

BRIGHTON

PLANNING

BOARD

October 19, 2022
At approximately 7 p.m.
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

RICK DiSTEFANO (IN FOR JEFF FRISCH)

WILLIAM PRICE, CHAIRPERSON

JOHN OSOWSKI) BOARD MEMBERS
JULIE FORD)
DAVID FADER)

KENNETH GORDON, ESQ.
Town Attorney

ABSENT:

KAREN ALTMAN
JASON BABCOCK-STINER
PETER GRISEWOOD

REPORTED BY: HOLLY E. CASTLEMAN, Court Reporter,
FORBES COURT REPORTING SERVICES, LLC
21 Woodcrest Drive
Batavia, NY 14020

1 CHAIRPERSON PRICE: Good evening, everyone.
2 And welcome to the October 19th meeting of the Town of
3 Brighton Planning Board. I'll call the meeting to
4 order.

5 We are now back in person again. I think
6 this is our second month back in person. In the
7 unlikely event of an emergency there are doors behind
8 you and there's an exit behind Ms. Ford over here.
9 Just ask that you exit in an orderly manner and leave
10 the building. But none of that will happen.

11 So at this point I'd like to ask Rick
12 DiStefano to call the roll for tonight's meeting.

13 (Whereupon the roll was called.)

14 MR. DiSTEFANO: Please let the record show
15 that Ms. Altman, Mr. Stiner and Mr. Grisewood are not
16 present.

17 CHAIRPERSON PRICE: Okay. Thanks, Rick.

18 At this point we're going to just have a
19 brief discussion between staff and the Board members
20 that are here about tonight's agenda. We're going --
21 there's no questions during this period. This is just
22 us talking about tonight's agenda.

23 Rick, by my calculation we have two
24 applications plus our signs to review tonight.

25 MR. DiSTEFANO: That is correct. This is

1 for the -- if anybody is in the audience, application
2 5P-02-22 has postponed, application 10P-NB1-22 has
3 been postponed. Application 5P-NB1-22 has been
4 postponed. Application 5P-NB2-22 has been postponed.
5 And application 9P-NB1-22 has been postponed.

6 CHAIRPERSON PRICE: All right. So that does
7 leave us with 8P-02-22. That's Paychex of New York.

8 I think we had -- last meeting we had some
9 conversations about the economics of this. And we did
10 get an updated letter from the applicant talking about
11 a PILOT agreement. Is everybody aware of that?

12 So any other information?

13 MR. DiSTEFANO: No. I think that's
14 something we will have to dive in a little bit with
15 the applicant to get a better understanding and also
16 maybe address a few other outstanding items.

17 MR. GORDON: The other issue that staff
18 dealt with was how to handle SEQRA with respect to
19 this application. And after some discussion amongst
20 staff members, it was determined that actually it was
21 a Type I action under SEQRA.

22 So you have in your packets a full proposed
23 negative declaration for the Board to consider. Staff
24 does not believe that the project will have a
25 significant impact on the environment. And that's why

1 we drafted a negative declaration, but just so the
2 Board knows. And I think in prior iterations of the
3 report we had dealt with this as a Type II. And we
4 determined it's actually Type I.

5 CHAIRPERSON PRICE: So your findings were
6 fairly exhaustive?

7 MR. DiSTEFANO: Yes.

8 MR. GORDON: Yup.

9 CHAIRPERSON PRICE: They align with the neg
10 dec. Okay. All right.

11 MR. GORDON: Any questions for Rick or I?

12 MR. FADER: No.

13 CHAIRPERSON PRICE: All set.

14 MR. OSOWSKI: I'm guessing the PILOT
15 agreement was acceptable to the Town. That's in the
16 condition there.

17 MR. GORDON: So a proposal was made to make
18 a payment in lieu of taxes agreement as a standby for
19 any portion of the building that would become tax
20 exempt. And the proposal was to pay a certain amount
21 per square foot for the square footage that comes off
22 the tax rolls. And it is a figure which was designed
23 from looking at the existing PILOT agreement for the
24 University of Rochester in the south campus. And that
25 was accepted by the Town Board.

1 Ultimately it is this Board's discretion as
2 to whether it is satisfactory to alleviate the
3 concerns about economic impact. And ultimately the
4 Town Board will have to authorize the Supervisor to
5 sign. But that's more a administerial act than a
6 substantive decision.

7 MR. OSOWSKI: Thank you.

8 CHAIRPERSON PRICE: Okay. Thank you. So
9 our other application to be heard is 10P-02 --
10 10P-02-22, American Tower and Barclay Damon. This is
11 for a site plan modification, EPOD permit.

12 MR. DiSTEFANO: Unfortunately there was a
13 lot of information that was lacking in this
14 application, which was forwarded over to the
15 applicant.

16 I did receive late today a revised site plan
17 of the entire site showing us elevation and location
18 of the actual steep slope. But it was very late in
19 the day and I knew you guys wouldn't get it or get a
20 chance to look at it before tonight's meeting.

21 I'm sure the applicant will bring copies of
22 that and share that with you. But there's still I
23 think as you look through the report a number of items
24 that are missing in terms of the requirements needed
25 to approve an EPOD permit.

1 I think the site plan modification portion
2 of it is pretty straightforward. They're expanding
3 the site plan to include a generator. Not a large
4 expansion, but nevertheless, an expansion upon
5 Pinnacle Hill close to the steep slope.

6 CHAIRPERSON PRICE: Your report indicates
7 that there might be some changes to some technical
8 information also.

9 MR. DiSTEFANO: Yeah. I think the problem
10 was we didn't have enough information to make a
11 determination when we were reviewing it. By the looks
12 of the site plan that was submitted late this
13 afternoon, it looks like they're fairly well off the
14 actual steep slope. So the information might not be
15 as in depth as what we thought at one time if that
16 fence line is going right up to the steep slope.

17 So I think we can kind of get a little bit
18 more information on that in regards to that.

19 The Conservation Board, they basically said
20 we can't comment on it because we didn't have any of
21 this information. So you won't see that.

22 And also we couldn't finish SEQRA because,
23 again, we don't have that information.

24 CHAIRPERSON PRICE: Any concerns? This is
25 your first tower application. They come in every

1 other year or so as technology changes and things are
2 needed. We'll see what they have to say.

3 MR. OSOWSKI: I'm good.

4 CHAIRPERSON PRICE: We'll go through signs.
5 Was there any -- most of the correspondence that came
6 in -- was there anything else that came in after?

7 MR. DiSTEFANO: We did on one of the
8 signs -- I believe it is the Oak Hill sign, 2470 East
9 Ave. there was a condition on the Architectural
10 Review Board that the sign was too large and needed
11 either a variance or a modification. They did submit
12 a modified sign meeting code requirements. So we
13 shouldn't have a problem with that.

14 Application 1659, which was 201221 East
15 Henrietta Road.

16 MR. GORDON: 1221.

17 MR. DiSTEFANO: Sorry. Thank you. 1221
18 East Henrietta Road. The Board couldn't come to a
19 decision on that sign. They had a two-two vote, two
20 to approve, two to deny.

21 So basically we can take a look at it, make
22 our own decision or send it back for that. I think
23 once you see it I think you'll understand that you
24 could go either way with it.

25 MR. GORDON: Keeping in mind that the --

1 MS. FORD: What was that? 16 --

2 MR. DiSTEFANO: It was sign number 1624.

3 MR. GORDON: 1559.

4 MS. FORD: Because I did see --

5 MR. DiSTEFANO: Yeah. I'm sorry. 1559 for
6 1221 for East Henrietta Road.

7 MR. GORDON: And ARB being just a body that
8 makes recommendations, it's fully within your purview
9 to approve or deny the sign.

10 CHAIRPERSON PRICE: Okay. All right.

11 MR. DiSTEFANO: You guys have any other
12 questions?

13 CHAIRPERSON PRICE: I have one question.
14 Where now back coming in person. What do you think
15 about plans being submitted the way we used to get a
16 packet of hard copy plans? And you don't have to
17 answer. I just wanted to put that out there that we
18 were getting -- we're getting everything online. I'm
19 able to review it. I am old enough to prefer paper,
20 but...

