll reach out to Pat or Ron.

CHAIRMAN BRAND: Or Mike or Stacy.

MR. OLSON: Or Stacy.

CHAIRMAN BRAND: Anything else from the Board on this?

(No response.)

CHAIRMAN BRAND: No. So I don't think I need to go through each of these individually, the Warden, Garofalo or Absolutely Automotive. I

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think all of the conditions are the same for the three.

MR. OLSON: That's fine. One question about --

CHAIRMAN BRAND: Please.

MR. OLSON: -- the survey. I understand what you're saying completely. Before we would do anything there would be a survey done because we don't want to make the mistake of building on someone else's property. However, because these are -- they're pretty high priority sites, they chose to do it the way they did knowing that they have to go through a survey. I don't know if that's acceptable to the Board, to anybody. We don't build things before we survey. Sometimes they try to avoid surveys. In this case they thought it wasn't a huge project. As long as they do, it wouldn't be that big of a deal. I just wanted to raise it.

CHAIRMAN BRAND: Is that a question? Are you asking a question?

MR. OLSON: I guess that's a question. Would that be something -- could that be a condition or something the Board would entertain,

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VERIZON WIRELESS

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having the survey done as a post-approval type of condition?

MS. LANZETTA: Well usually as part of the application process you have to submit a survey.

MR. OLSON: I have to go back and check. It probably does say that special use permit in the site plan section. I just don't know off the top of my head. I'm sure it does.

CHAIRMAN BRAND: I'm pretty sure it does. That's something that we'd want to see.

MR. OLSON: Okay.

CHAIRMAN BRAND: And I think I'm in agreement with Mr. Clarke, that we would like to see some type of picture. We do have the technical plans in there but it just goes a long way. This is exactly what it's going to look like on the Warden property, this is exactly what it's going to look like on the Garofalo property, this is what it's going to look like at the Absolutely Automotive property.

MR. OLSON: In terms of that, what I can do is I can certainly try to get a picture of -- they're all pretty similar in terms of height

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and everything. I'll try to get existing ones. I'll just talk to some people at Rochester. I haven't seen -- this is the first one I've done, obviously. I can certainly get you something that's a representative example. Is that okay or do you actually want like --

MS. LANZETTA: It's very easy to Photoshop and take a picture of an existing one and plunk it in front of Absolute, plunk it in front of Mr. Garofalo's and, you know, just -- it's not --

MR. OLSON: I understand. I'm trying to whittle this down just because -- I know you have your jobs to do and I've got my job to do. I'm just trying to get --

CHAIRMAN BRAND: We're anti-whittler.

MR. OLSON: What's that?

CHAIRMAN BRAND: We're anti-whittling.

MR. OLSON: All right. I think I understand.

CHAIRMAN BRAND: Thank you.

MR. OLSON: Thank you.

(Time noted: 7:51 p.m.)

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C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public
for and within the State of New York, do hereby
certify:

That hereinbefore set forth is a
true record of the proceedings.

I further certify that I am not
related to any of the parties to this proceeding by
blood or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 17th day of April 2017.

Michelle Conero

MICHELLE CONERO

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STATE OF NEW YORK : COUNTY OF ULSTER
TOWN OF MARLBOROUGH PLANNING BOARD

----- X
In the Matter of

ALDRICH & TONSING

Project No. 17-1007
Milton Turnpike
Section 103.1; Block 1; Lot 33

----- X

SKETCH - SUBDIVISION

Date: April 3, 2017
Time: 7:51 p.m.
Place: Town of Marlborough
Town Hall
21 Milton Turnpike
Milton, NY 12547

BOARD MEMBERS: CHRIS BRAND, Chairman
JOEL TRUNCALI
BEN TRAPANI
CINDY LANZETTA
JOSEPH LOFARO
MANNY CAUCHI
STEVE CLARKE

ALSO PRESENT: RONALD BLASS, ESQ.
PATRICK HINES
VIRGINIA FLYNN

APPLICANT'S REPRESENTATIVE: PATRICIA BROOKS

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

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CHAIRMAN BRAND: Next up, Aldrich and Tonsing. How are you?

MS. BROOKS: How are you?

CHAIRMAN BRAND: I'm well, thanks.

