

LIVONIA JOINT PLANING BOARD
October 25th, 2021

Present: Chairman R. Bennett, D. Andersen, A. Baranes, J. Brown, R. Haak, J. Palmer, CEO A. Backus, Zoning Compliance Assistant J. Holtje, Secretary A. Houk

Excused: L. Willoughby, Attorney J. Campbell.

Note, Public Meetings (Covid-19) precautionary policies were followed to the best of our ability and included:

- Chairs are situated to maintain social distancing.
- Hand sanitizer was made available at the entrance of the town hall.

Agenda:

- 1) Approve the meeting minutes. – September 27, 2021*
- 2) Richard Damon – South Livonia Road, Livonia, NY.
Subdivision*
- 3) Kimberly & Ryan Duvall – 5763 Big Tree Road, Lakeville, NY.
Conditional Use Permit/Site Plan*
- 4) EV Energy – 3031 Rochester Road, Lakeville, NY.
Site Plan review*

Chairman Rick Bennett opened the meeting at 7:00 p.m.

1) Approve Meeting Minutes for September 27, 2021. Chairman Rick Bennett asked for a motion to approve. M/2/C (R. Haak/J. Palmer) approved as submitted. Carried 6-0.

2) Richard Damon – South Livonia Road, Livonia, NY.

Chairman Rick Bennett asked Mike Sharman, Real estate Agent representing Richard Damon to come forward for the Subdivision of South Livonia Road, Tax Parcel # 84.-1-44.327. The property is located in the Agricultural Residential Conservation 3 District, (ARC-3). Mr. Damon is proposing to subdivide off 2 - 5+ acre parcels from a 24+ acre parcel. Lot 13 will be combined with an existing house parcel (0.9+ acres) known as 4802 South Livonia Road. This would be a combination of the dwelling, workshop and remainder of land on the west side of Rt. 15.

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Chairman Rick Bennett asked the Building & Zoning if they had any concerns with the proposed Subdivision. ZCA Julie Holtje stated that it is straight forward and the lots exceed the Zoning requirements. In creating the house Lot 13, Lot 14 between Rutherford's and the barn is created by default. The remaining lands are parcel (A-1R), which is 13 acres located to the north. CEO Adam Backus stated that previously they had broken off the homestead from the rest of the property in efforts to make the rest of the land more desirable for sale. The person interested in purchasing the homestead would like a larger piece of land. This is moving towards a more conforming, larger parcel. ZCA Julie Holtje stated that the only reason it is currently two parcels now, is due to being in the Agricultural District. They cannot be combined until the Agricultural program expires in 2022. Once that is expired, the homestead will be combined with lot 13. CEO Adam Backus stated that applicants also wanted to make sure there were no issues with the remaining parcel A-1R being attached to the property across the road. That is not relevant to the Board as it is a conforming lot, and as long as it is combined and they work out the details with Livingston County as far as the Agricultural regulations, a parcel combination would have no bearing on the Subdivision.

This Subdivision application was referred to the Livingston County Planning Board for review. Livingston County Planning reviewed the application and demined that it has no significant Countywide or inter-municipal impact. Approval or disapproval of this application is a matter of local option.

Chairman Rick Bennett asked for a Motion to waive the Public Hearing. Motion to waive: M/2/C (J. Palmer/R. Haak) Carried 6-0

Chairman Rick Bennett and the Board reviewed SEQR. Negative declaration was determined. Motion to approve: M/2/C (J. Palmer/J. Brown) Carried 6-0

Chairman Rick Bennett asked for a motion to approve the Subdivision as presented. Motion to approve: M/2/C (J. Brown/J. Palmer) Carried 6-0

4) *Kimberly & Ryan Duvall – 5763 Big Tree Road, Lakeville, NY.*

PLEASE TAKE NOTICE that the LIVONIA JOINT PLANNING BOARD will hold a public hearing on Monday **October 25, 2021** at 7 p.m. at the Livonia Town Hall, 35 Commercial Street, Livonia, New York to consider the application of **Kimberly & Ryan Duvall** for approval of a Conditional Use Permit per Section 150-20D of the Zoning Code of Livonia. The proposal is for the sale of seasonal agricultural products from a 6'X9.5' X 6.5' tall portable stand, located at **5763 Big Tree Road**, Lakeville, New York. Tax parcel number 65.63-1-3. The Conditional Use Permit is required per Section 150-36 D (4), Accessory Outdoor Sales. The property is zoned Gateway Commercial (GC). The application is on file in the Building & Zoning Department in the Livonia Town Hall, 35 Commercial Street, Livonia, New York for public review. All interested parties will be heard at this time.

