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

----- X

In the Matter of

LUVERA PROPERTIES

Project No. 16-9011  
1987-1989 Route 9W  
Section 103.1; Block 1; Lot 5

----- X

PUBLIC HEARING  
SITE PLAN

Date: March 20, 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

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

APPLICANT'S REPRESENTATIVE: MR. LUVERA

----- X

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

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CHAIRMAN BRAND: I'd 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, March 20, 2017. Regular meeting 7:30 p.m. Approval of stenographic minutes for 2/21. Luvera Properties, public hearing, site plan; Chestnut Petroleum, open public hearing, site plan; Mazzstock, sketch, site plan; Mark Cassalina, discussion, lot line change, without attorney, engineer, stenographer. Next deadline: Friday, March 24th. Next scheduled meeting: Monday, April 3rd.

CHAIRMAN BRAND: I believe you all should have had time to review the minutes for February 21st. Do I have a motion to approve those minutes?

MR. LOFARO: I'll make that motion.

CHAIRMAN BRAND: A second?

MR. CAUCHI: I'll second it.

MR. TRAPANI: I'll abstain.

CHAIRMAN BRAND: Any discussion?

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LUVERA PROPERTIES

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(No response.)

CHAIRMAN BRAND: All those in favor,  
say aye.

MS. LANZETTA: Aye.

MR. TRUNCALI: Aye.

MR. CAUCHI: Aye.

MR. LOFARO: Aye.

CHAIRMAN BRAND: Aye.

Let the record show that Mr. Trapani  
abstained from approval.

First up is Luvera Properties.

MR. TRUNCALI: Legal notice, commercial  
site plan application. Please take notice a  
public hearing will be held by the Marlborough  
Planning Board pursuant to the Town of  
Marlborough Town Code 155-31 on Monday, March 20,  
2017 for the following application: Luvera  
Properties, at the Town Hall, 21 Milton Turnpike,  
Milton, New York at 7:30 p.m. or as soon  
thereafter as may be heard. The applicant is  
asking for a commercial site plan on lands  
located at 1987-1989 Route 9W, Milton, New York,  
Section 103.1, Block 1, Lot 5. Any interested  
parties either for or against this proposal will

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LUVERA PROPERTIES

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have an opportunity to be heard at this time.  
Chris Brand, Chairman, Town of Marlborough  
Planning Board.

CHAIRMAN BRAND: The applicants come up  
to the table. Give the mailings, first of all,  
to the secretary.

MS. FLYNN: How many went out?

MR. LUVERA: Twenty-five. I believe  
five of them didn't -- one of them came back. I  
stapled them all together to make it easier for  
you.

CHAIRMAN BRAND: Twenty-five out,  
nineteen back?

MR. HINES: One undeliverable.

CHAIRMAN BRAND: Could you just give a  
brief overview of what it is you've got planned?

MR. LUVERA: We want to put a retail  
store at the very end of the property next to the  
Mexican restaurant.

CHAIRMAN BRAND: This is a public  
hearing. Any interested parties either for or  
against will have an opportunity to speak. Is  
there anyone that would like to speak?

Mr. Garofalo.

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MR. GAROFALO: I'm not against this project but there are some things that I think could be changed and some things I think you should look at.

One thing, procedurally I'd like to see the Town go through these with a fine tooth comb before they come to the public hearing because there's some of these things that I prefer not to have to get up here and say because I think they should have been taken care of beforehand. Certainly the County feels the same way. They commented on, you know, where is the signing, the landscaping, the lighting.

I doubt there's going to be any landscaping other than maybe they have to take some out. I don't think they'll necessarily put anything in, which is fine.

There is a post sign on an existing pole east of the southern accessible parking space which is off premises. I'm not sure if that sign is a traffic control sign or a sign for the establishment. My concern there is the fact that it is on the State right-of-way.

Unfortunately, because there's no sign plan, I

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can't tell exactly where it is. If you want me to show you, it's there.

CHAIRMAN BRAND: The bottom left.

MR. GAROFALO: Just below the southern accessible parking space. Just to the east of that. So I think the signing on this lot needs to be clarified. Certainly there are a lot of businesses here. They should have some signing so you can tell where you're going because the buildings are not adjacent to each other and there are multiple accesses.

On the plan it says handicap parking. I would like to see that say accessible parking because that's what it is. It's accessible parking.

One of the things that the Town Code asked for is to look at connections to other properties. I think certainly in the southern part there is a potential for putting an easement so that in the future maybe this property can connect to one to the south. I don't know if you could do it to the north, put parking in there. It might be a little difficult to do there. I think in all cases it should be looked at and say

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we can't do it here because there's a cliff or we can do it, maybe in the future put the easement in, when somebody comes in maybe the easement gets used, maybe it doesn't.

I am concerned about how close the gravel areas are to the State right-of-way. This gravel is going to end up basically where bicycles are going to be traveling. I would be very surprised if the State doesn't require them to have at least 25 feet onto the property before you have any gravel.

I'm also very concerned that by the automotive place there is accessible parking and it is on gravel. Have you ever seen someone with a walker try to go through gravel? It's not pretty. That should be a paved area, at least to their door, so that someone can park and not have to travel on the gravel who has problems with accessibility.

I'm not sure how big these parking aisles are. They are probably short. That may be fine but you should know.

The same with the parking spaces. There's no detail. I don't know if these are the

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required 200 square feet for these parking spaces or not. If they aren't, that's something that you should know what you are approving. They have Town zoning information here on their plan. Unfortunately it doesn't tell you whether they're in compliance or not.

Most of these are existing buildings and probably won't be in compliance. I think you should know that and that table. The dimensions should be on the plans so that you know okay, we know this is existing, it's 20 feet short or 10 feet short, it's on target. But you should know what it is.

I'd also like to see a little bit more on Route 9W so you can see how wide the lanes are, this is how wide the shoulder is, whether or not part of that area is grass before you get to the sidewalk or not. I can't really tell from this plan. That's certainly something that I think you should know exactly what the cross section of the road -- the typical cross section is where the sidewalk is being proposed.

I think it's sad that the Town, in talking about lighting, has not decided on what

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kind of general lighting they want to see so they can be consistent. What we're going to end up with is a lot of modern lighting probably for the people that go through now and maybe later the Town will settle on some colonial or some other motif to try to standardize things. That's not your fault. That's something that I hope -- the supervisor is here and they will look at that.

Certainly with the sidewalk there should be a detail so -- you know, is it 5 feet? Exactly how wide is that? I'm sure that they'll -- the State will make the 5 feet in concrete. That's something that should be on the plan.

This having an ice cream store I think would be a perfect place for a very small amount of bicycle parking. I've already given the Planning Board some examples of good and bad bicycle parking. I hope maybe they can find a place near the ice cream store to put that in.

One of the questions that I'm not sure of, because I'm not that familiar with the Town Code, is whether or not the repair shop interior spaces and the spaces in front of their garage door, whether those count as parking or not.

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That's something that you may want to know for the future. Also, if they do count, then maybe you'll find places that you want to have them remove parking. For instance, by the auto body shop, the one on the far south, that's going to be a very tricky spot to get in. If they do count, you might say look, let's take that one out.

The County mentioned about a crosswalk from, I guess it would be the sidewalk to the front of the buildings. I'm not sure if the building inspector needs to see a drawing of what the interior of the buildings are going to be. That's something that if he needs to see that, he should get that. I didn't see that on the drawing. I think that's important.

Given that it's a gun store, I would hope that the Town will require fire suppression and a security system. I hope they will ask the police department and the fire department to take a look at those.

One of the other things that I didn't see, this is the last thing, is loading space. I don't know if they need one or don't need one. I

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bring that question to you so that you can ask them as to what their needs are and whether or not there's a place to put something like that on the plan.

I would like to thank you all very much for listening to me. You certainly don't get paid enough to listen to me talk. Thank you.

MS. LANZETTA: Thank you, Jim.

CHAIRMAN BRAND: Is anyone else here to speak for or against Luvera Properties?

Just please state your name for the Stenographer.

MR. SALZANO: Bob Salzano, 10 Hope Lane, Milton, New York.

Presently I border the property of the proposal. I'm familiar with the land, going back from early `70s, being part owner of the site.

I have no objections at all. I'd just like to say I'm in full support of the proposal.

