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STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

GARDNERTOWN COMMONS
(2016-03)

Section 75; Block 1; Lot 21
R-3 Zone

----- X

AMENDED ARB

Date: October 4, 2018
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
KAREN ARENT
GERALD CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: JAY DIESING

----- X

MICHELLE L. CONERO
PMB #276
56 North Plank Road, Suite 1
Newburgh, New York 12550
(845)541-4163

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CHAIRMAN EWASUTYN: Good evening,
ladies and gentlemen. I'd like to welcome you to
the Planning Board meeting of the 4th of October.

At this time I'll call the meeting to
order with a roll call vote.

MR. GALLI: Present.

MS. DeLUCA: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. DOMINICK: Present.

MR. WARD: Present.

MR. DONNELLY: Michael Donnelly,
Planning Board Attorney, present.

MS. CONERO: Michelle Conero,
Stenographer.

MR. CANFIELD: Jerry Canfield, Town of
Newburgh Code Compliance.

MR. HINES: Pat Hines with McGoey,
Hauser & Edsall Consulting Engineers.

MS. ARENT: Karen Arent, Landscape
Architectural Consultant.

MR. WERSTED: Ken Wersted, Creighton,
Manning Engineering, Traffic Consultant.

CHAIRMAN EWASUTYN: At this time we'll

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turn the meeting over to John Ward.

MR. WARD: Please stand to say the Pledge.

(Pledge of Allegiance.)

MR. WARD: Please turn off your phones or put them on vibrate.

CHAIRMAN EWASUTYN: On this evening's agenda we have five items of business. The first item is Gardnertown Commons, it's an amended ARB and it's being represented by Jay Diesing of Mauri Architects.

MR. DIESING: Good evening, folks. Jay Diesing, Mauri Architects.

Just a quick update on the Gardnertown Commons project. As you're probably aware, it's under construction.

This is an aerial view of the site plan. Buildings 1 and 2 are framed and up at this point, as well as the clubhouse building, foundations are being set and excavation is being done down on the south corner of the site.

With the buildings going up, the owner is looking to take a second look at the colors that were previously approved for the project in

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our original ARB approval. I have a rendering of the proposed color scheme for both the typical apartment building and the clubhouse building. So this is kind of a gray scheme they feel is more of a contemporary scheme and an upscale look for the community. There's a gray fieldstone that would be at the base of the buildings and some of the accent areas, and horizontal gray siding and a charcoal roof shingle. That would be the color scheme on all the buildings and the clubhouse building, the pool building out behind the clubhouse. I do have samples of all the materials here.

Besides the gray that I mentioned, also we're going to have white shutters, white trim, white railings. That would be all the accent colors. This is a sample of the stone veneer that they're proposing to use.

So that's basically it. That's all we're looking to do at this time. The materials are all the same, it's just the colors.

CHAIRMAN EWASUTYN: Comments or questions from Board Members?

MR. GALLI: No additional.

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GARDNERTOWN COMMONS

MS. DeLUCA: No.

MR. MENNERICH: No.

MR. DOMINICK: No.

MR. WARD: No.

CHAIRMAN EWASUTYN: Would someone make a motion to approve the ARB changes for Gardnertown Commons?

MR. DOMINICK: I'll make a motion.

MR. WARD: Second.

CHAIRMAN EWASUTYN: Motion by Dave Dominick. Second by John Ward. I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

Mike Donnelly, would you give us the resolution?

MR. DONNELLY: Sure. We'll note that this doesn't change any of the conditions of the original site plan and subdivision approval. We'll have the standard ARB condition that you

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can only build what is shown on the plans you submitted.

Do we have the material sheet that we need?

MR. CANFIELD: We have the material sheet. Can we have the samples as well?

MR. DIESING: You're welcome to keep the board if you'd like.

MR. CANFIELD: Do you have samples that you could submit to the Board?

MR. DIESING: I can submit them separately, leave them now, which ever you'd like.

MR. CANFIELD: So we can see actual colors.

CHAIRMAN EWASUTYN: When they apply to the building department. Okay. We'll leave them up here and you can pick them up tomorrow.

MR. CANFIELD: That will work. Thank you.

MR. DONNELLY: That's it.

MR. DIESING: All the manufacturers and all the actual colors are listed on the ARB form. You can use these to match them.

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CHAIRMAN EWASUTYN: Thank you.

MR. DIESING: Thank you very much.

(Time noted: 7:04 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 11th day of October 2018.

Michelle Conero

MICHELLE CONERO

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STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

BRACKEN 17 VENTURES, LLC
(2018-15)

Fleetwood Drive
Section 87; Block 2; Lot 2
R-1 Zone

----- X

TWO-LOT SUBDIVISION

Date: October 4, 2018
Time: 7:05 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
KAREN ARENT
GERALD CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: DARREN DOCE

----- X

MICHELLE L. CONERO
PMB #276
56 North Plank Road, Suite 1
Newburgh, New York 12550
(845)541-4163

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2 CHAIRMAN EWASUTYN: Our second item is
3 Bracken 17 Ventures, LLC. It's on Fleetwood
4 Drive in an R-1 Zone. It's a two-lot subdivision
5 being represented by Darren Doce.

6 MR. DOCE: We're proposing a two-lot
7 subdivision of a 2.7 acre parcel. It's located
8 on Beechwood Circle in the R-1 Zone. The sizes
9 are about 1.3 each. The lots meet all the bulk
10 zoning requirements.

11 We made some revisions to the plan
12 based on the comments we received at the last
13 meeting. We corrected the buildable areas, we
14 added a note regarding staking the foundation
15 locations prior to getting a building permit.

16 We also provided information regarding
17 Beechwood Circle. I spoke again with the Town of
18 Montgomery highway super. Beechwood Circle is a
19 Town road. I provided Jim Osborne with a request
20 for the sewer flow acceptance.

21 That's basically all the changes that
22 were made to the plan based on the last meeting.

23 CHAIRMAN EWASUTYN: Pat, the review
24 comments were directed from you. Have they been
25 satisfied?

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MR. HINES: Yes, those have. They also provided us with the dates of the filed maps of when the original subdivision was created, signed by both the Town of Montgomery and the Town of Newburgh. Some information from the highway superintendent as well, that it is a Town of Montgomery road. The Town of Newburgh does plow it because of the location of it.

The sewer flow acceptance letter, we just need a copy of that, what you sent, to make our files complete.

We would recommend a negative declaration and the Board could schedule a public hearing if it so desired.

CHAIRMAN EWASUTYN: Jerry Canfield, do you have anything to add?

MR. CANFIELD: No. No comments.

CHAIRMAN EWASUTYN: Board Members?
John Ward?

MR. WARD: No.

MR. DOMINICK: No.

MR. MENNERICH: No.

MS. DeLUCA: No.

MR. GALLI: No.

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BRACKEN 17 VENTURES, LLC

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CHAIRMAN EWASUTYN: Pat, we have to circulate to the Orange County Planning Department and the Town of Montgomery?

MR. HINES: Yes. That's a minimum thirty-day period. We discussed at work session setting the public hearing for the 15th of November.

CHAIRMAN EWASUTYN: We'll have a two-part motion, one to declare a negative declaration for the two-lot subdivision for Bracken 17 Ventures and to hold a public hearing on, the 15th of November?

MR. HINES: Yes.

CHAIRMAN EWASUTYN: Does someone want to make the motion?

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: Motion by Frank Galli.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: Second by Ken Mennerich. Can I have a roll call vote starting with Frank Galli?

MR. GALLI: Aye.

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MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

MR. DOCE: Thank you.

CHAIRMAN EWASUTYN: Darren, you'll work
with Pat on the notice.

MR. DOCE: Thank you.

(Time noted: 7:08 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 11th day of October 2018.



