

Proceedings held before the Planning Board  
Brighton at 2300 Elmwood Avenue, Rochester, New York on June 20,  
2018 commencing at approximately 7:30 p.m.

PRESENT: William Price  
Justin Babcock Stiner  
Laua Civiletti  
Pamela Delaney  
David Fader  
John Osowski

NOT PRESENT: James Wentworth

Ramsey Boehner: Town Planner  
David Dollinger, Dpty Town Attorney

FIRE ALARM PROCEDURES WERE GIVEN

MR. CHAIRMAN: Good evening  
Ladies and Gentlemen, I would like to call to order the June 20, 2018  
meeting of the Town of Brighton's Planning Board to order. We will  
approve the minutes for the April 18, 2018 meeting and the May 16, 2018  
minutes. Can I have a motion to approve the April 18, 2018 meeting and  
the May 16, 2018 minutes with corrections ?

MS CIVILETTI: : I will  
move to approve the April 18 , 2018 and May 16, 2018 minutes with any  
corrections.

MR. OSOWSKI: : Second.

UPON ROLL CALL VOTE MOTION UNANIMOUSLY PASSES

Mr. Price	Yes	Ms. Delaney	Yes
Ms. Civiletti	Yes	Mr. Fader	Yes
Mr. Osowski	Yes	Mr. Babcock Stiner	Yes

MR. CHAIRMAN: Mr. Secretary  
were the hearings properly advertised?

MR. BOEHNER: Yes, they were properly advertised in the Brighton Pittsford Post of June 14, 2018, 2018.

MR. CHAIRMAN: For everybody here we are going to some things that are not typical for us. One of the things is that we are going to move the order of the applications around. We have a lot of applications that have been adjourned or withdrawn and we are to start with application 6P-02-18 150 Metro Park but first application 6P-03-18 has been withdrawn. Next application 6P-05-18 Rufus Judson and Landtech has been adjourned at the applicant's request. Application 2-NB1-18 Faith Bible has been adjourned to the July 18, 2018 meeting, application 3P-NB1-18 Tolivar, Inc. has been adjourned at applicant's request, as well as application 4P-NB1-18 Rufus Judson and Landech. Application 6P-NB2-18 First Baptist Church has been adjourned to the July 18, 2018 meeting at the applicant's request and application 5P-06-18 Daniel Family Companies has been adjourned to the July 18, 2018 meeting at the applicant's request.

MR. CHAIRMAN: At this time I will make a motion for the Board to go into Executive Session.

MR. FADER: Second.

UPON ROLL CALL VOTE MOTION UNANIMOUSLY PASSES

Mr. Price Yes

Ms. Delaney Yes

Ms. Civiletti Yes

Mr. Fader Yes

Mr. Osowski Yes

Mr. Babcock Stiner Yes

MR. CHAIRMAN: We are going to discuss at the Executive Session pending litigation and we will be back.

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MR. CHAIRMAN: Okay we will move to reopen the meeting.

MR. FADER: Second.

UPON ROLL CALL VOTE MOTION UNANIMOUSLY PASSES

Mr. Price Yes

Ms. Delaney Yes

Ms. Civiletti Yes

Mr. Fader Yes

Mr. Osowski Yes

Mr. Babcock Stiner Yes

MR. CHAIRMAN: The first application we will hear is application 6P-02-18 Metro Park.

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6P-02-18 Application of 150 Metro Park, LLC, owner for Site Plan Modification to construct 16 additional parking spaces, add additional access points, relocate loading bays and reconfigure the parking field over 2 phases on property located at 150 Metro Park. All as described on application and plans on file.

MR. FROMBERGER: Tom Fromberger from MRB Group and with me is Aaron Saykin from Hodgson Russ . and we are here for Site Plan Modification to construct 16 additional parking spaces and to add additional access points and relocate the loading bays and reconfigure the parking field over two phases on property located at 155 Metro Pakr, LLC. We have revised the plan a number of times so if you have seen a different package I applogize. The existing building currently has access on the east side with loading docks on the back which cuts off the access to the parking. There are three distinct locations, inside the front office space A and warehouse space A and the remaining portion B on this side. We are attempting to secure office space for office space B and a number of their concerns have been a lack of parking and access to that office space in the front.

So to accommodate their needs we are proposing to add 16 parking spaces up here with ADA access and giving them access that will improve this location. This will provide tractor trailer access as well. We are also proposing a second access to the existing driveway and the rear of the property and we will probably divide that into two phases. Phase one is shown on this plan, and phase two's construction we will begin the first part of next year and we will be relocating the loading docks on the north side of the building to the west side of the building and this will allow rear parking for the tenants on this end. One of the comments in regard to parking and density we do have a

future plan that we would like to share with you but we are not proposing that at this time but there is discussion that in the future we may come back for a 1400 square foot building in the back of the property and that would accommodate the parking needs and the proposed layout as shown.

We are relocating the dumpsters to the back of the northwest corner to provide better access for the dumpster pick ups . That is our brief overview and I will be happy to answer any questions.

MR. CHAIRMAN: Who are the tenants at this point?

MR. FROMBERGER: Bernard is one of the tenants in the middle and we have been recently going through and updating the office space A.

MR. BERNBAUM: Bernard Bernbaun the owner. We have just remodeled the office space and hopefully we will get a tenant for that and th other space we have had a few tenants interested in that but as we previously laid out out biggest concern is we need to go through the warehouse to get to all of this so it is not conducive to customers coming in.

MR. CHAIRMAN: Tom, the site data and variances for any of these meet the green space, setbacks.

MR. FROMBERGER: Right we meet all the green space and setbacks and impervious surfaces.

MR. FADER: Any impervious increase.

MR. FROMBERGER: There are but we are under the threshold and under the Storm Water Management we are expanding to accommodate that.

MR. CHAIRMAN: You showed us a plan that is potentially a future additional building and one of the landscape plans shows that addition as well.

MR. FROMBERGER: That is not part of this application.

MR. CHAIRMAN: Can you go through the landscape plan?

MR. FROMBERGER: Our first phase are items on this side and have been completed. Phase one and Phase two is the landscaping on the left side of the page.

MR. CHAIRMAN: Did you say something has been completed already?

MR. FROMBERGER: Yes, everything on the right of the gray strip down the middle is completed. That is showing what has been done. This was the plan that was reviewed by the Conservation Board and Ryan is here to answer any questions.

MR. CHAIRMAN: Were there any requirements of the Conservation Board put forth? And have you addressed them?

MR. KELLY: Ryan Kelly landscape architect, we have not. The Conservation Board made comments on the street tree progress and we explained what has been done and has been proposed on the plan you are looking at. It is important to know what Bernard has done. When he acquired the property we consulted a Certified Arborist and we are proposing far above what is required based on the parking and the Board has asked for additional street trees and I would ask that we stick with the plan that has been proposed.

MR. BOEHNER: Are you removing trees along that access road? And is it their request to have those replaced?

MR. KELLY: We have not removed any up along the road. I would say after the 10 foot setback from the right of way that is strictly accommodating the storm water pond and any large trees along the right of way we have not removed.

MR. CHAIRMAN: Do we have the recommendations of the Conversation Board?

MR. BOEHNER: Yes we do as part of phase two and the removal of the existing trees along the private driveway an equal number of trees shall be planted along Metro Park.

MR. KELLY: Currently I am showing 11 removals due to storm damage and there are five Colorado Spruce trees adjacent to the parking lot we are proposing and there has been some storm damage and pine trees that have fallen down in the May wind storm. On the demolition plan we are showing the trees to be removed and we are maintaining that corridor along Metro Park.

MR. FROMBERGER: We do want to keep some visibility to our building.

MR. BOEHNER: How many trees are you removing?

MR. KELLY: There are 11 total but we are not accurately showing due to storm damage.

MR. BOEHNER: What is an accurate count?

MR. KELLY: We are removing ten one fell down.

MR. BOEHNER: So your issue is you don't want to replant ten trees?

MR. KELLY: We have 9 trees proposed and we have 840 square footage and we also have a natural area.

MR. FADER: So you are talking about removing ten street trees?

MR. KELLY And we will be picking up the remainder in square footage.

MR. FADER: We still need one more street tree.

MR. OSOWSKI: There is a question about access easement?

MR. FROMBERGER: There is an access easement.

MR. CHAIRMAN: Are you planning on any signage at this point?

MR. FROMBERGER: No.

MR. CHAIRMAN: Thank you. This is a public hearing does anyone care to address this application. There being none we will move on.

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6P-03-18 Application of Metro Legacy Homes, owner and Tom and Sue Kelly, contract vendee, for Preliminary/Final Site Plan Approval to construct a 2,761 +/- sf one story single family house with a 679 +/- sf attached garage on property located at 11 Babcock Drive. All as described on application and plans on file. WITHDRAWN BY APPLICANT.

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6P-04-18 Application of Iron works at High Falls, LLC, owner for Preliminary/Final Site Plan Approval to construct a 178 +/- sf building addition on property located at 2300 East Avenue. All as described on application and plans on file.

MR. SPENCER: Good Evening,

Andrew Spencer. I am here representing my client. One note of clarification to the Board the applicant is 2900 East Avenue Properties LLC, we made that mistake but they are the owners and the same individual.

MR. CHAIRMAN: Ramsey do you have a comment on that.

MR. BOEHNER: Maybe we should ask David.

MR. DOLLINGER: I think you should give us something in writing to put in the record tomorrow.

MR. BOEHNER: It is the same entity?

MR. SPENCER: Same owner, different LLC name. The application this evening is to request Preliminary/final Site Plan Approval at 2300 East Avenue. 2300 East Avenue is this building here and there are three main buildings on the parcel, 2800, 2900 and 2300. Due to some damage that was incurred in the existing structure the interior of the building had to be remodeled. As such we spoke to the Fire Marshall here at the Town of Brighton and it turned into a level two improvement and as such part of the funding of the project and monies were utilized for ADA improvements. What is being proposed this evening in addition to approximately 17 8 square feet will become an entry vestibule on the rear and it will also house an elevator to provide access to the second floor in addition to ADA access there will be a ramp from the existing parking lot to the rear of the structure to that vestibule location. There will be some grading incurred on the site to provide for that handicapped ramp and as part of that landscaping will be provided along the edge of the ramp. One tree will be removed in the rear in this location a landscape plan has been provided for review and also I would direct your attention to a letter dated March 16, 2018 from the architect explaining the meeting minutes from the Fire Marshal discussing the addition in the context with the building. There is an existing portion of the building here, this is the proposed addition here and it will take off some of the architectural trim of that structure.