CEO Adam Backus polled the Board for site visits:

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Chairman R. Bennett: Yes
A. Baranes: Yes
D. Andersen: Yes
J. Brown: Yes
R. Haak: Yes
J. Palmer: Yes
L. Willoughby: Excused

Chairman Rick Bennett asked Kimberly & Ryan Duvall to come forward for the Conditional Use Permit and Site Plan review for the roadside produce stand. CEO Adam Backus stated that the Duvall's roadside stand is located in front of a commercial business (Quicklee's), and that it is a permitted use. The roadside stand was not part of the Quicklee's Site Plan approval. The applicants are present to show that they are not causing any adverse effects with parking or traffic. They are an ancillary service with a lease from the property owner for retail sales of produce and farm products.

Chairman Rick Bennett; in light of the recent reviews with other produce stands, the main issues would be parking in front of the stand. Customers need to be kept off from the roadway, and signage needs to be addressed and approved by Building & Zoning. CEO Adam Backus stated the applicants were asked to scale the signs back, and that flag/banner types signs are not encouraged. Since that is a tough intersection, the concern would be whether customers would be able to pull into the parking lot, or if they are parking on the side of the road causing traffic safety issues. We have encouraged the applicants to provide a way so that their customers are not parking on Rochester Road, and make the area safe. The applicants have expressed that they are willing to do whatever they are needed to do to comply. They have had success at other Quicklee's locations and were asked to provide produce at the Lakeville location. They would like to continue doing business as long as it fits and is safe. Dawn Andersen asked if there would be a possibility to move the Stand on the other side of the parking lot, on the western border of the Quicklee's parking lot. Kimberly stated that they would not be opposed to moving their stand, they would just need to check with Quicklee's to see if they have any objections. Dawn Andersen stated that it would eliminate any concerns with Rochester Road parking and the intersection, and it would force people to pull into the Quicklee's parking lot. Chairman Rick Bennett stated that there are other issues on the western border of the parking lot. Waste Management will need access to the Dumpsters, and that area is where the gas tanks are filled. Ryan Duvall commented that most people do pull into the parking area at Quicklee's, and use the sidewalk to access the produce stand. One or two "no parking" signs would direct people to park in the Quicklee's lot.

Chairman Rick Bennett stated with no one present to address the application, the Public Hearing was closed.

Chair R. Bennett asked the Board to go through the Conditional Use Permit criteria.

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150-20 D. Town & 155-20 D. Village: A permit for any conditional permit use shall be granted only if evidence is presented which establishes that:

1. The proposed building or use will be in harmony with the general purpose, goals, objectives and standards of the Comprehensive Plan, zoning, and where applicable, Chapter 125 Subdivision of Land. YES_X__ NO___ - Similar facilities nearby.
2. The proposed building, hours of operation, or use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety, and general welfare. YES_X__ NO___ - Provide Solar lights on stand, and provide signage to direct parking.
3. The proposed building or use will be constructed, arranged, and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property in accordance with the applicable district regulations. YES_X__ NO___ - Small mobile stand.
4. The proposed building or use will be adequately served by essential public facilities and services. N/A - None required.
5. The proposed building or use complies with all additional standards imposed on it by the particular provision of this chapter authorizing such use. YES_X__ NO___ - Per Building & Zoning.
6. All steps possible have been taken to minimize any adverse effects of the proposed building or use on the immediate vicinity through building design, site design, landscaping, and screening. N/A – No Building. - Small mobile stand with minimal impact.
7. Is a performance bond or other suitable financial guaranty necessary to assure compliance with the conditions of the conditional use permit? YES___ NO_X__ Applicant has Lease with Property owner.