MS. BROOKS: So basically what you have before you is the project that I was trying to get out of bringing before you several months ago, if you recall. Robert Young, in his will, willed everything on the northerly side of the road of this parcel to his son Jeffrey, and the property on the southerly side of the road to his nephew Gregory.

We did a boundary survey of all of the lands on the children's side of the road, which came to 2.99 acres.

We are asking the Planning Board to waive the full survey of the 85.5 acres located on the northerly side of the road. It's bounded on the north by New Road, on the south by Milton Turnpike, it's bounded on the east by the Central Hudson utility line and bounded on the west by the survey that we previously did prepare for the mulch place which is the stonewall. The physical boundaries are very clear and we felt comfortable

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moving forward with the survey in this way.

Right now the property is actually, on the north side, owned by Jeff Aldrich. The deed was filed back in July. It sets out the plans on the south side of the turnpike that were included in the last will and testament of Robert Young. So we did supply a copy of both the deed and the will so that the Board could see that.

I did get a comment letter from Pat this afternoon. Thank you for forwarding that along to us. I have no problem going to the DPW. There already is an existing driveway there with a 20-inch cast iron pipe.

What I would request the Board to consider is the waiver of the approval of a subsurface sewage disposal system. The applicant is basically just trying to meet the conditions of the will, and to have him have to spend even more money just to -- he was gifted this property and has no plans for it at this point in time. I just --

MR. HINES: I just think we can work with that but I think there needs to be a note on there that a septic system design must be -- that

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way if someone buys it -- it's a potential issue with it.

MS. BROOKS: We did a soil survey. There's good soils in there. I could also submit that for the record to show that we did analyze that. We also can put two-foot topography on here to show that the grades will very amply support a septic system. Again, I'm just trying to minimize the impact that -- the financial impact for them just to accept a will -- a willed piece of land. They're not proposing to do anything on it at this point in time.

CHAIRMAN BRAND: Is there a house there now?

MS. BROOKS: No.

CHAIRMAN BRAND: It's just an empty lot?

MS. BROOKS: It's vacant property.

MS. LANZETTA: Have we ever made any lots that -- that we allowed not to have septic approval? Has the Town done this in the past?

MR. HINES: Normally on larger than 5 acre lots. This would be probably one of smallest ones. It's quite an expense to go

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through the process of designing a septic system,
as Patti just said.

MS. LANZETTA: I understand that but I
thought we were still supposed to be responsible
for making sure that all the lots are buildable
lots.

MR. HINES: Ron and I were just talking
as Patti was talking. Possibly a note and a
covenant to protect any potential buyer that says
hey, there's no approved septic.

MS. BROOKS: Right. I mean at this
point if the septic system can't go on this lot,
it's not a buildable lot because there is no
other piece to put it on. This is all land
surrounded --

MS. LANZETTA: It exists. It's already
existing.

MS. BROOKS: -- by the roadway and the
landowner. It is a unique situation.

MS. LANZETTA: Okay.

MS. BROOKS: If we were splitting it
off, that would be a different situation because
then there would be other opportunities
potentially for a septic to be placed. In this

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particular situation it is what it is and they have no other land on which to put a septic system if it can't be supported here.

MS. LANZETTA: Okay.

MR. HINES: The other good thing is that it's located in the water district so it has the ability to connect. There's not a well separation issue on the 3 acres.

MS. LANZETTA: Okay.

MR. CLARKE: But you also have houses on probably less than 1 acre lots on Sherman Drive that are acceptable. I would assume the soil types are --

MS. BROOKS: The soil types are good. That's why we did the soil survey. That's, again, one more piece of evidence for the file that the Planning Board has given a hard look at it. They're not hydric soils, there's no wetlands in the area.

MR. CLARKE: Actually, when I was growing up there was a house there. One of my classmates lived in that house. So it was at one time habitable.

MS. BROOKS: As you'll see, right next

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to the road, actually within the highway bounds,
is an old hand-dug, stone-lined well.

MS. LANZETTA: Okay.

CHAIRMAN BRAND: So Ron and Pat, you
guys are okay with that covenant and just the
depiction of the map that says that it's not
(inaudible)?

And you're okay with that, too?