CHAIRMAN BRAND: Anyone else for or against the project?

(No response.)

CHAIRMAN BRAND: Last call, for or against.

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(No response.)

CHAIRMAN BRAND: No. Okay. Pat, would you like to go over your technical comments?

MR. HINES: Sure. My first comment has to do with the receipt of the Ulster County Planning comments. Their comments regarding access have been addressed through a meeting with representatives of the Town of Marlborough, the applicant's representatives and New York State DOT. DOT came out into the field and worked with the applicant's representatives and identified the locations of the three driveways proposed where there are currently I believe five driveways. So the plan you have before you reflects DOT's intent for the access road -- for the access drives for the site.

There are a couple of other issues that they brought up. They provided catalog cut sheets for the lighting. I believe we heard last time the majority of the lighting has been installed on the site by the applicant already. The cut sheets have been provided. What's lacking is the iso lines that show you the foot candles. I think the Board could go out there

1  
2 some evening and take a look at the type and size  
3 of the lighting that's been placed on the  
4 building as an upgrade while this project has  
5 been moving forward.

6           Landscaping and signage were the other  
7 issues. I know the Board has -- the applicant is  
8 before the ZBA I believe right now for signage on  
9 the site. So that's under review.

10           My comment regarding landscaping is my  
11 comment 4. The lot configuration, structures,  
12 parking and revised access significantly restrict  
13 any areas available for landscaping. The entire  
14 project frontage is currently parking. They're  
15 working with the applicant, the DOT and the Town  
16 here to get the pedestrian access sidewalks along  
17 the frontage. Once you get off the frontage  
18 there it's currently parking and gravel pavement.  
19 I don't think it's real conducive to landscaping  
20 the site. I think one of the things the Board  
21 should recall is this is a change of use for  
22 about 1,000 square feet in one of the structures  
23 and then an additional 500 square feet onto the  
24 automotive use. The scope of the project isn't  
25 -- it's not an entire rebuild. The applicant is

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making a significant investment in the upgrading of the project for the sidewalk use. It may be the Board's consideration that the landscaping on the site is adequate in light of that.

A highway work permit is required by the DOT. Right now the plans, they wouldn't get approved by the DOT in this condition. We're suggesting that the Board be copied on the DOT plans as they're brought forward. I think the Board has worked with the applicant to get the sidewalks into the project, which they wanted. Additional detail for the DOT during the highway work permit process and any approvals should be conditioned on receipt of that highway work permit.

There's a billboard on the southern -- two billboards on the southern end of the site, one of which is proposed to be removed. That needs to be labeled to be removed.

The applicant has provided information regarding the septic systems serving both structures on the site. That's been added to the plans.

I think they've been responsive to most

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of our previous comments. That's where we stand right now.

CHAIRMAN BRAND: Could you clarify the second comment regarding construction?

MR. HINES: I skipped over that. There's been some discussion with the owner of the site regarding phasing or timing of the actual construction of the sidewalks. When we last left, I'm not sure where that's going, whether there's going to be curbing.

MR. LUVERA: There's going to be curbing. I'll give you guys an easement for the sidewalks but I'm not putting sidewalks in right now.

MR. HINES: That's something for the Board to discuss.

CHAIRMAN BRAND: Comments from the Board?

MR. HINES: That will have to be addressed in the highway work permit as well.

CHAIRMAN BRAND: It's my understanding that the original application, including the sidewalks for DOT, that approval was contingent on the sidewalks. Is that necessarily the case?

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MR. LUVERA: DOT just wants an easement on the sidewalks. They don't want me to put sidewalks, they just want an easement to put them in down the road.

CHAIRMAN BRAND: Did you get that?

MR. LUVERA: I called him up the day after we had the last meeting and he said that's all he wanted.

MR. HINES: The question is what do the islands look like in the interim?

MS. LANZETTA: Can the curbing islands be constructed in such a way that they can be temporarily planted with grass but then if -- when the time comes, that the curbing will be sufficient to allow for a sidewalk?

MR. HINES: Yes. They can have that. There may be some changes for handicap accessibility for the ramps on either end. I don't know if they are going to put the drops in now or how that's going to impact that. That will be worked out with the DOT highway access. The Board should have some input on what that's going to look like. Certainly grassed islands or maybe some annual type plantings or small brush

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plantings, shrubs.

MS. LANZETTA: If the Board chooses not to require a sidewalk, I would prefer to see grass because at least if people wanted to walk on the grass they could do that as opposed to plantings.

CHAIRMAN BRAND: What was your intention?

MR. LUVERA: Grass.

CHAIRMAN BRAND: Grass. Did you have anything, Ron?

MR. BLASS: No. I think if there's going to be grass there should be a maintenance obligation imposed on the site to keep it cut.

MR. LUVERA: Yeah. Of course.

MS. LANZETTA: That isn't automatic with the existing requirements in the Town Code for keeping your property up.

MR. BLASS: That may be. I'm not familiar with those particular provisions. You could just condition any approval here on the maintenance of that area. It wouldn't take much to do that.

MR. HINES: Those plans should be

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revised to reflect just the curbing.

I think it's interesting the DOT is requesting an easement. The sidewalks are a hundred percent within their right-of-way. I don't know that an easement really works. I don't know what the trigger is to put the sidewalks in in the future.

MR. LUVERA: He said all he needed was an easement.

MR. HINES: I don't think anyone can give them an easement in their right-of-way.

MR. CAUCHI: Can we make provisions for the sidewalks?

MR. HINES: I think that's what the applicant is saying now. They're going to put the curbing in. They can just dig out six inches of topsoil and then put the sidewalks in in the future. Six or eight inches of topsoil.

MR. CAUCHI: Make a provision for the sidewalk.

MR. HINES: There's no trigger mechanism for the applicant to put them in. It's just in the future when some entity, DOT, the Town, not this applicant. As long as you're

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aware of that. I don't think there's an easement issue here because the sidewalks are clearly in the DOT right-of-way.

MR. TRUNCALI: Pat, on other projects like True Value where they had to give an easement --

MR. HINES: Those sidewalks were depicted on their property, not in the DOT right-of-way. Because of the width of the right-of-way in that area, they chose to put that easement in favor of the Town and DOT on their property. This is not the case where DOT here said put all those improvements --

MR. LUVERA: They're not asking me to put sidewalks in. DOT is not asking for sidewalks.

MR. HINES: While we were out there that was the discussion. Your plans currently say curbed island and sidewalk. It just needs to say curbed island.

MR. LUVERA: Okay.

MR. HINES: Clearly when the building inspector goes out in the future before you get your CO, what's shown on the plans is what's

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LUVERA PROPERTIES

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constructed.

CHAIRMAN BRAND: Anything else from the Board?

(No response.)

CHAIRMAN BRAND: I'd like a motion to close the public hearing.

MR. TRAPANI: I'll make that motion.

CHAIRMAN BRAND: Is there a second?

MS. LANZETTA: I'll second it.

CHAIRMAN BRAND: Any discussion?

(No response.)

CHAIRMAN BRAND: All those in favor of closing the public hearing, say aye.

MR. TRAPANI: Aye.

MS. LANZETTA: Aye.

MR. TRUNCALI: Aye.

MR. CAUCHI: Aye.

MR. LOFARO: Aye.

CHAIRMAN BRAND: Aye.

Any opposed?

(No response.)

CHAIRMAN BRAND: The public hearing is closed.

At this time we could issue a negative

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declaration. Is everyone comfortable in doing that, a negative declaration for this project?

MR. TRUNCALI: I'll make a motion to have a negative declaration for this project.

CHAIRMAN BRAND: Is there a second?

MR. CAUCHI: I'll second it.

CHAIRMAN BRAND: All those in favor?

MR. TRAPANI: Aye.

MS. LANZETTA: Aye.

MR. TRUNCALI: Aye.

MR. CAUCHI: Aye.

MR. LOFARO: Aye.

CHAIRMAN BRAND: Aye.

Any opposed?

(No response.)

CHAIRMAN BRAND: A negative declaration.

We could also at this time give him preliminary approval with some of the caveats included as far as the sidewalks, DOT --

MR. HINES: I think they are before the ZBA right now.

