

2 TOWN OF MARLBOROUGH PLANNING BOARD

3 Milton, New York

4 -----

5 In the Matter of

6 TIMBER HARVESTING

7 Mt. Zion Road

8 -----

9 March 6, 2017
7:30 p.m.

10 21 Milton Turnpike
11 Milton, New York

12 PLANNING BOARD:

13 CHRIS BRAND, Chairman
MANNY CAUCHI
14 CINDY LANZETTA
JOE LOFARO
15 BEN TRAPANI
JOEL TRUNCALI

16

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18 ALSO PRESENT:

19 VIRGINIA FLYNN, Secretary
PATRICK J. HINES, Town Engineer
20 RONALD C. BLASS, JR., Town Attorney

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2 CHAIRMAN BRAND: I'd like to call

3 the meeting to order, and Pledge of Allegiance

4 to the flag right now.

5 MR. TRUNCALI: Agenda, Town of

6 Marlborough Planning Board, March 6th, 2017,

7 regular meeting, 7:30 p.m. Approval of

8 stenographic minutes for 2/6. Chestnut

9 Petroleum, open public hearing, site plan;

10 timber Harvesting, Mt. Zion Road, sketch, site

11 plan; Kevin Casey, discussion, subdivision;

12 (indiscernible), discussion, site plan, both

13 without attorney, engineer, and stenographer.
14 Next deadline: Friday, March 10th, 2017.
15 Next scheduled meeting: Monday March 20th.
16 CHAIRMAN BRAND: You should have had
17 time to review the stenographic minutes for
18 February 6th. Can I have a motion to approve
19 those minutes?
20 MS. LANZETTA: I make a motion.
21 MR. LEFARO: I'll second.
22 CHAIRMAN BRAND: Any discussion?
23 (No response.)
24 CHAIRMAN BRAND: All of those in
25 favor of approving those minutes, say aye.

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2 (Board voted unanimously aye.)
3 CHAIRMAN BRAND: All opposed?
4 (No response.)
5 CHAIRMAN BRAND: So carried.
6 Before we begin, I would like to let you
7 guys know that we received an email from our
8 Town Supervisor regarding the new solar law. I
9 did forward it to you, so if you could review
10 that or if you care to comment on it, please do
11 so.
12 First up, Chestnut Petroleum. We did
13 receive a letter from Chestnut Petroleum. They
14 will not be here this evening. They are
15 looking for a sign variance from the ZBA on
16 March 9th, and they have asked to meet again at
17 the March 20th Board Meeting for a continuation
18 of the public hearing.
19 MR. BLASS: So in order to avoid
20 needing to republish and repost all of the
21 notices to neighbors, you're sort of obligated
22 to open the public hearing for comment, if
23 any, and then adjourn the public hearing to
24 March 20th.
25 CHAIRMAN BRAND: Okay. This is a

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2 public hearing for Chestnut Petroleum. If

3 anyone is here, for or against it, we are here

4 to hear your comments. You have the floor.

5 Anyone for or against Chestnut Petroleum?

6 Mr. Garofalo?

7 MR. GAROFALO: James Garofalo.

8 First thing, I'd like to thank you,

9 Chairman, because I think you really understand

10 the law in respect to the public hearing and

11 the wording in it. Specifically, providing the

12 full opportunity to be heard shall be given to

13 any resident of the town, and I think that

14 clearly means, not at three-minute soundbite.

15 But a three-minute soundbite is perfectly

16 reasonable to provide the courtesy and afford

17 other people. But the fact that you allow

18 people to come back to the podium to talk once

19 again, I think is really the intent of the law,

20 to allow people to speak their mind.

21 I'm not going to go too much into some of

22 the things that I have discussed before, and

23 stuff in terms of the sign variance. I

24 understand that they're asking for an area

25 variance for the signs, and I was wondering if

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2 it would be possible to post exactly what they

3 have requested on the website.