MS. BROOKS: Sure. I mean we still
will show -- as Pat requested, I can show all the
setbacks, topography, and I can show a proposed
house, driveway and a potential septic system and
put a note on the lot that it's not a buildable
lot until Board of Health approval is granted on
the parcel. Is that what you had in mind?

MR. HINES: Yes, that's what I had in
mind. I think Ron had a covenant in mind,
though.

MR. BLASS: I have a two-paragraph
covenant.

MS. BROOKS: On the map, not a separate
document that they have to hire an attorney to
do?

MR. BLASS: Well, I had a separate

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document in mind.

MS. BROOKS: I would request that the Board not require that.

CHAIRMAN BRAND: They're not building on this today and for the foreseeable future?

MS. BROOKS: No.

CHAIRMAN BRAND: It's just an empty lot.

MS. BROOKS: Again, if I had any concern whatsoever about the soils -- that is the reason we submitted the soil survey.

MR. BLASS: So I would say that a covenant is totally optional and might be viewed by some as overkill. However, if there's going to be just a note on the map, I'd like to see that be a big note.

MS. BROOKS: Okay. Point well taken.

MR. BLASS: Increase the font size.

CHAIRMAN BRAND: We have down specifically what needs to be on the map; correct?

MS. BROOKS: Yeah. Basically what I would do, in addition to making it a note, we could put right on the lot itself so that

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somebody doesn't have to -- sometimes people complain there's too many notes on the map that I have to read. If it's on the lot itself saying this lot not Board of Health approved and it's not deemed a buildable lot until such time as Board of Health approval is granted, instead of putting a proposed septic system on there which may mislead some people, that perhaps it would be the more appropriate way to go. Does that sound better, Ron?

MR. BLASS: Yeah.

MR. HINES: You're doing it by default on the 85-acre parcel, too.

MS. BROOKS: That already has a house on it with a septic.

MR. HINES: Oh, it does. Okay.

MR. CLARKE: I'm fine with that.

CHAIRMAN BRAND: Good?

MS. LANZETTA: Yup.

CHAIRMAN BRAND: Okay. So we will schedule this for a public hearing at the -- what's the date there, Jen? May --

MS. FLYNN: May 17th.

CHAIRMAN BRAND: May -- what's the

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first one in May?

MS. FLYNN: Oh, I'm sorry. May 1st.

CHAIRMAN BRAND: Are you good with that?

MS. BROOKS: Yes.

CHAIRMAN BRAND: Great. Thank you.

(Time noted: 7:56 p.m.)

C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public for and within the State of New York, do hereby certify:

That hereinbefore set forth is a true record of the proceedings.

I further certify that I am not related to any of the parties to this proceeding by blood or by marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of April 2017.

Michelle Conero

MICHELLE CONERO

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STATE OF NEW YORK : COUNTY OF ULSTER
TOWN OF MARLBOROUGH PLANNING BOARD

----- X
In the Matter of

KEVIN & KELLIE CASEY

Project No. 17-1008
134 Idlewild Road
Section 108.3; Block 1; Lot 41

----- X

SKETCH - SUBDIVISION

Date: April 3, 2017
Time: 7:56 p.m.
Place: Town of Marlborough
Town Hall
21 Milton Turnpike
Milton, NY 12547

BOARD MEMBERS: CHRIS BRAND, Chairman
JOEL TRUNCALI
BEN TRAPANI
CINDY LANZETTA
JOSEPH LOFARO
MANNY CAUCHI
STEVE CLARKE

ALSO PRESENT: RONALD BLASS, ESQ.
PATRICK HINES
VIRGINIA FLYNN

APPLICANT'S REPRESENTATIVE: PATRICIA BROOKS

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

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CHAIRMAN BRAND: Kevin and Kellie Casey.

MS. BROOKS: Do you remember Mr. Casey was in to discuss this with you previously?

MS. LANZETTA: Yes.

MS. BROOKS: This is déjà vu all over again for me. We last appeared before the Planning Board in September of 2004. I have Pat's comment from then.

Basically we're here talking about a 1.13 acre parcel and showing a proposed well and septic. We did receive a copy of Pat's notation. I do have a copy of the original letter that was issued by Gael Appler back on September 22, 2004 saying he's reviewed the proposed driveway entrance on the Casey subdivision. The lot is --

MR. HINES: This is the same lot?