Chairman Rick Bennett asked for a motion to approve the Conditional Use Permit for the Road side stand as presented, with the condition's that lighting be added to the stand, and signage to direct people to park in the Quicklee's lot, and not on the side of the roadway, and to return for review as needed. Motion to approve: M/2/C (R. Haak/J. Palmer) Carried 6-0

3) *EV Energy – 3031 Rochester Road, Lakeville, NY.*

Chairman Rick Bennett asked James Marshall to come forward for the Site Plan review for 3031 Rochester Road, Tax Parcel # 65.-1-6.122. This would be for Phase I & II of the project. Phase I would only be adding the 1000-gallon Propane refill station that would refill small Propane tanks for customers. Phase II would be adding a parking area behind the existing building.

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Phase III is the tank project, but that would be about two years down the road, if it ever happens. Chairman R. Bennett noted that, should an approval be granted tonight for phase I & II, that it would in no way suggest assurance or guarantee of approval for phase III or future phases. It should be clear that the applicant is proceeding at his own risk, regarding any future phases. James Marshall stated that he agreed and tonight he is only asking for the approval for small tanks to be refilled. Chairman Rick Bennett wanted to establish that this is a permitted use, with the understanding that phase I & II are for retail fuel sales only. Robbyn Haak questioned whether this was a permitted use, even with the prohibited use of hazardous material, which states nothing about the amount of fuel. Chairman Rick Bennett stated that in regards to the hazardous materials, this type of facility is in use throughout the Town & Village. The property that has the biggest issue with this proposal has a 500-gallon tank on their site. Robbyn stated that she was citing the Code. CEO Adam Backus stated that my interpretation is that the use is permitted and that the intent of the Code was not meant to prohibit the presence of propane. As discussed previously, if hazardous material is the ultimate determination, then there shouldn't be Zippo lighters for sale at the Convenience stores. There also shouldn't be gas stations, or the ability to get your gas grill filled anywhere in Livonia. Robbyn stated that this is a commercial operation, that's principal activity is storage, production, processing or sale of hazardous or radioactive material. A Zippo lighter at the Convenience store is not their principal operation. CEO Adam Backus stated that it was our understanding that the principal operation was not storage, but rather retail sales. The principal operation of a gas station is to sell gas to customers, it's not the storage of the gas. Robbyn stated that you do store the gas and the propane. If there was a gas station going in this location, we could be having the same conversation. CEO Adam Backus stated that if this were true, there shouldn't be any gas stations in the Town of Livonia. This application can certainly be brought to the Zoning Board of Appeals to challenge my interpretation, if this is an issue. CEO Adam Backus stated that he initially denied this application. The applicant responded, and he could not deny the applicant's argument. He reviewed the application with counsel and counsel agreed that the applicant should proceed to the Planning Board for Site Plan review. Chairman Rick Bennett stated that at this point in the application we have received legal counsel, and determined it is not considered a hazardous situation. Robbyn stated that it was a hazardous situation. Chairman Rick Bennett stated that it is a permitted use through the advice of the Town Attorney. Robbyn asked if counsel reviewed the prohibited uses, or did he just look at the memo that CEO Adam Backus sent. ZCA stated that the memo was generated after the counsel review. CEO Adam Backus stated that the context of the memo was in regards to bulk, wholesale and storage. In this application, the intent is not to store the material but have it available for retail sales, and to dispense to retail customers. If you are dispensing, you have to have some type of capacity to do that. It wasn't a wholesale storage operation; it was a retail sales operation and that is what the determination was based on. That has not been challenged, but it can be. Robbyn repeated that the Code states that it is prohibiting the sale of a hazardous material. Robbyn asked what was the use, is it a specifically listed use? CEO Adam Backus stated that the use is retail sales. Robbyn stated, retail sales of a hazardous material. CEO Adam Backus stated that you would have to determine what definition you were going to use for "hazardous materials".