MICHELLE CONERO

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STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

A PLUS AUTO AND TRUCK, LLC
(2018-17)

12 Little Lane Road
Section 53; Block 4; Lot 4.21
B Zone

----- X

INITIAL APPEARANCE - SITE PLAN

Date: October 4, 2018
Time: 7:09 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
KAREN ARENT
GERALD CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: JAY SAMUELSON

----- X

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(845)541-4163

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A PLUS AUTO AND TRUCK, LLC

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CHAIRMAN EWASUTYN: Our third item is A Plus Auto And Truck, LLC. It's an initial appearance for a site plan. It's located on 12 Little Lane Road in a B Zone. It's being represented by Jay Samuelson.

MR. SAMUELSON: Good evening. Jay Samuelson, Engineering Properties. I'm here tonight to show you 12 Little Lane Road. It's an application for A Plus Auto.

The applicant has entered into a contract to lease the rear building located on the property to run his automotive repair business out of. This is an existing property with an existing single-family residence in the front and a commercial building in the rear.

We're not proposing any new buildings to the site, we're just proposing some upgrades to the parking area in the front so we can have some ADA parking accessible in front of the building.

There is an existing dumpster on the site that we will maintain and use.

We are proposing and we'd like to leave the parking lot as gravel at this time as

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it is now.

We do meet the required number of parking spaces.

There is an existing well on the site. The well line comes into the house and then a water line comes from the house into the rear building. In the rear building there is one bathroom only. That's the only water usage in that building.

Again the same with the sewer. The sewer comes out of the building, in through the house and then comes out of the front of the house and ties into the existing sewer in Little Lane Road.

We're here tonight to propose and show this application for the first time.

CHAIRMAN EWASUTYN: Let's start out with questions from Board Members. Frank Galli?

MR. GALLI: You said that there was a single-family house but it's got three electrical meters on the building.

MR. SAMUELSON: As far as I'm aware, my discussions with the owner, that is a single-

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family residence. There is only one family living there. I don't know if those electric meters feed the rear building or if the rear building has it's own electric meter.

MR. HINES: It's also listed in the tax records as a three-family.

MR. SAMUELSON: I'll confirm again with the owner. My conversation with him is it's a single-family residence. There's only one family living in there.

MR. CANFIELD: If I may chime in here. That is an issue for the Code Compliance Department. Again, like Pat had said, and Frank, the assessment records say that it's listed as a 230 which is a three-family. I drove by the residence. There seems to be three electric meters on the front of the building and there are three satellite dishes on the roof, which would indicate that there's three occupants inside. At some point in the future the Code Compliance Department will need to have verification, and I think that issue would be separate from this application before the Board. Essentially the big issue is that if it is determined to be a

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A PLUS AUTO AND TRUCK, LLC

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three-family, it's not permitted in a B Zone. I say this at this meeting for information only. It's something that's separate from this application.

MR. SAMUELSON: I will absolutely let the owner know that that's an issue and make sure he comes and discusses it with you.

MR. CANFIELD: Thank you.

CHAIRMAN EWASUTYN: Stephanie?

MS. DeLUCA: No.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I have a concern about the gravel, the use of gravel for the parking lot. Businesses in the Town of Newburgh, we consistently require them to have blacktop and curbing.

MR. SAMUELSON: And curbing? I can probably persuade them to pave it. Curbing is going to create some drainage concerns I would have on where it flows, and what it does, and the addition for catch basins. I'd like to look at that and see if it causes an issue. I can probably convince them to pave it.

CHAIRMAN EWASUTYN: Jay, how many

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A PLUS AUTO AND TRUCK, LLC

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vehicles will be stored on the property once it's up and operating and how many unlicensed vehicles?

MR. SAMUELSON: The applicant is here who plans to run his business. I can let him -- Tony is here. I'll let him answer that question.

CHAIRMAN EWASUTYN: You are?

MR. LOSPALLUTO: Good evening, Board.
For the most part --

CHAIRMAN EWASUTYN: Your name?

MR. LOSPALLUTO: Sorry. Anthony Lospalluto.

CHAIRMAN EWASUTYN: Thank you.

MR. LOSPALLUTO: I don't plan on having any cars outside of the building that aren't, one, registered; and two, for the most part if there's going to be something that requires time on the car, it will be parked inside of the building.

I had known when I had driven by years prior the mess that the place was, if any of you have driven by. I can assure you that that will never ever happen.

So with that being said, outside of

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A PLUS AUTO AND TRUCK, LLC

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that, really none. Anything unregistered I don't keep on the lot. I don't want any liability as far as that goes with any other cars being there. There won't be anything that's unlicensed or without a license plate outside at all. And then anything there for an extended period of time will be parked inside of the building or in the back of the building where there is another section of building that you can park underneath.

CHAIRMAN EWASUTYN: Tony, how many lifts are there?

MS. LOSPALLUTO: There's going to be three in total. Three in total.

CHAIRMAN EWASUTYN: And the square footage of the building?

MR. LOSPALLUTO: That I don't know.

Jay, do you know what the building is?

MR. SAMUELSON: Off the top of my head -- I don't have the square footage of the building on here. It looks roughly to be about 80 by 60 with a small bump out.

CHAIRMAN EWASUTYN: Jerry, would there be a requirement for sprinklering the building?

MR. CANFIELD: Yes. The Town of

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Newburgh has a more restrictive sprinkler requirement than the International Building Code and Fire Code. A change of use would require this building to be sprinklered.

MR. LOSPALLUTO: Does that require the garage and inside or just the garage?

MR. CANFIELD: The interior of the building.

MR. LOSPALLUTO: The interior of the building. Okay.

CHAIRMAN EWASUTYN: Jay, for the record, the next time you appear before us can we have a --

MR. SAMUELSON: Yes.

CHAIRMAN EWASUTYN: -- square footage?

MR. SAMUELSON: Yes.

CHAIRMAN EWASUTYN: I have no further questions.

Dave?

MR. DOMINICK: First Tony, thank you for recognizing and keeping the place clean and tidy and --

MR. LOSPALLUTO: It was --

MR. DOMINICK: -- up to par.

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MR. LOSPALLUTO: -- an eyesore to say the least.

MR. DOMINICK: It was.

I agree with what Ken was saying about the paving.

MR. SAMUELSON: Thank you.

MR. WARD: My question is I know previously what it was, and right now we push -- we require blacktop no matter what it is.

MR. LOSPALLUTO: Okay.

MR. WARD: With the house there, it says single residence even though it might be three. Parking wise for the residents and where your garage is, it's a little crazy going in and out. That's a concern to me.

MR. LOSPALLUTO: Okay. That I had addressed with the owner because I don't, obviously, want cars coming in. From what he had stated, once everything and we're all set, he was going to have them park on the actual street up top, and if they needed extra parking they could always ask me if it was okay. I told him if it would be, it would have to be after hours only, that way there was no interference as far as in

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and out traffic going.

MR. WARD: Right. Thank you.

MR. GALLI: I have another question. Pat, the configuration of the water and sewer going from a building to a house, is that allowable?

MR. HINES: It's unusual.

MR. SAMUELSON: I think the house was built first and then the building in the back was added on and the services were just extended from the house itself. That's what it looks like from my walking around there. I can confirm that but that's what it appears -- how it appears to have been constructed.

MR. CANFIELD: I think the assessment card also indicates that the septic and water are private, indicating there's a septic system.

MR. SAMUELSON: The water is definitely private, there's a well. We didn't find any evidence of a septic system, septic tank or anything. There's a line coming out of the front of the house and there's sewer in the street. My assumption is it was connected to the sewer. There's no evidence of any septic system there.

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MR. CANFIELD: We can verify that on the bill, the tax bill, if there's water and sewer there.

MR. SAMUELSON: I know there's not water. There is a well.

CHAIRMAN EWASUTYN: Pat, would this be an opportunity to discuss the ZBA?

MR. HINES: Yes. My first comment, the project has some pre-existing, nonconforming bulk requirements. The residential structure encroaches into the front yard setback, and I also need you to take a look at whether it has frontage on the State highway. If it has frontage on the State highway, it's a 60 foot front yard versus if it does not it's the standard front yard.