21 MR. DiSTEFANO: It's really up to you guys
22 because we still require the number of copies to come
23 into us. I mean, I can actually -- and I should have
24 grabbed them and, you know, brought a hard copy. I
25 got them in the office. At decision time if you want

1 a hard copy, I can go grab one. But that's up to you
2 guys. If you want actual paper, we can start that
3 process again.

4 MR. FADER: I can't speak for everybody
5 else, but I'm like Bill. I'm an old guy. I like the
6 paper.

7 MR. DiSTEFANO: I would just like to be
8 consistent. So either we all do it or we all -- I
9 mean, we can still send it digitally. Putting the
10 packet together and getting them out to you guys,
11 especially when they're large packets, it gets a
12 little more challenging because we might have to
13 physically hand deliver them to you. So it takes a
14 little more time. If they're relatively small
15 packets, we can put them in the mail, no problem.

16 You guys can think about it and --

17 MS. FORD: I love paper. I do like paper.

18 MR. DiSTEFANO: I'm as old --

19 MS. FORD: I do like having paper documents.

20 MR. OSOWSKI: But I would like hybrid
21 because I'm fine reviewing and scrolling around,
22 making it bigger and smaller and so forth.

23 But if I could have the paper copies when I
24 get here for the meeting, that would -- I'd be all set
25 with that. So I wouldn't need them ahead of time, but

1 just at the meeting.

2 MR. DiSTEFANO: So there's basically three
3 options. One is digital. One is hand deliver
4 everything to you two weeks prior to the meeting, give
5 or take. One is digital and put a copy here on the
6 night of the meeting.

7 CHAIRPERSON PRICE: So we started talking
8 about this. Do you remember board member Victor bug
9 check? He and I started this years ago where we got
10 it down to the 11-by-17s because we were getting
11 30-by-42 sheets. And what's the sense of -- we'd all
12 walk in with this much paper.

13 But it's getting -- I mean, I'm getting more
14 and more used to it. It's just that I do like the
15 paper. And you think -- you think as long as you had
16 it here --

17 MS. FORD: I agree.

18 CHAIRPERSON PRICE: You're okay if you -- so
19 I guess the question is then going to -- will the Town
20 ever get to the point where the electronic submission
21 is satisfactory rather than paper copies?

22 MR. DiSTEFANO: Not if my board members want
23 copies, no.

24 CHAIRPERSON PRICE: Okay. So we're
25 dictating that?

1 MR. DiSTEFANO: Yeah. As staff, if board
2 members want copies -- I still do everything in paper
3 to the Zoning Board. And they still like that. They
4 physically like the paper. I've offered the digital
5 to them and they're like, no. It's hard to look at
6 plans on, you know, a 15-inch, 17-inch screen. So
7 we're still doing that for the Zoning Board.

8 MR. GORDON: But there's -- it depends on
9 what -- the Town Board is strictly digital.

10 CHAIRPERSON PRICE: On all matters?

11 MR. GORDON: All matters. So whatever your
12 preference is, we have the papers. So putting them on
13 your desk for the meeting is simple.

14 MR. DiSTEFANO: It's simple.

15 MR. GORDON: We can do that easily. Getting
16 them to you ahead of time, we need to know that's your
17 presence because then we can make them up.

18 CHAIRPERSON PRICE: I've gotten used to
19 electronic coming early. And the two weeks prior
20 could we -- I think there's three other members that
21 would probably benefit from being a part of this
22 conversation. So I just wanted to introduce it.

23 MR. GORDON: Sure. And, you know, what we
24 can do is just as a trial, because it's really easy
25 for us, is we'll pass that information onto Jeff and

1 we'll just have Jeff plan to put the paper copies out
2 for your next Planning Board meeting and also provide
3 you digital in advance. You know, see how that works
4 for everybody.

5 CHAIRPERSON PRICE: Yeah.

6 MR. DiSTEFANO: I mean, one thing about the
7 digital is the digital always can be -- you don't need
8 what we send you. I mean, there's some stuff that
9 isn't posted that you guys get. But the actual --
10 when I send you the link, the actual agenda usually
11 has the links on it too. Or you can go right to the
12 website and bring up the digitals that way too.
13 There's multiple ways to get those digital copies.

14 CHAIRPERSON PRICE: That link in the agenda
15 is helpful, as helpful as your first submission. It
16 comes out two weeks in advance. Then as you update
17 it --

18 MR. FADER: Rick, you won't be sad you won't
19 have a reason to see me.

20 MR. DiSTEFANO: I miss the drive over to
21 your house. I really do. Gets me out of the office.

22 CHAIRPERSON PRICE: All right. Well, we'll
23 continue this conversation at the next meeting. But
24 thank you for talking through that.

25 I do have one announcement. This board will

1 be holding a special meeting on Tuesday, November 1st,
2 7 p.m. in this room. The purpose of that meeting will
3 be to hear applications that are not going to be
4 discussed tonight due to our issue of having an
5 adequate quorum to hear those applications.

6 MR. GORDON: And, Bill, specifically if you
7 could say what the agenda will be for that meeting.

8 CHAIRPERSON PRICE: Yeah. So the
9 applications for November 1st will be 5P-02-22, first
10 on the agenda, Talmudical Institute of Upstate New
11 York, as vendee, along with Brighton Central School
12 District for conditional use permit approval to allow
13 the Montessori School of Rochester to be located at
14 220 Idlewood.

15 As well as application 10P-01-22, Talmudical
16 Institute of Upstate New York, Brighton Central
17 Schools, for final site plan approval, final EPOD
18 permit approval, final conditional use approval to
19 build a new addition at the former Brookside School,
20 220 Idlewood and 1666 west -- South Winton Road.

21 We also have another application of
22 5P-NB1-22, Talmudical Institute for preliminary site
23 plan approval. So it's actually three --

24 MR. GORDON: For that same project.

25 CHAIRPERSON PRICE: For the same project.

1 Preliminary approval for the same project.

2 So that will be the agenda for November 1st.

3 MR. OSOWSKI: I have one more question. For
4 conditional use permits, do they ever have an
5 expiration date or renewal date like two years, three
6 years, five?

7 MR. DiSTEFANO: Basically a conditional use
8 permit is good for a year unless it's acted upon. If
9 it's not acted upon within a year, it goes away.

10 If it has been acted upon, you can require
11 the application to return. Usually we do it a year
12 out to verify any possible impacts that weren't
13 perceived at the time of the approval.

14 We do that -- a lot of times we'll do that
15 with outdoor dining facilities to make sure they're
16 maintaining their grounds, have the proper barriers
17 up, make sure the trash collection is being taken care
18 of, that there's no bars out there. Not a common
19 thing we do, but it can be done and we have done it in
20 the past.

21 MR. OSOWSKI: All right. Thanks.

22 CHAIRPERSON PRICE: Okay. At this point I
23 just want to point out that we are not going to make
24 any motion on the August 17th meeting minutes. We do
25 not have a quorum of members that were attending that

1 meeting. And so that will be postponed to our
2 November 16th meeting. And our September 21st meeting
3 minutes will also be done at the November 16th
4 meeting.

5 You were here.

6 MS. FORD: On August?

7 CHAIRPERSON PRICE: August 17th.

8 MS. FORD: I had the surgery on the 23rd.
9 So, yes. Okay. I'm sorry. Yes. I had the surgery
10 on the 23rd. So my -- it's been very difficult to
11 keep things straight.

12 MR. DiSTEFANO: They did come out late. So
13 I just want to make sure everybody did get the
14 chance --

15 CHAIRPERSON PRICE: I did.

16 MR. DiSTEFANO: -- to review them and --

17 CHAIRPERSON PRICE: I got them.

18 MR. GORDON: It's no problem waiting a
19 meeting to have those minutes approved.

20 CHAIRPERSON PRICE: We'll go another
21 meeting.

22 MR. DiSTEFANO: I think you guys just got
23 them yesterday, like late yesterday or something.
24 Yeah. So I just want to make sure everybody had a
25 chance to review them.