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Robbyn stated that according to the Code, it is anything defined by the U.S Department of Transportation in Title 49, and the propane is. CEO Adam Backus stated that the 7-11 gas station in Livonia should be shut down because they sell gasoline which is a hazardous material. Robbyn stated, no because they also have a Convenience store. Chairman Rick Bennett stated no, the primary sale is gas, which is a hazardous material. CEO Adam Backus repeated that if the Board is inclined to challenge the interpretation, there are avenues to do that. The application is retail sales. It is not bulk, production or storage of materials. We are not discussing the 60,000 gallons of propane; it is retail sales for Phase I & II. If we use the definition that Robbyn is referring to, there could be no gas stations (*having the principal activity of fuel sales*) anywhere in the Town of Livonia, and that doesn't make any sense. Robbyn stated the Code states under principal activity. CEO Adam Backus stated that the principal activity is service and sales, not storage of materials. Robbyn stated that one of the activities included is sales of hazardous materials. There are four items listed as principal activities prohibited uses; storage, production, processing or sale of the hazardous material. Chairman Rick Bennett stated that from CEO Adam Backus's standpoint, Quicklee's is in violation of the Code, and any gas station in our area because their principal sales would be gasoline, a hazardous material. Robbyn stated that they would all be underground tanks at those facilities. Chairman Rick Bennett stated that it's still above ground because you have to pump it out of the ground, at some point in time it's not underground. All of those facilities at one point in time had a similar tank dispensing propane and it was all approved. He was unsure if the Code has since been changed to reflect that. CEO Adam Backus stated that this is an example of principle activity that would not be permitted today: The 60,000 gallons of propane that is stored in the middle of the Village, that is wholesale distribution. Multiple distribution companies come there to fill up their trucks, and they distribute to their customers. That is wholesale bulk storage and I believe it is the type of operation that the Code was intending to prohibit. He does not see this application in the same class as that. This is not a use of bulk storage; it is retail sales for their own customers. They are not allowing customers to come in to fill up their own fuel tanks and then redistribute, that would be wholesale.

Chairman Rick Bennett asked the Board for a census if they felt this application falls under the hazardous materials part of our Code. Jeanne Brown stated Phase I & II are permissible under our Code, Dawn Andersen agreed. Joanne Palmer stated that it would eliminate questions if it was sent to the Zoning Board, and they would have an official opinion. Chairman Rick Bennett stated that he thinks it is a non-hazardous situation. If we go through the process and approve the application, anyone who wishes to argue the decision can do so. We will proceed on the premise that this is acceptable retail sales.

Chairman Rick Bennett stated that the Public Hearing is closed, but would accept any comments that pertained to Phase I & II of the application.

Bob Savage of WYSL Radio asked if the scope of this meeting was to discuss the 1000-gallon tank for filling retail containers. Chairman Rick Bennett confirmed and stated that it was also for

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the proposed parking lot. Bob Savage asked what Phase III would be? Chairman Rick Bennett stated that would be for the large fuel tanks for retail sale distribution. James Marshall of EV Energy commented that as he stated from the beginning, Phase III may never happen. Jeanne Brown asked in regards to Phase III, can large propane tanks be buried? James stated that the tanks could be buried. CEO Adam Backus asked if the large tanks could ever be contained in large buildings with gas detection systems and other safety mechanisms? James Marshall stated that he has never seen that. James stated that he has seen tanks either buried, or half buried in the ground.

Bob Savage of WYSL Radio wanted to respond to a couple of comments. The argument that all the Convenience stores and Gas stations, and people who dispense propane in the Town of Livonia would be illegal, is somewhat irrelevant because none of those facilities are adjacent to an AM Radio Tower array, this is a unique situation. It is true that WYSL does have a 450-gallon propane tank on their property to feed their Generator. The Generator is situated 18” from the tank. There is no dispensing of fuel to customers from their property. Their propane tank is 550’ away from the closest Antenna array and is down wind. It is not comparable to continually dispensing to members of the general public. Chairman Rick Bennett stated that if the 1000-gallon tank should leak, the area that we are talking about should not result in any catastrophic explosion. Bob Savage responded that none of their towers could hit the 1000-gallon tank. The concern is the larger proposed tanks. Chairman Rick Bennett stated that they are off the table at this point.