MR. SAMUELSON: I have to look at the State DOT maps to see if this is actually a DOT or a Town right-of-way.

MR. HINES: Either way it needs a variance, I just don't know which variance you need yet.

Also, the rear of the building has a negative setback. I think it encroaches across

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the property line there.

MR. SAMUELSON: It does by about a foot. Yes.

MR. HINES: That's another issue for the ZBA.

MR. DONNELLY: Is that the rear building?

MR. SAMUELSON: The rear building.

MR. HINES: The residential building has the front yard and the commercial building has the rear yard setback.

We do need to know if that has frontage on the State highway so you get the correct variances.

MR. SAMUELSON: Correct.

MR. HINES: I did check the tax records and it does say it has private sewer. You can confirm that with the sewer department. They must have had to get a permit when they connected.

There's a fence shown on your plan. It may be new. I checked the aerial mapping and it doesn't show that fence.

MR. SAMUELSON: We went out and did an

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updated survey and picked up the newer improvements. That fence is actually there, yes.

MR. HINES: Also parking lot 9 and 10 for the residents in that same photo, it appears to be grass in that area.

MR. SAMUELSON: That's gravel now.

MR. HINES: That's going to be paved. The paving requirement that the Board has, it's Section 185-13 number 7 is where the commercial sites do need to be paved.

I think this is the opportunity to get a dumpster enclosure on the plan rather than just have the dumpster sitting out there. The Board typically requires that.

The next comment is the three-family residence. We're going to need to determine that.

Section 185-28 has specific requirements for motor vehicle repair stations. Each of those should be spelled out on the plan. It controls the number of vehicles that are allowed to be on the site overnight or outside, and various other operation requirements. If each of those could be spelled out on the plan.

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We're going to need a landscaping plan.

The size of the structure should be identified, as we just discussed.

Any signage on the site should be shown.

The parking spaces need to be double striped in accordance with the Town's requirements.

MR. SAMUELSON: The existing signage is shown and called out. It's behind the stonewall that's there with landscaping around it. It's there. We're going to obviously add Tony's business to it. You want the detail of what the new sign is going to look like?

MR. HINES: Yeah. We need it also with compliance for the sign ordinance. The sign ordinance is updated so you'll have to take a look at that.

I don't know if I mentioned site lighting needs to be shown on the plans.

This eventually will have to go to County Planning and they're going to be looking for those same details.

MR. SAMUELSON: Is site lighting in the

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A PLUS AUTO AND TRUCK, LLC

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parking area required? We were planning on using the building mounted lights to light the front of the building up and not install any actual light poles out in the parking area.

MR. HINES: It's not required. The Board is going to want to see what type of lighting is there. If it's just existing wall packs, you can call that out.

CHAIRMAN EWASUTYN: Pat, are we at a point where we could refer it to the ZBA or do we have to determine whether the house is --

MR. HINES: I think we need the frontage question answered because we don't know the relief they're seeking, whether it's the standard front yard setback or if it does have frontage on the State highway.

MR. SAMUELSON: I can get you that information in the next day or two. If you'd like to send the referral, I can get that information to you in the next couple of days. That's just a matter of finding the DOT map and finding out where their actual right-of-way line is.

MR. DONNELLY: I can mention in the

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letter it might -- it's subject to verification but 60 feet based on the location of the State highway.

MR. CANFIELD: Or we can just refer him for the 60 and if it's less at the time of the ZBA, then it's less.

CHAIRMAN EWASUTYN: Is the Board okay with that?

MR. GALLI: Yes.

MS. DeLUCA: Yes.

MR. MENNERICH: Yes.

MR. DOMINICK: Yes.

MR. WARD: Yes.

CHAIRMAN EWASUTYN: Until we hear back from the ZBA we won't be referring you to Orange County Planning Department.

MR. HINES: We need additional detail.

CHAIRMAN EWASUTYN: Any other questions or comments?

(No response.)

CHAIRMAN EWASUTYN: Tell me your days and hours of operation.

MR. LOSPALLUTO: It will be standard, 8 to 5 Monday through Friday, and then Saturday a

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half day from 8 to 12.

CHAIRMAN EWASUTYN: Thank you.

MR. LOSPALLUTO: Another question if I may. As far as parking -- paving goes, the entire lot or just where the parking spaces would have to be?

CHAIRMAN EWASUTYN: Pat?

MR. HINES: It's the entire.

MR. LOSPALLUTO: I didn't know if you would have like a split and parking is here and parking is there or if it would have to be the whole thing.

MR. HINES: Whatever is not paved would have to be landscaped.

MR. SAMUELSON: I'll talk to you. We'll get a plan together of what we need to pave. It's not this whole area.

MR. HINES: Wherever vehicles are driving.

MR. SAMUELSON: Wherever vehicles are going to be driving we're going to pave. We're going to limit that.

CHAIRMAN EWASUTYN: Pat, if we understand you, the referral to the ZBA would be

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for a rear yard setback for Tony's building and the possible front yard setback?

MR. HINES: It's a definite front yard setback. It's just a matter of how much relief they're seeking.

CHAIRMAN EWASUTYN: Those would be the two referrals to the ZBA?

MR. HINES: There's the potential use variance, but that's outside the scope of this Board.

CHAIRMAN EWASUTYN: Who would make a motion to refer this to the ZBA for the front yard setback on the main building and the rear yard setback for the business itself?

MR. DOMINICK: So moved.

MR. WARD: Second.

CHAIRMAN EWASUTYN: Motion by Dave Dominick. Second by John Ward. Can I have a roll call vote starting with Frank?

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

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CHAIRMAN EWASUTYN: Aye.

Thank you very much.

MR. CANFIELD: John, just one additional piece of information for information only. We believe that this building is in or very close to the flood zone. You should verify that.

MR. SAMUELSON: We'll verify the flood zone.

MR. CANFIELD: For insurance purposes.

MR. SAMUELSON: Yes. Thank you.

CHAIRMAN EWASUTYN: Tony, thank you for coming. It helps.

MR. LOSPALLUTO: Thank you. Have a good night.

(Time noted: 7:24 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 11th day of October 2018.



MICHELLE CONERO

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STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X
In the Matter of

11 OLD BALMVILLE ROAD
(2018-18)

11 Old Balmville Road
Section 84; Block 5; Lot 26
04 Zone

----- X

INITIAL APPEARANCE - SITE PLAN

Date: October 4, 2018
Time: 7:25 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
KAREN ARENT
GERALD CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: JASON PITINGARO

----- X

MICHELLE L. CONERO
PMB #276
56 North Plank Road, Suite 1
Newburgh, New York 12550
(845)541-4163 p.m.

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CHAIRMAN EWASUTYN: The fourth item of business this evening is 11 Old Balmville Road. It's an initial appearance for a site plan located on 11 Old Balmville Road in an 04 overlay zone. It's being represented by Jason Pitingaro.

MR. PITINGARO: I'm here for 11 Balmville Road, LLC. We are representing the applicant in the conversion of this building from it's prior use, which was a nursing type facility, and it's going to be transitioned to office space.

The footprint of the building is approximately 15,000 square feet. The lot size is about 6.6 acres. As I mentioned, it's put into the -- the Town Board has moved it into the office district zoning.

There are no improvements to the exterior of the building itself.

We're going to be adding the requisite parking for the facility at ninety spaces.

There's not really any further improvement outside at this time. There will be some handicap accessibility features that are

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added and landscaping and such, site lighting that will be proposed in the future.

I wanted to bring the application in before the Board and have you take a look at it.

CHAIRMAN EWASUTYN: We'll start with Board Members. Any questions anybody has? Frank Galli?

MR. GALLI: How are you going to break up the inside? Now it's all individual rooms.

MR. PITINGARO: Yeah. The applicant is here, if he'd like to speak to that. There is an architect on board that is preparing all interior renovation plans for the building.