1 CHAIRPERSON PRICE: Okay. All right. So no
2 meeting minutes being reviewed tonight. We'll do that
3 in November.

4 Rick, can you confirm that tonight's public
5 hearings were properly advertised.

6 MR. DiSTEFANO: Yes, Mr. Chairman. It was
7 advertised in the Daily Record of October 13th, 2022.

8 CHAIRPERSON PRICE: Thank you. All right.
9 Let's start with application 8P-02-22.

10 Application 8P-02-22

11 Application of Paychex of New York, LLC,
12 owner, and Golisano Business COE, Inc., agent, for
13 Conditional Use Permit Approval to allow for a college
14 to be located at 150 Sawgrass Drive. All as described
15 in application and plans in file. **TABLED AT THE**

16 **AUGUST 17, 2022 MEETING - PUBLIC HEARING REMAINS OPEN**

17 CHAIRPERSON PRICE: Good evening.

18 MR. GOLDMAN: Good evening, members of the
19 Board. My name is Jerry Goldman. I'm the attorney
20 and agent for Golisano Business COE Inc., which is
21 applying for a conditional use permit to allow the
22 school to be located at 150 Sawgrass Drive.

23 As the Board is aware, we have had meetings
24 relative to this application already. We did have a
25 thorough discussion at our last meeting that we were

1 at relative to the conditional use permit standards.
2 And in particular, the one which received a fair
3 amount of discussion was the sub-D, which talked about
4 whether the proposal would be detrimental to the
5 economic welfare of the community.

6 At that point we were engaged in discussions
7 relative to that issue. And we subsequently had
8 discussions with members of Golisano Business COE, had
9 discussions with the Town relative to the concerns
10 that were raised in terms of economic impact and
11 economic welfare.

12 And while previously we hadn't seen it
13 utilized in the context of conditional use permit,
14 after discussion there was an understanding that was
15 reached that we would be making application for
16 modification of our application to this board to
17 address that particular issue.

18 And the way that it is done typically is
19 by what's referred to as a standby PILOT. It's
20 something which is more commonly used in incentive
21 zoning but can be used in this type of context.

22 I refer to it in my letter of October --
23 October 4th as a backup PILOT. But basically it is
24 the same thing. What it does provide is that if the
25 property does receive from the assessor after

1 application a designation that it is tax exempt, that
2 essentially the Town would receive compensation in
3 lieu of taxes. And that's where PILOT comes from, a
4 payment in lieu of taxes in an amount which we have
5 defined as a square footage -- a square footage amount
6 as recommended to us that that's the way to go. And
7 there's also an escalator provision.

8 You'll notice that the condition which is in
9 your staff report is slightly different than the one
10 which we have. We in our application letter had a
11 different -- slightly different formula in terms of
12 cap in terms of relating it to what the assessment of
13 the building would be.

14 Our understanding was that the -- that, in
15 fact, the PILOT, which has been similarly employed in
16 other circumstances, is one which involves an
17 escalator which relates to the tax rate. And I'm here
18 tonight to say that we are willing to agree to that.
19 And we're willing to agree with the language which is
20 proposed in the staff report relative to that issue.

21 CHAIRPERSON PRICE: Okay.

22 MR. GOLDMAN: As usual your town staff did a
23 very thorough job in doing the Planning Board report,
24 which we picked up last night online and took a look
25 at.

1 The comments -- the comments at the
2 beginning are pretty much setting forth a lot of the
3 application features. And those are -- those are
4 listed and are accurate.

5 We move on to the second page and there are
6 some questions that are offered. And we have talked
7 about the use and what programs will be offered.
8 Again, we are -- we are in a stage right now relative
9 to this where the curriculum and exact program is
10 under development. It hasn't been finalized at this
11 point.

12 So to that extent there is always the need
13 to deal concurrently with a number of approvals. One
14 approval is to find a home. And that is -- that's
15 what we are working on right now.

16 But the programs that we are offering are
17 educational programs in the business field. And that
18 is -- that is what is being proposed. That could
19 broaden out, but that is the program as we see it
20 right now.

21 The second bullet asks whether the program
22 requires any state certification or accreditation.
23 That current is being reviewed by another counsel. I
24 am -- I'm land use counsel relative to this. And at
25 this point that hasn't been formally and finally

1 determined as to whether there is any state
2 certification or accreditation.

3 The third is that the site plan shows area
4 of new pavement, but those areas appear to be already
5 installed. In fact, they are already installed. The
6 site plan that you see was a 2008 site plan, which was
7 utilized for purposes of getting a parking variance on
8 the site. So the areas which say new pavement are, in
9 fact, in place right now.

10 We do not anticipate any modifications to
11 the plan at this point. There's no application for
12 site plan modification, which we have made, on the
13 site. At some point in the future there may be some
14 adjustments to make this a little more pedestrians
15 friendly. But that's not part of our application for
16 a conditional use permit at this time.

17 And last question talks about the standby
18 PILOT agreement. And you've already had some
19 discussion of that with the town attorney during your
20 workshop session. And again, it's an agreement for
21 which there are templates available. So we believe we
22 will be able to work with the town attorney to
23 finalize that and -- and rightfully it is listed as
24 proposed -- as a proposed finding -- or excuse me --
25 condition of approval.

1 State Environment Quality Review Act is next
2 on the list in the staff report. With regard to SEQRA
3 it was determined by town staff this is a Type I
4 action. It's an unusual Type I action. Type I's are
5 usually large actions, which involve a whole bunch of
6 physical activities, building and the like. But the
7 wording of SEQRA is not actually crystal clear in the
8 Town.

21 We have reviewed the conditional use permit
22 findings. We find them to be acceptable for our
23 purposes. So if there is a resolution of the Board to
24 deal with conditional use permit findings, then --
25 then we're prepared to deal with those -- with those

1 findings as conditioned. And then conditions of
2 approval under application are listed.

3 I'd like to address Mr. Osowski's comment
4 with regard to the conditional use permit and time
5 limitation. I think Rick answered that very well.
6 The issue that we typically have with conditional uses
7 is if there is an investment in the building itself,
8 it's kind of -- well, not kind of. It is somewhat
9 unfair to time limit that because in the event there's
10 a decision by someone that they don't necessarily want
11 it and revisit it, there's been a substantial
12 investment.

13 In the case of outdoor seating, for example,
14 as Rick pointed out, that would be a more common
15 situation for us to consider a time limitation. For
16 this type of use a time limitation would be generally
17 something which we don't see. And Rick alluded to
18 that. We don't see it here or elsewhere.

19 With me tonight is Matthew Ray, back row,
20 from Golisano Business COE. With that if there are
21 any questions that the Board has, we will be glad to
22 answer them at this time.

23 CHAIRPERSON PRICE: Thank you, Jerry. I
24 don't have any questions of Jerry.

25 Rick, do you recall from I think reading

1 this I remember now that there was a variance granted
2 for the size of the parking stalls out in the rear.

3 MR. DiSTEFANO: Yes.

4 CHAIRPERSON PRICE: And who was that granted
5 to?

6 MR. DiSTEFANO: Paychex.

7 CHAIRPERSON PRICE: It was to Paychex.

8 MR. DiSTEFANO: Yes. I can go back and
9 look -- I could go back and look at conditions. And
10 it wasn't conditioned that it only applied to Paychex.
11 A lot of times the Zoning Board will grant a variance
12 specifically to a particular user. And this case it
13 was not.

14 CHAIRPERSON PRICE: It was with the
15 property.

16 MR. DiSTEFANO: Because basically it was
17 the -- which is very similar to what's going on here,
18 was that the spaces were going to be used by all day
19 parkers so that there wouldn't be a lot of ins and
20 outs and people opening doors and everything. So cars
21 would be fairly protected with a smaller stall because
22 of the cars there, they're not moving.

23 In this case I believe, Jerry, you're -- the
24 students are there basically all day. They're not
25 coming and going.