MR. BLASS: They're in front of the ZBA for variances which would be entertained, I

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2 believe on the second Tuesday in April. So this  
3 is a site plan where we don't -- I don't think we  
4 have a preliminary site plan approval step.  
5 You've already closed the public hearing. I  
6 think the matter could be adjourned until your  
7 second meeting in April for a determination on  
8 the site plan depending upon what happens at the  
9 ZBA relative to variances. I don't think it's  
10 the policy of the Planning Board to issue site  
11 plans subject to variances --

12 CHAIRMAN BRAND: Right.

13 MR. BLASS: -- in the future.

14 CHAIRMAN BRAND: What are you going  
15 before the ZBA for?

16 MR. LUVERA: Signage. I just want to  
17 put a sign out in front of my repair shop.

18 MS. LANZETTA: And we would -- it's  
19 been our new policy to try to do these things by  
20 resolution. By doing it at the next meeting  
21 pending the variance, we would be able to do it  
22 with a resolution. That would be better.

23 CHAIRMAN BRAND: I guess we'll take a  
24 motion to adjourn this until the second meeting  
25 in April.

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MR. LUVERA: Can I ask one question?  
Can we get going in that store or do we have to  
wait until the second week in April? This has  
been going on and on.

CHAIRMAN BRAND: I believe you have to  
wait until the project has been approved.

MR. LUVERA: Okay.

CHAIRMAN BRAND: Do I have a motion to  
adjourn until the second meeting in April?

MR. HINES: Hold on.

CHAIRMAN BRAND: Go ahead, Pat.

MR. HINES: I just want to talk to Ron  
for a minute.

MR. BLASS: Pat's idea is that we could  
go forward as early as this evening, although we  
won't have a resolution, if the sign -- the  
proposal for the sign which is in front of the  
Zoning Board of Appeals is deleted from the  
project. Is that something you would even want  
to consider?

MR. HINES: Once you get your ZBA  
approval you can come back for your sign.

MR. LUVERA: That's fine.

MR. HINES: Just throwing it out for

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the Board.

MS. LANZETTA: Explain that to us again.

MR. HINES: Right now they're before the ZBA for the proposed sign which is located in front of the auto portion of the site. So without that sign the project, as long as the Board is okay, could receive approval. They need to amend planning changes. It would be subject to changing the plan based on the technical comments. Final approval would be subject to that which would be the curbed island sidewalks, removing that one sign that needs the ZBA approval. Once they get ZBA approval they would have to return to this Board just to get that sign added to the amended site plan but it would not cost them a month.

MS. LANZETTA: And they would be coming before us for an amended site plan?

MR. HINES: Just for adding the sign.

MS. LANZETTA: How would that happen? Would he have to take out another permit or an application?

MR. HINES: It would be another

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application.

MS. LANZETTA: The full amount of the site plan application?

MR. HINES: I don't know. I don't know what the Board's policy for signs is. I don't know what that is. I don't think adding a sign is a full blown site plan. It would be an amended site plan for the sign.

MS. LANZETTA: Do we have a fee for an amended site plan?

MR. HINES: The square footage would be nil.

MR. TRUNCALI: Would we have to have another public hearing?

MR. HINES: Potentially. You could waive it.

MR. BLASS: If you have another public hearing, you still would have a resolution for this evening. You probably -- if you went down this road you might want to consider entertaining it at your first meeting in April with a resolution. Or, alternatively, if we stay on the same path that the applicant chose and wait for the ZBA to act and entertain this after the ZBA

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has taken action, that prevents the project from being broken up into pieces as we go along.

CHAIRMAN BRAND: I think I prefer that.

UNIDENTIFIED SPEAKER: I don't mean to interrupt. This would foreshadow that another month. I think the intention is hopefully whatever we can do to get this retail location open because it's hemorrhaging without being open.

MR. BLASS: So the applicant would be prepared to withdraw the sign from the site plan. The earliest the Board could act with a resolution would be the first meeting in April, which would be two weeks as opposed to four weeks.

MR. LUVERA: Do I have to fill out another application and all that stuff?

MS. LANZETTA: For a sign.

MR. LUVERA: No approval until the first meeting in April? Is that the general consensus?

MR. BLASS: It's a site plan.

MR. HINES: Preliminary doesn't get you anything.

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MR. BLASS: It doesn't get you a building permit.

CHAIRMAN BRAND: The shortest way is to wait for the first week in April.

MR. BLASS: If they want to withdraw the sign we could have a resolution ready for the first meeting in April -- the first Monday in April.

CHAIRMAN BRAND: If he doesn't withdraw the sign we wait until the ZBA is done and we wait for the second meeting in April and everything would be done, he wouldn't have to reapply for anything.

MR. BLASS: Right.

MS. LANZETTA: Could we have a conditional in the beginning of April saying that he could have that sign if he gets his variance, and then if he doesn't then he comes back?

MR. BLASS: If you want to flip flop the process and consider a site plan subject to a future variance, that will potentially bring things to a conclusion on the second Tuesday in April when the ZBA meets.

MS. LANZETTA: I mean he would either

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get the variance and be able to put the sign up or he doesn't put the sign up, period. Unless he wants to begin the whole process again.

MR. BLASS: Right. So that alternative saves him one week I'd say, the difference between the second Tuesday in April and the third Monday in April when you meet.

CHAIRMAN BRAND: Not our meeting; correct?

MR. BLASS: Pardon?

CHAIRMAN BRAND: When the ZBA meets you're referring to?

MR. BLASS: The ZBA meets on the second Tuesday in April and I believe your second meeting in April is on the third Monday in April. Less than a week.

MS. FLYNN: The ZBA is the 11th and we're the 17th.

MR. BLASS: I'll just volunteer my view if I may. It seems like a lot of moving pieces. Maybe you just want to stay on the path where we started and let the ZBA act, get a resolution in front of your Board, after that occurs take one unified vote on the third Monday in April.

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CHAIRMAN BRAND: It's only six days  
apart.

MR. BLASS: Yeah.

CHAIRMAN BRAND: I would make that  
recommendation.

So we're adjourning until the second  
meeting in April, until you get all of your ZBA  
business done.

Thank you.

(Time noted: 7:57 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 5th day of April 2017.

*Michelle Conero*

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MICHELLE CONERO

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

----- X  
In the Matter of

CHESTNUT PETROLEUM

Project No. 15-8001  
1417 Route 9W  
Section 109.1; Block 4; Lot 14

----- X

OPEN PUBLIC HEARING  
SITE PLAN

Date: March 20, 2017  
Time: 7:58 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

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

APPLICANT'S REPRESENTATIVE: LEO NAPIOR

----- X

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

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CHAIRMAN BRAND: Next up, Chestnut Petroleum. This is a continuation of the public hearing.

I'm going to have you give an opening quickly and then we'll hear from members of the public.

MR. NAPIOR: Certainly. For the record, Leo Napior with the law firm Harfenist, Kraut & Perlstein. Joining me tonight is Pete Setaro of Morris Associates, our civil engineers, as well as Mark Antroy from JMC, our traffic engineers.

As the Chairman noted, this is a continuation of the public hearing that was open on December 5th. Following that meeting there has been a variety of different submissions to your Board addressing comments that were raised both at the meeting and shortly thereafter.

I'll just roll through the revisions to the plans that have been formally submitted to the Board. Those are that we now have a proposed sidewalk along Route 9W. There will be an easement given to the DOT for the portions of that sidewalk that lay in our property boundaries.

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A site signage plan was provided along with various details. As the Board is familiar, there was a negative dec under your Board. Subsequently we received area variances for the signage package from the Zoning Board.

Privacy screening details were added for the dumpster.

The drainage plan was updated to show the roof leader connections as well as an additional catch basin by the northerly exit that was recommended by Mr. Hines.

Analysis plans were submitted.

There was some additional information on the drive-through cueing and kind of what we modeled that after.

We submitted a responsive letter to the County Planning Board's comments with respect to our lighting plan. That came in essentially taking issue with the County Planning Board's comments and pointing out why the lighting for the canopy was designed the way it is.

Site renderings were also given to the Board.

I believe that responds to -- we

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responded to all the County comments as well as the comments from the Board at the last meeting.

There are a couple revisions/ conditions that came up kind of last minute that hadn't been formally presented to your Board. I could kind of roll through some of those easily if you'd like.