A resident of the Town stated that she felt that this would be the very worst space in the community for the large fuel tanks to be placed, adjacent to an AM Radio tower array for the safety of the community. Mr. Savage wouldn’t be able to maintain his insurance policy for the WSYL property if the larger fuel tank proposal was granted. We would lose a large advocate who has been in the community for over 35 years. She also stated that at a previous meeting, CEO Adam Backus referenced a situation with a propane leak in the Village. CEO Adam Backus said that it was a situation where a truck driver filling a propane truck forgot to shut the valve off. The propane filled the valley near Shur Fine due to the direction that the wind was blowing. The point of that conversation was regarding my concern about large tanks being located west of the AM Radio Tower, and a plume going over and possibly being ignited. This is not applicable tonight and only possible if there was ever a Phase III. We would have an expert analysis to determine what the concentration of propane would be at that distance, and the RF energy that comes from the towers, all of those items would be accounted for. He is concerned about human error and leaks, and that much fuel being that close to an AM Radio tower. He wants evidence that its safe or not safe from an expert. That is the reason we halted and the applicant decided to proceed with only Phase I & II. James Marshall stated that the tank will be 4’ lower than the back of the property, since the propane is heavier, it’s not going to travel uphill. Bob Savage stated that can’t be said, wind conditions are infinite and can be in any vector or at any speed. CEO Adam Backus stated; let’s think about the difference between the 500-gallon tank on WYSL Radio’s property, in relation to the 1000-gallon tank on EV Energy’s property. When do we get to the point where this becomes scary, 500 is OK, but 1000 is not? He believes that the reason for the hazardous material reference has much to do with the quantity, in determining the hazard level. Robbyn Haak commented that the Code does not state that. The

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Code doesn't state anything regarding quantity. Bob Savage stated that the purpose for the rule is to protect public safety. There is a situation that is presented by this installation of the 1000-gallon propane tank, adjacent to the AM array that get hits by lightning all the time, with lightning charges that get dissipated through the ground, and we know that lightning is not predicable? The severity of a lightning strike, and static discharges on the towers can vary with the intensity of a storm. CEO Adam Backus asked if the applicant chose to heat his building with a 450-gallon propane tank, would there be an objection to that? Bob Savage stated, "of course not". CEO Adam Backus asked, how do we go from 450 gallons being ok, to 1,000 gallons being scary. Bob stated that it was obvious. It has to do with the quantity of the fuel and explosive potential. CEO Adam Backus stated, then you are saying 450 gallons is okay, but 1000 gallon is not acceptable. Bob commented that is not what he is saying. It is the quantity, the last thing he knew was that the proposal was for ninety thousand gallons of fuel. Chairman Rick Bennett stated that this application is not for that. This meeting is only for Phase I & II. Bob stated that someone made the comment using the word "yet", that they are contemplating that much fuel is a problem. Jeanne Brown asked if the concern was because that there could be leaks while filling tanks? CEO Adam Backus stated that hasn't been brought up. Bob Savage stated that he has already said he has no objection to the 1000-gallon tank. Chairman Rick Bennett reminded everyone that this proposal tonight is only for the 1000-gallon tank. If in the future, additional large tanks are proposed, there will be experts involved to provide an analysis on its safety. ZCA Julie Holtje stated that when the applicant came with his Site Plan, we asked what his full concept build out plans were going to be, as we often do. That is when Mr. Marshall showed us what he hopes it will be, so the Board could have the full picture. It was never on the table for construction, it was for discussion. Robbyn Haak commented; it wasn't, it was discussed in great detail. Chairman Rick Bennett stated the Board was not going to make any decision regarding that Phase until we obtain an expert analysis that we can depend on. At this time, we do not have that. Bob Savage asked if the expert analysis was being pursued? Chairman Rick Bennett stated that we are not proceeding until the applicant decides that he wants to submit Phase III. James Marshall stated that to proceed with Phase III was not intended to happen for years, if at all. He has been here since January trying to open an office building. Chairman Rick Bennett explained what typically happens in a situation like this. The developer will come in because they want to purchase the property or develop it. The Board asks for a worst-case scenario. The Board's job is to look ahead what is planned for the future. Bob Savage asked for clarification; as far as the Board is concerned, Phase III has been withdrawn. Chairman Rick Bennett stated that is correct. There is no guarantee for Phase III. ZCA Julie Holtje stated that the purpose of the concept meeting is to look into the future of the property. Also, to keep the developer aware of potential issues that could interfere with plans that may be proposed, and to provide direction. It's to benefit both. CEO Adam Backus stated that the issues that should be considered tonight is traffic safety and whether or not it fits within the character of the neighborhood. It would be a stretch to say that the 1000-gallon tank in that location poses a significant safety hazard. The traffic safety question was presented to the D.O.T at the Board's request. The D.O.T confirmed that there has been one accident in eleven years in that area. CEO Adam Backus stated that he is most concerned about south bound traffic turning left near that curve and intersection. Robbyn Haak stated that the D.O.T stated that there would obviously be an increase in traffic, and would increase the likelihood of a crash. CEO Adam Backus stated that there is no increase in traffic. Robbyn Haak stated that Mr. Marshall stated that there will be