1 MR. GOLDMAN: For long periods of time.

2 MR. DiSTEFANO: For blocks of time. So the
3 in and outs are not as great as like a shopping plaza.

4 CHAIRPERSON PRICE: But that variance goes
5 with the property not --

6 MR. DiSTEFANO: That's running with the
7 property, correct.

8 CHAIRPERSON PRICE: Okay. All right. I
9 don't have any further questions for staff or the
10 applicant. John?

11 MR. OSOWSKI: No. No. I'm good, thank you.

12 MR. FADER: I have none.

13 MS. FORD: No questions.

14 CHAIRPERSON PRICE: Jerry, thank you.

15 MR. GORDON: I have a question.

16 MR. GOLDMAN: Oh. Counsel.

17 MR. GORDON: So one of the conditions that
18 staff included was that prior to the issuance of the C
19 of O that there would be submitted to the Town a
20 document showing that either State Ed Department
21 approval has been granted or a State Ed Department
22 approval is not necessary. I just wanted to take a
23 moment and hear what you had to say about that
24 specific condition.

25 MR. GOLDMAN: Yeah. I alluded to it. I

1 alluded to it briefly. And that is that the situation
2 with regard to any accreditation -- and again, we're
3 still in the early stages of developing the program.
4 At this point we don't believe there's going to be a
5 degree bearing program, but we're not sure. We're not
6 sure whether the end result will be a certificate.
7 Again, we're not sure.

8 But all of those are being analyzed at this
9 point by special education counsel to determine what
10 would be necessary in terms of state compliance. And
11 we do appreciate the consideration of staff to
12 condition both of the deliverables to be prior to C of
13 O as opposed to prior to the building permit.

14 MR. GORDON: Right. And the idea here, of
15 course, would be that the Town would be looking for
16 something verified by the State Education Department
17 that either approvals are granted or that approvals
18 are not necessary or that approvals are granted
19 because of the affiliation with some other higher
20 educational institution. I know that is under
21 consideration as well.

22 So I just -- I just want to highlight that
23 condition because I don't want the applicant to get
24 into a position where everything is done, they're
25 ready to open and they don't have this one piece of

1 paper they need from State Ed.

2 MR. GOLDMAN: I'd like to review the
3 language begun on that because I'm not totally sure
4 that State Ed will opine on something over which they
5 think they have no jurisdiction.

6 So the language that we have here is that
7 "Information shall be submitted by the applicant
8 showing that programs have received necessary approval
9 or that approvals are not required." This does not
10 require that State Ed specifically is the person that
11 makes that determination.

12 So, you know, like I said, we're comfortable
13 with the language as it's presented here, but we
14 can't -- we can't say whether State Ed will actually
15 opine with something.

16 MR. GORDON: I understand that difficulty.
17 I hope you understand equally that a letter from the
18 applicant or a letter even from the applicant's
19 counsel saying we don't need that is probably not
20 going to be enough to satisfy the Town sufficiently
21 that information is provided on this issue.

22 MR. GOLDMAN: I -- again, I'm not sure that
23 State Ed will formally issue a letter. It may be
24 another source. I think we may get into that
25 discussion at some point in the future in terms of

1 what will satisfy the Town. But I think at this
2 point, you know, we're comfortable with the condition
3 as is presented.

4 MR. GORDON: And it's written flexibly. So
5 we can have that discussion.

6 But I just want to, again, highlight this so
7 it doesn't become a problem down the road. If for
8 example, counsel -- and not you, the other counsel --
9 opines that such approval was not necessary, I would
10 hope that they would cite to some statutes, some regs,
11 some case law, something, that would verify that to
12 us.

13 MR. GOLDMAN: And I agree with you on that
14 point. It's always easy for me to say if somebody
15 else is doing it, they should do it. But, in fact --
16 but, in fact, I know the Town has to make an objective
17 evaluation based on the information that it's provided
18 in making that determination.

19 MR. GORDON: Okay.

20 CHAIRPERSON PRICE: Thank you.

21 MR. GOLDMAN: Thank you.

22 CHAIRPERSON PRICE: This is a public
23 hearing. Is there anyone that cares to address this
24 application? Thank you, Jerry.

25 All right. Moving on to application

1 10P-02-22.

2 **Application 10P-02-22**

3 Application of American Tower Corporation,
4 owner, and Barclay Damon LLP, agent, for Site Plan
5 Modification and EPOD (steep slope) Permit Approval to
6 expand an existing cell tower equipment compound for
7 the installation of a standby emergency generator on
8 property located at 1 Pinnacle Hill Road. All as
9 described on application and plans on file.

10 CHAIRPERSON PRICE: Good evening.

11 MR. AUERBACH: Thank you. Good evening. My
12 name is Cory Auerbach from the law firm of Barclay
13 Damon on behalf of the applicant.

14 As was noted in the summary at the beginning
15 of the meeting, we submitted some additional materials
16 today. I apologize for the late submittal. We were
17 requested to provide some additional information on
18 September the 21st. It took some time for the
19 engineers to prepare and stamp those plans. If it's
20 okay with the Chairman, I'd like to distribute them.

21 So starting with the abstract, this
22 application is presented to you pursuant to
23 Section 6409 of the Middle Class Tax Relief Act. This
24 is what's known as an eligible facility request and
25 that we will not be making a substantial alteration to

1 the tower or bay station. That's the technical
2 portion of my application.

3 Bringing that back down to Earth,
4 essentially what's being requested is a very minor
5 enlargement of a cell phone tower compound area up on
6 Pinnacle Hill amidst a farm of cell towers, which will
7 be approximately 225 square feet of an expansion.
8 It's minor fencing that will be expanded from the
9 compound area and a power generator that will provide
10 resiliency to the cellular telephone network.

11 So again, very minor proposal here,
12 225 square feet. Essentially what will occur is a
13 pickup truck and 12 foot trailer will drive up the
14 access road that will -- the trailer will carry the
15 equipment, which will include a prefabricated cement
16 pad and a Generac Generator, the specifications of
17 which are newly added in these materials in the first
18 few pages -- are 603 through 605.

19 I should mention there are three new pages
20 to these plans that you have not seen. Those are the
21 three pages I just referenced, which are the Generac
22 Generator specifications for the specific generator
23 that's being located at this site.

24 The other two modifications to the plans
25 that are different than what you saw before are on

1 pages C001 and C101, which is the original site plan
2 with the topographic information added to it. And
3 then an overall site plan for the entire site also
4 with that topo information.

5 And again, these are some additional
6 materials that were requested pursuant to the EPOD
7 regulations.

8 So again, a small truck with a trailer will
9 access the site in the same manner that the
10 technicians that occasionally visit the site all do
11 so. They will be pulling a small trailer that will
12 include the materials that are necessary. They will
13 complete the scope of work, which will result in a
14 approximately 225-square foot modification to the
15 existing compound area.

16 I understand that the EPOD regulates areas
17 within 50-feet of top or toe of slope. You'll note
18 that the slope area is included as the topo lines are
19 demonstrated on the plans. They mentioned those to
20 the property line as opposed to the slope area.

21 I put a scale on them. They're probably
22 pretty close to 50 feet. They might just be inside 50
23 feet. And all that is to say that even if it's 45
24 feet, it's a significant distance from the actual
25 slope area. So very small modification to the

1 compound area.

2 Happy to answer any questions you might have
3 about that.

4 CHAIRPERSON PRICE: Thank you. The -- so
5 this is fundamentally within the -- what you consider
6 the tower complex that is there today. We're not
7 looking at any earth work commitment?

8 MR. AUERBACH: Maybe some minor grading
9 of -- you know, putting down some stone to lay the
10 prefabricated foundation for the generator. But, no,
11 nothing of any substance.

12 CHAIRPERSON PRICE: I did not look at this
13 Generac quickly. Is this a natural gas or is this
14 diesel?

15 MR. AUERBACH: This is a diesel generator.
16 So this will be the third generator within the
17 compound area. There are two existing diesel
18 generators at the site.

19 I should have mentioned earlier that we did
20 visit with the Zoning Board of Appeals already and we
21 received their approval for the diesel generator. The
22 chairman is seemingly aware that natural gas or liquid
23 propane generators are permitted. A diesel generator
24 did require an area variance from the Zoning Board of
25 Appeals, which we did obtain.

1 When the compound area was initially
2 constructed, they -- the applicant also received a
3 fence height variance for the existing compound area.
4 The Zoning Board also approved a minor area variance
5 for the new fencing to match the existing in the same
6 manner as was previously approved.

7 CHAIRPERSON PRICE: Rick, can you just help,
8 was the definition of the steep slope is that --
9 that's a percent slope?