MS. BROOKS: Yeah. This is the same application. We received final conditional approval and Mr. Casey never went ahead and got the Board of Health approval. So this is the identical proposal from then. He had granted approval back then.

Just so that we have an updated one for

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the file, I will send this to Mr. Appler with a copy of the new map and make him aware that we're proposing it. Basically that is an existing driveway right there. That is not a proposed driveway. Generally we put proposed in red. So that -- that was -- it's utilizing the existing driveway of the Casey homestead since it's been in existing -- in existence in the location as a driveway entrance and exit. I'll ask him to update it.

MR. CLARKE: Where is that?

MS. LANZETTA: I think she's talking about this.

MR. HINES: It looks like -- I don't know where the Casey homestead is but --

MS. BROOKS: I think there was foundation remains on here. I think there was a barn on it at one point in time.

MR. TRUNCALI: This is the original house that used to be there.

MS. BROOKS: Joel, do you know?

MR. TRUNCALI: What was the question?

MS. BROOKS: I remember -- where the foundation remains is now, I remember there was a

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barn there. Do you know where the house was on the lot?

MR. TRUNCALI: I'm not sure, no.

MS. BROOKS: But since 2004 when we did the original survey and now, that barn has either been removed or came down of it's own volition. But the driveway is still there.

Your point about the trailer body and the shed, we said the shed was to be removed. I don't know if he'd want to relocate it. I guess he could do that as well. The trailer body will be removed.

MR. HINES: That's fine. As long as they're removed.

MS. BROOKS: I spoke with Mr. Casey today. He has contracted with Carmen Messina to do the Ulster County Board of Health approval, so we should have that. I was trying to figure out what his timing was because I wasn't necessarily sure I wanted to ask him to set it up for a public hearing. Since he's already in contract with the engineer, I would say we probably should have it by May 1st.

Basically this again was the subject of

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a subdivision that was approved back in 2000. This was lot number 1. You can see to the north of it lot number 2 and lot number 3. At that point in time we showed the 50-foot right-of-way centered on Idlewild Road. For the new lot number 1 we computed the highway bounds. Lot number 1 will totally be conveyed to a lot 25 feet off the center line of the road, but because of the configuration of the parcel and the fact that lot number 2 is going to extend on both the north and south or east and west, depending on how you want to look at it, sides of Idlewild Road, we basically, you know, created that 50-foot strip, calculated an acreage on it and are showing it as being highway bounds. But we're trying to keep lot 2 on both sides of the road, which I understand I can do since I need to subdivide it.

MR. TRUNCALI: So would it be creating a new lot or no?

MS. BROOKS: No. Note number 9 says lands located on the southwesterly side of Idlewild Road are part of lot 2 and shall not be considered a separate building lot, in case

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there's any question at all.

CHAIRMAN BRAND: You have two 9s there.

MS. BROOKS: What?

CHAIRMAN BRAND: You have two number
9s.

MS. BROOKS: Gee, look at that. The
second number 9. Thank you. I guess that will
turn into number 10.

MR. HINES: If I'm Mr. Casey, I'm
offering that for dedication and getting an acre
worth of property off my tax bill, but -- I
remember in 2000 he had a strong aversion of
doing that as well.

MS. BROOKS: Yes, he did.

CHAIRMAN BRAND: Can you say that again
for me, about the dedication? Can you run
through that again?

MS. BROOKS: Sure. Back in 2000 when
we did the original subdivision he had a strong
aversion to dedicating the road.

CHAIRMAN BRAND: What was the original
subdivision? Is that indicated?

MS. BROOKS: That was to take lots 2 --
there was a lot here and a lot here. If you look

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at the tax map location, lot number 1 is 4.1; and then lot number 2 is 4.2; and lot number 3 was 4.3.

CHAIRMAN BRAND: Got you.