We will add that there were two handicapped spaces on the eastern portion of the site and they were moved to this location and of course will run to the ramp and the ramp goes up in this area due to grade differential.

MR. BOEHNER: Does the sidewalk run at five percent or two percent?

MR. SPENCER: It will run at 5 percent anything over five percent handrails would be required.

MR. CHAIRMAN: At five percent handrails aren't required?

MR. SPENCER: That is correct.

MR. CHAIRMAN: You said one tree was going to be removed but it looks like two trees are going to be removed and one is going to remain.

MR. SPENCER: That is correct I apologize. One tree remains.

MR. CHAIRMAN: There was no way to slide that ramp so that it was on the down hill side or further up hill.

MR. SPENCER: The grading is quite tight in that area and by pushing the sidewalk one direction or the other you would have to retain a wall and increase that slope and we are trying to maintain a multiple slope versus non multiple slope.

MS. CIVILETTI: What is that slope at right now? As it is graded between the building and the wall?

MR. SPENCER: It is one foot and three feet multiple but steep. It is relatively steep and one on four is more desirable for a multiple sloop.

MR. CHAIRMAN: My guess is you are trying to avoid building those walls?

MR. SPENCER: That is correct. Due to the nature of this structure we do need to go to the Historic Preservation Commission to get a review. I have to ask this Board if any action would be taken this evening for Preliminary and Final Approvals based on the fact that we still have to appear before them.

MR. CHAIRMAN: Which Board?

MR. SPENCER: Historic Preservation Commission.

MR. BOEHNER: He needs a certificate of appropriateness this is not a demolition.

MR. CHAIRMAN: Did you have to appear before the Conservation Board on this?

MR. SPENCER: We did and the Conservation Board had no comments.

MR. BOEHNER: What is the cross slope of the ramp.

MR. SPENCER: The cross slope of the sidewalk will be two percent or less.

MR. OSOWSKI: Is there a mechanical assist on the door going into the elevator lobby, where you push a button and the door opens.

MR. SPENCER: I do not have a correct answer for you on that. I presume it would have to be compliant with the ADA Act.

MR. OSOWSKI: It's nice to have not a need to have. I notice on the rendering you go from a red roof to a

gray roof. Is the roof being replaced?

MR. SPENCER: Yes. The roof has been damaged and needs to be replaced.

MR. CHAIRMAN Thank you. This is a public hearing is there anyone here who wishes to address this application? Hearing none we will move on.

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6P-05-18 Application of Rufus Judson, owner, and Landtech Surveying and Planning, agent for Final Site Plan Approval and Demolition Review and Approval, to raze a single family house and construct a 6,698 +/- sf single family house with a 1,56 +/- sf attached garage on property located at 3525 Elmwood Avenue. All as described on application and plans on file. ADJOURNED AT APPLICANT'S REQUEST.

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#### NEW BUSINESS

2P-NB1-18 Application of Faith Bible Church, owner, for Preliminary Site Plan Approval to construct a 7,670 +/-sf church building, addition on property located at 1095 East Henrietta Road. All as described on application and plans on file. TABLED AT THE FEBRUARY 21, 2018 MEETING –PUBLIC HEARING REMAINS OPEN – ADJOURNED TO THE JULY 18, 2018 MEETING AT APPLICANTS REQUEST.

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3P-NB1-18 Application of Tolivir Inc, owner and Brian Mattiaccio, contract vendee, for Preliminary Site Plan Approval to construct a 2, 200 +/- sf dental office on property located at 2087 Monroe Avenue. All as described on application and plans on file. TABLED AT THE MARCH 21, 2018 – PUBLIC HEARING REMAINS OPEN – ADJOURNED AT APPLICANTS REQUEST.

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4P-NB1-18 Application of Rufus Judson, owner and Landtech Surveying and Planning agent for Preliminary Site Plan Approval and Demolition Review and Approval, to raze a single gamily house and construct a 6,686

+/- sf single family house with a 1,556+/- sf attached garage on property located at 3525 Elmwood Avenue. All as described on application and plans on file. TABLED AT THE APRIL 18, 2018 MEETING – PUBLIC HEARING REMAINS OPEN – ADJOURNED AT APPLICANT'S REQUEST.

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6P-01-18 Application of Daniel Family Companies, applicant, for Site Plan Modification to construct shared parking and access, known as the Access Management Plan, on and across 2835 Monroe Avenue 2815 Monroe Avenue, 2799 Monroe Avenue, 2787 Monroe Avenue, 2775 Monroe Avenue, 2735 Monroe Avenue, 2729 Monroe Avenue and 2717 Monroe Avenue. All as described on application and plans on file.

MR. SUDOL: Good evening my name is Jessie Sudol from Passero Associates and I am here on behalf of of the Daniel's Family Companies and also Jerry Goldman and Amy Dagman (phonetic who are the Traffic Engineers. Specifically here before you to address the Access Management Plan which was initially presented before this Board in concept last month the plan or project and infrastructure improvements associated with the AMP include providing cross access for eight properties on the south side of Monroe Avenue from the existing City Mattress all the way to the hotel The Comfort Inn the intent of the access plan is to provide access to all group properties to a single light which is proposed to be installed with the construction of the old plaza on the north side of Monroe Avenue as previously stated there are many traffic benefits associated with the construction of the AMB including the elimination and potential for elimination of the conflicting left turns as they will now be able to enter into what we call a package room which becomes behind those properties and funnels out to the single light. The access easements have been agreed to by all the property owners that are involved on file with the Town. The vast majority of all of these areas are already paved and we will install small sections of pavement now connected to properties and also making some of the parking areas more efficient. Some of the examples for the improvements include City Mattress which currently has a full access and where you take less pavement out which was a condition of the Planning Board Approval which granted several years ago that once the MPA was approved they would then turn that into a right in and right out that exists with some of the other parcels and once those are installed it would make the corridor safe.

MR. CHAIRMAN: What is your understanding of additional work needed to finish up this particular plan and go back to the Board resolution and the incentives that were granted to the individual parcels if I am not mistaken.

MR. SUDOL: Correct they were.

MR. CHAIRMAN: And so I think you intend to do site data tables that show that all?

MR. SUDOL: That is available and we can show that if it would help the Board. Most of the incentives are rear line setbacks and all of that stuff is available in the FEIS and we can transport that to the site plan.

MR. BOEHNER: I think it would be smart to give more information as part of this plan, and on City Mattress are you installing a right in and also doing the entrance on Monroe Avenue for Mamasans project. Is that right?

MR. SUDOL: That is correct.

MR. CHAIRMAN: You need to do traditional grading plan and utility plans.

MR. SUDOL: We submitted a completed site plan and a completely separate set of plans and the engineering plan which includes grading, utility, storm water management and the like.

MR. CHAIRMAN: Okay. Did we just get an abbreviated set Ramsey?

MR. BOEHNER: I think the Town Engineer has a number of comments and I have some comments too.

MR. SUDOL: It is minimal grading there.

MR. CHAIRMAN: Does this plan assume that Mamasans is done by the time you do this?

MR. SUDOL: Yes.

MR. CHAIRMAN: I think for this to work as effectively as I think it can I think this needs to feel like this is a legitimate circulation plan. I think this needs to be done as well as possible and there is no reason to think it is not. Any drainage issues?

MR. SUDOL: No, it just gives us an opportunity to improve the drainage.

MR. BOEHNER: The Town Engineer has one concern that the proposed improvements may impact Dunkin Donuts storm water.

MR. SUDOL: I can meet with Tom and discuss that.

MR. CHAIRMAN: In the long run I know this Board has seen Mamasans and City Mattress and we approved those and Dunkin Donuts as well. What do we see when the access management goes into affect as a benefit to traffic on Monroe and reduction of left turns. How much reduction are you proposing just in general.

MR. SUDOL: It is going to be very much time dependent during rush hour when a lot more traffic is on Monroe Avenue. The vast majority of anybody traveling westbound from any of those studies is going to chose to use a light for a left exist because otherwise it is very difficult if at all during that 15 to 20 minute window. But off peak hours during the middle of the day or late at night then those properties that still have a full curb cut will most likely won't come around to use the access or the backage signal road and will continue to exit out that way. So I would say that the 90 or plus traffic would use that exist during peak hours and it would drop to 40 or 50 percent during off peak hours.

MR. BOEHNER: Has any of this plans been submitted for the new traffic lights?

MR. SUDUL: Yes they have,

MS. CIVILETTI: Has there been any changes to the lighting along the back of the properties?

MR. SUDOL: No there is not.

MS. CIVILETTI: Have you evaluated the existing lighting just to understand what the conditions are?

MR. SUDUL: We have reviewed it and most of it meets all of the requirements its half foot candles, its not 5 foot candles.

MR. BOEHNER: On your plans it shows that pavement exists on NYS DOT land abutting the Mamasans property is that correct?

MR. SUDOL: Yes.

MR. BOEHNER: On your site plan you show that as existing not new pavement, you need to look at it that is behind Mamasans now at Comfort Inn you have to use variances.

MR. SUDOL: Right , I will check the survey.

MR. BOEHNER: If you would. Now are you planning on acquiring the land from NYSDOT or use of occupancy?

MR. SUDOL: Use of occupancy.

MR. BOEHNER: Have you identified any grading issues between the properties to insure adjacent access?

MR. SUDOL: We will have to feather out some of them because they are a little steep so we will have to feather them out.

MR. BOEHNER: Will it be less than 10 percent?

MR. SUDOL: It will less than 10 percent .

MR. BOEHNER: So it is your intent to get a use variance for the pavement from New York State DOT that is shown on the plans?

MR. SUDOL: That has just recently been brought to our attention.

MR. CHAIRMAN: There is a letter submitted by Secora Home owner through B & E Associates. We are going to discuss it right here they are asking for our opinion I believe that is what they are asking for – it is not an application – to consider the access I think to at least the two adjacent immediately abutting properties to go across the front of Secora , are you aware of that letter?

MR. SUDOL: Yes. Just to be clear we have been in talks and worked with the owner of Secora for the past three years and Peter Sunan (PHONETIC) who is the owner has agreed to allow us access through his property as we have it proposed. He does have some ideas of his own but otherwise he asked us to consider which we did, through Passero Associates and I think through B & E and he attempted to receive clarification and certainly throughout this process and not only through Secora but the other property owners and we have done our best to make sure that any concerns they have or any opinions that they might have on how we may do this differently so as to accommodate everybody's needs and wants and be taken into account. So we were aware of this request he had for us to consider certainly I made it clear to him that it is his property and if he had a request for the Planning Board to look at something that is certainly his right.