4 I wanted to thank you also for posting

5 the updated traffic study. I want to say

6 again, that I'm not against this project. My

7 father was a long-time employee of Socony,

8 later the Mobile Oil Company, his whole life

9 until he retired. And I certainly have my

10 share of Dunkin Donuts and continue to do so.

11 So that, I'm not against those facilities. I

12 do insist that the laws be followed, and that

13 the Board be provided with all of the
14 information they are supposed to be given.
15 One of the things -- FOIL -- copy of the
16 briefing document, which is supposed to contain
17 information on variances that the applicant is
18 planning on requesting. I did not see that in
19 the file. It's possible that they may not have
20 filed it or filed it under a different name,
21 but that is something that I think is important
22 for the Board to get to know what the intents
23 are of the applicant. And in this case,
24 clearly they went from one zoning variance --
25 and it is in the EAF. But they were going to

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2 go for variances, but it wasn't really clear
3 what variances. And that, ideally, would have
4 been made clear to the Board earlier in the
5 process maybe instead of coming here one or two
6 years later to do this. That could have been
7 handled a long time ago, saving them some time
8 and aggravation.

9 CHAIRMAN BRAND: Just to pause you
10 for one second. The last letter that we
11 received just includes signage variances. Are
12 you aware of any other variances?

13 MR. BLASS: No. The only variances
14 in front of the ZBA on Thursday are variances
15 from the sign law Section 155-28. The
16 applicant for the variances has submitted
17 supplemental material since the initial
18 application, which is probably what you're
19 looking for. So that should have been
20 available at Penny Cashman's office tomorrow,
21 if you wanted to get it.

22 UNIDENTIFIED SPEAKER: That's a ZBA,
23 not a Planning Board.

24 MR. BLASS: Yeah, I'm talking now
25 about the ZBA because you were.

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2 MR. GAROFALO: The briefing document

3 is something that is supposed to be part of

4 the site plan review. They're supposed to

5 provide the Planning Board so they'll know

6 what variances that are going to be asked for

7 at that time.

8 MR. BLASS: The Planning Board

9 doesn't issue variances.

10 MR. GAROFALO: I know, but it's part

11 of the site plan. So I guess it's so they

12 know what to send over to them -- the ZBA.

13 MR. BLASS: Well, the ZBA has

14 whatever it needs now, and if you're

15 interested in seeing it, it's on file.

16 MR. GAROFALO: Okay. I also wanted

17 to state that, you know, I have been very much

18 an advocate for code reform. I worked on the

19 comprehensive plan. After that was done, we

20 worked on code reform, including trying to get

21 the sign code changed. I think what is going

22 to happen at the ZBA is going to be even more

23 discussion that will be necessary on the draft

24 sign law, and I'm going to point out a lot of

25 things dealing with their application and the

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2 material that was submitted to the Planning

3 Board. I'm not going to go into that right

4 now. But I think that the applicant needs to

5 hear it too. I certainly am willing to meet

6 with one or more members of the Board or its

7 lawyer, the applicant, the Town Board members,

8 whomever to help try to straighten and improve

9 on the site plan.

10 I've already provided a whole list of

11 things which I hope will help, and some of that

12 is material that is missing that you should

13 have, such as information on a detail of the
14 sidewalks, which even DOT in their letter had
15 said they wanted to see a detail on the
16 sidewalk. And I think that's important.

17 Your code also calls for information on
18 bicycle racks. This is under 155-31E-4N. They
19 need to be designed -- construction materials
20 need to be provided, and there is no detail at
21 all on the bicycle rack. There are good ones.
22 There are bad ones. But I hope when they
23 submit that and make those kinds of changes,
24 that, again, we will have an opportunity to
25 comment on them because they have a track

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2 record of not completely correcting things.