One was, as Mr. Garofalo had suggested, either at the meeting or subsequent correspondence, we swapped -- it hasn't been formally presented but we've swapped the do not enter and the stop sign at the drive-through exit. Just basically flipped the sides they were on.

The parking calculations were updated per the direction of Mr. Corcoran. We had an incorrect calculation of the parking, the required minimum parking. The new calculations tied out to the required 22 parking spaces. I believe it was one space per 500 square feet which wound up being 11 spaces. The new calculation was based on one per 300 of the retail space and one per three seats on the restaurant space. That results in 22 required

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parking spaces.

In addition, the parking stalls have been increased. They were shown as 9 by 18. The code requires 200 square feet per stall. The 10 by 20 spaces, we would be able to fit 25 spaces. We still meet our required parking limit. We've lost -- initially 28 spaces were proposed but because of the increase in size we lost a couple of spaces. 25 spaces are proposed, 22 are required.

In addition, we would be -- whether you made it a condition or not, we would be installing a safety fence at the top of the retaining wall, a four-foot high fence, so nobody tumbles over the wall.

With that, that kind of rolls through everything I had. If the Board has any questions, we'd respond or listen to comments.

MR. HINES: Just to clarify, the parking spaces that are proposed don't take credit for the parking spaces at the pumps as well.

MR. NAPIOR: Correct.

MR. HINES: There's a series of parking

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spaces at the pumps as well.

CHAIRMAN BRAND: Pat, can you run through your comments first?

MR. HINES: Our first one identifies that they've been working with the DOT. A final approval and highway work permit will be required and should be a condition of any approval.

The septic system plans have been received, approved by County Health Department. That's a note following up on previous comments.

Creighton, Manning engineers, the Town's traffic consultant, had reviewed the site and provided minor technical comments and recommended that signing be provided on future submissions. Those are Creighton, Manning's December comments. The signage has been updated on the Morris Associates sheet 1 of 11.

Just also they identified the need for a highway work permit for the proposed improvements.

We have reviewed the stormwater pollution prevention plan for the project. We continue to recommend a stormwater facility maintenance agreement, basically a covenant that

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will ride with the property requiring maintenance of the stormwater systems on the site, and specifically maintenance of the proprietary filter product that they've proposed as the site is considered a hot spot by DEC because of the petroleum dispensing. They've added a proprietary filter to address that. That requires routine maintenance. We have a standard agreement that the applicants can execute as a condition of approval which is filed with the property and gives the requirement that an annual report be submitted on that maintenance and gives the Town the ability to enforce that.

The drive-through window height bar does need to be adjusted on the plans.

Basically they've addressed our previous comments and the comments of the Town's traffic consultant through the various submissions.

The Board did also previously issue a negative declaration. So with that we have some minor technical comments that have been addressed in the proposed resolution of approval that I know the Board has before you.

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MS. LANZETTA: Pat, do you look at that maintenance agreement on an annual basis? Is that your responsibility?

MR. HINES: Typically they're submitted as part of the MS-4 requirements. I guess the answer to that is yes but it goes through the -- in this Town the assessor kind of spearheads that through the MS-4 program. My office works closely with her office in maintaining the compliance and reporting requirements.

MR. TRUNCALI: What about the Ulster County Planning Board comments?

MR. HINES: They had some comments. I think the only outstanding one was the lighting, which they responded to. They, for various reasons, want to have lighting levels higher than the intensity recommended by Ulster County. There is some fairly bright lighting proposed on the site. They did provide a plan prepared by the lighting company that shows the lighting on the site. There is no significant fugitive light spread off the site. It's all LED, directional downward lighting. They have some lighting as high as five foot candles in the area of the

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canopy which is bright. I believe it's a security issue that they implement on the majority of their sites.

MR. TRUNCALI: Is there a need to override their comments?

MR. HINES: I think there is.

CHAIRMAN BRAND: Any other comments from the Board before we go to the public?

(No response.)

CHAIRMAN BRAND: This is a public hearing. Any members for or against are invited to speak. I'm going to start with Mr. Adamshick.

MR. ADAMSHICK: My name is Steve Adamshick, I'm from Milton, New York. I just have a few points to make to the Board. Excuse my back everyone.

This total project is going to be an illustration of how to shoehorn twenty pounds into a five-pound bag. The building is going to be twice the size along with two huge canopies against the backdrop of a very steep rock wall impervious, let alone nightmarish traffic reconfigurations.

Moreover, why won't the owner of

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Chestnut Petroleum, Micky Jamal, exhibit personal responsibility and remove this over ten-year terrible eyesore. Unlike Bob Pollock of Milton who just recently purchased two dilapidated buildings and immediately tore them down and removed them. That's personal responsibility.

Now I see two farmers here tonight, Joel and Benny. Mr. Clarke I don't see is here. I'm sure you know your fellow farmer, Bernie Caradonna, who is directly across from this project. He generates a significant amount of income from that farmland property that's across from this project. The site plans clearly show, and I'm piggybacking a little bit on what Mr. Hines just previously said, he generates a significant amount of income off this farm property. The site plans clearly show where the stormwater will be directed and ultimately inundate Mr. Caradonna's farmland. Many other projects in this Town in previous years addressed the stormwater problems by requiring the applicant to construct a retention pond for drainage. Obviously -- in this amount of space that exists here, it's obvious that this can't be

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accomplished. There isn't enough space. Longer pipes as the applicant proposes to retain the stormwater is a weak argument.

Please, please exercise and procure enforceable assurances that stormwater damage will not occur. Thank you.

CHAIRMAN BRAND: Thank you.

Anyone else for or against the project? Mr. Garofalo. I'm going to ask you to keep it somewhat brief.

MR. GAROFALO: I intend to.

CHAIRMAN BRAND: I received volumes of e-mails from you regarding this project.

MR. GAROFALO: I'd like to thank the applicant because clearly he's making some changes with the size of the parking spaces, et cetera. I want to thank him for doing that.

I hope he does do something with that overhead bar, to fix that.

I just wanted to clear up for him, because the last public hearings that I was able to talk he didn't understand what I meant by a connection or an easement to the adjacent properties. Basically what I was talking about

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was you'd have to basically move two spaces and create a connection to the property next door over here. It would simply be a right-of-way, an easement that you would provide, and some day if it was developed, maybe come through your easement. I'm not sure exactly what this is going to be constructed of, if at all, but if someone were to develop this piece of property they would be responsible for this easement of improving this so the connection could be made to the property. Here it might just be an easement. In this case, because this is already developed, I think this would be a perfect place to actually make an actual connection. You would lose two parking spaces. They've got three more than they need. But that's something to consider.

One of the things I did ask was for them to move this accessible spot over so the accessible spot, you'd have your cross hatch and other accessible spots. I think they may need two because of the number of parking spaces.

The other thing that I wanted to talk about was the directional signage. One of the signs in the northern part is actually in the

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sidewalk and off of their property. So it's an off premises sign that I think either needs to be moved onto their property and preferably moved off the sidewalk. Because of the height of these signs, I think it's very bad for them to be actually on the sidewalk. I'm not sure, based on their plans, exactly how they're constructed. As to whether or not somebody -- that would be a problem. Both the sign on the northern access and one of the ones on the southern access were in the sidewalk. I'd like to see those off the sidewalk. Preferably I'd like to see all of those directional signs in those areas totally removed because I think they're a distraction to the driver. There's no place in Marlborough that has those kinds of signs. They just -- nobody has them. I don't think there's any reason to. There's only one building here that people are going to go to. It's a distraction for drivers coming in, going out, pedestrians in cars. I'd rather have the Board make that and the other signing that is there. I just don't see them serving any real purpose other than advertising. I think they could just as well say welcome and

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see you soon by slapping stickers on their doors coming in and out of their facility. I think that would serve the same thing. I've seen that on other properties. The Dunkin Donuts I've gone to don't have those kinds of signs, nor do the gas stations. There's only one on Route 9W, not inside the Town, that I know has signs like that. I don't see any reason to have your logo on it when there's three different facilities here and you're highlighting just one. To me it doesn't make sense. It should be no logo, no advertising.

I want to thank you very much for listening to me and reading all of those pages and pages of comments. I'd like to thank the applicant for making some of those changes. I hope you fix the overhead bar. Thank you very much. I think it's a better project now than when you started.

MR. NAPIOR: Thank you.