MR. BOEHNER: Has the site engineer seen any problems with moving the access to the front?

MR. SUDOL: If we move cross access to the front it creates potential and you have that immediate adjacency to Monroe Avenue it creates turning issues and cuing and blocking different properties and generally we don't like to have it so close so for a lot of reasons we prefer to have it in the back.

MR. CHAIRMAN: Okay thank you any other questions or concerns? Thank you. This is a public hearing is there anyone in the audience that cares to address this application please come up.

MR. PATEL: Shailesh Patel. O a, the owner of 2323 Monroe Avenue and 2729 Monroe Avenue which is Comfort Inn, my wife and I are here to lend our support. We think this is a much needed plan. So I think the time period was discussed about making the westbound left and I am a prime time person to go left and right now it is very difficult. So something like this is great to improve the access plan and guide us towards Clover and we can easily drop back onto Monroe Avenue and have a traffic light to turn left and have a safe way to turn. That is one of the things we really need. My wife leaves that parking lot with two children and when she makes a left my heart beats fast every time. So right now with people traveling up and down Monroe Avenue something like this traffic light will make it less dangerous and I understand there is a lot of concern about traffic lights but having something to improve the traffic is a good idea from my stand point and I thank you.

MR. CHAIRMAN: We appreciate your coming out, thank you. Anyone else, okay thank you. Let's move on.

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6P-NB1-18 Application of Daniel Family Companies, applicant, f  
or Preliminary Site Plan Approval to construct a five building retail plaza

totaling 83,700 sf, which includes a 50,000 sf Whole Food Store and a 2,000 sf drive-thru coffee shop on properties located at 2740 Monroe Avenue 2750 Monroe Avenue, 2800 Monroe Avenue , a portion of 175 Allen Creek Road and a portion of 2259 Clover Street. All as described on application and plans on file.

MR. SUDOL: Again Jessie Sudol and I have the second application. This application involves the north side which is the Whole Food plaza which we discussed at length with this Board at the last meeting, several of the suggestions that the Board had were taken into consideration and our design team worked to find solutions and we worked within the confines of what we were given on the one site, not just based on the environmental review that has come through but also the geometry of it. The solutions we came up with we are very optimistic about. Previously there were four buildings and 83, 600 sf including the back area off set from the main entrance with a field of parking in the south east corner.

So what we decided to do which seems to work very well is we took 3600 sf off the end of the vacuum line larger building and we created a second pad site immediately adjacent to Monroe Avenue which adds a lot of things. For starters it certainly decreases the amount of parking area impediment as we move adjacent to the Monroe Avenue corridor and sidewalk and displaces that parking behind that building towards the back of the plaza which I think both urban suburban would agree is generally a good thing and it also helps to fine tune the street scape and break up some of these paved areas and lastly it opened up the opportunity to provide more green space along the back side of that sidewalk . On top of that once that was done it kind of moves the medium point of that in line building over and naturally shifted our plaza area, So it now aligns right up with the main entrance as your coming into the plaza and you are now looking at that focal point of the landscaping. We would like to have some kind of sculpture which we will work the details out which will provide a unique experience rather than the standard plazas.

So that was a significant change to

the site plan in terms of improvement. I am hopeful it helps to satisfy some of the Board's comments and as you are familiar with the FEIS square footage this Board has an opportunity to request changes to the site plan by putting that building there to comply with the setback and not add any additional variances or anything like that. And again that is the main thing that we were told at our last meeting.

MR. CHAIRMAN: Since we met last one of the things that we brought up at concept review we had a request to see the evolution of this and how you got to this looking at some of the concepts that you had. Did you bring any of that?

MR. SUDOL: No I brought several of those last time and we went through those but I didn't bring any of those.

MR. CHAIRMAN: Do you recall us asking for that?

MR. SUDOL: Not necessarily we talked about the L shaped building. Last time if you recall we talked about possibly splitting the building and we looked at different concepts and different varieties of those.

MR. CHAIRMAN: We have had an opportunity to review this further as you have taken an opportunity to make some modifications. Let me speak to a couple of things and one I guess some of these things are kind of minor but I guess we can talk about them. One thing looking at the access road between Whole Food and building two which is Star Bucks, if we take a look at that I think what we are seeing is the number of internal intersections that are being created. So that one is the main entrance and then you have the parking lot right in front of building two aligning with the drive aisle to the main entrance to Whole Food and a number of internal sections down that particular spot that seems to be a lot of conflict or potential conflict points that in multiple intersections and we are concerned is that really the best alternative for the vehicles and pedestrians.

MR. SUDOL: Yes what you can do is reduce the number of drive aisle up to here. If you really look at it the Whole Food main parking area is up here 99 percent of the time people coming to Whole Foods will be parking up here and only at the busiest times would they be parking back here. So you only have these two squares and the bottom square has been designed so it only has one access point to service half of this parking area and then there is two areas that service the other parking areas. This has been very successful in looking at much larger parking areas. The problem is when you start channeling this whole area then you are creating internal cues and you can create an internal grid lock. Also based on the results of our traffic study these areas back here they don't end up being blocked and on top of that when you go and try to limit those access points you also start to lose parking and there is that parking requirement but just from an engineering standpoint and based on precedence on much bigger areas and much more traffic it works very well and there is no reason channel as well for that southern half of that parking area.

MR. CHAIRMAN: The driveway throat that comes in it does outline more as you shifted the building over. Does that have a potential of a problem with vehicles moving to fast and coming in and just going straight down that one way driveway, is there a way to prevent that?

MR. SUDOL: You have to remember most people coming in from here everyone is making a turn only less than one hundred feet away and they obviously slow down coming in pretty quickly and because that throat is pretty narrow I don't see that speed in that area.

MR. CHAIRMAN: Is that a possibility for pedestrians who may not follow the sidewalks to Star Buck that are laid out and may choose to get across that main access drive rather than using the pedestrian path that you designated?

MR. SUDOL: We have done our best to make it clear. I am not sure what you are asking or suggesting but I am pretty confident in the way it is proposed.

MR. DANIEL: I think one of the issues while you are looking at this it seems to be Market Place Mall while in reality it is Clover Lane so from where you turn into that driveway to that stop before the building 2 it is about 120 feet so its not like you are going a quarter of a mile to your point at 30 miles an hour and so if a pedestrian steps in front of me it's a dangerous conflict. In 100 feet you are not building up that much speed. So putting it into perspective is important in terms of those kinds of conflicts. Certainly part of the plan is to make it as friendly as possible but you can't stop somebody from wondering off into the middle of the road but it should be clearly marked. And there are ample routes for pedestrians to get to where they want to go and get there safely.

MR. SODUL: Quite frankly 90 percent of Star Bucks business is kind of wrap and go and it is not going to be as common as some of the other pieces.

MR. CHAIRMAN: We just want to make sure it is as attractive to people using other stores in the plaza to just walk to Star Bucks.

MR. SODUL: And quite frankly when we went through the progression last month one of the plans that we showed was submitted as part of the FEIS and this Board reviewed this and had Star Buck's curb cut right at this curb. So having that curb cut right there even though there is not a sidewalk people are more likely to use the pavement and race to the front door and that would promote people to use that area but now that whole area is curved lawn and landscaped. So now there is very little opportunity for people to cross these areas to access this site and I am not going to say people won't do it but in eliminating that curb cut it does not invite people to come through that area as it once did.

MR. CHAIRMAN: One of our Board's thoughts is whether or not the Star Buck's could sit on the road on Monroe Avenue a little more like buildings 4 and 5 do and I think in order to accomplish that it has to be done in such a way similar to the Mt. Hope Star Bucks up across from College Town. It actually stays the same configuration but it would be slid west and then you have a horse

shoe type configuration for the vehicles so the driver ends up on the same side that you have if you just take the building and move it to the west.

MS. DELANEY: It's the same style as you see at Wendy's a little further down on Monroe Avenue and they have a U shaped drive-thru as opposed to a wrap around building.

MR. SUDOL: What benefit does that ultimately provide us?

MR. CHAIRMAN: It keeps all of the -- instead of putting a driveway between the sidewalk and the building it will allow the building or patio space to be along Monroe Avenue.

MR. DANIEL: You would still have to get around there even with that horse shoe.

MR. CHAIRMAN: So you would come in on the top and swing around essentially around the entrance drive and then -

MR. DANIEL: I think we looked at that at one time and I think where the conflict starts is where the parking is.

MR. CHAIRMAN: Two lanes are now on the entrance side.

MR. SUDOL: It's one thing if you have those two lanes and they are separated by 20 feet or so if you have enough of that radius to make that turn similar to their property at the car wash but if you have to put them right next to each other obviously you are not going to be able to make that turn. So if you add in that additional pavement plus the space in between to be able to make that turn. I think it is something to look at whether it works or not.

MR. CHAIRMAN: I think it's a test pit. My suspicion is if you push that parking out you stand to benefit along Monroe Avenue. I think everybody probably said on Mt Hope it  
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wasn't going to be a pedestrian environment and today they are saying Monroe Avenue is never going to be a pedestrian environment but if we are able to accomplish buildings 4, 5 and Star Bucks maybe it will become more pedestrian. There is a trade off on this and I am asking you to look and see if that has merit or is that just way too much driveway and pavement all at the driveway turn.

MR. SUDOL: I suspect that but we certainly will look at that.

MR. CHAIRMAN: I think the last time we mentioned before you came up the building 5 concept was to eliminate the parking spaces that backed out into that driveway on the west side of building two and slide the building down to open up some spaces -- basically take the parking from the west end of building 2 and put it on the east end. You have now successfully done that but the parking is still there and people have a chance to back out into that --

MR. SUDOL: Like I said the amount of traffic from this point south or west places this north of that. So we certainly will look at that. I am confident we will not have a major conflict there will be hardly any people driving down there.

MR. DANIEL: We did discuss that comment and two other points that came up were minimizing the conflict from where you are parking and having to get to the front door with the rain and snow so not having to cross a drive aisle was important and also with this plan here most likely we are going to need more handicapped spots specifically in that corner. So obviously if you start adding handicapped spots and van loading spaces you start really compromising how many spots are closer to the building.

MR. CHAIRMAN: Okay I am still going to ask you what could happen if you did eliminate those spaces its not only your only connection point but I think it is your primary connection to the trail but there could be an advantage with that business that is on the end of that west end of that building 2 and could take advantage of that space as a sidewalk space or outdoor space. The same way you have a lot of other locations plus it becomes rather than a five foot sidewalk up against the building it becomes a little more spacious as a pedestrian corridor.

