

**Village of Cazenovia Planning Board
Meeting Minutes
March 9, 2020**

5 Present: Rich Huftalen, Chair; Adam Walburger; Anne McDowell; Steve McEntee; and Don Raleigh.

Absent: Zach Young.

10 Others Present: James Stokes, Village Attorney; Maribeth Pavelchak; Katie Pavelchak; Anne Ferguson; David Cox; Aaron Camp; Colby Clark; Pete Karpinski; Ed Keplinger; Nate Hickey; Johanna McKenna; Kelly Sweet; Aaron Camp; Michael Roets; Chip Hooley; Ben Lockwood; Diane Webb; Jeff Davis; and Jen Wong. Approximately 18 people were in attendance in addition to the Board.

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R. Huftalen called the meeting to order at 7:02 and introduced the Board.

20 R. Huftalen asked for any changes to the minutes of February 24, 2020. R. Huftalen pointed out the word “consistent” should be “inconsistent” on Page 18, Line 853. It should read: *“I believe everybody here agrees that this proposed action is not **inconsistent** with the adopted land use plans. The answer is “no.” It is a double negative.*”

25 R. Huftalen made the motion to approve the minutes as corrected. A. McDowell seconded. The motion carried with 5 in favor, 0 opposed.

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30 **Lisa Nichols, 69 Albany St., Short-Term Rental Application (Airbnb), Special Use Permit**
Aaron Camp came forward as the representative.

R. Huftalen: Thanks for coming tonight. As you are probably aware, we have a list of questions we go through. We received comments from Madison County Planning Department. They returned it for local determination. Every one of these special use applications requires referral to Madison County Planning Department. We will make our local determination once we get through these questions. This application happens to be in the B-1 district. Per Code 180-47D it is a little different than it is in all the residential districts. It provides for non-owner-occupied transient lodging in B-1 only in combination with permitted nonresidential uses on the first floor. Can you attest that there is a permitted nonresidential use on the first floor?

40

Aaron Camp: Yes, correct.

45 1. *Owner occupied transient occupancy lodging requires a minimum of one space for each transient occupant. Additional spaces may be required by the Planning Board based on the site characteristics and maximum number of persons permitted to occupy the dwelling unit per the terms of the special permit issued by the Planning Board.* R. Huftalen: The application indicates

three spots. Mr. Camp: Yes, three overnights and three daytime as well. But the overnights are the critical ones. R. Huftalen: Do you also have access to additional parking if it's required?

50 Aaron Camp: Yes. The maximum occupancy would be eight inside the building. It is a four-bedroom. It is on the third level. The total load occupancy according to New York State codes puts it at eight. It is not a large party application. A. McDowell: Occupancy eight, parking spaces three, but you can accommodate more? Aaron Camp: Yes, three spaces. Yes, we can accommodate more. There was a question about accommodating larger vehicles. We do
55 have the capabilities off site to accommodate larger vehicles, for example, a tow behind. At this point, we are not setting up provisions for that. A. McDowell: Where are the other available parking spaces? Aaron Camp: We have accessibilities at the end of the lake as well to utilize space for parking, for example, if they had a larger vehicle. A. McDowell: At the south end of the lake? That can't be overnight. Aaron Camp: Yes. That is actually the private property we
60 still have vested interest with Mr. Trush. We have arrangements and parking capacity there. I can assure you that I have direct connection with Glenn Trush and we have capacity to park. That's where they store the 50-foot tractor trailers, at times, for companies to utilize that space for temporary parking. It is not meant to be permanent. Nor is it connected with this for a stay. It is just an accessibility for larger vehicles so it doesn't plug up the parking at the residence.
65 Apparently, behind the post office there is some capacity to park. We strongly discourage that. That takes away from the local people that do live in this area. We are encouraging them to just come in with one vehicle. We are going to put a three-vehicle cap on it. They have to live within those constraints. R. Huftalen: Per your application, you have three designated parking spots in Peggy's Lot and those are associated with the property. Aaron Camp: That's correct.
70 R. Huftalen: Then you have access behind the library. Aaron Camp: We have three more that are day passes, which are also in Peggy's Lot, but they are adjacent to the post office; spaces 1, 5, and 6.