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30-40 cars a day. CEO Adam Backus stated that there are around nine thousand vehicle's that drive by this area every day. Robbyn stated that Mr. Marshall said there will be 30-40 extra cars, turning into the driveway. The D.O.T report states that it doesn't meet the minimum value for large trucks. CEO Adam Backus stated that the D.O.T stated that there would be no increase in traffic, and they normally wouldn't look at, but we requested that they review the site. Robbyn stated that she has the D.O.T reports and its states that they don't look at a site until there is a hundred or more cars. That is not saying that there is no increase in traffic. They are saying that the increase in traffic would likely increase the likelihood of a crash. CEO Adam Backus asked if Robbyn was saying that this business is increasing the traffic on that road? Robbyn said that it could, and Mr. Marshall is saying that he is expecting 30-40 vehicles a day. Robbyn stated that the trucks are more of a concern, than the cars. A car crash is a car crash and they are terrible, but if you crash with a big truck full of hazardous materials, there could be an explosion. There could be a vehicle waiting to turn in, and traffic would be backed up. If there is a car waiting to turn left into the business, coming south bound, now other cars can't go and are waiting and now you have a truck full of fuel. Chairman Rick Bennett stated it's the same situation if you have someone making a left hand turn at the intersection with a large amount of north bound traffic. He has sat at the intersection and waited ten minutes or more at a time. Chairman Rick Bennett asked John Haak how many storage units he intends to have there on the corner. John Haak stated 210. Chairman Rick Bennett stated that you could possibly have 210 cars turning at that intersection a day. Robbyn Haak commented not loaded with propane. Chairman Rick Bennett stated that it doesn't matter. If you have a gas truck going down or coming back from Quicklee's, and have a traffic jam and someone runs into it, what is the difference? Any facility on that road is a traffic hazard from what you are saying. Your storage facility is, Willow Creek is. John Haak stated traffic enters his storage facility from South Lima Road. Chairman Rick Bennett stated that what he is saying is that if you're coming southbound and want to make the left-hand turn, you have traffic coming from the other way. Ashley Baranes asked if there was an estimate how frequently a tanker truck would be coming to refill the 1000-gallon propane storage tank? James Marshall stated that he wasn't sure. Their busiest offices sell maybe 20,000 gallons per year. Once every two weeks would be an estimate. Also, they would be six-wheel trucks, not 18 wheeled trucks. The six wheeled trucks are the same wheel bases as the trucks that deliver to homes. Robbyn Haak stated that back to the point of where does it become safe to go from 450 to 1000 gallons. She referred back to Jeanne Brown's point, that is not constantly opening and closing a valve full of fuel. CEO Adam Backus asked how many feet away it would be from the AM Tower. One thing an expert analysis would do is figure the volume and concentration by the time it got to the potential ignition point. They would have to determine the amount of leakage you would get from the 1000-gallon tank, while filling the grill tank. Whether or not there is concentration enough at that point to explode and have catastrophic results. Bob Savage commented that the one thing the Board needs to appreciate is that in the Antenna system, there is a ground system. The Tower itself is the Antenna. The ground system which radiates out 360 degrees from the foundation of each tower is as high as the tower is tall, which you don't see. The purpose of the ground screen is to dissipate those charges safely throughout the ground. It is unknown what direction or vector it will take. The ground system is what actually makes the AM Antenna radiate. James Marshall stated that the NFPA Code would allow the transfer of propane within 25' of a building or adjacent property that could be built upon. The largest distance of 50' would be required for outdoor places of public assembly,