MS. CIVILETTI: That is part of the whole main truck path to the Whole Food, is it not?

MR. DANIEL: Yes, it is.

MS. CIVILETTI: So in spite of the assertion that there may not be that much car traffic out there and it sounds as if it should be or there are still potential conflicts with loading truck traffic.

MR. DANIEL: There again most of that traffic will be either before the store opens or right after not during peak times and you know again you start looking at how many of those there are maybe a couple of trailers a day and some other deliveries that are smaller delivery vehicles.

MR. CHAIRMAN: I think we just have a general comment about the dumpster location. I think the one that serves building 2 and 5 makes sense, Whole Foods must be all internal. I think the one for Star Bucks we would like you to look at alternative locations for that. I am not sure we are sitting here offering grand thoughts but I think the way the pedestrian connection goes from Whole Foods and from building 2 is directed visually right at the dumpster. And again we are trying to encourage people to walk to Star Bucks and encourage that type of movement. And I think if there walking path is looking at the side or the back of the dumpster I encourage you to look at another way to put that, that makes sense. And also how people from building 4 get their garbage over to the dumpster behind number 5 but I want to make sure that I think your renderings – how is that going to get serviced.

MR. SUDOL: I think the maintenance guy takes the garbage from building 5 and crosses the pavement and dumps it.

MR. CHAIRMAN: I guess that is fine if that is the solution.

MR. SUDOL: We looked at the



location of the dumpster being closer to that building but that building is open on all four sides and it would be detriment to put anything right next to it.

MR. CHAIRMAN: Well if it's a matter of being a management solution.

MR. DANIEL: And that is what it will have to be.

MR. OSOWSKI: In addition the dumpster trucks servicing Star Bucks would struggle because of the way the parking is laid out.

MR. CHAIRMAN: A lot of K turns to get there.

MR. BABCOCK STINER: The sidewalks west of building 4 that is right now right up against the roadway? Would it be possible to meander that through the trees and green space back there just something to pull it off a little bit.

MR. SUDOL: That is a good idea to have trees and lawn separating that, I like that. I just want to reiterate that complex there coming off of the main entrance there with the Whole Foods parking lot it seems to be quite honestly it is a recreation of the East Avenue Wegman's parking lot and that is not a fun parking lot.

MR. BABCOCK STINER: I would just ask that you look at that and see what can be done there.

MS. CIVILETTI: I am just reiterating the concerns about the conflicts. I am not entirely in agreement with your assessment that, the drive off of the main entry directly into the field in front of building 2 is not an issue. I feel it would be better served if people had to come in if that drive was radial to that curve instead of tangent which is pretty much what it is now and reiterating again I think I asked last month about opportunities to shift the main drive so it comes into Whole Foods parking field more in align with what you are

designating the main entry on that corner obviously impacts your parking field for building 2 but I just feel it would be an improvement to the overall site plan. The several four way intersections there at the intersection of the two access drives and the entries into the various parking fields while the defined pedestrian crossings I think are a gesture towards making the whole development more pedestrian friendly. And inadvertently I think there is some traffic management confusion that could be introduced here where there is stop signs in both directions from the cross walks. But as you are coming into where the main drive hits the secondary access drive there is no stop signs restricting the traffic to come out towards Monroe Avenue but then there is a stop sign at the cross walk there. And then as you come off of that main access drive and again as you are going towards the back of the site there is no restriction there and then you are stopping at the cross walk there and basically there is a stream of cars stopping and then they are cuing in front of the access and some of the other parking fields.

MR. SUDOL: And there again we are not anticipating much traffic there.

MS. CIVILETTI: You are saying you don't anticipate much traffic getting there but there is a third of your parking spaces in that parking site.

MR. SUDO: Right.

MS. CIVILETTI: I am not buying that. That is all I have.

MR. BABCOCK STINER: One more thing if Star Buck's moves the order sign to the west of the opening to the parking area so the concern is that if you leave the order sign where it is you could be creating two different cues into the drive-thru. Somebody could come in through the parking area and traffic could end up cuing for the drive thru and back through the parking lot. If you make people have to order back there then the potential for the people to cue through the parking lot drops considerably.

MR. BOEHNER: Why was that left open I am just trying to understand.

MR. SUDOL: Yes, you could easily close that off but the problem if you move the drive through is that people are going to come in and they are going to go through the parking potentially if we were to leave that open.

MR. BABCOCK STINER: The problem is if you close that off then it becomes a difficult K turn issue.

MR. SUDOL: It would be like any other parking lot there is a million parking lots that have that closed in.

MS. DELANEY: But they are hard, we were talking about the one at Paniera's at 12 Corners how you get in there and then you sort of get stuck because it is a dead end.

MR. Sudol: Those are grossly designed and they don't have appropriate difficult drive aisle's and they don't always have a true 60 foot bay, when you have a true 60 foot bay it is very easy to get and out of those areas plus those people to leave have to do that any ways because they are not going through a drive thru.

MR. DANIEL: It is a conflict so I think you either have to close it off or make that a second entrance through the drive thru.

MR. BOEHNER: Perhaps you can look at alternatives for it you can address that. Have you guys verified that the fire access for Whole Foods is adequate?

MR. SUDOL: Yes. That is part of the FEIS.

MR. BOEHNER: So you guys have checked that out?

MR. SUDOL: Yes.

MR. BOEHNER: Okay. Could you discuss the type of buffer that you have on building 2.

MR. SUDOL: Yes, there is a detail provided in the plan set. I don't know if you have had a chance to review that. It's on the last page.

MR. BOEHNER: Because the Conservation Board wants additional plantings back there.

MR. SUDOL: They asked us to expand that back there. What is proposed back there is the sidewalk and a board on board single fence a 6 foot fence and we looking at installing a few trees and also a retaining wall on it which is on the down ward side.

MR. BOEHNER: What is the height of the retaining wall?

MR. SUDOL: It is approximately 3 feet and it is setback about a foot and a half above that.

MR. BOEHNER: Have you guys talked to RTS about the details of the bus shelter.

MR. SUDOL : We provided that a few weeks ago. I believe it is there.

MR. BOEHNER: Are you guys proposing a charging station there.

MR. SUDOL: It is right here at the entrance. And in order to function properly they have to be close to the electric panel to draw a lot of power and we want to promote the use of those types of vehicles.

MR. BOEHNER: How about the other buildings.

MR. SUDOL: That is something we can talk about.

MR. CHAIRMAN: The last thing I have is the resolution and the FEIS not necessarily lead certification but complying with the standards. Would it be your intention to kind of fill out the credit check list or lead cylinder. I assume you are looking at doing a building corp or shelter.

MR. SUDOL: Yes. That is exactly how you explained it.

MR. CHAIRMAN: Based on design do you think you are far enough along to check some of the boxes and see where you are.

MR. SUDOL: Quite frankly we haven't progressed the design because it doesn't make much sense until we get through the entire process.

MR. CHAIRMAN: I just want to keep checking on the lead certification.

MR. SUDOL: Certainly the lead certification.

MR. CHAIRMAN: Yes there are certain prerequisites and some of the site related things that you can start checking off at this point.

MR. BOEHNER: What type of light fixtures will be in there, are they 25 foot poles and are they dark sky compliant?

MR. SUDOL: I would have to look at the details here it says 24 foot poles its on page 5.

MS. DELANY: I don't see a bike rack is that maybe something that could be added?

MR. SUDOL: Yes.

MR. BOEHNER: Something else how will pedestrian access be protected during demolition and construction because people will be back there.

MR. SUDOL: I know. The trail will be back here, that is another thing we can talk about.

MR. CHAIRMAN: Okay, this is a public hearing is there anyone that cares to address this application? Please come up and give your name for the record.

MR. BERGDORF: Good evening Robert Bergdorf from Nixon and Peabody Law Firm. Here on behalf of the Clover and Allen Creek Neighborhood Association which is comprised primarily of residents that live close to this project and most closely affected. We do very much appreciate the Board taking its time to listen to us. It is a tough decision throughout this review process. We want to balance what the developers are fighting for against what the neighborhood believes is reasonable protection for an intense non residential use that is encroaching into a residential area, not just abutting but encroaching with about a third of the project. And so we appreciate the difficulty and responsibility and we are placing our faith in your careful review.

I have three items I would like to raise but I would like to reiterate the neighborhood is not against Whole Food and it never has been for the past three years. We are not against Whole Food. I get call from people who say the food is not organic and that has nothing to do with the associations concerns here except that it is a grocery store which is a high trip generator. And Star Bucks which is another high trip generator and that along with the other combined square footage it is a project that is much larger than is co-compliant. All of that promotes the need to be co-compliant. But we do not care that it is a Whole Foods and in fact far from being against the development of this property we have encouraged it right along and we encourage proper code compliant development of this parcel. The Town Board disagreed and said it does not need to be code compliant with the initial standards with incentive zoning and the developer said it needs to be this big in order to make a profit. So that is where we are.

The association does not understand why it needs to be so big and encroaching by three acres a third of the project into this residential zone nor do we understand why the town feels it has to allow the square footage that grossly exceeds the co-compliance of this project but that is where we are. And we just hope you keep that in mind during your review as you come to your final size and the design in your decision because it affects our neighborhood. And it is unfair in a number of ways and the primary one since day one and it is the biggest one and most important one which brings me to the rear access points on Clover Street and that has been one consistently since day one. The project is so much larger than the code allows and the developer has pushed right along the traffic congestion and has found relief by sending traffic along Clover Street. The DOT says this is too big and it is so big it is going to have traffic impacts. Senator Roehboch has expressed his concerns and our traffic engineer confirmed it but the Town says it is fine and they are not concerned about traffic. And I point to Chic Filet in Greece where sometimes you think you have it right and all I am saying is that is a cautionary tale that you have got to get this right.

So if this Town decides that all those warning signs don't matter and its okay to build it this big. And if you are wrong it shouldn't be on our neighborhood and that is why we are against the rear access points and we have been from the beginning. We hope we are wrong and everything is fine and that there should be no problem closing those rear access points. So we are pushing for that and after three years of fighting the Town Board finally indicated that they would put that in place a restricted covenant that the neighbors could enforce and that is wonderful and we thought we were done. We could go home and we thought we would celebrate, we thought the association had done its job we would still have traffic but at least we got the biggest issue here but in spite the association putting that in place it still hasn't happened. The developer has tried to build trap doors to it and it is essentially unenforceable. The town has not made this happen we don't know if it is ever going to happen we have had the documents for some time and the most recent request was this past Monday and it has been three days and we have not heard back. The neighbors e-mailed the supervisor and we have not heard back. So we don't know if this restricted covenant is going to happen. And in fact we just don't trust the Town Board to do it at this point and until it is actually recorded we have nothing.