10 MR. DiSTEFANO: Yeah. 15 percent slope or
11 greater constitutes a steep slope. And as Cory
12 mentioned, it is 50 feet from top or toe. And just
13 putting a scale on the submitted information, I'll say
14 the southern portion of the fence measures out just to
15 about 41, give or take, feet.

16 And then the northwestern portion of that
17 expanded compound also measures out right about 40
18 plus or minus feet from -- that would be the toe of
19 the slope going to the west.

20 So it kind of like hits about 40 feet on
21 each toe and the top.

22 CHAIRPERSON PRICE: And you're measuring per
23 conditions to the top contour?

24 MR. DiSTEFANO: Yeah.

25 CHAIRPERSON PRICE: Okay. So the -- it's

1 within the jurisdiction.

2 MR. DiSTEFANO: It's within the jurisdiction
3 of 50 feet.

4 CHAIRPERSON PRICE: Okay. All right. So if
5 that 41 was, you know, 50, it might not --

6 MR. DiSTEFANO: It wouldn't be here for an
7 EPOD permit, correct.

8 CHAIRPERSON PRICE: Okay. All right. And
9 so there's no disturbance of existing vegetation.
10 We're not bringing up any earth moving equipment.
11 You're not adding anything other than the stone base.
12 So it's precast concrete. So you're not driving a
13 truck up the road to pour that pad. From a
14 geotechnical, you're not actually going in and
15 excavating anything for foundations.

16 MR. AUERBACH: Correct.

17 CHAIRPERSON PRICE: Just the pad.

18 MR. AUERBACH: There may be a boom arm on
19 the truck to lift the generator off the truck and
20 place it on the pad, but no other -- it will just be a
21 standard pickup sized-truck.

22 CHAIRPERSON PRICE: And any excavation is
23 really associated to the fence.

24 MR. AUERBACH: Correct.

25 MR. DiSTEFANO: And fence posts are machine

1 dug? Are you bringing in a machine to do those? Hand
2 dug?

3 MR. AUERBACH: I was not advised that any
4 other mechanical equipment would be brought to the
5 site other than a truck with a boom arm and a 12 foot
6 generator.

7 MR. DiSTEFANO: And can you for the record
8 state about how many postholes are going to be dug?

9 MR. AUERBACH: I can probably estimate that.

10 CHAIRPERSON PRICE: We might be able to help
11 you with that, Rick. They've got, looks like, less
12 than -- about 20 feet and 10 feet. So you're --
13 you'll probably be able to do two on the 10 foot leg
14 and probably one -- three on the -- so I -- probably
15 five.

16 MR. DiSTEFANO: Yeah. I think you
17 can actually -- one of them you can actually see it.
18 I just wanted him to state for the record about how
19 many.

20 MR. AUERBACH: It appears to be five or six.

21 MR. DiSTEFANO: Five or six.

22 MR. AUERBACH: And I'm looking at plans
23 C101, which has that indicated.

24 MR. DiSTEFANO: And there is the footing for
25 the -- the platform for the equipment. It looks like

1 there's some pier footings for that.

2 MR. AUERBACH: Yes. And then I think
3 there's a plan detail for those.

4 MR. DiSTEFANO: Okay. And that is actually
5 slightly -- well, those can be outside the EPOD.
6 Maybe not.

7 CHAIRPERSON PRICE: I'm not sure I have
8 any -- I got a pretty clear picture. Other questions?

9 MR. OSOWSKI: All the other generators but
10 two other generators are diesel?

11 MR. AUERBACH: That is correct.

12 MR. OSOWSKI: And fuel delivers up, they're
13 not an issue getting up that road?

14 MR. AUERBACH: I'm sorry. Can you say
15 again?

16 MR. OSOWSKI: Fuel deliveries, not an issue?

17 MR. AUERBACH: There is not an issue.
18 Essentially the way it works is it's a 300 gallon tank
19 and it is monitored electronically. So when it
20 reaches a certain level, there's a notification that
21 it needs to be refilled. And that is done with a
22 pickup truck that has a tank with a pump on it. And
23 it's refilled as needed.

24 MR. OSOWSKI: Good. Okay. Are there only
25 three cell companies up there or are there -- will we

1 be seeing other generators being applied for? Or this
2 may be the last one?

3 MR. AUERBACH: I don't have an answer to
4 that. I can tell you that there are five total
5 tenants on this tower. I believe four of them are
6 telecommunication facilities and one of them is a
7 wireless internet provider.

8 I would suspect that if there was additional
9 work that needed to be done, they would have had me
10 done it while I was here. But I can't say for certain
11 there will never be another application. There is
12 none pending.

13 MR. OSOWSKI: Okay. Because it would be
14 nice if some would kind of get together and cooperate
15 and share a generator, but I've never seen that happen
16 yet. It's not your fault. Thank you.

17 MR. AUERBACH: Thank you.

18 CHAIRPERSON PRICE: You guys got questions?
19 You know, we would have loved this information a
20 couple of weeks ago; right?

21 MR. DiSTEFANO: We can discuss what we want
22 to do with it when we get to decision.

23 CHAIRPERSON PRICE: Very good. All right.
24 Ken, do you have any?

25 All right. Thank you very much.

1 MR. AUERBACH: Thank you.

2 CHAIRPERSON PRICE: This is a public
3 hearing. Is there anyone that cares to address this
4 application?

5 Just curious, what are you here for?

6 MR. BEZHINL: For the sign Prodigy Surgical.

7 CHAIRPERSON PRICE: Okay. Very good. Thank
8 you. Okay. We've heard our two public hearings for
9 the evening. Are we ready to just go back and circle
10 back around?

11 MR. DiSTEFANO: Do you want to do that or do
12 you want to deal with the one sign?

13 CHAIRPERSON PRICE: I'm good with that. We
14 can just -- we'll look at that one because it's number
15 one --

16 MR. DiSTEFANO: That one. And then we'll
17 finish up -- go back and finish the decisions. So,
18 you know, we can take care of that.

19 CHAIRPERSON PRICE: Please come up. We
20 typically kind of all gather around and look at the
21 sign together. We haven't seen it yet.

22 MR. DiSTEFANO: Which sign are you --

23 MR. BEZHINL: Prodigy Surgical.

24 MR. DiSTEFANO: So 6 -- 1221 East Henrietta
25 Road.

1 MR. GORDON: Application 1659 Prodigy
2 Surgical for a sign at 1221 East Henrietta Road.

3 **Sign Application 1659**

4 Prodigy Surgical for a Building Face Sign at
5 1221 East Henrietta Road

6 MR. DiSTEFANO: Maybe want to pass this
7 around. This is the sign that was proposed. And I'll
8 just -- let me -- I'll just kind of start out a little
9 bit for you.

10 The sign that was proposed as you see coming
11 around is pretty much a large metal panel with the
12 logo and name on that panel. And that panel would be
13 placed along a brick wall.

14 The Architecture Review Board, some members
15 wanted to see no panel and some members didn't have a
16 problem with the panel.

17 CHAIRPERSON PRICE: And are those -- are
18 these part of the graphics?

19 MR. OSOWSKI: The little squiggle there on
20 the side?

21 MR. BEZHINL: That was one of the questions
22 regarding the landscaping there. So it will be
23 changed as soon as we put up the sign.

24 The sign, as the member mentioned, is going
25 to be an aluminum panel. There isn't being -- so the

1 reason why the design was chosen because all of the
2 letters and the logo will be illuminated. So for
3 easier servicing of the sign, we decided to go with
4 the panel so all the electronics will be enclosed
5 there and it will be protected from the elements.

6 Another thing to mention, when this sign was
7 designed by our designers, we did take in
8 consideration that the pen appears to be a little bit
9 larger. That's why we decided to match the color of
10 the building so it's not going to stand out as much.

11 Another thing that I would like to mention
12 is that we looked at different options for this
13 particular application. And as the members can see,
14 the structure of the wall is uneven. And placing
15 there individual general letters will not have -- will
16 not make any sense because they're not going to be
17 sitting flat on the wall, which is just not going to
18 be appearing very appealing from the design
19 standpoint.