3 The bar that is going for the height to
4 protect vehicles from going through the
5 drive-through that are too high, if you look at
6 their own plan, their own plan shows the bar
7 where it's anchored, where it goes over, and
8 then they show you a car next to it in line to
9 go to the drive-through that clearly is not
10 going under the bar. And what they really need
11 is either a longer bar or a second bar that
12 swings clockwise instead of counterclockwise so
13 that you can't go through to the drive-through
14 without going under the bar. And I think that
15 is something that clearly needs to be changed.

16 One of the other things that I pointed
17 out in the materials that I provided to you
18 was, they should identify the native plantings.
19 Under 155-31E17B, it suggests that native
20 plants be provided, so not only maybe should
21 you have them identify on their planting list
22 what those are, but have them remove some of
23 the ones that aren't native, if at all
24 possible. It could be that they are all
25 non-native. It could be that they are all

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2 native. I don't know. And there is no way for
3 you to know because I'm sure none of you are
4 experts on native plants.

5 CHAIRMAN BRAND: Ben is pretty good.
6 He knows a lot about plants.

7 MR. GAROFALO: I know some, but not
8 anywhere near enough.

9 There were -- even though the traffic
10 study was put up, there were certain things
11 that were still, again, were not in the traffic
12 study -- the original accounts, which is
13 something that would be useful to the people
14 that are doing the Route 9W corridor study, to
15 have those accounts available so they don't
16 have to recount the stuff.

17 Speed data, certainly I would encourage
18 you to require existing and future site
19 distances, or at least the future site
20 distances on the plan. And you need to know
21 the vehicle speeds because that deals with what
22 the site distance should be.

23 CHAIRMAN BRAND: Were all these
24 things, Jimmy, were they in one of the several
25 emails that you forwarded to us?

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2 MR. GAROFALO: They were, but I
3 didn't explain why you need them.

4 CHAIRMAN BRAND: Okay.

5 MR. GAROFALO: Okay.

6 CHAIRMAN BRAND: If they are there,
7 then certainly our engineer will looking at
8 them. And DOT obviously looks at all these
9 things that you bring up as well as far as the
10 (indiscernible) and speed, that's all part of
11 their study. So is there anything --

12 MR. GAROFALO: Well, the fact that

13 they have already commented on it, I don't if
14 they have commented on their new study. But
15 these are things that should have been done,
16 and certainly the traffic counts should have
17 been provided to the Town because not only the
18 Route 9W corridor people potentially use it,
19 but another applicant coming in, say, across
20 the street or down the road might find those
21 to be useful.

22 CHAIRMAN BRAND: Sure.

23 MR. GAROFALO: And it's a lot easier
24 if they are on file with the Town. And this
25 is something that DOT normally wants you to

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2 put in these studies is, they want the actual
3 count data, and you can't verify certain
4 pieces of data when it's the peak-hour factor,
5 which is the 15-minute flow, without having
6 that data. That data will provide you --
7 you'll be able to see that's what it is, fine.

8 So I think they are very good reasons to
9 request that kind of information. The same
10 with high-accident data. This is something,
11 again, that is going to be looked at the safety
12 study. It would have been good if they had
13 done it, and it's normally required by DOT. So
14 why they didn't -- maybe they just haven't
15 asked yet for it. But that's something that
16 is -- I think is important.

17 So, those are the major things. Again,
18 you have five or six or seven pages of other
19 items that I have given you. Again, I'm more
20 than happy to sit down and talk through these
21 things and figure out how to make the project
22 better.

23 CHAIRMAN BRAND: Thank you.

24 MR. GAROFALO: Thank you.

25 CHAIRMAN BRAND: Anyone else for or

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2 against the project that wishes to speak this
3 evening?

4 (No response.)

5 CHAIRMAN BRAND: I would like to
6 have a motion to adjourn the Public Hearing
7 until March 20th?

8 UNIDENTIFIED SPEAKER: I make a
9 motion.

10 CHAIRMAN BRAND: Is there a second?

11 UNIDENTIFIED SPEAKER: Second.

12 CHAIRMAN BRAND: Any discussion?

13 (No response.)