So we had to double down that lawsuit because we don't know if we are ever going to have that restricted covenant in place. We love the Town and we love the neighborhood and we are going to fight to get those access points closed. So we have had to push for two things that the restricted covenant would have done because there are other ways to skin a cat and remember this project has to end. The existing trail runs basically through here takes out all of this parking : essentially the three acres and this project can not proceed unless and until this meets the bounds described in the circuit or restrictive covenant. So recreation is transferred to the developer and they will bring it back which is fine but we still have the access points coming back over Allen Creek. So if we can't get a restricted covenant then keeping this in place stops the traffic here and they can't take cars here or here and on Clover. So we are raising those two issue to you because the developers engineers sat here last month and told you that the developer has land control over the restrictive covenant and that is not true and developer knows that. That is absolutely untrue and that is the subject of the lawsuit that is currently pending.

It hasn't happened but the Town would have to convey recreational use to the developer and they would convey it back and this is a housekeeping issue but there are two major hurdles to over come and the first is the public trust and the public trust document says that before a municipality can convey any public land They have to get State legislatures you have to have Senator Morelli and Senator Robach and they each have to introduce it in their respective houses and at this point Senator Morelli may be elected to Congress next Tuesday and he may have a different view but right now this developer has not satisfied the public trust doctrine and there is no path forward or likelihood that there will be.

So they need to satisfy that first, this application is not complete until that occurs. Secondly even if they had the State legislature and they said go ahead and convey it there is a second hurdle which is also out of control before any municipality can convey any town land it has to be subject as a practical matter once the town conveys it a resolution and if the community gets 532 names it is a simple majority the project stops here and that means we can stop traffic from going out on Allen Creek and Clover Street. That's got to happen and the developer



says he certainly will get the public trust doctrine resolved and the referendum resolved but he doesn't know. I think any other application without land control would not be deemed complete without this Board's approval and this is no different here. That is the big issue and the substance of what I am saying you have got to ask your legal counsel to look at it and advice. We are certain that land control has not been secured with this project the way it is proposed here and it may never be. And we wish we didn't have to press it and we have not gotten the cooperation that we need to proceed and until that is resolved that is the big issue here for the association the rear access points and the minimum that should be a condition for the building permit to be pulled.

The other issues will be real quick basically it is buffering and landscaping and when the project was introduced a few years ago we asked for a berm and landscaping and we were told specifically that is not a problem. So wherever the project stops either the recreation line or all the way back wherever it stops I ask this Board to do it well and I know this Board has a great reputation for that. So we ask you to look at it and to have our own landscape architect to look at it because we have heard nothing about that and heard it for the first time tonight that there maybe a fence and we just ask that you pay attention to those typical items.

The third and last item the community has had a real problem with this project, not this board but with the Town Board where things went on this agenda in a way as a practical matter prevented public participation . For a two month period leading up to the January 24 Town Board meeting we made two phone calls to the Town and all we wanted to know when was the Supplemental Report in and when was the Board going to look at it. That is all we wanted to know and there was not a word back We were watching the agenda religiously and we happened to catch the night of the 24<sup>th</sup>, hours before it went on. We want to make sure that doesn't happen here. I have the utmost respect for the staff and Mr. Boehner in particular but apparently staff has been instructed not to return my calls which is a real departure from the past and I was only trying to get information and I am asking you how do we get that information without having to check the agenda or be blind sided. The Town Board said it could legally give us notice that evening and that is one of the issues before the Judge. We are

just asking to get notice. Those are the only issues I have but I am going to raise one other issue the association has no dog fight on whether it is graveled or not but we had a bunch of people come up to us and ask where do we get off telling the Town we want it graveled or paved. We don't care it is not an issue and I want it clear on the record we did not advocate one way or another all we told them is we would do is pass it on to the Planning Board and we have passed it on and you might want to probe that a little bit.

Something else the cross walk over Allen Creek where it connects so if staff wants to take note again that is not an issue but I did want to raise it. Again the Board has a duty to strike a balance and we ask you to consider this. These are neighbors who have worked very hard on this and even if it not what the developer wants or the Town Board wants and we are asking you to consider the two points we have raised and until those issues are resolved no building permit should be pulled. Thank you for your careful consideration.

MR. CHAIRMAN: Thank you.

Anyone else care to address this application?

MR. SEKIN: Thank you and Good evening Members of the Board, my name is Aron Sekin and I am an attorney representing Safe Monroe Avenue and as you know we are supported by a number of businesses, of different sizes up and down Monroe Avenue. I want to make if nothing else one fundamental point with what I say to address the Board tonight and I think it was in response to a sentiment that was shared by some of you at the last meeting here. It seems as though some of you were lamenting that this Board has only a limited role in the review process for the project and is sort of tied down at a broad level with what the Town Board had already approved. I am here to make a fundamental and critical point tonight which is that your jurisdiction is not limited to some of the more mind points or portions of the project. You have the authority and responsibility under Town Code to address larger issues and here is what I mean by that. When the Town Board approved the project in the incentive zoning process what it effectively did is set the outer limits for the project. What it did not do is strip your responsibility and authority under the Town Code to closely review what has been put forth for the project under the site plan approval

process. You can conduct that and you have a responsibility to conduct that without limitation and what do I mean by that? Well it is directly within your jurisdiction to review as part of that process the size of the project the location of some of the buildings on the site. You can certainly shrink some of the buildings when you examine the overall impact on the neighborhood and in particular traffic issue. That is a huge, huge point of reference and a number of mistakes and oversights were made by the Town Board that this Board is not limited to living with it. You have the authority to review these things and I will explain what I mean.

To begin with you are also an involved agency under SEQR and under SEQR there is an obligation to consider adverse impacts to the extent possible and you must also as the Planning Board evaluate those factors and those impacts as they relate to the site plan approval process. Traffic is a huge point and in fact the SEQR record from the Town Board itself doesn't adequately address traffic. And what do I mean by that? Well as you may recall a few months ago the Supervisor held a press conference here and decided he was going to instruct without any study or deliberation from the Board he was going to instruct the developer essentially to lop off the smallest building from the project as a way to mitigate traffic impact.

Well that wasn't a study and it didn't even address as Mr. Bergdorf had mentioned the two largest traffic generators for the project which would be the drive-thru Star Bucks and Whole Foods. It certainly didn't address the fact that the Town Board had initially indicated that the rear access points were going to be closed. Initially what the traffic studies contemplated was those rear access points being open. And now that they are closed you don't have a full assessment of traffic impacts and you certainly don't have a mitigation measure to address this that was taken by the Board. And to impress that I was here when the Board gave its final approval and one of the Board members said "Well to be honest with you, was the decision to just remove one building as a way to mitigate traffic and was that arbitrary. Yes that was arbitrary" and those were his words literally and that was a failure of one of the most basic and fundamentally responsibilities under SEQR and it is a failure this Board does not have to live with. I submit you have a responsibility to take a hard look at these things and you are not limited in your jurisdiction.

Another issue that came up in regards to traffic and this goes to the issue of scoping. The Town Board failed to comply with the final projects scope with regard to the traffic impacts. Now the Board had opted to prepare in writing a scope document As part of the FEIS. So when you do that it actually has to address all of the issues identified in the scoping process and there is a huge gap in what occurred here. Here's what I am talking about, the Board failed to look at the as of right comparison for the traffic impact, in other words, there was no base line study for the traffic impacts as there would have been if this project were built as a right under the Zoning Code as compared to what it would be under incentive zoning. It's missing and another failure a critical failure under SEQR. As I pointed out if you are told whether its by the developer or by their counsel that you are limited because you are not the lead agency and what you can review.

I am here to explain to you that you have the ability and jurisdiction with regard to your role in the Site Plan Approval process under Town Code to review these things and there is a case in the Third Department in the Appellate Court called Joyce Sand and Gravel that lays it out clearly, you have the ability to do this and your jurisdiction isn't limited, in fact you have more than the ability, you have a responsibility to review these things and not simply say our hands are tied with this the Town Board left us with what they left us with. You don't have to do it that way you have an obligation to look deeper at this.

The last point I want to make and I think this Board understands and appreciates the fact that before any approvals are issued to the developer for this project. The Board as an involved agency must be complete its own SEQR findings. I would strongly urge the Board as it has in the past to abide by that process before any approval for the project. I thank you all for your time.

MR. CHAIRMAN: Thank you,  
anyone else?

MR. ZOGHLIN: Good evening my name is Mindy Zoghlin. and I represent Grass Roots. Grass Roots is a local citizens group and it is comprised of people who are very concerned

about the transparent open process and they are deeply interested in how this particular application has been processed. I want to comment on a couple of technical issues tonight because I foiled the application as you are considering and I haven't gotten a copy of it yet so we have not had an opportunity to review the substance of the application. So tonight my comments will just be focusing on some technical procedural stuff. I don't know if this Board has sent the application from Preliminary Site Plan back to Monroe County. I know that County planning has reviewed this matter back in July 2016. But the project has changed substantially over the past two years for example traffic and transportation issues, the size of the buildings are greatly reduced. The back access points were eliminated so the site plan that you guys are reviewing right now hasn't been sent back to County planning and I would ask that you do so before you go any further with this. Otherwise you run the risk of termination under general Law 239.

Another concern that I have deals with whether the applicant has the authority to seek Site Plan Approval at this time. Now obviously I could not come before you and ask for Site Plan Approval for the former Marios Restaurant property. You wouldn't even accept my application because I don't own the property and I don't have the proper permission to ask you to approve a site plan. This is a site control issue and we have concerns about and that is two parts. The first part is easy we know the project site and is owned by the First Baptist Church and RGE and I don't know if the applicant has provided you with permission to proceed with this application. And if they haven't the application isn't fully complete.

The second part of the land control issue is a little trickier, because it involves ownership interests that are not out right ownership and that has a couple of different parts. Now the Town's incentive zoning resolution required a 30 year project prohibiting access from Clover Street and Allen Creek Road. So the signatories to that agreement have an interest in this application and their permission should be obtained before you make any decisions that affect the property. Moreover part of the land for which Site Plan Approval is being sought includes a recorded recreation easement and this easement is a legal interest in property. And since the easement area is dedicated to public

use the easement can not be conveyed without legislative approval. This Application can not be complete for your review because the legislature has not approved the conveyance of the recreation easement to the developer and a similar legal issue is that the easement is in real property that is owned by the Town. And the Town's conveyance of that easement to the developer to satisfy the requirements for Site Plan Approval is subject to a memorandum. So again this application can not be complete at this time because the Town has not passed a resolution that would trigger the time for the concerned citizens of this Town including the Town of Brighton's Grass Roots.