CHAIRMAN BRAND: Anyone else for or against the project? Just state your name for the Stenographer.

MR. NICOLA: Andrew Nicola. I'm not

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going to take much time. I'm clearly for this project. You can read my comments and a lot of my friends and family who were here on the February 6th meeting that are also for this project. That's all.

CHAIRMAN BRAND: Yes.

MR. TRONCILLITO: Bobby Troncillito representing the Marlborough Fire District.

One question I posed to you once before. Is the building going to be sprinklered?

MR. NAPIOR: The plans currently do not contemplate the building being sprinklered.

MR. TRONCILLITO: I know the Codes don't require it but in the district it would have been the right thing to do. Hopefully at some point in time the two fire districts are going to be getting together and putting a sprinkler ordinance in place and bringing it to the Town Board so hopefully buildings like this can be sprinklered.

MR. NAPIOR: Understood.

CHAIRMAN BRAND: Okay. Anyone else for or against this project?

MR. RUSK: My name is John Rusk. I

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live across from this project. I've made other comments at the last meeting.

I just want to point out to the Board under Section 155-31 Subsection A it talks about the intent of the site plan review. It says the intent is to ensure that the development and use of individual parcels of land do not have an adverse affect on adjacent land. In the comments that I made in the past, and I believe in the comments that have been submitted by the Ulster County Planning Board, they're trying to make efforts to minimize the adverse affects of this project on the neighbors that surround it, such as me. I would ask this Board to consider imposing the lesser candle foot measurements that were suggested by the Planning Board so that those of us who live near it have less light to have to deal with on this project.

I would also point out under the special use permit, 155-32 Subdivision F, it says that the Planning Board shall impose additional conditions and safeguards upon the special permit which is required for this gas station, for a filling station, as may be reasonably necessary

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to ensure continuing conformance to all applicable standards and requirements, including reasonable assurance that these conditions and safeguards can be responsibly monitored and enforced. This issue came up last time when we talked about the water coming off this site, draining north, underneath 9W and then onto my property. I questioned how was this going to be monitored. All the responses were simply they would replace these filters on either an annual or a semi-annual basis. This condition requires that it be monitored. I would ask that the water that's coming off this site and flowing onto my property, that it be monitored, and that that condition be imposed upon the applicant to make sure that I don't have petroleum products from their site flowing onto my land.

I also submitted and I hope you have reviewed the concerns that the adjoining people next to this parcel have with regard to the issues. I talked about the lighting. I've talked about the water contamination but also about the crime. That is a serious concern. I submitted the testimony of a person who addressed that,

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Frank Flutico. I really question whether there's a need for a 24 hour convenience store/gas station at this site. I think that that is imposing additional concerns for the safety of the neighbors who live around this particular parcel. The last thing was after the last meeting in December when we had a chance to review the traffic flow that was submitted, I raised the question of how is a tractor trailer that's coming into that property, either to make a delivery or to fill up, how can it turn around on that parcel and go back in the direction that it came. I don't think anything has been received, or at least there's nothing posted, nothing that I've reviewed, that shows that a tractor trailer has the ability to enter that property from the north, turn around and head back in the direction that it came, or to enter the property from the south, turn around on that property and go back in the direction that it came. I question whether or not this lot is big enough to allow tractor trailers, which they are anticipating as being a customer and as a necessary feature for them to deliver product to

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the site, how they intend to turn around and go back. They've made it very clear that traffic is a serious issue on Route 9W as all these conditions and changes have had to be made as required by the DOT, yet there's nothing that shows how a tractor trailer is going to be able to do that. I think it's simply because, as Mr. Adamshick has said, there's too much going on on this small site. It's a great project if it had the land to do all the things that they want to do. It's entirely too tight to do what they are seeking to do and safely get in and out of this spot. Thank you.

CHAIRMAN BRAND: Anyone else for or against the project?

(No response.)

CHAIRMAN BRAND: Ron, I'd like to hear from you.

MR. BLASS: Well, it may be time to close the public hearing.

CHAIRMAN BRAND: Yes.

MR. BLASS: That's the first order of business I would say. I don't think there are any other public comments.

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CHAIRMAN BRAND: Is there anything else  
from the Board?

(No response.)

CHAIRMAN BRAND: Can I have a motion to  
close the public hearing?

MR. CAUCHI: I'll make a motion to  
close the public hearing.

CHAIRMAN BRAND: Is there a second?

MR. TRUNCALI: I'll second.

CHAIRMAN BRAND: All those in favor,  
say aye.

MR. TRAPANI: Aye.

MS. LANZETTA: Aye.

MR. TRUNCALI: Aye.

MR. CAUCHI: Aye.

MR. LOFARO: Aye.

CHAIRMAN BRAND: Aye.

Any opposed?

(No response.)

CHAIRMAN BRAND: It passed unanimously.

MR. BLASS: The Planning Board has in  
front of it this evening a proposed resolution of  
conditional approval reciting all of the various  
standards set forth in the special permit

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regulation and all of the standards set forth in the site plan regulation. The resolution is one that also imposes several conditions, and I think the applicant may want to be heard on some or all of the conditions that are imposed. That's why Mr. Napior is probably standing there.

So the first condition is final approval by the DOT of the traffic management access location and limitations and sidewalk details. Pat recommends that this condition be supplemented with the provision that copies of all submissions by the applicant to the DOT shall be simultaneously -- contemporaneously provided to the building inspector.

CHAIRMAN BRAND: This is page 8 of your presentation?

MR. BLASS: This is page 24.

CHAIRMAN BRAND: Okay.

MR. BLASS: Page 24, conditions. There has been some consideration of an alternative condition dealing with the DOT approval. There is -- there was one comment at the public hearing tonight about the civic mindedness or demolition of derelict structures. There's an alternative

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condition regarding NYS DOT approval at the top of page 25 that basically says that no building permit shall be issued until final approval by the DOT of the traffic management access location, limitations and sidewalk details except that a building permit or demolition permit may be issued earlier than DOT approval if the activity is limited to demolition, rock removal and excavation in preparation for construction of commercial buildings and mechanicals. In that event the applicant would be responsible for site restoration. In the event that the DOT denied final approval in the future hypothetically, the applicant would post such security as the Town requires to restore the site as a pre-condition to issuance of a building permit. No building permit or demolition permit would be issued until a plan of site restoration and a bond amount is approved and established respectively by the building inspector. So this is what I guess you could characterize as a head start clause that would allow for demolition of existing derelict structures, rock removal and excavation in advance of DOT approval subject to a site

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restoration plan, secured by a bond in the event of a failure of DOT approval in the future.

There's an interesting issue that Pat brought to my attention as to whether or not, in the absence of DOT approval, the DOT would allow entrance and exit of construction vehicles for purposes of rock removal and excavation as distinct from demolition. I think Mr. Napior wanted the opportunity to be heard on this condition.

MR. NAPIOR: Yes. So the general thought process there is that the highway work permit process is more involved, that there's construction plans that need to be drafted. It's a long process. We'd like the opportunity, if you're so inclined to grant approval tonight, to start on some of the site prep, otherwise we might be stuck in a position where this project doesn't break ground until several months from now and the project can't actually get out off the ground before the winter, in which case the whole thing then trails into actually getting going next spring as opposed to having the site prepped and ready to go. Once the building

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permit is issued the building can come up as quickly as possible. That's the basic genesis behind the thought there.

CHAIRMAN BRAND: So the original would essentially allow them to start relatively soon and the other would be just for construction purposes?

MR. BLASS: The alternate condition would be that the building inspector would be authorized to issue a demolition permit, or a building permit as the case may be, limited to demolition of existing structures, rock removal and excavation in preparation of construction. That would be softened, if you will, by a condition that there be a site restoration plan in the event of failure of DOT approval in the future, which is possible but perhaps unlikely. That adequate security be put up to allow the Town to restore the site if necessary, to be restored in the future.

So the issue that I raised regarding DOT's objection to rock removal, and excavation activity, and entrance and exit to the site, that would be something for the DOT to enforce. The

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applicant would be proceeding at it's own risk in that regard. I think it's an unknown at this point in time what the position of the DOT would be with respect to that activity.

CHAIRMAN BRAND: Comments? The alternate A choice we are leaning toward.

MR. BLASS: So the Board is leaning in the direction of alternate A?

MS. LANZETTA: Yes.