MR. GALLI: It's going to be completely gutted out?

MR. PITINGARO: Yes. The front section is where the residents were, or the small rooms; This middle section is basically completely open space; and then this rear section in the upper level was like a commercial type kitchen that served the front end; and the lower section is basement and storage. These two rear sections are going to remain basically as they are and these front sections are going to transition to

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11 OLD BALMVILLE ROAD

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office space.

CHAIRMAN EWASUTYN: Jason, if it's all right with you, if the applicant could speak. If he would introduce himself and speak to us on the project.

MR. DeANGELO: Thank you. My name is Phil DeAngelo, I'm from 146 Frozen Ridge Road.

My business is Focus Wealth Management. We're an SEC registered advisory firm. We've been in Highland, New York where we started our firm twenty-five years ago managing close to a billion dollars of client assets today. This is three miles from my house and we're committed to the Town of Newburgh. It's going to be a really cool project.

MR. GALLI: The kitchen part of it, the reason for keeping the kitchen a kitchen?

MR. DeANGELO: We have a staff of fifteen. It's a small staff. The place, we got a tremendous deal on it and it was built very solidly. So, you know, to have employee lunch and stuff like that there. To tear it down, it's a big kitchen. It's pretty solid.

The building is fabulous. My goal is

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to bring it back to it's original splendor from the outside and have my team on the top floor.

To your point before, you were asking about architecture. That top floor is going to be our main offices. As we grow we have enough room to grow into.

MR. GALLI: Are you going to lease it out to other --

MR. DeANGELO: Ideally I'd like to find one or two smaller operations possibly. I'm in that neighborhood quite a bit. We have a lot of friends, a lot of family in that neighborhood as well. We really -- it was a good situation for us to do something positive. We've been looking for a building in Newburgh for about ten years now. Everything came together. We're going to keep it simple. I'm not planning on having tenants but if the right situation arose I would entertain that because there's a lot of space there.

MR. GALLI: Thank you.

CHAIRMAN EWASUTYN: Stephanie?

MS. DeLUCA: I guess I wanted to tag on to what Frank was saying. I was just curious.

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You mentioned about the splendor of the building itself. I've seen pictures and know of that, I grew up in the area. I was just wondering too about when I heard possibly gutting it out I was like, my heart just -- I was just curious.

MR. DeANGELO: I've actually and we are taking painstaking steps even to where I'm trying to match the stairwells going up the stairs. Beautiful stairwell, very old. Maynard Higginson, who did a lot of buildings in Newburgh, built that in 1931 after he built the Powelton Club in about 1929, 1930. So this was a really new architect in the area.

The interior works there are -- the floor and terrazzo and steps were covered over with some sort of cheap tile. We even located the type of marble that they used on the sides of the stair rail for the steps.

The upstairs, you know, where we need our offices is not historic. The walls are just plain walls, the bathrooms are bathrooms that have been done through the years.

My father-in-law was actually the head of landscaping at the United Nations for like 35

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11 OLD BALMVILLE ROAD

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years, so landscaping and property landscaping is like one of my hobbies and one of my reasons for really falling in love with that property. It's 6.6 acres and already we've done a little bit of tree work from the storm. It's going to be amazing. It will be a property. The clients that we are managing assets for, who rarely come to our office, we're basically at board meetings. I'm in the city. We do very few meetings at the office. When they do come it's got to look highly polished and presentable, and that's the type of property that Focus Wealth Management will be presenting to the Town.

MS. DeLUCA: I can't wait to see it.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. DeANGELO: I can't wait to see it, too.

MR. MENNERICH: The conference room area, are your architects going to be laying something out for that area?

MR. DEANGELO: So again, we're trying to disturb the building as little as possible, and I see that -- I envision that as just a really when you walk in -- if anyone has ever

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been in John's Home, when you walk in the front
foyer you see this big, we call it a living room.
It's really not a conference room. It's a living
room. I want to have that impeccably restored to
look how it used to look. So that will be big
open space. But, you know, if you have a client
in or if you want to talk and think, our business
is the thinking business and relationship
business, if you want to take a stroll, it's
going to be a nice, clean, open space. So I'd
like to leave that alone.

On the sides there's two solariums
where the floors are in perfect shape. Again,
the problem we're having is how do we make it
handicap accessible because, believe it or not,
the solariums are not handicap accessible without
disturbing the original floors. I mean there's
not a crack in the flooring. These tiles are
absolutely beautiful. We're going to keep it the
way it was, just restore it. Even the led glass
windows will be taken off premises, sandblasted
and restored to new. Just open space.

MR. MENNERICH: Thank you.

CHAIRMAN EWASUTYN: Phil, if all goes

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well you think it will take six months, a year to bring it to the point you'll be having your grand opening?

MR. DeANGELO: You know, originally we thought it would be Memorial Day weekend, then we said Labor Day weekend. Now I'm thinking, you know, I hope Labor Day weekend by next year. I mean my wife is pregnant, we're having a child in the last week of December, so the closer I am to home the better. It can't happen soon enough. I know good things take time. I don't want to rush the work, I want to make sure it's done right.

CHAIRMAN EWASUTYN: I would just ask the question, is there a need for an elevator in this building?

MR. DeANGELO: We have one.

MR. CANFIELD: It does have one.

MR. DEANGELO: All of the work in the building was done pretty well. If you talk to any of the electricians or plumbers, heating people. There's no air conditioning, but aside from that everything was done topnotch. The elevator is actually in okay shape.

CHAIRMAN EWASUTYN: Dave Dominick?

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MR. DOMINICK: Phil, thanks for walking us through that. It really gave us a better picture and idea of your goals. Best of luck with it.

MR. DeANGELO: My pleasure. I can't wait.

MR. DOMINICK: We discussed in workshop where the employee parking is. How are the employees going to enter the building? Is it through the grand entrance? Walk us through that.

MR. DeANGELO: Right now there's a circular driveway that you enter and that we've had. We had a great meeting with everyone in the town, the neighbors. We tried to get as many neighbors there as possible because we know a lot of these people and I wanted them to feel comfortable with the idea. One of the promises I made is we don't want them seeing cars out front unless they have to be. So for handicap accessibility we have a ramp to the left.

There's a circular driveway. I originally wanted to take out the driveway but that we really can't do. We're going to put the parking on the 84

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side, so there's really no noise to disturb the neighbors, and tuck that down there. So the employee entrance will be through the back, through the back and then up. There's a lot of stairwells.

MR. DOMINICK: Through the back by the kitchen?

MR. DeANGELO: Underneath the kitchen. Where you park your car there will be a door -- there is a door to the basement. If you walk straight in through that basement, there's the elevator right there and there's a stairwell right there. So that's what we plan to do.

MR. DOMINICK: Okay. Thank you.

MR. DeANGELO: Any other questions?

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: I want to say thank you for explaining it the way you did because I relate to it with my own trade. I've been in restorations and down the line it shows you love what you have there and you have a goal. You can come in and say you're knocking out the rooms upstairs but you're saving the character. You have to do certain things because it's old and you have to

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put new, but you're trying to put it the right way. Thank you very much.

MR. DeANGELO: You're welcome. Even the bathrooms we put back into place which will be usable unlike the non-usable ones. I'm just thinking in my head the tile that's currently there, it will fit the period of the building. Thank you.

CHAIRMAN EWASUTYN: Let's start with Ken Wersted, he's our traffic consultant. He looked at this as far as if there will be any impact from vehicles, additional trips this site will generate. I'll have Ken speak to us.

MR. WERSTED: We looked at the site plan and the proposed uses. It was a little confusing because it wasn't entirely clear as to what uses the rear spaces were going to contain.