14 CHAIRMAN BRAND: All in favor, say
15 aye.

16 (Board voted unanimously aye.)

17 CHAIRMAN BRAND: Any opposed?

18 (No response.)

19 CHAIRMAN BRAND: Thank you. Next
20 up, Timber Harvesting, Mt. Zion Road.

21 Come right up to the table if you want.

22 There's comfortable seating over there.

23 MR. WLASIUK: That's all right. I

24 can stand too.

25 CHAIRMAN BRAND: Can you just state

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2 and spell your name for the stenographer.

3 MR. WLASIUK: Cain, C-A-I-N; Wlasiuk
4 W-L-A-S-I-U-K.

5 CHAIRMAN BRAND: Just tell us a
6 little bit about what you have in mind.

7 MR. WLASIUK: What did you say?

8 CHAIRMAN BRAND: Could you just give
9 us a brief overview of what it is that you're
10 intending to do.

11 MR. WLASIUK: Well, I'm going to be
12 doing the logging and a couple of different

13 jobs for Domonick. He's actually away on
14 vacation in Florida right now. I have been
15 working with his son and trying to do the
16 application. This is my first time doing it,
17 so.

18 CHAIRMAN BRAND: Okay. Our Town
19 Engineer did go through the application that
20 you had.

21 MR. WLASIUK: Yeah.

22 CHAIRMAN BRAND: Honestly, it's
23 lacking --

24 MR. WLASIUK: Yeah, I was --

25 CHAIRMAN BRAND: -- significant

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2 details.

3 MR. WLASIUK: -- reading something
4 on here of what you guys were asking. I mean,
5 I can draw up more maps and anything like
6 that. I see you guys need for the haul roads
7 and the locations for the staging areas.

8 I guess Domonick has permission to go
9 through. That way I can stage onto -- I think
10 their last thing was Catalina. I haven't
11 talked to them yet. I haven't gotten that far
12 because I live up north. I live up by Oneonta.

13 CHAIRMAN BRAND: Maybe, Pat --

14 MR. HINES: Yeah. The code requires
15 that all haul roads, staging areas, and
16 loading areas be on the property that is
17 being --

18 MR. WLASIUK: Yeah. I just read
19 that, so I'm going to have to talk them and
20 see if I'm able. Because there is an old road
21 that goes through there. There is actually
22 one through -- it actually goes through all
23 the properties through there including his. I
24 just have to get permission to be able to
25 bring a truck or anything through. I'm going

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2 to have to do all that.

3 MR. HINES: Yeah. That's going to
4 be required and that's going to be reviewed by
5 Mr. Blass' office.

6 MR. WLASIUK: Yeah.

7 MR. HINES: Now these parcels, there
8 are two parcels. They are not identified in
9 the application, but they are on the agenda.

10 MR. WLASIUK: Yeah.

11 MR. HINES: They are not contiguous,
12 correct?

13 MR. WLASIUK: There's like four
14 small little parcels. It's about 30 acres up
15 off of Mt. Zion, and then there's two parcels
16 right next to each other that equals 45, and
17 that's right on Milton Turnpike.

18 MR. HINES: Okay. So each of those
19 parcels needs to be an independent
20 application.

21 MR. WLASIUK: Okay. For each one?

22 MR. HINES: Yes. For the ones that
23 are contiguous -- and I'll defer to Ron on
24 this. It may be able to be looked at
25 comprehensively, but they are going to need to

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2 be identified on the plans --

3 MR. WLASIUK: Okay.

4 MR. HINES: -- including who owns
5 it. Right now, I only have two sections --

6 MR. WLASIUK: Yeah.

7 MR. HINES: -- so all of those, and
8 anyone who owns those parcels, the access is
9 going to have to be on there. So if there's
10 other parcels involved, they'll need to be
11 identified.