MS. BROOKS: So at that point in time the Board agreed that it was fine if he wanted to continue ownership of the road as long as we calculated a 50-foot wide right-of-way and noted on the map that the lot was subject to the right to ownership of the public into that portion of Idlewild Road used for highway purposes, and we noted that as being the highway bounds on the map. So in this particular instance I said to him well let's not -- we have the opportunity to not bring lot number 1 to the center line of the road and at least create one of the lots that has road frontage on the road but is not going to the center line. That's why lot number 1 you'll see is calculated 25 feet off the center line of the roadway and lot number 1 has rights to use Idlewild Road as a Town road but will not have any ownership over the road. Basically what happens is the Town owns the road but on user highways the landowner owns the fee title

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underneath the road. There's any number of reasons for doing this. When roads are abandoned, if you've already given an offer of dedication it becomes a process to get the land back. It can create a situation where it becomes -- it's no longer a user highway that people can claim right-of-way over where previously that didn't exist. So there's any number of reasons that people are adverse to doing it. For the most part there's no benefit to the municipality because you already have user highway status on it, and by making it 25 feet wide there's no question of anybody coming back to the highway superintendent saying no, you can't widen it any further than the 33 feet that you've been using it all these years because we're putting it on a map saying it's 50 foot wide and they have the right to the 50 feet wide.

MR. BLASS: So ordinarily this would be a highway superintendent's call. It could be handled in one of three ways. I've never really seen it handled by an easement before. Frequently it's handled by an offer of dedication where the Town is given an offer to accept the

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road widening corridor in the future, when and if it decides to widen the road and until it accepts the offer of dedication, to record it with the county clerk, the title remains in the property owner. Another way to do it is by deed now, which seems to be slightly overkill because whether the Town widens the road at this particular spot is typically a function of whether it has the ability to widen the road both before and after this particular spot. So I would typically see it handled by an offer of dedication, which is good forever and the deed is provided and held in escrow until and unless the offer is accepted in the future. This is a road by user. The rules on road by user, as Patti said, is the adjacent owner owns to the center line and the road by user pops into existence by the Town's improving and maintenance of the road corridor over time in excess of ten ears but the road -- the Town doesn't have title to the underlying road, it only has an easement created by description for right of public travel by maintenance and opening of the road for in excess of ten years.

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So I guess the proposal here is in lieu of giving a deed to widen the road and in lieu of giving an offer of dedication to the Town which is exercisable in the future if the Town wants to widen the road, the proposal is to continue with an easement which has already been given and recorded.

MS. BROOKS: Only by survey map.

MR. BLASS: So it's not recorded with the county clerk?

MS. BROOKS: It's recorded with the county clerk on the original subdivision map.

MR. BLASS: Okay. So we're lacking an easement then of record. Most lawyers would have a problem with notes on a map and the enforceability of those on a map. Typically I would expect to see a written easement drawn up and signed and recorded, or an offer of dedication drawn up, signed and record with the county clerk, or a deed signed and recorded with the county clerk.

So this is, it seems to me to some degree, a philosophical position being advanced by the applicant of not wanting to convey land to

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the Town in fee title, even though in so doing there's, as Pat said, built-in tax relief and a built-in tax detriment to the municipality by the reduction of the size of the lot, the taxable lot.

MR. HINES: It seemed a little more palatable as I'm sitting here looking at this because proposed lot 1 doesn't actually, under this scenario, have access to the road by use.

MS. BROOKS: Yeah, they do because it's a 50-foot wide road. By virtue of this map and the previous map we granted to the Town a 50-foot wide right-of-way and we created -- and because in 2000 we had created a 50-foot wide right-of-way that was given -- you know, given to the Town by map, not by a separate filed easement, I didn't feel that I could go any closer to the highway bounds with the creation of that lot than what I previously had offered to the Town. That's why the highway bounds of lot number 1 are where they are. That puts it on the highway bounds that were previously offered to the Town only by survey map in the subdivision that we did in 2000.

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MR. BLASS: See, the problem with putting that on the map is that, by statute, showing it on the subdivision map constitutes an offer of dedication to the municipality in the future to take title to it. This is a provision. But that offer is revocable in the future. So it's not an irrevocable offer to the Town to take title in the future. It's an offer that can be revoked at any time. The statute basically says that showing this on a map will constitute an offer of dedication to the Town until and unless revoked.

MS. BROOKS: But they wouldn't be able to revoke it without filing another map that would be approved by this Board, and this Board would never give up the 50 feet.