Obviously the square footage that you use for your offices plays into how much traffic would be generated, how much parking is going to be necessary. If the kitchen isn't going to be used for anything, the large conference area space in the middle is going to be used in part, I would ask that you work with your architect to

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come up with an equivalent space. Meaning the 3,580 square feet, is it all going to be necessarily conference space? If you took the people who are using that and had to squeeze them down to a room like this, what would that space be equivalent to? With that number then we can work with how much traffic would be generated. In the end I don't think it's going to be significant because we ran the numbers assuming this whole area -- the whole building would be used as office and it was between thirty and fifty trips between your morning peak arrival and your afternoon. I don't think that's going to be significant. Obviously depending on hours and your operations and tenants, not everyone may have to arrive at the same time. If they can come in between 7 and 9, obviously people's schedules will have traffic arriving spread out, so that will kind of dissipate any potential impact.

As it pertains to your parking numbers, make sure that the project is consistent with the code. We would want to see what that conference area may be. So working with Jason and your

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architect we can sort those numbers out as we go forward.

I think you had answered one of our questions which was if you are parking in the back how are you getting into the building, are you going up those stairs into the kitchen or are you walking all the way around to the front. You explained you're going into the basement below the kitchen and then making your way up through the building.

MR. DeANGELO: Yes.

MR. WERSTED: I would imagine the existing parking out in front of the building would be reserved for visitors or clients coming directly into the property.

MR. DeANGELO: I even want to try to keep it to just handicap. I want to have very few cars parked in front of the building. I want to have all the traffic down in the back as much as possible.

MR. WERSTED: For the most part that was the extent of our comments.

CHAIRMAN EWASUTYN: I'm sure Karen Arent, our Landscape Architect, was pleased to

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hear about your father's thirty-five years with
the U.N.

MR. DeANGELO: We have a lot of stolen
Japanese bushes at 146 Frozen Ridge Road.

CHAIRMAN EWASUTYN: Karen, you'll
review the plan. Karen will go out there and
take a look, have some opinions.

I know we have a standard as far as the
number of parking stalls and trees that have to
be planted. Maybe it could be a time when you
might be able to meet her. If not --

MR. DeANGELO: Sure.

CHAIRMAN EWASUTYN: -- Karen will look
at that.

MR. DeANGELO: Definitely.

CHAIRMAN EWASUTYN: Will there be any
signage along the road advertising your business,
and, if so, would you show that next time around?

MR. DeANGELO: Great question. My
neighbor asked me that because he was talking
about how great the building is. I don't know. I
don't think we're going to do signage. I think
we're going to ideally put "11 Balmville Road."
On the stone entryway there's a John's Home sign.

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We just might put "11 Balmville Road." I found an old U.S. flag that's building mounted and I'd like to match that on one side and put our Focus Wealth Management logo on the other flag. I think that's going to be it. I don't believe we're going to do signage out there. We're not a drive by and stop business. I think we're going to try to keep the signage as muted as possible.

CHAIRMAN EWASUTYN: Sounds good.

Pat Hines, you reviewed the plans. There were questions as far as the acreage, the actual square footage of the building and such.

MR. HINES: The narrative report and the bulk table identified it as 7.6 acres. I think it's 6.6.

MR. PITINGARO: It is 6.6.

MR. HINES: That needs to get cleaned up, and that will change your bulk table a little bit.

We talked about the parking. I'm not going to go over that again.

Is the building currently sprinklered?

MR. PITINGARO: No.

MR. HINES: That's going to be a design

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issue as you work through with your architects.
The Town of Newburgh has a code that requires
that that be sprinklered.

The existing condition plan, we need to
see where the water and sewer lines serving the
building are to the best of your ability to
locate them.

The site grading is a little tight to
the State right-of-way. I think that needs to
get tightened up.

The stormwater pollution prevention
plan.

The landscaping plan will be required.
Further development details.

Site lighting needs to be addressed.

The EAF identifies the site as being in
a potentially archeologically sensitive area. In
order to address that under SEQRA you're going to
have to provide us with cultural resources
information on that or have the State concur it's
been human impacted. Either way you want to do
that. We'll be looking for a sign off from Parks
& Recreation.

That's the extent of our comments on

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the use, the preliminary plans.

CHAIRMAN EWASUTYN: Jerry Canfield,
Code Compliance?

MR. CANFIELD: Nothing additional.

CHAIRMAN EWASUTYN: Mike Donnelly?

MR. DONNELLY: Nothing.

CHAIRMAN EWASUTYN: Pat, at this point
should we declare our intent for lead agency and
circulate?

MR. DONNELLY: I don't know that any
other agency has approval.

MR. HINES: Yeah. Orange County
Planning is just advisory.

CHAIRMAN EWASUTYN: And it's too early
to send plans to the Orange County Planning
Department?

MR. HINES: Yes. It's not that level
of detail yet.

MR. PITINGARO: Is the State highway an
issue, being in proximity to them?

MR. HINES: You're not getting a permit
from them so they're -- they may be interested
but they're not involved.

CHAIRMAN EWASUTYN: Okay.

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MR. PITINGARO: Thank you.
(Time noted: 7:42 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 11th day of October 2018.



MICHELLE CONERO

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STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X
In the Matter of

RAM HOTELS - HILTON GARDEN INN
(2016-21)

Unity Place
Section 97; Block 2; Lot 37
IB Zone

----- X

PUBLIC HEARING - AMENDED SITE PLAN

Date: October 4, 2018
Time: 7:43 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
STEPHANIE DeLUCA
KENNETH MENNERICH
DAVID DOMINICK
JOHN A. WARD

ALSO PRESENT: MICHAEL H. DONNELLY, ESQ.
PATRICK HINES
KAREN ARENT
GERALD CANFIELD
KENNETH WERSTED

APPLICANT'S REPRESENTATIVE: STEPHEN GABA
LARRY MARSHALL

----- X

MICHELLE L. CONERO
PMB #276
56 North Plank Road, Suite 1
Newburgh, New York 12550
(845)541-4163

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CHAIRMAN EWASUTYN: The last item this evening is RAM Hotels - Hilton Garden Inn. It's a public hearing for an amended site plan. It's located on Unity Place in an IB Zone. It's being represented by Larry Marshall.

At this point Ken Mennerich will read the notice of hearing.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to Section 276 of the Town Law on the application of RAM Hotels, Incorporated, project 2016-21. The project proposes an amended site plan and subdivision. The project proposes to subdivide an existing 8.47 acre parcel into two lots, lot 1 of 6.42 acres, lot 2 of 2.05 acres. The project proposes a site plan on lot 1 consisting of a five-story, 112 room hotel facility. The hotel will have a footprint of 18,178 square feet. 143 parking spots are proposed. The site will be served by municipal water and sewer service located within

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Unity Place. A stormwater pollution prevention plan has been prepared. Two points of access from Unity Place are proposed, one of which would share access with the other lot in the subdivision, lot 2. No site plan approval is being sought for lot 2 at this time. The project is located in the IB Zone. The premises is located on Unity Place and is known on the Town tax map as Section 97; Block 2; Lot 37. Said public hearing will be held on the 4th day of October 2018 at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested persons will be given an opportunity to be heard. By order of the Town of Newburgh Planning Board. John P. Ewasutyn, Chairman, Planning Board Town of Newburgh. Dated 13 September 2018."

MR. GABA: Good evening. My name is Stephen Gaba, I'm an attorney with Drake, Loeb. We're the attorneys for the applicants, RAM Hotels and Newburgh Park Place.

With me here this evening is Larry Marshall, our engineer.

As the notice indicated, what we're

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looking for is amended site plan approval.

This site plan, or something very, very close to it, was originally approved by the Board in July of 2017. The main difference, other than the ones Larry will talk about in just a second, is there were 13 land banked parking spaces on that plan. Subsequently, in February of this year as a matter of fact, we came back and changed the parking slightly to actually build those 13 spaces. So this plan, with a couple of minor changes which we'll discuss in just a second, had been approved by this Board just earlier this year.

As we got into the beginning of the development work, we hadn't broken ground, we were still working on getting our plans in place for that, it was determined that a couple of what we considered to be minor changes needed to be made in order to make the plan workable. The first one was to move the location of the site of the building slightly and to decrease it in size. Not very much, 100 feet. You know, make it smaller.