20 Also we were looking at putting the letters
21 raised just because it's a one-story building and it's
22 not a really tall wall.

23 And another thing that we took into
24 consideration when we were designing this particular
25 sign, it's going to be going with their narrative of

1 all the internal signage that it's going to be a part
2 of the signs that has already been installed there.

3 Also letters are going to be illuminated.
4 But this sign is going to be facing the street. And
5 this is not in a residential area or anything like
6 that. So we do believe that the sign is going to have
7 a very minimal, if any, impact on the environment of
8 the area where the business is located. But it's
9 definitely going to be very beneficial to indicate the
10 building and the business and help customers find the
11 location.

12 CHAIRPERSON PRICE: Where is this located
13 relative to your entrance?

14 MR. BEZHINL: It is on the right-hand side
15 of building facing -- facing -- I'm sorry. I forgot
16 the name of the street.

17 CHAIRPERSON PRICE: East Henrietta.

18 MR. BEZHINL: Henrietta. Right, right.

19 CHAIRPERSON PRICE: So your front door also
20 faces East Henrietta or --

21 MR. BEZHINL: No -- yes.

22 CHAIRPERSON PRICE: So you're catching
23 people as they drive by.

24 MR. BEZHINL: Through-way. I believe it's a
25 through-way; right? That's what we are aiming for.

1 MR. DiSTEFANO: Is this sign facing East
2 Henrietta Road or facing the loop road? I think that
3 was your question.

4 CHAIRPERSON PRICE: I wanted to know where
5 the front door is.

6 MR. BEZHINL: Unfortunately --

7 MR. DiSTEFANO: The old one faced East
8 Henrietta Road. The old sign that was on that
9 building --

10 MR. BEZHINL: That's where it's going to be
11 facing.

12 MR. DiSTEFANO: Facing East Henrietta Road.

13 MR. BEZHINL: That is correct.

14 CHAIRPERSON PRICE: Okay.

15 MR. OSOWSKI: I know that the Architecture
16 Review Board took issue with the decorative grasses,
17 the landscaping, intruding on the words Prodigy
18 Surgical. Would it be possible to put the words at
19 the top of the sign and that emblem on the -- below
20 the words? Is that possible?

21 MR. BEZHINL: That's actually a great
22 question. And we did discuss that, as you mentioned,
23 in the architectural meeting last time. The
24 landscaping is going be changed. And there will be no
25 shrubs in front of the sign.

1 So the reason why would we like to keep the
2 sign the way it is because the building is sitting on
3 the elevation by itself. And the letters' position on
4 the sign is going to be very visible for other
5 traveling traffic over there.

6 And also the logo is kind of for the
7 customer. It is important to have that on the top
8 because, like I said, it correlates with the signage
9 that's already been installed inside of the facility,
10 interior signs.

11 So we kind of like want to keep the ground
12 line for the customers. So that's why we proposed
13 that design, that particular design.

14 MS. FORD: You said this sign is
15 illuminated?

16 MR. BEZHINL: Yes. The letters and the logo
17 will be illuminated.

18 MS. FORD: All night?

19 MR. BEZHINL: No. Dusk to dawn. It's not
20 going to be illuminate during the daylight. And
21 it's --

22 MS. FORD: It's going to be in the evening
23 hours?

24 MR. BEZHINL: Yes, yes. Exactly.

25 MS. FORD. Like all night long?

1 MR. BEZHINL: Yeah. It's going to be very
2 lightly illuminated. It's not going to be producing a
3 lot of wattage. And we've not seen any concerns of
4 any like light pollution or anything like that because
5 of -- it's going to be illuminated.

6 MR. FADER: So the sign faces East
7 Henrietta. And then I'm looking at Google Maps. It
8 looks like the doors to the building face the Clay
9 Road; is that correct?

10 MR. BEZHINL: I believe so.

11 CHAIRPERSON PRICE: Yeah.

12 MR. GORDON: Yes.

13 CHAIRPERSON PRICE: Okay.

14 MR. DiSTEFANO: So I'm not sure -- guys,
15 there's just a comment that came out of the
16 Architecture Review Board. Now these comments --
17 again, it was a split decision. So the comments kind
18 of go to both submissions.

19 One comment was backing pan. is
20 unnecessarily large. Number two, spatial relationship
21 of the logo to the text is awkward. And three, the
22 building is located approximately 100 feet from the
23 public sidewalk on East Henrietta Road and elevated
24 above the road. So those are the comments that came
25 from the Architectural Review Board.

1 CHAIRPERSON PRICE: I guess I personally
2 feel -- somewhat agree that the amount of blank space
3 on either side of your logo is a little -- does feel a
4 little awkward. Whether you could have stacked
5 Prodigy and Surgical on top of each other and kind of
6 condensed it, but the building is longer. Could you
7 have offset the logo a little bit to give it a way so
8 it doesn't feel like there's so much? Or again, could
9 you kind of just had an individual logo and an
10 individual sign mounted without that amount of -- kind
11 of brown space on either side.

12 Those are what they're saying. And I guess
13 the fact that the sign is being viewed from the lower
14 elevation, those plants also or -- their screening
15 capabilities are exaggerated because you're looking up
16 at it. So I think those are the comments that the ARB
17 had.

18 MR. FADER: You were going to move the
19 plants?

20 MR. BEZHINL: I was just going once again
21 repeat myself that the landscaping will be changed
22 accordingly.

23 And then also, one more like I would like to
24 mention that was discussed in the architecture
25 meeting. And we looked at the different designs and

1 there was an idea of separating -- to decrease the
2 space, the empty space on the panel, separating it
3 into two panels. But from the financial standpoint
4 it's not really good for the customer only because
5 we're going to have to separate all the electronics
6 and run it separately. Plus it's going to be a
7 additional penetrations of the wall that we would like
8 to avoid just to keep it -- you know, with the solid
9 structure of the installation.

10 CHAIRPERSON PRICE: I guess another way to
11 do it might be to put the logo on the left side and
12 then run the words, you know, to the right of it
13 rather than it sitting on top. Then the whole thing
14 becomes a little bit narrower.

15 I mean, supposedly you could go a through
16 lot of different iterations. This is what you want is
17 what you're --

18 MR. BEZHINL: My customer, that's what
19 they're saying. This is their vision of their sign
20 and logo, how they would like to place it. And we're
21 just trying to make it -- to make sure that it's going
22 to be compliant with all the regulations and codes and
23 it's going to be visually appealing for the neighbors.

24 CHAIRPERSON PRICE: This meets square
25 footage requirements? This is not --

1 MR. DiSTEFANO: Yeah. I mean, it would be a
2 little harder if they were coming for a variance
3 because of that panel the sign was too big. But it's
4 not too big. They do meet the code requirement of
5 square footage. So that's their area of signage that
6 they can use. They decide to use it with a panel that
7 has a lot of blank space on it.

8 CHAIRPERSON PRICE: Is this sign already
9 fabricated?

10 MR. BEZHINL: We -- we just need to pull the
11 trigger. Like it's not going to take a lot of time --

12 CHAIRPERSON PRICE: So it's not sitting in a
13 warehouse already made?

14 MR. BEZHINL: It's plus minus. Like it's
15 just a matter of days for us to fabricate this kind of
16 sign because we've been working with the customer for
17 quite some time. And they're eager to finish the
18 project. And the fact we do not have a permit is kind
19 of moving the project back all the time.

20 CHAIRPERSON PRICE: I'm just going to ask my
21 colleagues what they think. John?

22 MR. OSOWSKI: Yeah. I think the fact that
23 they're trying to match the building color as best
24 they can is okay.

25 MR. FADER: I -- I did pass there. And I

1 drive pass there a lot and I really don't have I
2 problem with this sign.

3 MS. FORD: If there's no violation of code
4 in sign size and they like it...

5 CHAIRPERSON PRICE: My personal opinion is
6 that some of the comments from the ARB are valid. But
7 frankly -- and I think if you were doing this on
8 Monroe Avenue, you'd be having a much harder time.
9 But I'm -- I'm not -- I'm not opposed to this.