So there are two more technical issues I want to raise with you tonight. The issue relates to the applicant's request that you approve the Site Plan that calls for placing commercial structures in a low density residential property. And as previously stated by the Attorney for the Clover, Allen Creek Neighborhood Association, about three acres of the proposed site plan is on land zoned low density residential district and the application for Preliminary Site Plan Approval calls for a commercial parking lot and a storm water drainage system to be placed on residential zoned land. These are commercial structures and they are not permitted in a residential use without a use variance from the ZBA. Now you probably have a copy of the Town Board's Incentive Zoning Regulations that granted certain incentives to the developer with this project. But if you look at the resolution very carefully the incentives that were granted for residential zoned land only have to do with setback requirements and lot coverage requirements but they don't address the use underlying use, to which those setback and lot coverage relate.

So this Board can not grant a site plan that authorizes commercial use in a residential district unless this applicant applies for a use variance from the ZBA. This is relevant to the portion of the site that the applicant is planning on placing a portion of the parking lot and a storm water management system on residential land. And while the incentive zoning resolution does allow them certain setback and coverage allowances it does not permit the change in use from residential to commercial land. So I am sure your attorney can take a look at that.

MR. CHAIRMAN: This is no

longer residential property this is incentive zoned property.

MS. ZOGHLIN: It is incentive zoning.

MR. DOLLINGER: I think what she is alleging or saying and whether it is true or not is the incentive zoning regulation didn't actually change that zoning classification and as a consequence it is still zoned residential.

MS. ZOGHLIN: Yes, you said it much better than I did. The issue is they may have fiddled with the setback requirements and coverage requirements but the underlying zoning of that remains residential and did not change the residential use of that parcel even though they attempted to fiddle with setback and coverage. I ask you to take a look at it. So the major substantive issue here is does relate to traffic and that goes to the very core of the public health, safety and welfare that this Board is concerned with, not to mention public convenience and community character which are also impacted by this fact. I also know this Board is aware of its obligations with respect to the Access Management Plan and a portion of this development.

The Town Board's incentive zoning resolution and approving this recognizes that this Board has jurisdiction to consider and manage all of the traffic impacts. There is no question about that. And aside during the SEQR Review process this Board essentially made comments on the FEIS and said that you would consider multi model modes and traffic impacts during site plan review and here we are and you are doing that.

What I would like to suggest tonight in order to satisfy these obligations to consider traffic impacts you may need to undertake a traffic analysis. Earlier this week I sent you a letter and that included response from our traffic experts and they think the existing traffic studies simply are not adequate because they don't take several reported things into account. The first thing they don't take into account is that truck traffic and grocery stores is more of an operational issue than what size is the storage. The second existing traffic study

ignores the fact that product variations is not directly related to the number of truck trips and there are other issues that the traffic experts are willing to include and you really need to get a little more information in order to fully assess the quantity of impact of the proposed traffic and in particular what this Board can ask the applicant to provide for undertaking this independently would be to ascertain additional details on the proposed shipping and receiving operation for the proposed Whole Food's store. As well as all of the other tenants because again the trafficking parts are operational they are not just how big is this store type of issue.

The other thing that would be very helpful to you in understanding traffic flow and traffic impacts and we started to talk about that earlier and that was the trash collection operation for all of the development's tenants and they are saying "Well, yeah it could be a problem getting this garbage from this building to that dumpster" and you need that information in order to determine whether or not this plan is going to work and whether the dumpster locations make sense. The other thing that this Board can and perhaps should ask for is traffic data from other Whole Foods stores with similar size and delivery operations. So that you can make an informed decision and finally I would like to take this chance to remind this Board that you are not bound by what the Town Board determined and you have the power and duty to require additional traffic studies to make sure that the amenities and incentives fit the site and the adjacent uses and the structures and that power and obligation will be set forth in Section 2095 C of your Town Code. You don't need to consider the application complete unless you are satisfied that the applicant really has the power and authority to do what it is proposing to do tonight. So on behalf of Brighton Grass Roots and the other citizens who want to be listened to as well as heard I ask you to continue the public hearing and respond to the request for a copy of the site plan so we can review it and give more substantive comments at a later date. Thank you.

MR. CHAIRMAN: Thank you for coming out. Anyone else?

MR. GOLDMAN: Good evening Mr. Chairman, and Members of the Board, my name is Jerry Goldman and I am the attorney and agent for the Daniel Family Companies. I will keep my remarks brief.



We have comments from three separate attorneys some of them overlap and some of them don't. I just want to give you a little background as to where we stand on the restrictive covenant that has been discussed. Mr. Bergdorf's partner is the individual with whom we are dealing with on that right now and you can be assured that that covenant is going to be in place because it is a condition of the Town Board's approval. And basically it says the absence of that covenant means there will not be any further development or any development on this site. Specifically as we deal with the rear access points and there is a prohibition on accessing on Clover and Allen Creek with regard to from this plaza. So in reality we have a circumstance where all of this is moot and if this is the primary concern of the association when it's covenant is completed and we expect that to be within days from now. Perhaps the association will decide not to attack the project any more.

Let me address the land control issue because that was part of all three of the discussion here. The applicant does have land control. We had talked about the easement and some of the esoteric elements that are in the report relative to the public trust doctrine and other doctrines and all of the rest of it. But the fact of the matter is no one stated among all these individuals that the trail easement is not an exclusive easement. It is not exclusive to the Town and for that reason the applicant and the developer owns the property. There may be easement rights against it. There may be easement rights which have to be addressed. And we can address that and we intend to address that. So the land control issue really is a red herring as far as this is concerned. The land is under control of the owner or under contract in the case of the church property in the rear. The Board has received a lot of lectures on what your role is and I think you know what your role is. I think you know that you are not restricted and your counsel and provide counsel relative to that. I do commend the Deputy Town Attorney for the internal interplay of the final environmental impact statement and findings by other agencies. So that case really should be taken a look at in regard to this particular site.

The Town will conform with what is necessary to be done relative to County Planning. I am not understanding the argument that Mr. Dollinger tried to help clarify relative to the use incentive. In fact the incentive zoning does provide a use incentive for the

area which is proposed to be developed. Use incentive is not uncommon. Use incentive was granted in the Walgreen on South Clinton and Elmwood from office to retail commercial and also for the assisted living facility on Westfall Road from single family residential to a category which would have allowed an assisted living facility.

With regard to the traffic impacts it should be noted and I will go back a little bit to what Mr. Sakin was saying we are in full conformance with the scoping outline in the scope which was developed by the Town and adopted by the Town Board. The Town Board under state law is not required to consider every alternative. The Town Board did have an alternative which talked about a project which conformed in square footage and to that extent we did an analysis and we did a no action alternative. We did everything that was required and again I would recommend the Deputy Town Attorney to review that with the Board but in fact we did analyze what was required under the FEIS. As to other points we will review them and if we think they require a response in writing we will provide that to the Board. We feel you are fully authorized to go ahead and consider this application and while I don't expect you to vote tonight given what has been going on and what needs to go on. We will have an opportunity to address all of these points. Thank you.

MR. CHAIRMAN: Thank you. Is there anyone else?

MR. DANIEL: Mario Daniel. I am going to join you up here. Mr. Chairman thank you for allowing this meeting to take place.

MR. GOLDMAN: I am going to join you up here.

MR. DANIEL: I will be very short. For a number of years I would like to point out that for 25 years or so I have been on Monroe Avenue at the location. In this very location for 20 years it has been a parking lot. Once it was residential and it seems that this will destroy the homes that are there now. That is number one and number two I am surprised that people want to tell you what your rights

are . The other thing that bothers me is the fact that they keep on claiming this is too bad. I want to ask you a question. When I went to buy a tooth brush last week to which ever store you went. You drove the car I assume and you went in to buy it. You didn't care whether that building was 10,000 square feet, 11, 5 or 13, 9 you didn't care you went in and you bought your toothbrush and you went home. You didn't say I am not going in there because the building was 3,000 sf more than it should be. So when you are talking about the traffic this will generate it will have nothing to do with the size of the building because as a landlord we can have a 5,000 sf building that can bring 3,000 cars in a day or we can have a 5,000 sf building that only gets two cars a day. So you see the size of the building has no relation at all on the amount of traffic. And I want to say the three lawyers has nothing to do with supporting the neighborhood. It has something to do with something else.

I have presented a petition of every store owner from 12 Corners to Clover Street and everyone has agreed that the project is okay. So when they say they represent Monroe Avenue I would like to know if I could please who are the people they are representing. So thank you very much for listening to me.

MR. CHAIRMAN: Thank you for coming. Anyone else care to speak? Okay very good. We will take a five minute break and come back and do resolutions.

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FIVE MINUTE BREAK

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6P-NB2-18 Application of First Baptist Church, owner, for Preliminary Subdivision Approval to create two lots from one on property located at 75 Allen Creek Road. All as described on application and plans on file. ADJOURNED TO THE JULY 18, 2018 MEETING AT APPLICANTS REQUEST.

MR. CHAIRMAN: The public hearings are closed.

## OLD BUSINESS

5P-06-18 Application of Daniel Family Companies, owner, for Demolition Review and Approval to raze a vacant 10,800 +/- sf restaurant building and a vacant 44,600 +/- sf bowling alley on property located at 2740 Monroe Avenue and 2750 Monroe Avenue. All as described on application and plans on file. TABLED AT THE MAY 16, 2018 MEETING – PUBLIC HEARING CLOSED –ADJOURNED TO THE JULY 18, 2018 MEETING AT APPLICANTS REQUEST

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## PRESENTATIONS

NONE

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## COMMUNICATIONS

Letter from Matt Tomlinson, Marathon Engineering, dated May 24, 2018 requesting adjournment of application 2P-NB1-18 to the July, 2018 meeting.

Letter from Howie Jacobson, dated May 27, 2018 regarding the Whole Foods Plaza proposal.

Letter with attachments from Line Swedrock, P.E., BME Associates, regarding the possible relocation of the AMP Cross access easement to the front of property located at 2775 Monroe Avenue.

Letter from Edmond Martin, P.E., LandTech, dated June 1, 2018 requesting adjournment of application 4P-NB1-18 and 6P-05-18.