Also we relocated the southern entrance

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to the property. It used to be on the shared line between the two lots and now it's completely on the second lot.

With these minor changes we'll be ready to go forward with the project but we need to come back and have it reapproved by the Board.

Larry will explain to you in more detail what it is exactly we're proposing and asking you to approve.

MR. MARSHALL: Good evening. As Steve outlined in his outline in the notice, this is an amendment to the previously approved site plan. The main alteration is the size of the building. The overall length of the building has been decreased by approximately 6 feet, and then the building had been shifted towards the front yard setback and the side yard setback. In doing so we were able to eliminate the two previously proposed encroachments into the onsite U.S. Army Corp of Engineers wetlands.

The proposed entrance on -- the southerly entrance to the site, the second entrance, has been proposed to be moved approximately 17 feet to the south, and in doing

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-- in making that alteration that entrance will be located entirely on proposed lot 2.

The proposed subdivision has been amended simply to reflect the easements that are required for the cross access easements for the shared entrance. There is no other alteration to that plan other than just showing those -- where the easements are.

Other than the shift in the building and the relocation -- slight relocation of the driveway entrance, we have adjusted some of the parking spaces but have maintained the total number of spaces as was previously proposed and approved at 143.

There were some alterations to the lighting plan as far as the light locations, but the light intensities and the light fixtures primarily stayed the same. The fixtures are identical to the fixtures that were previously proposed in the cut sheets. Those fixtures have been provided to the Board for your record. They've just been adjusted slightly to accommodate the new location of the building and associated parking areas.

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The landscaping proposed, we do have a landscaping plan. That has been also modified to be adjusted for the new locations of the landscaped islands and around the parking areas. We did do adjustments in some of the size of the landscaped areas. We had to make some minor adjustments to the types of plants that are being proposed, but overall the number of plants being proposed on this site plan is an increase to the previously approved site plan.

I think the only other note I would say is that to completely remove the encroachment into the wetlands there are two segmental block retaining walls along the westerly side of the parking area, and that's just to completely eliminate any encroachment into those wetlands.

The architecture of the building is identical to the previously proposed. That remains unchanged. The colors and the architectural style are the same. The only alteration is just a slight adjustment in the overall widths of some of the broken up panels that you see just to accommodate that six-foot reduction. The overall height remains the same

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as we received the variance for, just the length is adjusted.

That recaps.

CHAIRMAN EWASUTYN: At this point we'll turn the meeting over to Mike Donnelly to discuss the public hearing standards.

MR. DONNELLY: As you've heard, this project has been approved, both it's subdivision and it's site plan and it's architectural components, in the past. There are these changes proposed and the Board thought it would be wise, before taking action on the plan, to hear further from members of the public. The Chairman will ask in a moment those who wish to speak to please raise your hand. We would ask you to step forward, give us your name, spell it if you would for our stenographer, tell us where you live in relation to the project and bring to the attention of the Board any concerns you may have. If you have a question that can be easily answered, the Chairman will either ask one of the applicant's professionals or one of the Town's consultants to answer that question.

CHAIRMAN EWASUTYN: Thank you, Michael.

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If anyone has any questions or comments, please raise your hand and give your name.

The gentleman in the back.

MR. JOANIDES: Forgive me, I came in late. My name is Charles Joanides and this my wife, Nancy Joanides. We live on Lakeview Drive, 50 Lakeview Drive, which is -- it runs parallel -- sort of parallel to Unity Drive.

This structure here would certainly be visible to my property -- to our property I should say.

One of the main concerns that I have at this moment is the volume of traffic that it would generate, especially on weekends when the Jehovah's Witness center is operating. There's already -- I'm not sure how many of you are familiar with the intersection near the property where 17 and 300 intersect, but there's already a lot of volume there, and this is one main concern of ours among others. But that certainly is one crucial concern. I'm wondering how that's going to affect the volume of traffic that already runs through those two arteries, and in fact how it's

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going to affect our own lifestyle and whether we're going to have to find alternate routes to get to wherever we're going. So anyway, for what it's worth, we're here to share that information.

CHAIRMAN EWASUTYN: Ken Mennerich, you reviewed the traffic study on this. Excuse me. Ken Wersted. I apologize.

MR. WERSTED: Yes, we did review the traffic. I'm looking through my notes. I'll probably be able to find how much traffic is actually going to be generated.

There's a couple things happening around in that area. You've got the car dealerships are busier on Saturdays, you've got the Jehovah's Witness facility that's generating traffic. In comparison to all of that, the hotel itself isn't going to be substantial compared to those other generators in that area. There is certainly additional land to be potentially developed along either Unity Place or on Auto Park Drive. The area out where the old HSBC was, there's a lot of land out there. There was a dealership that had considered building out there at one time as well. But in comparison to

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those uses, more particularly Jehovah's Witness, this isn't going to be a substantial generator. When the Jehovah's Witness facility lets out, it's like a high school, it's a church, it's a special event, all of that traffic is dumping right onto the roads all in a very short amount of time. When traffic dumps out in a short amount of time you start to get cueing at the intersections and visibly it's much more of an impact than traffic that is exiting a site distributed over time.

If there's other questions, I'll continue to look through my notes and come back to your specific question.

CHAIRMAN EWASUTYN: The gentleman in the back, you raised your hand.

MR. BAZYDLO: Yes. I'll come up to the front. Good evening, everyone. Charlie Bazydlo, I'm here representing Charles and Nancy Joanides. I have some other -- I guess being a lawyer, some other lawyer type questions to ask the Board and some comments. Also Route 17K Real Estate, LLC. I think we're all familiar with the parties. This project has been the subject of some past

1 litigation, and I'll say some continuing
2 litigation. I believe the Board is aware. I'm
3 sure your counsel has made you aware of it.
4 There's two active litigations against this
5 project, they are both in front of the Court of
6 Appeals right now. One goes all the way back to
7 the Zoning Board of Appeals' variance on the
8 height on this building. It doesn't necessarily
9 involve this Board but if that decision was to
10 come in favorably in our position, the variance
11 would be eliminated and the project wouldn't be
12 able to go forward.
13

14 More germane to this Board then is the
15 litigation involving both the approval from last
16 July, I think it was July, and also the
17 re-approval that happened back in February.
18 There was an Article 78 litigation. It was
19 decided in favor of the Town. There's been an
20 appeal fully submitted on that and we're waiting
21 for the Court of Appeals to make a decision about
22 that. When that's going to happen and when
23 either one of those appeals is going to come, who
24 knows. Who knows. But they're out there and
25 they both could negatively affect this project.

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Going to the proposal as it is right now, a couple of issues. When I did go to look at the file -- I didn't have a chance to get there until this past Tuesday. When I got there the actual site plan sheets were not there. The follow-up letter from Mr. Marshall I think was dated September 20th or so. That was in the file but the other set of, I guess maybe twelve sheets or six sheets was not there.

CHAIRMAN EWASUTYN: That was in the file. Charlie, it was in the file.

MR. BAZYDLO: Was it in there? Okay. I didn't see it, John.

CHAIRMAN EWASUTYN: The maps were in the file. These were a supplement to the maps that are currently in the file. The maps are in the file. The maps -- did you see all the maps?

MR. BAZYDLO: I saw the maps.

CHAIRMAN EWASUTYN: Did you look at the maps in the file?

MR. BAZYDLO: I did. I did.

CHAIRMAN EWASUTYN: All the maps --

MR. BAZYDLO: Yes.

CHAIRMAN EWASUTYN: -- in the file you

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looked at?

MR. BAZYDLO: Yes.

CHAIRMAN EWASUTYN: They're in the file.

MR. BAZYDLO: I only saw ones there, John --

CHAIRMAN EWASUTYN: They're in the file. They're dated -- all the maps in the file are dated. We'll continue on.