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including school yards, athletic fields and playgrounds. Bob Savage stated that the NFPA does not contemplate RF. The NFPA Code has to do with alternating current, like what is in the wall. James Marshal stated it is sources of ignition. Bob stated that the NFPA could not possibly contemplate RF as a source of transmission with those distances. ZCA Julie Holtje asked, regarding the 1000-gallon tank? Chairman Rick Bennett stated for 50'. Bob stated, for any quantity. Chairman Rick Bennett asked if the house and apartment building that are situated to the north of this site was heated with natural gas? CEO Adam Backus stated that it was natural gas. Chairman Rick Bennett stated that you are more likely to have a gas leak from a residence that has an infinite supply. Bob Savage stated that is not the same thing at all. There is no stored flammable material in that house. Chairman Rick Bennett stated that it's a direct connection. Savage asked what was more likely, an explosion from a residence with natural gas or a spill from an above ground storage facility? Chairman Rick Bennett asked in how many instances we have seen that? Bob Savage referenced Mumford New York, eleven years ago. Chairman Rick Bennett stated how old were the tanks, and also the report stated that the house involved was in very poor condition and was up for sale. The house was the ignition point, not the propane tanks. How many explosions have we had where the house was leveled along with three or four others next to it? Bob Savage stated that the Chairman was pointing out the explosive nature of what is happening with this proposal. We have a Radio Station that has existed peaceably and safely protecting & servicing the community for 35 years. We are bringing this hazard towards the Radio Station. Chairman Rick Bennett noted that the Radio Station already has a hazard, natural gas from the adjacent houses. There are more natural gas explosions in homes, then those recorded due to propane. CEO Adam Backus asked Bob Savage if he would be opposed to the applicant having a 450-gallon propane tank, the same size as the Radio stations? Bob Savage stated that he has already commented that he has no objection to the 1000-gallon propane tank. As long as the Board is offering assurances that Phase III is off the table, they don't have any concerns regarding the 1000-gallon tank. ZCA Julie Holtje stated that our issues for Phase I & II were screening on the 1000-gallon tank, and D.O.T. They have proposed a 6' screening fence on the Phase I layout. Chairman Rick Bennett stated that his interpretation from the D.O.T comments are that they have no issues. D.O. T's issues would be with an 18-wheeler, but that is not what is being discussed. Robbyn Haak stated that was not all the D.O.T said. ZCA Julie Holtje stated the D.O. T's general statement was that "Obviously, an increase in traffic would increase the likelihood of a crash, but there is no current indication that there are issues there now". Chairman Rick Bennett noted that the D.O.T normally wouldn't have done the traffic study, but it was done at the Boards request. Robbyn Haak asked if the screening & landscaping that was requested from the last meeting would be included with this motion. ZCA Julie Holtje stated that all of the Boards requests, including the screening from the previous meeting were included on the plans and would be done as the Board requested.

Chairman Rick Bennett and the Board reviewed SEQR. Negative declaration was determined. Motion to approve: M/2/C (D. Andersen/J. Palmer), Carried 6-1 - Nay – R. Haak.

Chairman Rick Bennett asked for a motion for approval of Site Plan for Phase I & II, as presented. Motion to approve: M/2/C (J. Palmer/D. Andersen) Carried 6-1 – Nay – R. Haak.

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With no further questions, Chairman Rick Bennett asked for Motion to adjourn the meeting at 8:22 p.m... Motion to adjourn: M/2/C (R. Haak/Joanne) Carried 6-0

Respectfully Submitted,
Alison Houk, Recording Secretary