10 So I guess I'll make a motion to approve
11 application 1659 as presented.

12 MR. FADER: I'll second that.

13 CHAIRPERSON PRICE: Moved and seconded.
14 Rick would you call the roll?

15 MR. DiSTEFANO: The motion is to approve
16 sign 1659 as presented.

17 (Mr. Fader, aye; Mr. Osowski, aye;
18 Ms. Ford, aye; Mr. Price, aye.)

19 (Upon roll motion to approve carries.)

20 CHAIRPERSON PRICE: Take a look at putting
21 the logo on the left side and making the whole thing a
22 little narrower.

23 MR. BEZHINL: I'll definitely let the
24 customer know all your ideas.

25 CHAIRPERSON PRICE: And you keep it all the

1 way you want with regards to your electronics and
2 mounting.

3 MR. BEZHINL: Thank you so much. I
4 appreciate the approval.

5 CHAIRPERSON PRICE: Good luck. Okay. Let
6 us circle back to application 8P-02-22. Paychex of
7 New York. So my understanding is -- well, first of
8 all, let's see if there's a motion to close the public
9 hearing.

10 MR. FADER: So I'm not sure I can make that
11 motion. It depends on whether we table it or we
12 approve. And I think we need to decide that before we
13 close it. I could be mistaken.

14 CHAIRPERSON PRICE: Okay.

15 MR. GORDON: Why don't you sort of have you
16 general discussion.

17 **Application 8P-02-22**

18 Application of Paychex of New York, LLC,
19 owner, and Golisano Business COE, Inc., agent, for
20 Conditional Use Permit Approval to allow for a college
21 to be located at 150 Sawgrass Drive. All as described
22 in application and plans in file.

23 CHAIRPERSON PRICE: I move we close the
24 public hearing.

25 MR. FADER: I second that.

1 CHAIRPERSON PRICE: Second by David. Moved
2 and seconded. Any further discussion on closing the
3 hearing? Please call the roll.

4 MR. DiSTEFANO: Motion to closed the public
5 hearing on application 8P-02-22.

6 (Mr. Price, aye; Mr. Fader, aye;
7 Ms. Ford; aye; Mr. Osowski, aye.)

8 (AUpon roll motion to close public hearing
9 carries.)

10 MR. FADER: I move the Planning Board find
11 the proposed action will not have a significant impact
12 on the environment and adopts the negative declaration
13 prepared by town staff.

14 CHAIRPERSON PRICE: I'll second. Is there
15 any discussion? Okay.

16 MR. DiSTEFANO: Motion to adopt the negative
17 declaration for SEQRA purposes.

18 (Mr. Price, aye, Mr. Fader, aye;
19 Mr. Osowski, aye; Ms. Ford, aye.)

20 (AUpon roll motion to adopt the negative
21 declaration carries.)

22 CHAIRPERSON PRICE: Thank you.

23 MR. FADER: I move that the Planning Board
24 adopts the nine conditional use findings outlined in
25 the Planning Board and that Planning Board approves

1 application 8P-02-22 based on testimony given, plans
2 submitted and the 16 conditions outlined in the
3 Planning Board report.

4 CHAIRPERSON PRICE: I'll second. Is there
5 any discussion regarding findings, language or any of
6 the 16 conditions? We didn't hear any modifications
7 to the conditions.

8 MR. GORDON: Yeah. The discussion I had
9 with Mr. Goldman regarding proof of the need or lack
10 there of State Ed Department approval I think
11 summarized the issue. I don't think we need to change
12 that condition. I think it is wisest to keep it a bit
13 open and flexible. I really just wanted the applicant
14 to know that an unsupported unsubstantiated letter
15 from counsel probably isn't going to satisfy staff.

16 Conversely I think Mr. Goldman is correct.
17 You can't control whether the State Ed Department will
18 in fact issue effectively a negative declaration that
19 it doesn't need State Ed Department approval. So
20 we'll tackle that -- staff will tackle that. As
21 written I think is best.

22 CHAIRPERSON PRICE: I'm only going to say
23 this, just because the applicants are all sitting
24 here. This application, this conditional use, is good
25 for a year from the date from tonight; right? Or is

1 it -- is this -- there are other things that have to
2 happen with regard to the PILOT. Is the effective
3 date today or is the effective date some other time?

4 MR. DiSTEFANO: The effective date is the
5 year from your granting of the conditional use permit.

6 CHAIRPERSON PRICE: From tonight.

7 MR. GORDON: Unless you provide some other
8 time period within your approval.

9 CHAIRPERSON PRICE: I do just enough work in
10 my other job with SED and State Ed to know things
11 don't move that quickly. You know way better than I
12 do. Just wondering if they're going to have an
13 answer. I know they want to have an answer in that
14 time frame, but...

15 MR. GORDON: My understanding is -- and I
16 think this is coming from Mr. Golisano directly --
17 that the applicants' intention is to have the school
18 operational certainly before September of 2023.

19 MR. DiSTEFANO: Also the year is not defined
20 exactly like we define a year for zoning variances.

21 CHAIRPERSON PRICE: Okay.

22 MR. DiSTEFANO: If a building permit has
23 been issued and they're diligently working on that,
24 just because it's not occupied, doesn't mean that they
25 lose a conditional use permit.

1 CHAIRPERSON PRICE: Okay. So they're not
2 likely to be going -- marching down the road in a
3 couples months over the deadline and oh, by the way
4 you got to go back.

5 MR. DiSTEFANO: Right.

6 MR. GORDON: And certainly if the applicant
7 found that for whatever reason they haven't started
8 operating under the conditional use within a year,
9 then they could simply come back and ask for an
10 extension.

11 CHAIRPERSON PRICE: Okay. Thank you for the
12 discussion. All right. We're moved and seconded. No
13 amendments to the findings or to the conditions.

14 Rick, would you please call the roll?

15 **Conditional Use Permit Findings:**

16 1. The Planning Board finds that the proposed use as
17 a school is a conditionally permitted use within the
18 standards of the Office & Office Park (BE- I)
19 District.

20 2. The Planning Board finds that the proposed use as
21 a school, is in harmony with the purpose and intent of
22 Code Sections 217-3 through 217-7.2 (Conditional
23 Uses). The location and size of the school, the
24 intensity (hours of operation), size of the site and
25 access have all been considered in the Board's review.

1 3. The Planning Board finds that the establishment of
2 a school at this location as described in the
3 application and materials provided to the Planning
4 Board, on a property currently being used for office
5 uses, in an Office & Office Park area will not be
6 detrimental to the health, safety or general welfare
7 of persons working in the neighborhood nor will the
8 proposed use be detrimental nor injurious to the
9 property and improvements in the neighborhood nor to
10 the general welfare of the Town.

11 4. The proposed school will be in an existing
12 building and not result in the destruction, loss or
13 damage of any natural, scenic or significant
14 historical resource.

15 5. The Planning Board finds that the establishment of
16 a school in an existing building on a site designed
17 for such office uses will not create excessive
18 additional requirements for public facilities and
19 services and will not be detrimental to the economic
20 welfare of the community. Any impact on the economic
21 welfare of the Town will be mitigated by the Standby
22 PILOT Agreement offered by the Applicant.

23 6. The Planning Board finds that the proposed school
24 in an existing building on a site designed and built
25 for such uses will be adequately served by essential

1 public facilities.

2 7. The Planning Board finds that the proposed school
3 in an existing building on a site designed and built
4 for such uses will not result in the loss or damage to
5 trees.

6 8. The location and size of the proposed school
7 conditional use, the nature and intensity of the
8 operations involved, its site layout and relation to
9 existing pedestrian and vehicular circulation are such
10 that the proposed school will not be hazardous or
11 inconvenient to or incongruous with the surrounding
12 uses, nor the neighboring uses along Westfall Road or
13 on Sawgrass Drive.

14 9. The location, height, and orientation of the
15 existing building in which the proposed school will
16 operate and the nature and extent of the existing
17 landscaping on the site are such that the proposed
18 school use will not hinder or discourage the
19 appropriate development and use of adjacent land and
20 buildings.

21 **Conditions:**

22 1. Requirements of the Town of Brighton's Department
23 of Public Works shall be met.
24 2. All Town codes shall be met that relate directly
25 or indirectly to the applicant's request.