MR. BLASS: Somebody would just write a letter and say I hereby revoke the -- I revoke the offer of dedication shown on the map consistent with Section 264 of the Town Law. So it's much cleaner, legally speaking, to give an offer of dedication that is irrevocable on it's face. So typically we would take an irrevocable offer of dedication that the Town can accept in

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the future, can not be revoked, deed signed and held in escrow until Gael decides to widen the road, if ever, if that ever happens in our lifetime, which is probably not likely.

CHAIRMAN BRAND: Especially on Idlewild.

MS. BROOKS: Yeah.

MR. BLASS: So that would be sort of a middle ground where the applicant is not giving you a deed now but is -- but is suffering the same consequences of showing this easement. It's really the same thing. You may philosophically think he has more than he has, in other words.

MS. LANZETTA: It has been the habit of the Town Planning Board to accept letters of dedication of roads.

MR. BLASS: Offer of dedication.

MS. LANZETTA: Yeah.

MR. BLASS: That's the custom and practice.

MS. LANZETTA: Yeah.

CHAIRMAN BRAND: And he's against doing this for some reason? Is that what I'm understanding?

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MR. HINES: The 2000 subdivision was quite the to-do.

MS. BROOKS: It was.

CHAIRMAN BRAND: This is 2017.

MS. BROOKS: Again, it's also time and expense. You have to hire an attorney. My understanding is that the Planning Board can not accept the offer of dedication, it needs to be the Town Board to accept the offer of dedication, with what my understanding is in other municipalities. I don't know if Marlborough does it any differently than that. Which means we have to appear before the Town Board to make that offer.

MR. BLASS: Here's how it would work: I have a form offer of dedication. I would e-mail it to the lawyer for the landowner and it should take him ten minutes to fill it out. He would in turn do a Quitclaim deed, attach the metes and bounds which should take fifteen minutes. So within forty-five minutes the job is done. I would sign off on the instrument and I would tell the Planning Board Chairman that the condition is fulfilled and he could sign the map

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and we would record the instruments. Not the deed but we would record the offer of dedication.

MS. BROOKS: The applicant would?

MR. BLASS: So it shouldn't be a big exercise.

MS. BROOKS: I can't -- I'm not in a position to agree with that, given the circumstances.

MR. BLASS: The section that says showing the thing on the map is an offer of dedication we could not accept.

MS. BROOKS: And that's why I thought it was satisfactory because that was always my understanding is that is the offer of dedication and that that was satisfactory.

MR. BLASS: It would be satisfactory (inaudible).

CHAIRMAN BRAND: Anything else from the Board?

(No response.)

CHAIRMAN BRAND: No? Nothing?
So we can go ahead and schedule this for the public hearing as well.

MS. BROOKS: Yes, I would. I'm going

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to have to consult, obviously, with the property owner. If there are no hitches with doing the offer of dedication, if that's what the Board determines is required, you know, I just --

MS. LANZETTA: I think -- I think it would be wise to discuss it with Mr. Casey and ask him to make it a cleaner subdivision, that we would appreciate having that done. I mean that's my opinion. I don't know about anybody else's.

CHAIRMAN BRAND: I tend to agree with the attorney in most cases.

MS. BROOKS: I mean we can set it up for a public hearing. If there are any issues I certainly would be able to let you know before a workshop and so forth. So yes, I would appreciate also being scheduled for a public hearing.

MS. FLYNN: You have until the 21st. The deadline is the 21st.

MS. BROOKS: Okay.

CHAIRMAN BRAND: Great. Thank you. There's nothing else? Anything from the Board?

(No response.)

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CHAIRMAN BRAND: No. All right.

Motion to close.

MR. LOFARO: I'll make the motion to close.

CHAIRMAN BRAND: A second?

MR. TRUNCALI: Second.

CHAIRMAN BRAND: All those in favor?

MR. CLARKE: Aye.

MR. TRAPANI: Aye.

MS. LANZETTA: Aye.

MR. TRUNCALI: Aye.

MR. CAUCHI: Aye.

MR. LOFARO: Aye.

CHAIRMAN BRAND: Aye.

Any opposed?

(No response.)

(Time noted: 8:25 p.m.)

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C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public
for and within the State of New York, do hereby
certify:

That hereinbefore set forth is a
true record of the proceedings.

I further certify that I am not
related to any of the parties to this proceeding by
blood or by marriage and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 17th day of April 2017.

Michelle Conero

MICHELLE CONERO