2. *The maximum number of persons permitted to occupy any transient occupancy lodging facility shall be (2) persons per sleeping room, with an overall maximum of (8) persons, subject to available parking for the use. The Planning Board may establish a lower maximum occupancy limit under its special permit review authority if it determines that the number of parking spaces appropriately devoted to the use is insufficient to support the number of intended occupants without adversely affecting adjoining property owners and/or the surrounding neighborhood.*

80 Aaron Camp affirmed.

3. *No recreational vehicles, campers, trailers, or motor vehicles larger than a one-ton pickup truck may be parked upon the premises during any transient occupancy. The number of automobiles and/or light duty (pickup) trucks that may be parked on site in association with any transient occupancy lodging shall be limited to the number of off-street parking spaces designated on the site plan approved by the Planning Board. No vehicles may be parked on lawns or in other areas not specifically approved as parking spaces under the provisions of this Chapter. The Planning Board shall review all applications in relation to the physical limitations of the subject*

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90 *premises as well as the proximity to adjoining uses and surrounding neighborhoods in order to*
determine the appropriate parking requirements and occupancy limits. R. Huftalen: This is not
allowed at residential sites, but it is a different consideration in B-1. In reviewing the application
and per your explanation, it seems like you have reasonable accommodations to make that work.
Aaron Camp affirmed. R. Huftalen: These permits are subject to annual review. If there is a
95 problem, that will certainly come up in a future permit review. Aaron Camp: We have reviewed
ourselves and have already set constraints to avoid problems.

100 4. *No transient occupancy lodging facility shall be located above the second floor of any building*
unless such floor has a fire sprinkler system or has been otherwise constructed in accordance
with requirements of applicable New York State code requirements for residential occupancy of
such floors. R. Huftalen: You are contemplating third floor use, but we have a provision that as
long as the building is in accordance with requirements of applicable New York State Codes for
residential occupancy of such floors, it is allowed. I suspect that you are in compliance with
those Codes. Aaron Camp: Yes.

105 5. *Each sleeping room within a transient occupancy lodging facility shall have affixed to the*
occupied side of the entrance door to the sleeping room a written notice stating the means of
egress from the room in case of fire or other emergency, the location of means for transmitting
fire alarms, if any, and the evacuation procedures to be followed in the event of a fire or smoke
condition, or upon activation of a fire or smoke-detecting or other alarm device. Aaron Camp:
110 We do have smoke detectors with the alarm systems with them. They are smoke detector/alarm
combinations. Then we do have carbon monoxide/smoke detectors outside of the occupied
bedrooms. We have the all-important NFPA 70. We also carry through all the fire code 905
sections. We have our path of egress signage. We also have our illuminated signage for the
115 exits leading out, along with the path of egress on the occupied side of the back main door and
the entrance showing the path out of the building. There is a secondary portion of egress, which
is available, but it is not on the signage. According to fire code, it is meant to direct them to the
primary point of egress. R. Huftalen: For the purpose of this condition, can you affirm that each
sleeping room does have this signage affixed to the occupied side? Aaron Camp: Yes.

120 6. *Dwellings and/or dwelling units used for transient occupancy lodging shall have no exterior*
signs or other exterior indications of the transient occupancy use, which shall from all exterior
indications be indistinguishable from an otherwise permitted conventional residential use.
Aaron Camp: There is no signage.

125 7. *All transient occupancy lodging uses shall be limited to the temporary lodging of registered*
guests, and no commercial activities and no public or private parties, receptions, meetings or
similar social gatherings or events shall be permitted. Occupancy shall be limited to the number
of persons permitted under the special use permit issued by the Planning Board, and the
operator of the facility shall maintain a register of all guests staying at the facility, their

130 *permanent addresses, and the dates of their stay. This register shall be made immediately*
131 *available to the Village Code Enforcement Officer and/or Police Department as part of any*
132 *Village investigation of any complaints regarding guest behavior and/or to determine*
133 *compliance with requirements of any special permit issued for the facility. R. Huftalen: Can you*
134 *affirm that you will maintain that log? Aaron Camp: Yes.*

135
136 8. *No person, whether directly or as a sole or partial owner of another legal entity, may be the*
137 *owner or operator of more than one transient occupancy lodging facility within any area of the*
138 *Village zoned R-30, R-20, R-10, R-6, RM, WG or CD at any one time. This item does not apply*
139 *to this application since it is not a residential zone.*

140 R. Huftalen: Are there any other questions for the applicant before we turn it over to the public?
(There were none.) Are there any questions, comments, input from the public? (There were none.)