- 1 3. All required building permits shall be obtained.
- 2 4. An Operational permit shall be obtained from the
- 3 Town of Brighton Fire Marshal (Chris Roth,
- 4 585-784-5220).
- 5 5. Any change in programs offered or use of indoor or
- 6 outdoor space shall require review by the Building and
- 7 Planning Department and may require further Planning
- 8 Board approval.
- 9 6. Any new signage must receive all necessary Town
- 10 approvals. Only business identification signage as
- 11 allowed per the Comprehensive Development Regulations
- 12 is permitted.
- 13 7. All Monroe County Development Review Committee
- 14 comments shall be addressed.
- 15 8. All conditions of the Zoning Board of Appeals
- 16 regarding parking space size shall be met.
- 17 9. Any external modifications shall be approved by
- 18 the Town of Brighton Architectural Review Board prior
- 19 to the issuance of any building permits.
- 20 10. The dumpster shall be enclosed with building
- 21 materials that are compatible with the existing
- 22 building and located in the rear yard. The enclosure
- 23 shall equal the height of the dumpster and shall not
- 24 be higher than six and one-half (6.5) feet.
- 25 11. The parking lot lights shall be placed on a

1 timer.

2 12. Applicant shall comply with the requirements of
3 §207-14.2 of the Comprehensive Development Regulations
4 regarding refuse and grease handling, cleaning of
5 exhaust hoods/vents and other applicable regulations.

6 13. The project engineer shall confirm if additional
7 accessible parking spaces are required to be installed
8 as part of this project. All new accessible parking
9 space signage to be installed or replaced shall have
10 the logo depicting a dynamic character leaning forward
11 with a sense of movement as required by Secretary of
12 State pursuant to section one hundred one of the
13 Executive Law.

14 14. A revised site plan showing the current
15 conditions shall be submitted.

16 15. Prior to issuing a certificate of occupancy,
17 information shall be submitted by the applicant
18 showing that the educational program and offerings
19 have received necessary approvals from the New York
20 State Education Department or that approvals were not
21 required.

22 16. The Applicant shall execute a Standby PILOT
23 Agreement providing that the Applicant and its
24 successors and assigns shall pay annually to the Town
25 of Brighton \$0.51584 per square foot of any or all of

1 the portions of the Building to be used for the school
2 approved herein which is determined to be exempt from
3 Real Property Taxes, that such payment shall commence
4 and be due to the Town on January 1 of each and every
5 tax year in which the Building is determined to be in
6 whole or in part exempt from Real Property taxes, that
7 said payment shall escalate each tax year after 2023
8 by the greater of 1 % or the percentage increase in
9 the Town Tax rate, and the form of said Standby PILOT
10 Agreement shall be subject to the approval of the Town
11 Attorney and the Brighton Town Board. Applicant shall
12 file said Standby PILOT Agreement in the Monroe County
13 Clerk's Office and provide proof of the same to the
14 Town prior to the issuance of any Certificate of
15 Occupancy.

16 MR. DiSTEFANO: Motion is to approve with
17 conditions.

18 (Mr. Osowski, aye; Ms. Ford, aye; Mr. Fader,
19 aye; Mr. Price, aye.)

20 (Upon roll motion to approve with conditions
21 carries.)

22 MR. GOLDMAN: Thank you very much. Have a
23 good evening.

24 CHAIRPERSON PRICE: All right. Now we're
25 going to go to 10P-02-22.

1 Application 10P-02-22

2 Application of American Tower Corporation,
3 owner, and Barclay Damon LLP, agent, for Site Plan
4 Modification and EPOD (steep slope) Permit Approval to
5 expand an existing cell tower equipment compound for
6 the installation of a standby emergency generator on
7 property located at 1 Pinnacle Hill Road. All as
8 described on application and plans on file.

9 MR. FADER: I move that application
10 10P-NB1-22 be tabled based on the testimony given and
11 plans submitted. Additional information is requested
12 in order to make a determination of significance and
13 to have complete application. The 20 items outline in
14 the Planning Board report are required to be submitted
15 no later than two weeks prior to the next Planning
16 Board meeting.

17 CHAIRPERSON PRICE: I'll second. It is
18 application 10P-02 not NB1.

19 MR. DiSTEFANO: Not being familiar with the
20 process, so stop me if I'm talking out of turn here,
21 are you going to make a vote on closing the public
22 hearing or leaving the public hearing?

23 CHAIRPERSON PRICE: It stays open with the
24 table.

25 MR. DiSTEFANO: You can close it and just

1 make it straight old business. You don't need
2 anything more from the applicant to keep the public
3 hearing open, just for staff to prepare a neg dec and
4 then take it as an old business item next month and
5 make your decision. That can be done.

6 If you want to hear back from the applicant,
7 then you keep the public hearing open.

8 MR. FADER: You want me to amend this one or
9 just make --

10 MR. DiSTEFANO: I would just make a separate
11 motion you want -- you guys want to deal with the
12 public hearing.

13 MR. GORDON: No. Amend the motion.

14 MR. DiSTEFANO: Yeah. Make a motion as --

15 MR. GORDON: He can amend his motion to say
16 that he moves to close the public hearing on
17 application 10P-02-22 and to table it for action at
18 the next Planning Board meeting.

19 CHAIRPERSON PRICE: What he said.

20 MR. GORDON: Is that okay with you, David?

21 MR. FADER: Can I say it as short as that?

22 MR. GORDON: Yeah.

23 MR. FADER: Okay.

24 MR. GORDON: But I already said it. So if
25 you would accept that as an amendment.

1 MR. FADER: Yup.

2 MR. GORDON: Does the seconder accept that
3 as well?

4 CHAIRPERSON PRICE: So motion is moved and
5 seconded.

6 MR. GORDON: Who second?

7 CHAIRPERSON PRICE: I seconded and I approve
8 the amendment motion. Any further decision? Please
9 call the roll.

10 MR. DiSTEFANO: The motion is to table and
11 close the public hearing.

12 (Ms. Ford, aye; Mr. Osowski, aye; Mr. Fader,
13 aye; Mr. Price, aye.)

14 (AUpon roll motion to table the application
15 and close the public hearing carries.)

16 **Signs:**

17 **1664** Oak Hill Terrace Apartment Homes for a free
18 standing sign at 2470 East Avenue

19 CHAIRPERSON PRICE: Recommended approval as
20 revised square footage.

21 All in favor?

22 ALL BOARD MEMBERS: Aye.

23 **1665** Alliance Fleet for a building face sign at
24 2715 West Henrietta Road

25 CHAIRPERSON PRICE: Approval as recommended.

1 All in favor?

2 ALL BOARD MEMBERS: Aye.

3 **1666** T-Mobile for a building face sign at 2750
4 Monroe Avenue

5 CHAIRPERSON PRICE: Approved as recommended.

6 All in favor?

7 ALL BOARD MEMBERS: Aye.

8 **1667** Grannum Health for two free standing signs
9 at 2220 South Clinton Road/940 Westfall Road
10 CHAIRPERSON PRICE: Approved as recommended.

11 All in favor?

12 ALL BOARD MEMBERS: Aye.

13 **1668** Tranquility Now for a building face sign at
14 2750 Monroe Avenue.

15 CHAIRPERSON PRICE: Approved as recommended.

16 All in favor?

17 ALL BOARD MEMBERS: Aye.

18 **1669** RFC Rochester Family Chiropractic for a
19 building face sign at 1882 South Winton Road
20 CHAIRPERSON PRICE: Approved as recommended.

21 All in favor?

22 ALL BOARD MEMBERS: Aye.

23 (Proceedings concluded at 8:31 p.m.)

24 * * *

25

1 | **REPORTER CERTIFICATE**

2

3 I, Holly E. Castleman, do hereby certify
4 that I did report the foregoing proceeding, which was
5 taken down by me in a verbatim manner by means of
6 machine shorthand.

7 Further, that the foregoing transcript is a
8 true and accurate transcription of my said
9 stenographic notes taken at the time and place
10 hereinbefore set forth.

11

12 Dated this 19th day of October, 2022

13 at Rochester, New York.

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Holly E Castleman

HOLLY E. CASTLEMAN, CR,
Notary Public.