Letter from Tom and Sue Kelley, dated June 18, 2018 withdrawing application 6P-03-18.

Letter from Jess Sudol, PE, Passero Associates, dated June 19, 2018 requesting adjournment of application 6P-NB2-18 to the July 18, 2018 meeting.

Letter from Jess Sudol, PE, Passero Associates, dated June 19, 2018 requesting adjournment of application 5P-06-18 to July 18, 2018 meeting at applicant's request.

Letter, with attachments from Mindy Zoghlin, Zoghlin Group, PLLC, dated June 18, 2018, with comments and concerns regarding applications 6P-01-18 and 6PNB1-18.

Letter from Robert Burgdorf, Nixon and Peabody, dated June 18, 2018 with comments and concerns regarding the Whole Food Plaz development.

Letter, with attachments, from Charles Malcomb, Hodgson Russ, LLP, dated June 19, 2018 with comments and concerns regarding the Monroe Avenue Plaza redevelopment.

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#### PETITIONS

NONE

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6P-02-18 Application of 150 Metro Park, LLC, owner for Site Plan Modification to construct 16 additional parking spaces, add additional access points, relocate loading bays and reconfigure the parking field over 2 phases on property located at 150 Metro Park. All as described on application and plans on file.

MR. FADER: I move to close the application.

MR. OSOWSKI: Second.

UPON ROLL CALL VOTE    MOTION UNANIMOUSLY PASSES

Mr. Price            Yes

Ms. Delaney    Yes

Ms. Civiletti       Yes

Mr. Fader        Yes

Mr. Osowski        Yes

Mr. Babcock Stiner    Yes

MR. FADER: I move the Planning Board approves the application based on the testimony given, plans submitted and with the following conditions and Determination of Significance.

## DETERMINATION OF SIGNIFICANCE

I move that the Planning Board of the Town of Brighton declares itself to be lead agency under the State of New York Environmental Quality Review Act. After considering the action contemplated, the Planning Board finds it to be an Unlisted Action. Upon review of the Environmental Assessment form, the application and materials submitted, and the criteria for determining significance pursuant to the SEQRA the Planning Board finds that the proposed action will not have a significant impact on the environment. The Planning Board adopts the negative declaration prepared by Town Staff.

1. Document of the approval of the woner of 172 Metro Park for the proposed access to the 172 Metro Park driveway shall be submitted prior to commencement of Phase 1.
2. Arechitectoral Review Board approval shall be obtained prior to any changes to the exterior of the building in either phase of the project.
3. Maintenance of landscape plantings shall be guaranteed for three years.
4. Any contractor or individual involved in the planting maintenance or removal of tress shall comply with the requirements of the Town's Excavation and Clearing (Chapter 66). Trees (Chapter 175) and other pertinent regulations and shall be registered and shall carry insurance as required by Chapter 175 of the Comprehensive Development Regulations.
5. The project and its construction entrance shall meet the New York State Standards and Specifications for Erosion and Sediment Control.
6. Erosion control measures shall be in place prior to issuance of any permits.
7. The contractor shall designate a member of his or her firm to be responsible to monitor erosion control, erosion control structures, tree protection and preservation throughout construction.

- 8 All disturbed areas shall be protected from erosion either by mulch or temporary seeding within two weeks of disturbance.
- 9 The entire building shall comply with the most current Building and Fire Codes of New York State.
- 10 Prior to issuance of any building permits, all plans for utility and storm water control systems must be reviewed and have been given approval by appropriate authorities. Prior to any occupancy, work proposed on the approved plans shall have been completed to a degree satisfactory to the appropriate authorities.
- 11 All County Development Review Comments shall be addressed prior to final approval.
- 12 Meet all requirements of the Town of Brighton's Department of Public Works.
- 13 All required permits and approvals of the Town of Brighton Highway and Sewer Department shall be obtained.
- 14 All Town codes shall be met that relate directly or indirectly to the applicant's request.
- 15 All comments and concerns of the Town Fire Marshal and Town Engineer shall be addressed.
- 16 All other approvals must be received from those agencies with jurisdiction prior to the Town issuing its approval.
- 17 All comments and concerns of the Town Engineer as contained in the attached memo shall be addressed.
- 18 A letter or memo in response to all Planning Board and Town Engineer comments and conditions shall be submitted.

MR. BABCOCK STINER: Second.

UPON ROLL CALL VOTE MOTION UNANIMOUSLY PASSES

Mr. Price	Yes	Ms. Delaney	Yes
Ms. Civiletti	Yes	Mr. Fader	Yes
Mr. Osowski	Yes	Mr. Babcock Stiner	Yes

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6P-04-18 Application of Iron works at High Falls, LLC, owner for Preliminary/Final Site Plan Approval to construct a 178 +/- sf building addition on property located at 2300 East Avenue. All as described on application and plans on file.

MR. FADER: I move to close the hearing.

MS. DELANEY: Second.

UPON ROLL CALL VOTE MOTION UNANIMOUSLY PASSES

Mr. Price	Yes	Ms. Delaney	Yes
Ms. Civiletti	Yes	Mr. Fader	Yes
Mr. Osowski	Yes	Mr. Babcock Stiner	Yes

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MR. FADER: I move to the Planning Board of the Town of Briton approves the application based on the testimony given, plans submitted and with the following conditions and Determination of Significance:

DETERMINATION OF SIGNIFICANCE

I move that the Planning Board of the Town of Brighton declares itself to be lead agency under the State of New York Environmental Quality Review Act. After considering the action contemplated, the Planning Board finds it to be an Unlisted Action. Upon review of the Environmental Assessment form, the application and materials submitted, and the criteria for determining significance pursuant to the SEQRA the Planning Board finds that the proposed action will not have a significant impact on the environment. The Planning Board adopts the negative declaration prepared by Town Staff.

1. Historic Preservation Commission approval shall be obtained prior to the commencement of any work on the building, ramp, porch or walkway.



2. Any proposed use of the buildings shall obtain all required Zoning Board of Appeals or other Town approvals.
3. Existing and proposed density on the lot shall be provided.
4. A second floor plan for the building shall be submitted.
5. A note shall be added to the drawings to ensure a max 2% cross slope along the entire length of the new walk.
6. Maintenance of landscape plantings shall be guaranteed for three years.
7. The project and its construction entrance shall meet the New York State Standards and Specifications or Erosion and Sediment control.
8. Erosion control measures shall be in place prior to issuance of any permits.
9. The contractor shall designate a member of his or her firm to be responsible to monitor erosion control, erosion control structures, tree protection and preservation throughout construction.
10. All disturbed areas shall be protected from erosion either by mulch or temporary seeding within two weeks of disturbance.
11. The entire building shall comply with the most current Building & Fire Codes of New York State.
12. Prior to issuance of any building permits, all plans for utility and storm water control systems must be reviewed and have been given approval by appropriate authorities. Prior to any occupancy, work proposed on the approved plans shall have been completed to a degree satisfactory to the appropriate authorities.
13. All County Development Review Comments shall be addressed prior to final approval.
14. Meet all requirements of the Town of Brighton's Department of Public Works.

15 All Town codes shall be met that relate directly or indirectly to the applicant's request.

16 All comments and concerns of the Town Fire Marshal and Town Engineer shall be addressed.

17 All other approvals must be received from those agencies with jurisdiction prior to the Town issuing its approval.

18 All comments and concerns of the Town Engineer as contained in the attached memo shall be addressed.

19 A letter or memo in response to all Planning Board and Town Engineer comments and conditions shall be submitted.

MS. CIVILETTI: Second.

UPON ROLL CALL VOTE MOTION UNANIMOUSLY PASSES

Mr. Price Yes  
Ms. Civiletti Yes  
Mr. Osowski Yes

Ms. Delaney Yes  
Mr. Fader Yes  
Mr. Babcock Stiner Yes

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6P-01-18 Application of Daniel Family Companies, applicant, for Site Plan Modification to construct shared parking and access, known as the Access Management Plan, on and across 2835 Monroe Avenue 2815 Monroe Avenue, 2799 Monroe Avenue, 2787 Monroe Avenue, 2775 Monroe Avenue, 2735 Monroe Avenue, 2729 Monroe Avenue and 2717 Monroe Avenue. All as described on application and plans on file.

MR. FADER: I move that the application be tabled based on the testimony given and plans submitted and to make findings pursuant to SEQRA. The following information is required to be submitted no later than two weeks prior to the next Planning Board meeting.

1. Meet all requirements of the Town of Brighton's Department of Public Works.

2. All Town codes shall be met that relate directly or indirectly to the applicant's request.
3. The project and its construction entrance shall meet the New York State Standards and Specifications or Erosion and Sediment control.
4. The contractor shall designate a member of his or her firm to be responsible to monitor erosion control, erosion control structures, tree protection and preservation throughout construction.
5. All trees to be saved shall be protected with orange construction fencing placed at the drip line or a distance greater than the drip line. Trees shall be pruned, watered and fertilized prior to , during and after construction. Materials and equipment storage shall not be allowed in fenced areas.
6. Maintenance of landscape plantings shall be guaranteed for three years.
7. Any contractor or individual involved in the planting maintenance or removal of trees shall comply with the requirements of the Town's Excavation and Clearing (Chapter 66). Trees (Chapter 175) and other pertinent regulations and shall be registered and shall carry insurance as required by Chapter 175 of the Comprehensive Development Regulations.
8. Dumpsters shall be enclosed with building materials that are compatible with the existing building and located in the rear yard. The enclosure shall equal the height of the dumpster.
9. The parking lot shall be stripped per the requirements of the Brighton Comprehensive Development Regulations
10. If additional parking lot lighting is proposed, a lighting plan which shows the type, location and lighting contours shall be submitted.
11. All outstanding Site Plan comments and concerns of the Town Engineer regarding soil erosion, storm water control, water system and sanitary sewer design shall be addressed.

12. All County Development Review Comments shall be addressed.
13. The plans must be revised to show the site data for each lot and how the proposed improvements meet the incentives granted by the Town Board and the requirements of the Comprehensive Development Regulations. Bulk parking requirements must be shown on the plans. Additionally, the plans should list the pertinent site data including zoning requirements, variances and incentives.
14. The plans should be revised to show property addresses and lot designation used in the incentive zoning approval.
15. The plans must be revised to show the residential zone district line.
16. The plans must be revised to show dimensions and setbacks for the proposed improvements.
17. NYSDOT must review and approve the plans for the new traffic lights and the Access Management Plan.
18. A use variance was granted in August of 2007 to the Comfort Inn to allow a portion of NYSDOT residential zoned land to be used as a parking lot.
19. If a use and occupancy permit is to be obtained from NYSDOT, a use variance must be obtained for the improvements proposed on NYSDOT residential zoned land abutting the City Mattress and Mamasan's parcels.
20. The plans must be revised to show the location of any relocated fences, dumpsters and their enclosures.
21. Prior to any approval granted for this application, the Planning Board must make SEQR findings.
22. All comments and concerns of Michael Guyon as contained in the attached memo dated June 19 2018 to Ramsey Boehner shall be addressed.