MR. BAZYDLO: Okay. Anyway, I was going to say I didn't see them --

CHAIRMAN EWASUTYN: They're in the file. You can come back -- you can re-FOIL, come back and look at them.

MR. BAZYDLO: Very good. I will. I will do that.

However, based upon the minutes from the previous meeting and the letter Mr. Marshall turned in, I think I have a good idea of what the changes are to the engineering site plan. That mainly revolves around the fact the Army Corp has appeared to have made a decision that they did not do the filling that they wanted to do on the project. As far as when I looked on Tuesday,

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there was still not a letter from the Army Corp there. So what we're going on now and what the applicant is presenting is they're telling you the Corp had made a certain decision but the official decision from the Corp is not there yet. I would ask the Board to hold off on deciding on this until we see the actual letter from the Corp. We don't know what it's going to say. The applicant's ecological consultant said before that this was a wetland that could be filled in. He obviously was -- apparently he was incorrect about that. We don't really know whether the Corp is saying you can build this project without any further disturbance of the wetlands, whether there's an issue about the land that's out there right now. I would say it would be advisable for the Board to wait until you actually see that letter from the Corp.

The second issue has to do with the subdivision itself. With the non-fillable wetland, the shifting of the building, the access road is now moved, as I understand it, totally on to lot 2 of the subdivision. I think that is a -- that's violative of the Town's subdivision

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regulations. When you look at the subdivision regulations it talks about that each lot has to have access onto a public road -- separate access onto a public road. This is not separate access. I realize that they're going to say that there's an easement associated with it but it's not separate access.

That combines together with the special use criteria that's also in the Town's Zoning Code that talks about all of the hotel facilities have to be under the same ownership. Here, if this plan goes forward as it is, the access road is on a separate lot. Currently in the same ownership but obviously what's going to happen here, if this project goes forward they're going to sell the project to the hotel developers, it's going to be a separate lot. The driveway is going to be on an adjoining lot that's not under the control of the hotel.

MR. HINES: There's two access points to this hotel.

MR. BAZYDLO: Then I think you need to look at -- you need to look at the traffic point of view, can it survive with just the one -- can

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it stand on it's own with just the one driveway access.

CHAIRMAN EWASUTYN: Ken, are you prepared to speak on that now?

MR. WERSTED: Yes. Just to go back to Mr. Joanides' question about traffic, the volume on a Saturday would be 98 trips generated. That's assuming that all the rooms are occupied. The applicant had provided some analysis of how frequently that happens, and I believe it's only a few times a year. On average it's about 68 percent occupied. Based on that, the trip generation might be somewhere around 60 to 70 trips on a Saturday based on that.

To Charlie's comment about access, obviously it does have two access points, one is on the applicant's property, the other is on lot 2. If you were to take away the driveway on lot 2, the facility would be able to accommodate vehicles in and out adequately with the single driveway. The hotel itself isn't a large generator where it needs to have two driveways, but certainly as they divide up the lot 1 and lot 2, having a shared driveway between lots 1 and 2

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is beneficial to the Town because it means fewer curb cuts along Unity Place.

MR. BAZYDLO: Okay.

CHAIRMAN EWASUTYN: Thank you.

MR. BAZYDLO: I hear what Ken is saying. I'm not saying I necessarily agree with it but I hear that.

Finally, the last point, and this is something we raised before too. As I understand it, and I don't believe it's been submitted yet, there's also a sign package, a proposal for what signage is going to go on the building, what road signs are going to be out there, directional signs. In the past minutes and past discussions of this project it has been stated by the applicant that that signage is going to exceed the Town's sign law and they're going to have to get a variance for that from the ZBA. I don't believe -- we've raised this in litigation before, that I believe the SEQRA review of this project has to include the signage. I know that the Board seems to be going down a path of the project can be approved and go to the ZBA and get their variance, come back here for further site

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plan amendment of the signage. As we said in the litigation previously, I think that's incorrect. I think the Board needs to coordinate with the ZBA about the signage, particularly in this case that the signage is a visual issue of this project, a visual impact. There are neighbors that can see the project, as Mr. Joanides has stated tonight. Again, that's something that before you approve the project I think you need to be looking at the signage, and they need to get the variance from the ZBA, and SEQRA needs to be coordinated on those issues.

CHAIRMAN EWASUTYN: Okay. Larry, Steve, would you like to address any of the comments made by Charles Bazydlo?

MR. GABA: I'll leave the wetlands issue to Larry. There are two points that Charlie raised that I would address quickly on this.

The first regards ownership of hotel facilities by the same entity owning it. In this case the easement over lot 2, which will be owned by lot 1, the hotel facility here has access over this roadway. Since ownership of the easement

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will be in common with this, that requirement of the code is clearly met.

The other point that he raised that I'd like to address is the SEQRA review and the fact that we did not get proposed signage for the property. A lot of reasons for that. We went to them -- the last time we presented the Board our, for conceptual at least, signage on this. The argument that Mr. Bazydlo raised was raised twice in New York State Supreme Court and twice the Court agreed that SEQRA review did not require us to present plans for submitting -- for building signage on property. If I may, I'd like to hand in for the record both of those Court decisions in which Mr. Bazydlo's argument was expressly rejected.

CHAIRMAN EWASUTYN: I'll take that for the record.

MR. GABA: There may be some pending litigation as far as that goes. Mr. Bazydlo represents a developer, Mr. Martin Milano who owns the Hilton Inn -- excuse me, the Hampton Inn and has brought this litigation, frankly in our opinion at least, for no other reason than to

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damper potential competition. Mr. Milano has enlisted the Joanides to join in the lawsuit both times and both times those lawsuits were dismissed. There's an appeal pending in the Appellate Division right now, but that really is irrelevant to the issue of whether or not you're going to approve this amended site plan.

MR. MARSHALL: Regarding the previously proposed Army Corp of Engineer encroachment, as we had previously shown, it was approximately 2,500 square feet which falls within the pre-construction notification without mitigation measures for the Army Corp of Engineers' regulation. As stated in our August 14, 2018 submission letter, the primary reason that we removed the disturbance of the wetland is simply a timing issue. The U.S. Army Corp of Engineers was on the site, reviewed the wetland bounds and they suggested that the applicant remove the wetland disturbance in favor of providing a letter stating no permit required. That's outlined in our transmittal letter. There was no discussion with the Army Corp that the proposed fill was not permitted, it was simply a timing

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issue.

CHAIRMAN EWASUTYN: Okay. Additional comments?

MR. BAZYDLO: Just one point. I won't belabor. Mr. Gaba raised a point about the parties to the litigation. Mr. Gaba did turn in those decisions. I will note that in both of those decisions standings have been granted to all three parties, Charles and Nancy Joanides as well as 17K Real Estate. The Court may have decided in favor of the Town's position on these and the applicant's position, but that issue about standing and the ability of the parties to bring litigation was also decided by the Court and standing was granted. I won't belabor it. Thank you.

CHAIRMAN EWASUTYN: Your name please?

MS. JOANIDES: My name is Nancy Joanides. One of the -- I mean we live close by there so there's a lot of different concerns that we have. Being residents there, we've been there now nineteen years and we've seen a lot of growth. Since we moved into Newburgh we've seen a lot of growth right in our area.

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There's several other lots that could be sold, could be developed. I mean we're very concerned about what you all are going to let get built there. You know, what else? I mean we've got a hotel now, there's at least three, maybe more different lots. How is that going to change our neighborhood? I mean those are the kind of things that of course as residents we're concerned about. So I don't know. I just needed to say that.

CHAIRMAN EWASUTYN: Michael, do you want to speak to that, the zoning?

MR. DONNELLY: In the area there is commercial zoning. The Town Board decides what uses are allowed. In some cases certain amounts of screening are required to adjoining properties. In time it may well be that those other lots are developed for commercial purposes. That's what the Town has asked the citizens and landowners of the Town to do in that area. Any application like that would be subject to review by this Board.