141 R. Huftalen: I make a motion to close the public hearing.

142 A. Walburger: Second. (The motion carried with 5 in favor, 0 opposed.)

143 R. Huftalen: I make a motion to declare this an Unlisted Action under State Environmental Quality
144 Review (SEQR). Since no other agencies are involved, nor will approval have any significant
145 adverse effect on the environment, no further SEQR action is required. It is recommended that a
146 Negative Declaration be prepared and filed.

147 S. McEntee: Second. (The motion carried with 5 in favor, 0 opposed.)

148 R. Huftalen: I make a motion to approve the application as presented under the conditions attested
149 to.

150 A. Walburger: Second. (The motion carried with 5 in favor, 0 opposed.)

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Maribeth Pavelchak, 13 Farnham St., Short-Term Rental Application (Airbnb), Special Use Permit

152 R. Huftalen: We made a referral to Madison County Planning Department. We received it back for
153 local determination. This is in a residential zone. We need to go through a set of questions.

154 1. *Owner occupied transient occupancy lodging requires a minimum of one space for each*
155 *transient occupant. Additional spaces may be required by the Planning Board based on the site*
156 *characteristics and maximum number of persons permitted to occupy the dwelling unit per the*
157 *terms of the special permit issued by the Planning Board. Ms. Pavelchak: There are eight*
158 *spaces counting the garage. R. Huftalen: Will those be available to the transient occupants?*
159 *Ms. Pavelchak: Yes, and myself.*

- 175 2. *The maximum number of persons permitted to occupy any transient occupancy lodging facility shall be (2) persons per sleeping room, with an overall maximum of (8) persons, subject to available parking for the use. The Planning Board may establish a lower maximum occupancy limit under its special permit review authority if it determines that the number of parking spaces appropriately devoted to the use is insufficient to support the number of intended occupants without adversely affecting adjoining property owners and/or the surrounding neighborhood.*
- 180 R. Huftalen: Your application contemplates how many total? Ms. Pavelchak: Maybe four. Only two adults, really. If they have children, then four.
- 185 3. *No recreational vehicles, campers, trailers, or motor vehicles larger than a one-ton pickup truck may be parked upon the premises during any transient occupancy. The number of automobiles and/or light duty (pickup) trucks that may be parked on site in association with any transient occupancy lodging shall be limited to the number of off-street parking spaces designated on the site plan approved by the Planning Board. No vehicles may be parked on lawns or in other areas not specifically approved as parking spaces under the provisions of this Chapter. The Planning Board shall review all applications in relation to the physical limitations of the subject premises as well as the proximity to adjoining uses and surrounding neighborhoods in order to determine the appropriate parking requirements and occupancy limits.*
- 190 R. Huftalen: Can you attest to this? Ms. Pavelchak: Yes.
- 195 4. *No transient occupancy lodging facility shall be located above the second floor of any building unless such floor has a fire sprinkler system or has been otherwise constructed in accordance with requirements of applicable New York State code requirements for residential occupancy of such floors.*
- R. Huftalen: Can you attest that there are no lodging facilities above the second floor of this building? Ms. Pavelchak: Yes.
- 200 5. *Each sleeping room within a transient occupancy lodging facility shall have affixed to the occupied side of the entrance door to the sleeping room a written notice stating the means of egress from the room in case of fire or other emergency, the location of means for transmitting fire alarms, if any, and the evacuation procedures to be followed in the event of a fire or smoke condition, or upon activation of a fire or smoke-detecting or other alarm device.*
- 205 R. Huftalen: Can you attest to this? Ms. Pavelchak: Yes. R. Huftalen: So this will be part of Bill Carr's (Village Code Enforcement Officer) follow up. Has he made an inspection? Ms. Pavelchak: I asked him to come in ahead of time just to make sure that it was a good space. I think he will come back. There are three rooms and each room has a door to the outside. They will all have lighted exit signs.
- 210 6. *Dwellings and/or dwelling units used for transient occupancy lodging shall have no exterior signs or other exterior indications of the transient occupancy use, which shall from all exterior indications be indistinguishable from an otherwise permitted conventional residential use.*
- R. Huftalen: Can you attest to this? Ms. Pavelchak: There is no signage.