23. A letter or memo in response to all Planning Board and Town Engineer comments and conditions shall be submitted.
24. The revised plans may reveal additional issues that will need to be addressed. Therefore the Planning Board reserves the right to make additional comments of future submissions.
25. All conditions and requirements of the Town Board incentive zoning approval for this project shall be satisfied.
26. The plans shall be revised to show the improvements to Mamasan' and City Mattress access driveway as required by the Town Board Incentive Zoning Approval. Details of the improvements shall also be provided on the plans.

MS. CIVILETTI: Second.

UPON ROLL CALL VOTE MOTION UNANIMOUSLY PASSES

Mr. Price	Yes	Ms. Delaney	Yes
Ms. Civiletti	Yes	Mr. Fader	Yes
Mr. Osowski	Yes	Mr. Babcock Stiner	Yes

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6P-NB1-18 Application of Daniel Family Companies, applicant, for Preliminary Site Plan Approval to construct a five building retail plaza totaling 83,700 sf, which includes a 50,000 sf Whole Food Store and a 2,000 sf drive-thru coffee shop on properties located at 2740 Monroe Avenue 2750 Monroe Avenue, 2800 Monroe Avenue , a portion of 175 Allen Creek Road and a portion of 2259 Clover Street. All as described on application and plans on file.

MS. CIVILETTI: I move that the application be tabled based on the testimony given and plans submitted and to make findings pursuant to SEQRA. The following information is required to be submitted no later than two weeks prior to the next Planning Board meeting.

1. An operational Permit shall be obtained from the Town of Brighton Fire Marshal ( Chris Roth 784-5220)
2. All buildings shall comply with the most current Building and Fire Codes of New York State.
3. Prior to issuance of any building permits, all plans for utility and storm water control systems must be reviewed and have been given approval by appropriate authorities. Prior to any occupancy, work proposed on the approved plans shall have been completed to a degree satisfactory to the appropriate authorities.
4. Meet all requirements of the Town of Brighton's Department of Public Works.
5. All Town codes shall be met that relate directly or indirectly to the applicant's request.
6. The project and its construction entrance shall meet the New York State Standards and Specifications or Erosion and Sediment control.
7. The contractor shall designate a member of his or her firm to be responsible to monitor erosion control, erosion control structures, tree protection and preservation throughout construction.
8. All trees to be saved shall be protected with orange construction fencing placed at the drip line or a distance greater than the drip line. Trees shall be pruned, watered and fertilized prior to , during and after construction. Materials and equipment storage shall not be allowed in fenced areas.
9. Maintenance of landscape plantings shall be guaranteed for three years.
10. Any contractor or individual involved in the planting maintenance or removal of trees shall comply with the requirements of the Town's Excavation and Clearing (Chapter 66). Trees (Chapter 175) and other pertinent regulations and shall be registered and shall carry insurance

as required by Chapter 175 of the Comprehensive Development Regulations.

11. Dumpsters shall be enclosed with building materials that are compatible with the existing building and located in the rear yard. The enclosure shall equal the height of the dumpster.
12. The parking lot shall be stripped per the requirements of the Brighton Comprehensive Development Regulations.
13. All outstanding Site Plan comments and concerns of the Town Engineer and Fire Marshal shall be addressed.
14. All outstanding Site Plan comments and concerns of the Town Engineer regarding soil erosion, storm water control, water system and sanitary sewer design shall be addressed prior to final approval.
15. Fire hydrants shall be fully operational prior to and during construction of the building.
16. All other reviewing agencies must issue their approval prior to the Department of Public Works issuing its final approval.
17. A subdivision map shall be submitted. All easements must be shown on the subdivision map with ownership, purpose and liber page of filing with the Monroe County Clerk's Office. A copy of the filed easement shall be submitted to the Building and Planning Department for its records.
18. A letter of credit shall be provided to cover certain aspects of the project including but not limited to demolition, landscaping, stormwater mitigation and infrastructure and erosion control. The applicant's engineer shall prepare an itemized estimate of the scope of the project as a basis for the letter of credit.
19. The proposed buildings shall be sprinklered in accordance with Town requirements.
20. Erosion control measures shall be in place prior to site disturbance.

21. The applicant shall review the site plan elevations, and floor plans to ensure that the areas and dimensions provided on those plans agree with one another. Elevation drawings showing the height of the structure in relationship to proposed grade as shown on the approved site plan shall be submitted. Any changes o plans shall be reviewed by the Building and Planning Department and may require Planning Board approval.
22. The location of any proposed generators shall be shown on the site plan. All requirements of the Comprehensive Development Regulations shall be met or a variance shall be obtained from the Zoning Board of Appeals.
23. The location of the HVAC shall be shown on the site plan.
24. All comments and concerns of Michael Guyon as contained in the attached memo dated June 19 2018 to Ramsey Boehner shall be addressed.
25. The proposed building and site plan must comply with the New York State Fire Code. The Town of Brighton Fire Marshal must review the fire apparatus access and fire hydrant locations. The Fire Apparatus Access and Fire Hydrant Worksheet must be completed and submitted to the Town of Brighton for review.
26. A letter or memo in response to all Planning Board and Town Engineer comments and conditions shall be submitted.
27. All new accessible parking space signage to be installed or replaced shall have the logo depicting a dynamic character leaning forward with a sense of movement as required by Secretary of State pursuant to section one hundred one of the Executive Law.
28. The revised plans may reveal additional issues that will need to be addressed. Therefore the Planning Board reserves the right to make additional comments of future submissions.
29. All conditions and requirements of the Town Board incentive zoning approval for this project shall be satisfied.



30. The plans shall be revised to address the following Conservation Board comments:

- a. Provide a significant vegetative buffer/screen to the residential property at 2301 Clover Street.
- b. Incorporate additional parking lot tree plantings ( within proposed islands) to help minimize heat island effect.
- c. Consider replacing Cleveland Select pear (invasive ) with alternative native species.
- d. Consider the use of additional impervious pavement where practical.

31. The applicant shall provide and file access rights for cross-access and cross parking easements between proposed Lot 1 and Lot 2. The easements shall be reviewed and approved by Planning Board during the site plan approval process.

32. The submitted plans show 2 lots. The plans must be revised to show the site data for each lot and how the proposed improvements meet the incentives granted by the Town Board and the requirements of the Comprehensive development Regulations. Bulk parking requirements must be shown on the plans. Additionally, the plans should list the pertinent site data including zoning requirements variances and incentives. The distances for the proposed buildings should be shown on the plans. The distance between the pavement edge and the exterior property lines must be noted on the plans. Dimensions and setbacks for the proposed improvements must be shown on the plans.

33. The plans must demonstrate how the public pedestrian walkway will be maintained during demolition and construction.

34. The Town Engineer recommends that the access to the drive through lane from the coffee shop parking area be eliminated.

35. Details for the proposed bus shelter must be provided. The applicant must confirm the RTS will continue to serve the proposed bus shelter.

- 36 Consent from all the property owners included in the submitted plan must be obtained in writing and submitted to the Town.
- 37 The engineer of record must verify that the Whole Foods building has adequate fire access.
- 38 The plan must be revised to address how the public pedestrian walkway will be maintained during demolition and construction.
- 39 The plans must be revised plans showing the elimination of the access to the drive through lane from the coffee shop parking area.
- 40 Details of the bus shelter shall be submitted. Confirmation must be submitted that RTS will continue to serve the proposed bus shelter.
- 41 The site plan must be revised to show the locations of the charging stations.
- 42 Alternative drive thru layouts for building 3 shall be investigated and submitted.
- 43 Reducing the number of parking lot intersections shall be investigated to address conflict points.
- 44 Removal of parking spaces on the west side of building 2 shall be considered .
- 45 StarBucks dumpster location shall be investigated.
- 46 The sidewalk along building 4 shall be off set.
- 47 Investigate the realignment of the main drive way and the main entrance to the Whole Foods.
- 48 A bike rack should be added to the StarBucks building.

MR. FADER: Second.

\* \* \* \* \*

SIGNS:

1519 Bolsa Nails for a building face sign at 1900 South Clinton Avenue.

Approved as recommended.

1520 The Arc Monroe New York for a building face sign at 2060 Brighton Henrietta TL Road.

Approved as recommended.

1521 The Arc Monroe New York for a Free standing sign at 2657 West Henrietta Road.

Approved as resubmitted.

MR. FADER: I move to approve signs 1519 and 1520 as recommended and 1521 as resubmitted.

MS. CIVILETTI: Second.

UPON ROLL CALL VOTE    MOTION UNANIMOUSLY PASSES

Mr. Price            Yes

Ms. Delaney    Yes

Ms. Civiletti      Yes

Mr. Fader        Yes

Mr. Osowski       Yes

Mr. Babcock Stiner    Yes

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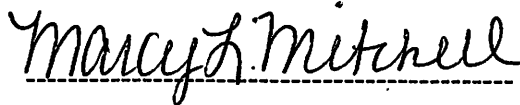
# CERTIFICATION

I, Judy Almekinder, 7633 Bauer Van Wickle Road, Lyons, New York 14489, do hereby state that the minutes of the June 20, 2018 meeting of the Brighton Planning Board at 2300 Elmwood Avenue, Brighton, New York, is a true and accurate transcription of those notes to the best of my ability as recorded and transcribed by me.



Judy Almekinder

On this 18 day of July in the year 2018, before me personally came Judy Almekinder to me known, and known to me to be the person described herein and who executed the foregoing instrument, and she acknowledges to me that she executed the same.



Notary Public

MARCY L. MITCHELL  
Notary Public, State of New York  
Qualified in Wayne County  
No. 01M16281958  
Commission Expires May 13, 2021

Addendum to the Minutes of the May, 2018 Meeting

Page 13 change Dubella to Dibella

Page 14 restaurant's name is Monte Alban

Addendum to the Minutes of the April , 2018 Meeting

Page 13 Ed Martin is the engineer

Page 14 the reference changes from Mr. Martin to Mr. Smith and it should be Mr. Martin