CHAIRMAN BRAND: Are you in agreement?

MR. TRAPANI: Yes.

MS. LANZETTA: Yes.

MR. TRUNCALI: Yes.

MR. CAUCHI: Yes.

MR. LOFARO: Yes.

MR. BLASS: Okay.

MR. NAPIOR: Alternate A, just so I'm clear, is the temporary site work is permitted?

CHAIRMAN BRAND: Correct.

MR. NAPIOR: Okay.

MR. BLASS: Subject to a site restoration plan and collateral.

MR. NAPIOR: Certainly.

MR. BLASS: The next condition is the

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applicant would provide the DOT with the easements it requires regarding sidewalks, which is --

MS. LANZETTA: I'm sorry?

MR. BLASS: The applicant will provide the DOT with easements for the sidewalks which is something we talked about. These sidewalks, which the Planning Board requested and the applicant provided, are on lands of the applicant as opposed to lands of the DOT. An easement needs to be given to the DOT by the applicant, which I'm sure it has no problem with.

The next condition is approval by the Ulster County Department of Health of the septic disposal system. Pat's comments, however, tonight indicate that that has already occurred. So we might as well just leave it in. It won't hurt.

The next condition is an NY DEC SPDES approval for stormwater and for septic disposal systems.

The next condition is that activity shall be limited to the areas identified and noted on the project plans.

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The next condition is payment of all fees and the payment of all consulting expenses of the Town.

The next condition is the applicant shall reverse the stop sign and do not enter sign at the exit from the drive-through as earlier discussed.

The next condition is the applicant shall update parking calculations and spaces to provide for 22 spaces per the calculations per the building inspector. Parking shall remain in the areas designated on the project plans.

The next condition is the applicant shall increase the size of parking stalls from 9 by 18 to 10 by 20 at the request of the building inspector, resulting in a reduction of parking spaces from 28 to 25.

The applicant will -- the next condition. The applicant will include a provision for the four-foot high safety fence at the top of the retaining wall.

The next condition is that revised project plans shall be submitted to reflect the conditions in G through J that I just went

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through with you.

Pat has made an excellent recommendation with respect to providing stormwater covenants and enforcement instruments in a form acceptable to the Town's attorney that would address monitoring and filter replacement and allow the Town to enter upon the site, if and when necessary, to take remedial action and to lien the property for the cost of so doing. That would be the standard approach in the stormwater enforcement covenants.

MR. NAPIOR: Ron, if I could.

Pat, did you mention the Town has a formal agreement already?

MR. HINES: I have one that I utilize in other municipalities. I could easily adjust it for this.

MR. NAPIOR: Understood.

MR. BLASS: Me, too.

MS. LANZETTA: Is that going to be an additional --

MR. BLASS: That's an additional condition we're adding to the resolution.

Another condition would be the height

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limitation bar shall extend across the relevant traffic aisle. Apparently there was discussion that it falls short.

MR. NAPIOR: If I could just comment on that one before you continue on. One of the reasons the height limitation bar does not extend across the entire island is part of the reason we have the double wide island is for emergency vehicle access. If you all are inclined to ask us to extend the bar, we're happy doing so. That means it may get taken out if there ever were a need for emergency vehicles to get to the back of the building.

CHAIRMAN BRAND: Does that represent a problem, Mr. Troncillito?

MR. TRONCILLITO: I didn't hear exactly what you were referring to. Explain that a little bit better for me.

CHAIRMAN BRAND: The height bars on the drive-through.

MR. NAPIOR: It only extends about halfway across the drive aisle.

MR. TRONCILLITO: What's the width?

MR. HINES: It's a 9 foot height

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restriction so you don't get tangled up in the driveway-through canopy.

MR. TRONCILLITO: Can we get our machines around the back or not? That's the key.

MR. NAPIOR: They're asking us to extend it across the entire --

UNIDENTIFIED SPEAKER: We're asking to see what the width is between the building to get around for a truck.

MR. NAPIOR: Roughly 22 feet.

MR. TRONCILLITO: And the height?

MR. NAPIOR: 9 foot height point.

MR. TRONCILLITO: That's the height. You're not getting -- you won't get a truck under it. Our suggestion is don't extend it. We have to drive a machine around it.

MR. NAPIOR: This is one we deferred to whatever the Town would like us to do. We're fine either way.

MR. BLASS: At the recommendation of the fire department, we can drop that condition.

CHAIRMAN BRAND: Yes.

MR. BLASS: Okay. Those are the conditions attached to the approval.

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CHAIRMAN BRAND: Can we go over the question that Joel brought up earlier about the Ulster County Planning Board. I know there's a lighting issue.

MR. BLASS: Okay. So paragraph 5 at page 26 of the resolution deals with the Ulster County Planning Board's comments of January 4, 2017. It goes on to say the Planning Board concludes that the application has satisfied the special permit and site plan standards found in existing Chapter 155 of the Town Code including the appropriate degree of compatibility with the surrounding neighborhood. Approval of the DOT is a condition of this approval so that the Planning Board has -- this Planning Board has followed that particular recommendation of the Ulster County Planning Board. No need for an override, in other words.

Approval of the Ulster County Department of Health is a condition of this approval. The Planning Board, this Planning Board has followed that recommendation of the Ulster County Planning Board. There's no need for any override.

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It goes on to say that the project has addressed lighting adequately by opinion of consultant Mead, Leonard & Associates dated January 27th. It was stated that the Ulster County Planning Board's reference to lighting standards is not reflective of common practice for canopy illumination, otherwise the applicant has persuaded the Planning Board that the canopy lighting is consistent with site security and without material impact to the surrounding area. To the extent that the Planning Board adopts this resolution by a supermajority vote, this shall be the basis for the Planning Board's disagreement and override of the Ulster County Planning Board with regard to lighting. So the lighting issue would require a supermajority override vote.

The next portion of this -- the next discussion within this portion of the resolution is that the Ulster County Planning Board recommended that the project signage should comply with Town Code 155-28 and that it should incorporate landscape monument signage. The Town should consider whether franchise style signage should be compliant with design standards

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currently in development for the future. The applicant has obtained ZBA variances from the signage regulations promulgated at 155-28 and the Planning Board has determined, in it's second amended negative declaration, that the project's modified signage plan yielded no significant adverse impacts. The applicant has modified it's signage to include a landscaped monument style sign. To the best of the Planning Board's understanding, the Town has not adopted the design standards mentioned by the Ulster County Planning Board because they are currently a work in progress. To the extent that the Planning Board adopts this resolution by supermajority vote, this shall be the basis for the Planning Board's disagreement and override of the Ulster County Planning Board regarding signage.

The resolution goes on to say that the project has submitted additional building elevations in February of 2017. It had earlier submitted a three-dimensional model. The Ulster County Planning Board called for additional landscaping, including street trees, that they did not interfere with sight distances. The

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project suffers an inability to add both the sidewalk requested by this Planning Board and landscaping along the parcel of Route 9W frontage. The Planning Board finds that the sidewalk is more important. To the extent that the Planning Board adopts this resolution by a supermajority vote, this shall be the basis for the Planning Board's disagreement and override of the Ulster County Planning Board regarding visual impacts and landscaping.

So that is the section that deals with all comments of the Ulster County Planning Board.

CHAIRMAN BRAND: Thank you. Comments? Questions?

MR. HINES: Mr. Chairman, I have one more clarification. There is a potable water line traversing this site which serves the project's neighbors to the east -- I'm sorry, to the west. The rear property. There are notes on the plans that that water main is to be disconnected and abandoned and that a new three-quarter inch water line will be installed from the existing water main. I just want to make that clear that was going to be the

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responsibility of the applicant to connect that rear parcel.

MR. NAPIOR: Yes.

MR. HINES: Just to have that on the record.

CHAIRMAN BRAND: Thank you. It was brought up before from the fire department about sprinklering. Is that something that the applicant would consider, sprinklering the building?

MR. NAPIOR: We have not put it in the construction documents yet. I don't believe it would be required to be sprinklered. Certainly my client would be willing to speak to the building department and fire department. It is a cost to a one-story building. I don't know it's necessary. If it's a concern of the Board, it's something we could discuss.

CHAIRMAN BRAND: Do you want to make that application?

MR. TRONCILLITO: Can I make a comment?