215 7. *All transient occupancy lodging uses shall be limited to the temporary lodging of registered*
guests, and no commercial activities and no public or private parties, receptions, meetings or
220 *similar social gatherings or events shall be permitted. Occupancy shall be limited to the number*
of persons permitted under the special use permit issued by the Planning Board, and the
operator of the facility shall maintain a register of all guests staying at the facility, their
225 *permanent addresses, and the dates of their stay. This register shall be made immediately*
available to the Village Code Enforcement Officer and/or Police Department as part of any
Village investigation of any complaints regarding guest behavior and/or to determine
compliance with requirements of any special permit issued for the facility. R. Huftalen: Can you
attest to this? Ms. Pavelchak: Yes.

230 8. *No person, whether directly or as a sole or partial owner of another legal entity, may be the*
owner or operator of more than one transient occupancy lodging facility within any area of the
Village zoned R-30, R-20, R-10, R-6, RM, WG or CD at any one time. R. Huftalen: Can you
attest to this? Ms. Pavelchak: Just one.

R. Huftalen: Are there any other questions from the Board? (There were none.) Are there any
questions, comments, input from the public? (There were none.)

235 R. Huftalen: I make a motion to close the public hearing.

A. Walburger: Second. (The motion carried with 5 in favor, 0 opposed.)

240 R. Huftalen: I make a motion to declare this an Unlisted Action under State Environmental Quality
Review (SEQR). Since no other agencies are involved, nor will approval have any significant
adverse effect on the environment, no further SEQR action is required. It is recommended that a
Negative Declaration be prepared and filed.

245 A. Walburger: Second. (The motion carried with 5 in favor, 0 opposed.)

R. Huftalen: I make a motion to approve the application as presented under the conditions attested
to.

250 A. Walburger: Second. (The motion carried with 5 in favor, 0 opposed.)

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Rocale, LLC, (Brewery), 33 Rippleton Rd., Site Plan Review & Architectural Review

255 R. Huftalen: As everyone here is aware, I have asked Jim (Stokes) to prepare a resolution for the
Board to consider regarding the application for amended site plan review. I wanted to also note that
at the last meeting we went through the long form EAF (Environmental Assessment Form) and we
left at least one question unanswered. I wanted to clarify the Consistency with Community Plans
question. In my notes, we were talking about the impact on noise, odor, and light, Question 15 on
the Long Form EAF. We said the proposed action may result in an increase in noise, odor, or

260 outdoor lighting. Subquestion *c*. *The proposed action may result in routine odors for more than one hour per day.* We didn't ask that. In subsequent discussions, I would be inclined to say there may be "no or small impact." I would like to get any other input or feedback from the members of the Board or the applicant.

265 A. McDowell: It could be more than an hour.

R. Huftalen: I would ask the applicant if they think there will be routine odors.

Nate Hickey: Beyond what was there prior?

270 R. Huftalen: The question is if there would be consistent odors that are being produced as part of the process that could be a nuisance to the neighbors.

275 Jeff Davis: It's part of the revised application. What is already approved is the existing use as a brewery/restaurant. The application before you is the addition. I would say there would be no increase in odors for more than an hour based upon what they are proposing for the addition here. What was approved previously was already done under a SEQR (State Environmental Quality Review) analysis. I assume that was a different analysis. But the change here is to continue to operate as a brewery, continue to operate the restaurant use under the same hours. So the condition
280 will be unchanged.

S. McEntee: It seems like your answer is for the new use, in total.

285 R. Huftalen: Yes. I think this is part of the whole discussion about this, as you read in the minutes. Adam probably put it most eloquently. We had an existing facility. We had an existing SEQR analysis. And this applicant has proposed an addition to the square footage and certain other changes, to parking especially, and will those additions change things? The review was for the change. That's consistent with your interpretation right, Jim?

290 Mr. Stokes: Yes.

R. Huftalen: Circling back to that, does it rise to the level of moderate impact? I say it does not.

295 A. Walburger: I'm in agreement simply based on the continued use of the brewery compared to the brewery that was there before. I can't find a reason to elevate it.

S. McEntee: And the restaurant because it is the same use as before as well. Those two might emit odors and be consistent with the previous use.