12 MR. WLASIUK: Yeah.

13 MR. HINES: I had a very hard time
14 finding where those parcels were in the
15 information submitted.
16 MR. WLASIUK: Yeah.
17 MR. HINES: For the ones on Milton
18 Turnpike, a county access permit will be
19 required --
20 MR. WLASIUK: Yeah.
21 MR. HINES: -- because it's a county
22 road.
23 MR. WLASIUK: Yeah.
24 MR. HINES: So I think basically
25 you have -- my comments were -- identifies the

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2 information that's needed.
3 MR. WLASIUK: Okay.
4 MR. HINES: One of the important
5 things that you don't have, there's an
6 environmental assessment form --
7 MR. WLASIUK: Okay.
8 MR. HINES: -- and once you do that
9 environmental assessment form online, I'll
10 need to see what's populated in any of these
11 fields in the form. And one of the concerns
12 that I have is that the DEC has a restriction
13 for tree clearing --
14 MR. WLASIUK: Okay.
15 MR. HINES: -- in some areas because
16 of the Indiana bat and the long-eared bats,
17 which I'm sure you're familiar with if you're
18 in the industry. So there may be a time frame
19 where you may be prohibited for environmental
20 reasons such as that, so that's why we'll be
21 looking for that information. But you're
22 certainly going to need some more detailed
23 mapping of the locations and the roadways
24 identified, the parcels identified, who owns
25 each parcel. So I think you have a lot of

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2 work to do to develop this plan.

3 MR. WLASIUK: Yup.

4 MR. HINES: So the Board can review
5 it.

6 CHAIRMAN BRAND: And our code is
7 available online, Town of Marlborough --

8 MR. WLASIUK: Yeah.

9 CHAIRMAN BRAND: -- and 141 is the
10 code. It's pretty detailed all of the things
11 that you're going to need, so I would just go
12 through that carefully. Just make sure that
13 you have a complete application for each
14 parcel.

15 MR. HINES: Now the other thing --
16 you're a logger?

17 MR. WLASIUK: Yeah.

18 MR. HINES: Is there a forester
19 involved to harvest the timber or --

20 MR. WLASIUK: I mean, I can get a
21 forester to come in. It's not a big deal.
22 Actually, my log buyer is a forester --
23 through the company I sell to. I can have him
24 come in and do everything.

25 MR. HINES: Yeah. That's typically

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2 what this Board sees when it has timber
3 harvesting applications -- is that a timber --
4 is evaluated by the forester --

5 MR. WLASIUK: Hm-mm.

6 MR. HINES: -- it kind of provides a
7 checks and balances between the landowner and
8 the logger.

9 MR. WLASIUK: Yup.

10 MR. HINES: Also, I just noticed
11 that it's 11 trees per acre on there, and 11
12 trees per acre is on the high end of

13 harvesting trees selectively. That's a lot of
14 trees per acre. It's usually around 3, 4, 5
15 when we have applications. That's the only
16 reason why I brought that up. I mean, but if
17 the trees are mature and you want to do
18 logging, that's --

19 MR. WLASIUK: Yeah. Normally --

20 MR. HINES: The smallest diameter
21 was a few inches on the application.

22 MR. WLASIUK: Yeah. I -- when I do
23 a selective cut, I don't take anything under
24 16 inches at rest height. Because technically
25 it's better for the environment, because any

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2 smaller than that, you're kind of -- you're
3 going to get more erosion. It's going to --
4 it keeps the woods a lot cleaner. When you
5 take 16 inches off, it -- it's a lot better
6 for the environment.

7 CHAIRMAN BRAND: Ron, do you have
8 anything for this?

9 MR. BLASS: Am I hearing that the
10 access roads are going to be winding through
11 property that's not going to be forested?

12 MR. WLASIUK: Well, there's -- on
13 the 30 acres, there's an old road from what I
14 was told by Domonick when it was previously
15 logged over the years that goes right
16 through -- there's off of Mt. Zion, there's a
17 road that goes back in through -- through -- I
18 think there's five houses on that road, and
19 then it ends at the last house.