CHAIRMAN BRAND: Sure.

MR. TRONCILLITO: Just to throw some information out there for you. If you go online

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-- how do I say this without -- there has been fires in Dunkin Donuts. My Board of fire commissioners are looking out for the safety of us, okay. So I know what the codes are. I know we don't have a sprinkler ordinance in the Town of Marlborough. All we are saying is possibly you could do the right thing and put a sprinkler system in the building. That's all we're asking.

Is this going to be a 24/7 facility?

MR. NAPIOR: Yes. That is the intent.

MR. TRONCILLITO: Okay. Because then there's other issues that come into play if it's not going to be a 24/7.

MR. NAPIOR: It should be. The idea is it will be manned 24/7.

MR. TRONCILLITO: A sprinkler system still should be in there.

MS. LANZETTA: How many people is the maximum amount in the combined store area?

MR. NAPIOR: Max occupancy you're saying?

MS. LANZETTA: Yes.

MR. NAPIOR: I'm not sure. I don't have our project architect here tonight. I am

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not in a position to answer that question.

CHAIRMAN BRAND: What do you think about sprinklers, Tom?

MR. CORCORAN: They're not mandatory. They're always a good thing but they're not mandatory on the project.

CHAIRMAN BRAND: Do you want to have that be a condition? You don't think so?

Okay. I guess we're not going to make it a condition. If you want to do that, it would be appreciated by the fire department.

MR. NAPIOR: Understood.

CHAIRMAN BRAND: Do I have a motion to accept the site plan approval as presented by the attorney?

MR. TRUNCALI: We have to do an override first?

MR. BLASS: The override is incorporated into the resolution. You would introduce the resolution, take a roll call vote.

MR. TRUNCALI: I'd like to make a motion to adopt the resolution with all it's conditions and it's takeouts from the Ulster County Planning Board.

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CHAIRMAN BRAND: Is there a second?

MR. LOFARO: I'll second.

CHAIRMAN BRAND: Discussion?

(No response.)

CHAIRMAN BRAND: All those in favor,  
say aye.

MR. TRAPANI: Aye.

MS. LANZETTA: Aye.

MR. TRUNCALI: Aye.

MR. CAUCHI: Aye.

MR. LOFARO: Aye.

CHAIRMAN BRAND: Aye.

Actually, Jen needs to poll the Board.

MS. FLYNN: Chairman Brand?

CHAIRMAN BRAND: Aye.

MS. FLYNN: Member Truncali?

MR. TRUNCALI: Yes.

MS. FLYNN: Member Trapani?

MR. TRAPANI: Yes.

MS. FLYNN: Member Lanzetta?

MS. LANZETTA: Yes.

MS. FLYNN: Member Lofaro?

MR. LOFARO: Yes.

MS. FLYNN: Member Cauchi?

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MR. CAUCHI: Yes.

MS. FLYNN: Member Clarke is not in attendance.

CHAIRMAN BRAND: So what's the next step, Ron?

MR. BLASS: Well the next step is for the applicant to fulfill the conditions of approval and then go for demolition permits and building permits to the building inspector. This Board is done with respect to it's review process.

CHAIRMAN BRAND: Okay.

MR. NAPIOR: Thank you all very much for your time and patience.

(Time noted: 8:40 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 5th day of April 2017.

*Michelle Conero*

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MICHELLE CONERO

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

----- X  
In the Matter of

MAZZSTOCK

Project No. 17-1003  
35 Hampton Road  
Section 108.3; Block 3; Lot 8.4

----- X

SKETCH  
SITE PLAN

Date: March 20, 2017  
Time: 8:40 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

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

APPLICANT'S REPRESENTATIVE: VINCENT POMARICO

----- X

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

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MAZZSTOCK

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CHAIRMAN BRAND: Next up, Mazzstock. I don't think you need to give us any information. We'll just go right to the technical comments if that's all right.

Pat.

MR. HINES: I know the Board's been addressing this for a little while.

Our first comment is comments should be solicited from the jurisdictional emergency services agencies. The jurisdictional fire department regarding access to the site should be received. It's noted that only one access point to the site is identified to the site, one way in and one way out.

The applicant should provide the Town with a contract with adequate medical personnel identified. There is a medic tent identified on the site.

CHAIRMAN BRAND: Do you have a copy of these as well?

MR. POMARICO: Of his comments?

CHAIRMAN BRAND: Yes.

MR. POMARICO: No, I do not.

CHAIRMAN BRAND: Sorry, Pat.

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MR. HINES: Typically in the past the Town has required that there is a staff medical facility on the site. I'll refer you back. The only other one of these I've been involved with was the rodeo and they provided a contract with a medical provider for that.

The applicants are seeking and have requested waiver from the Town's noise ordinance. The Planning Board can not grant waivers to the Town ordinance. I'm referring to Ron Blass regarding whether or not that's even possible. I don't know if you want to stop at that as we go through. I know Ron is just seeing these tonight as well.

MR. BLASS: I'm not aware there are waivers of the noise ordinance. I would take a look at it and let you know. I'll send you an e-mail.

MR. HINES: There's probably -- there's noise at the property line your ordinance has and there's also hours of operation that you have for that. Right now their plan states that they want to go as late as 2 a.m. That leads to my next comment that says the schedule can be pushed

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back, which means -- I take to mean pushed later in the evening for many particular reasons. I do have a concern. If the Board looks at the map there are some residential structures within a couple hundred feet of the property line. I don't know what the history of this is. Apparently this is not the first time this has occurred. We may hear that.

The applicant's representative requested to identify how ticket sales will be controlled. The narrative report identifies a maximum of 600 persons on the site at one time. I don't know if that's going to be controlled via ticket sales. Apparently there's some sort of internet ticket sales that's going to be going on.

Circulation of the project to the Ulster County Planning Department, it says may be required. It is required for a special permit.

Ulster County Health Department input for potable water and sewer should be received. I know there are calculations that say you need X number of portable sanitary facilities per X number of people, which the Health Department

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would have to weigh in on.

CHAIRMAN BRAND: The Health Department,  
not the Planning Board; right?

MR. HINES: The Health Department on  
gathering type instances.

A public hearing is required for a  
special use. I believe we're reviewing this  
under outdoor recreation.

Much of the data required for site plan  
special use has been specifically required to be  
waived by the applicant's representative. The  
Board does have the authority to waive that. The  
majority of the information typically required  
has been requested to be waived.

No environmental assessment form was  
included in the packet for the Board's use.

Access control to the site should be  
discussed. I know that there's going to be some  
ticket sales but I did note that there is no  
fencing or people coming in from other directions  
or security discussed on the plan. That may come  
out of conversations with the jurisdictional  
police department.

I'm not sure how the site is going to

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receive power. I doubt that the single-family residential structure on the site has a service capable of providing power. If a generator is going to be used, the generator location, capacity, noise should be discussed.

And then the decibel limit at the property line. Your ordinance has a decibel limit at the property lines. If they are going to exceed that, there may be some coordination with the code enforcement officer and this Board and the Town Board.

Hours of operation seem a little late at night for a residential district. I don't know what the history of it is. I think some of the Board Members are familiar.

That's our comments to date. Some clean-up items, some concerns, and I'm sure you may hear the same thing at the public hearing.

CHAIRMAN BRAND: So you've heard the -- Ron, did you have anything for that as well?

MR. BLASS: No.

CHAIRMAN BRAND: So those are the comments you have. Answers to any of those right now?

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MR. POMARICO: Well --

CHAIRMAN BRAND: You can go ahead and answer them at the public hearing if you're prepared to do that.

MR. POMARICO: I can answer some of them. The one as far as -- so where we have one access point to the site, we have volunteer staff that's there all day and all night. They're always directing traffic.

MS. POMARICO: We have a flagger who will always be stationed at that area so long as the gate is open. Unfortunately it's a one-way point. We are unable to widen the road. We are offering that as a potential compromise. We would have staff there at all times to direct traffic.

CHAIRMAN BRAND: Is that something that just needs to be shown on the plan, Ron? Is that the intent there? Pat. Sorry.

MR. HINES: I don't know. The concern is that if there's a line of cars coming into the site and there's a need to get emergency services in or out of there, I think we need to know how that occurs. What I think most importantly would

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be to put your jurisdictional emergency agencies together with this plan and get their comments on it to see how they think it may function or not, to get their concerns. I don't want to be the one speaking for them. One point of access to the site with no emergency access could be an issue. Any number of things could happen. At that time of year, an August thunder storm comes through and creates an issue. The public safety is the number one concern for a site such as this.