MS. JOANIDES: I guess as you think about it, I don't know if anyone else is in a

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situation where your area is getting built up quite a bit. You know, you're hoping for like maybe like a medical office or, you know, like a smaller, lower type of building so that it wouldn't make such a visual impact on where you live and what you're seeing every day as you're driving around.

Anyway, that's my two cents.

MR. JOANIDES: Again, spinning off of what my wife just said, the complexion of that area has changed dramatically since we've been there. It went from pastoral to whatever it is right now, business district.

I'm also concerned, and I think we are both, how it's going to impact the value and lifestyles of the people living there. So for whatever that's worth. I mean that's why we're here tonight. We're trying to educate ourselves. We try to understand what you are planning to do with the area that runs adjacent to our neighborhood and ultimately will affect the people who live there.

CHAIRMAN EWASUTYN: Charles, many times people come here and they ask the question what

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are we planning to do. I'll have Mike Donnelly explain to you what the perimeters are as far as how we play into this, what are we planning.

Michael.

MR. DONNELLY: The Planning Board doesn't really have any proposal of it's own. It has no agenda. The Town Board sets what the zoning is in a given area and property owners that live within that are permitted to apply for projects that meet the standards of those zoning applications. When the application comes before the Planning Board, it's the Planning Board's job to study that application, make sure it complies, try to coordinate it with the existing other uses, that's one of the driveway issues here, address the environmental impacts that flow from it, and frankly, when possible, massaging the application so it is better than when it was first made. But it is not the Planning Board's job to second guess the Town Board's determination as to what uses are allowed in a particular area. That really is the function of the Town Board. This Board executes that vision as landowners bring it before the Board.

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CHAIRMAN EWASUTYN: Any additional questions or comments from the public?

(No response.)

CHAIRMAN EWASUTYN: Comments from Board Members. Frank Galli?

MR. GALLI: You said you live on Lakeview?

MR. JOANIDES: Lakeview.

MR. GALLI: So you sit behind the Jehovah's Witness building, down around the back as it drops?

MS. JOANIDES: Mh'hm'.

MR. GALLI: And then your street wraps around the back of Barton Chevrolet?

MR. JOANIDES: Yes.

MR. GALLI: So how much of the hotel can you actually see do you think? You're pretty far away.

MR. JOANIDES: The one that's being planned?

MR. GALLI: The one that's being proposed, yes.

MR. JOANIDES: I don't know how much, but it's --

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MR. GALLI: You're pretty far east of
the --

MS. JOANIDES: When the leaves are down
you can see.

MR. JOANIDES: When the leaves are
down --

MR. BAZYDLO: If I could. There's
been a lot of paperwork generated about this.
In the litigation there is photos in there
that show the view from Charles and Nancy's
backyard. You can see where the site will
be. You see it now without any development
on it.

MR. GALLI: 200 feet, 300 feet, 500
feet?

MR. BAZYDLO: It's certainly less than
500 feet because they're on the notice list for
the hearing.

CHAIRMAN EWASUTYN: Thank you.

Frank, any additional?

MR. GALLI: That's it.

CHAIRMAN EWASUTYN: Stephanie?

MS. DeLUCA: Nothing.

CHAIRMAN EWASUTYN: Ken?

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MR. MENNERICH: No questions.

MR. DOMINICK: Nothing.

MR. WARD: Nothing.

CHAIRMAN EWASUTYN: Mike Donnelly.

MR. DONNELLY: I'm going to make one note in response to Charlie's suggestion that we wait, if that's what the suggestion was, until the litigation is complete before we take further action. There is a process where a stay can be issued. There is no stay in effect. I think you should make whatever decision you feel is appropriate as if the litigation is not pending. You shouldn't be driven in your decision making by the fact there is pending litigation.

CHAIRMAN EWASUTYN: Thank you.

Ken Wersted, do you have anything else to add this evening?

MR. WERSTED: No. Nothing.

CHAIRMAN EWASUTYN: Karen Arent, you reviewed the landscape plan?

MS. ARENT: Yes. I have a couple minor comments. I think the stormwater management area, there should be more plantings, and I could not find the seed mixture list for the stormwater

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management area. That should be put on the plan. The bio-retention plant list must be included in the cost estimates for the project. They are separate plant lists.

There's an American Holly specified about ten feet apart in front of the building and they are only specified at 24 to 30 inches. That will look very sparse, so that needs a little bit more planting.

The wildflower seed mix, I didn't see any specification for that on the plans.

Then there's a note that the Paper Bark Maple should be three stems in the general notes. Nobody will ever read that when they're ordering plants. That should be put on the plant list in the remarks column.

That's it.

CHAIRMAN EWASUTYN: Thank you. Pat Hines?

MR. HINES: Our previous comments have been addressed with the exception of a final sign off concurrence from the Army Corp of Engineers on the plans. We're awaiting that. That was a condition of all the other previous approvals.

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CHAIRMAN EWASUTYN: Jerry Canfield?

MR. CANFIELD: I have nothing additional.

CHAIRMAN EWASUTYN: If there are no further questions or comments from the public, then I'll move for a motion to close the public hearing on the RAM Hotels - Hilton Garden Inn on Unity Place in an IB Zone.

MR. GALLI: So moved.

MR. DOMINICK: Second.

CHAIRMAN EWASUTYN: Motion by Frank Galli. Second by Dave Dominick. I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

At this point I'll turn to Mike Donnelly, Planning Board Attorney, to give us conditions of approval for the amended site plan for RAM Hotels - Hilton Garden Inn.

MR. DONNELLY: I suggest that as part

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of it you make a finding that there are no adverse environmental impacts that are raised from this amendment to the plan and therefore reaffirm your negative declaration as you have done in the past.

In terms of conditions, we will need a note from Karen Arent that the concerns she raised in this evening's meeting, which would be in the transcript, have been addressed to her satisfaction. That letter will need to be received before the plans are signed.

Pat, there had been some earlier memos of yours, August 27, 2017 and January 29, 2018, where there were some outstanding items. Have those been resolved?

MR. HINES: I would leave them as a condition.

MR. DONNELLY: Okay. Most importantly, the plans will not be signed until a letter is received from the Army Corp either granting a permit or reporting no wetland disturbance permit is required.

Other than those changes, all of the conditions of the earlier approvals are to remain

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in full effect as if -- and this approval is subject to those as if they were set forth herein at length.

Finally, the standard condition which says you may not build anything not shown on the plans.

CHAIRMAN EWASUTYN: Michael, would you advise the Board to first reaffirm the negative declaration, make that motion?

MR. DONNELLY: It might be best to do it as a separate vote, yes.

CHAIRMAN EWASUTYN: Having heard from Planning Board Attorney Mike Donnelly, I'll move for someone to reaffirm the negative declaration for RAM Hotels - Hilton Garden Inn.

MR. MENNERICH: So moved.

CHAIRMAN EWASUTYN: Motion by Ken Mennerich. Do I have a second?

MR. GALLI: Second.

CHAIRMAN EWASUTYN: Second by Frank Galli. I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

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MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

Motion carried.

At this point I'll move for a motion to grant approval for RAM Hotels - Hilton Garden Inn for amended site plan subject to the conditions that were presented by Planning Board Attorney Mike Donnelly.

MR. DOMINICK: I'll make the motion.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by Dave Dominick. I have a second by Frank Galli. I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

Motion carried. Thank you.

MR. GABA: Thank you.

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MR. MARSHALL: Thank you.

CHAIRMAN EWASUTYN: At this point I'll
move for a motion to close the Planning Board
agenda of October 4, 2018.

MR. GALLI: So moved.

MS. DeLUCA: Second.

CHAIRMAN EWASUTYN: Motion by Frank
Galli. Second by Stephanie DeLuca. I'll ask for
a roll call vote starting with Frank.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

(Time noted: 8:18 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 11th day of October 2018.

Michelle Conero

MICHELLE CONERO