20 MR. BLASS: So is Domonick the owner
21 of all 30 acres?

22 MR. WLASIUK: Thirty acres on one
23 piece, and then the 45 over on Milton.

24 MR. BLASS: So is the access road
25 all on property owned by Domonick?

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2 MR. WLASIUK: No.

3 MR. BLASS: So part of it is a
4 public road?

5 MR. HINES: No.

6 MR. BLASS: Private road?

7 MR. WLASIUK: Private.

8 MR. BLASS: Who owns the private
9 road?

10 MR. WLASIUK: I'm not sure. It runs
11 into --

12 MR. BLASS: You may have to address
13 the issue of what gives you the right to use
14 it --

15 MR. WLASIUK: Yeah.

16 MR. BLASS: -- for this purpose.

17 MR. WLASIUK: Yeah.

18 MR. BLASS: It's probably owned by
19 private parties.

20 MR. WLASIUK: Yeah. There's two
21 different landowners that it will run through
22 there.

23 MR. BLASS: So you're going to be
24 crossing the land of somebody else in order to
25 do the tree clearing?

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2 MR. WLASIUK: No. I would get
3 permission first. We would write up contracts
4 with everyone like before I would even --

5 MR. BLASS: Okay.

6 CHAIRMAN BRAND: What would he need?

7 MR. BLASS: He'd need an easement
8 form.

9 CHAIRMAN BRAND: From each
10 individual property owner?

11 MR. BLASS: Yes, anyone with an
12 interest. See, I don't have a map, so I'm,

13 sort of.

14 CHAIRMAN BRAND: We're looking at

15 the map and it looks relatively landlocked.

16 MR. WLASIUK: Yeah, it is.

17 MS. LANZETTA: I think he might be

18 talking about from coming in from either one.

19 MR. WLASIUK: Yeah. There's a road

20 that runs all the way out through -- on Iowa

21 that runs out through -- I forgot what the

22 other road it connects to.

23 CHAIRMAN BRAND: Lewis Lane in the

24 back?

25 MR. WLASIUK: Yup, yup. There's --

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2 I guess he's got permission supposedly by

3 Catalinas, but I haven't talked to them yet,

4 which they have an old logging road that runs

5 through there all the way out towards his

6 property.

7 CHAIRMAN BRAND: So you obviously

8 have a lot of homework before --

9 MR. WLASIUK: Yeah, yeah. I see

10 this now.

11 CHAIRMAN BRAND: A lot of the things

12 that we need is, definite clear legal

13 permission for --

14 MR. WLASIUK: Yeah.

15 CHAIRMAN BRAND: -- you to access

16 all these properties.

17 MR. WLASIUK: Yeah.

18 CHAIRMAN BRAND: So once you get all

19 that, I think you can come back --

20 MR. WLASIUK: Okay.

21 CHAIRMAN BRAND: -- and then we can

22 make a determination.

23 MR. WLASIUK: Yeah.

24 CHAIRMAN BRAND: But obviously no

25 logging can start before all that's done.

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2 MR. WLASIUK: Yeah. I understand
3 that.

4 CHAIRMAN BRAND: Okay. Anything
5 else from the Board?

6 (No response.)

7 CHAIRMAN BRAND: Pat? Ron?
8 Anything else?

9 MR. HINES: No. We just need a lot
10 more information and a more detailed
11 application.

12 CHAIRMAN BRAND: All right. Thank
13 you for coming in tonight. I appreciate it.

14 MR. WLASIUK: No problem.

15 CHAIRMAN BRAND: That's all for the
16 stenographer.

17 (TIME NOTED: 7:55 p.m.)

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

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9 I, BARBARA ULBRICH, Court Reporter and
10 Notary Public within and for the State of New
11 York, hereby certify that I recorded
12 stenographically the proceedings herein at

13 the time and place noted in the heading
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16 knowledge and skill.

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