CHAIRMAN BRAND: So perhaps you want to circulate the plan and map to Mr. Troncillito and the fire department to take a look at it.

MR. POMARICO: Sure.

MR. HINES: I think it's going to be police, fire and whatever medical services. I think you have contract medical services in the Town.

MS. FLYNN: I think I gave them the PDF of Mazzstock.

CHAIRMAN BRAND: Gave who?

MS. FLYNN: I thought I sent it to Marlborough Fire Department.

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MR. TRONCILLITO: Which one was that?

MS. FLYNN: Mazzstock. No?

MR. TRONCILLITO: I can't answer that.

CHAIRMAN BRAND: Just before the next public hearing make sure they are in the loop.

MR. POMARICO: Okay. So you want us to copy the police and fire department and TOMVAC on the site plan and ask -- request their comments?

MR. TRONCILLITO: Yes, she did. She did. I'm sorry. I'm just trying to figure out exactly what it is.

MR. HINES: What we're talking about is the one means of access in and out of the site and if the fire department had any concerns regarding that.

MR. TRONCILLITO: No.

CHAIRMAN BRAND: Okay.

MR. POMARICO: Was that a response?

MR. TRONCILLITO: It's okay. We're okay.

MR. POMARICO: We're happy to circulate this contract with the Town detailing the level of medical personnel. It's not a problem. We can do that.

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CHAIRMAN BRAND: Should he just get a letter from them saying that as well?

MR. HINES: We're going to want something, yeah.

CHAIRMAN BRAND: I would get a letter from Mr. Troncillito or some other representative saying that.

MR. HINES: I think you're going to want one from the fire department, the police department. I don't think TOMVAC exists as far as I know. I think it's Mobile Life.

MR. POMARICO: Okay.

CHAIRMAN BRAND: The more the better. It was sent up to County?

MR. POMARICO: The noise ordinance, we believe that there are exemptions being that I'm told there's a statute that is 105-4 called exemptions where basically events that are -- they call it holiday festivals and transitory in nature there can be an exemption to the noise ordinance. So transitory meaning temporary. I mean we're not necessarily a holiday but we are certainly a celebration.

CHAIRMAN BRAND: We don't have that.

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That's the Town Board that has that.

MR. HINES: The Town Board is going to have to weigh in. That's a separate code section, not under the Planning Board.

MR. LANZETTA: We have a noise ordinance. Do you know what the decibel is?

MR. HINES: They're asking for a waiver from that. They're not going to be able to meet that.

MR. LANZETTA: I'm sure the Board will consider it.

MR. HINES: That's going to require working with the Town Board on both the hours of operation I believe. There's the Town Board and Planning Board. And then the decibel limit at the property line I think is something that will need to be discussed at a minimum with the Town Board. I'm not sure how the waiver happens.

The next one is the hours of operation. I've just identified a concern about this pushback of the schedule for various reasons.

MR. POMARICO: Right. I mean obviously ideally and what has happened in the past and has gotten better every year is the schedule has been

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more strictly adhered to. In the event of a power failure or a weather delay or something, we want to leave ourselves open to give people what they paid for, particularly the acts that happen later on which more people are there to see. If there's a huge thunder storm delay or something, people paid to, you know, catch this band or whatever, we wanted to at least leave ourselves open. Not take advantage of it so much as just if the unforeseen happens we would like to still deliver on our promise to put the shown on for people.

MR. HINES: So that would exceed your current 2 a.m. limit?

MR. POMARICO: If absolutely need be, yes. Even still right now as I have the schedule laid out, amplified music I have ending at 1 o'clock.

MR. TRAPANI: How many times a year do you do that?

MR. POMARICO: Once. This is it.

MR. HINES: Three days.

MR. POMARICO: It's three nights but we only go to 1 o'clock Friday and Saturday. Sunday

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night we end at 10, which is in accordance --

MR. HINES: It's 2 o'clock in the morning.

MR. POMARICO: I have 2:00 on the plan. In my briefing document I've described we've gone as late with amplified music as 3 in the morning. We're willing to stop at 1 o'clock to provide the level of entertainment that we wish, that's been expected of us in the past. That's when we think we need to end with amplified music. In addition to that, we go later in the form of a wireless headphone setup where music is broadcasted through headphones. But that's more limited to electronic and instrumental music. That's a certain fringe of who comes to this event.

MR. TRUNCALI: You guys have been doing it for ten years?

MR. POMARICO: Yes. Tenth generation, nine years.

MR. TRUNCALI: I do own property close by to it and really haven't had any -- haven't experienced any problems with this.

MR. HINES: But you were at the festival.

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MR. TRUNCALI: I've been to it.

Tommy, have there been any complaints or problems?

MR. CORCORAN: Over the last ten years I don't think the police have come to me with anything. I haven't had many residents say anything at all.

CHAIRMAN BRAND: So you have some homework here to do. The next step would be in between now and our next meeting you want to submit it to the County, he does a workup.

MR. TRUNCALI: Why does it have to go to County?

MR. HINES: It's a special use permit.

MR. TRUNCALI: But it's not on a highway or County road.

MR. POMARICO: We had dealings with the County last year.

MR. BLASS: We do. We do. We have the agreement. Is the County on there?

MR. HINES: No.

MR. BLASS: It would be 500 feet from the County road. We don't have to refer it then.

CHAIRMAN BRAND: We do not?

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MR. BLASS: No need to.

CHAIRMAN BRAND: Okay. The Health Department things and then Town Board for the noise ordinance.

MR. HINES: You're going to need an E.A.F.

CHAIRMAN BRAND: And the E.A.F., environmental assessment form. That's something you can get from Jen.

MR. LOFARO: The paperwork from the fire department.

MR. POMARICO: The environmental assessment form wasn't included in the actual site plan application packet, was it?

MS. FLYNN: I think it is.

MR. POMARICO: Did we just throw NAs all over it and say why does this have to do with us, more or less?

CHAIRMAN BRAND: I guess we can schedule you for the public hearing for the April -- the first meeting in April.

MR. POMARICO: Would it be possible to --

CHAIRMAN BRAND: That's the next

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meeting we have anyway.

MR. TRAPANI: That's when the next  
Planning Board meeting is.

MR. POMARICO: The next public hearing  
could be a month from now or does --

CHAIRMAN BRAND: It will be the first  
meeting in Monday.

MR. POMARICO: I'm saying after that  
one.

MR. TRAPANI: Public hearings are the  
first Monday in the month.

CHAIRMAN BRAND: If there's some need  
for you to have to delay to the second one --

MR. POMARICO: Me and her are going to  
be out of town.

MS. POMARICO: We can change our  
flights. We don't land until 8 p.m. on Monday.  
We can certainly change our flights.

CHAIRMAN BRAND: You'll be good to go  
for the first meeting.

MR. POMARICO: I know we can be ready.  
We'll do it.

I want to address number 5. There was  
a question about ticket sales.

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CHAIRMAN BRAND: I think you just need to include that on the forms for the next meeting. I think we'll be good with that.

MR. POMARICO: So police, fire, Town Board. We're not dealing with the County.

Do I make actual modifications to the site plan itself?

MR. HINES: No. I think we're mostly in paperwork mode.

MS. FLYNN: You do need to do an E.A.F.

MR. HINES: We didn't get that.

MR. POMARICO: Okay.

CHAIRMAN BRAND: Yes, Bob.

MR. TRONCILLITO: When do you need the letter from the fire district by?

CHAIRMAN BRAND: As soon as possible. Before April 3rd.

MR. TRONCILLITO: Their meeting is past. I'm going to have to get with a couple of the heads of State. When do you need it physically?

CHAIRMAN BRAND: April 3rd would be the meeting that he needs it for.

MR. TRAPANI: April 3rd.

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MR. TRONCILLITO: Oh, boy.

CHAIRMAN BRAND: Talk to Jennifer and then we will schedule you for a public hearing as long as everything is good to go.

MR. POMARICO: Thank you.

(Time noted: 9:00 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 5th day of April 2017.

*Michelle Conero*

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MICHELLE CONERO