300 R. Huftalen: I will record that as "no or small impact." The other one, I'm not sure there was any controversy on or that the box didn't get checked: Consistency with Community Character, Number 18. In looking at our minutes last month, we were basing it on the action as defined as the increase in the 817 additional square feet of patio and additional parking spaces. Again, I would say, as per the clarification of the minutes, the proposed project is inconsistent with the existing
305 community character. My answer to that is no. We went through each of the subquestions and

indicated that it was “no or small impact.” I just wanted to clarify that and make sure we had the box checked correctly.

310 S. McEntee: I don’t disagree if this is a comparison of past use to proposed use. I wasn’t here, but I read in the minutes that you may not have answered the question: *The proposed action may produce sound above noise levels established by local regulation.* Did you answer that?

A. McDowell: It was discussed that it would be the same as local/Village regulations.

315 R. Huftalen: As part of the draft resolution Mr. Stokes has prepared for us, the second whereas:

320 *WHEREAS, by resolution dated September 9, 2013, site plan and architectural approval was granted to Chapman Properties, LLC and Empire Farmstead Brewery, Inc. for the construction and operation of a mixed use agricultural / farmstead brewery business and associated visitor accommodation areas upon the Premises (the “Original Approval”), and*

325 R. Huftalen: We cited all the provisions of that resolution by incorporation. The consistency with the noise ordinance was spelled out, which is 70 decibels at the lot line. I am operating under the presumption that the members of the Board had the opportunity to look over the draft. I was going to review the conditions that we want to put into place and get members’ thoughts on these conditions and ask any further questions. This resolution would grant the application approval for the amended site plan and architectural approval based on the set of drawings that we have before us.

330 *AND IT IS HEREBY FURTHER RESOLVED, that this grant of site plan approval is subject to the following conditions:*

335 *1 To the extent not modified by this approval, all conditions of approval of the PDD zoning by the Board of Trustees on June 11, 2013 and the prior conditions of site plan approval imposed by this Board, including, but not necessarily limited to those set forth in the resolution of September 9, 2013, shall remain applicable.*

340 *2 Final engineering approval of the stormwater pollution prevention plan. The stormwater management facilities shall be modified to the extent required by the Village Engineer.*

345 *3 Issuance of a permit as may be required by the New York State Department of Transportation for any relocation of the business identification sign affecting the Route 13 highway right of way.*

350 *4 That no signage shall be applied to the grain silos. The free- standing business identification sign near the Route 13 entrance shall be in substantial conformance with the drawings prepared by MacKnight Architects and submitted under the Applicant’s March 2, 2020 letter unless otherwise specifically approved by this Board. Lighting for this sign shall be ground mounted or downward facing goose necks facing the*

sign faces, with the minimum wattage and lumens necessary for nighttime visibility of the sign.

355 R. Huftalen: I think the applicant understands that any substantial modifications to what has been presented would need to come before the Planning Board.

360 *5 Construction of the berm and fencing as depicted near the southerly boundary of the Premises on Sheet L1.0, last revised 3/2/20, and Sheet L4.0, last revised 2/17/20, shall be completed, including planting of all trees as depicted on said drawings, no later than May 1, 2020.*

365 R. Huftalen: This is in response to the neighbors and their concern that the plantings get put in and established in the early spring.

Jeff Davis: Can we comment on any of this? It might be helpful.

R. Huftalen: Sure.

370 Jeff Davis: There is no intent to bring soil onto the site. If you look at the intent for the berm, that is where we are creating parking spaces to use that soil for the berm. The completion of the parking addition will be done on the schedule by June 15. If possible, we would request that the Board consider that the May 1 date be modified to June 15 so we don't need to truck soil onto the site unnecessarily.

375 Mr. Stokes: But, Jeff, you wouldn't need to truck soil in. You don't have to have the parking lot done to create the berm. The first thing you do is create that spoil, create the berm, and get the trees planted. I'm sure your own professionals will tell you that every day you go past May 1 in this climate, those trees have less chance of surviving through the summer. The objective is to get the screen in place early and give the neighbors some protection. It shouldn't have any effect on your ability to construct that parking lot.

Jeff Davis: It is a phased approach for the development.

385 Mr. Stokes: But the first step is still going to be grading away that topsoil and stockpile it first thing before you do anything else.

390 Jeff Davis: For a portion, yes. Then there is a secondary portion where the second area will be done. So it won't be done and stripped off and left there that way. The request is to see if we can just modify that date. We are not talking about a significant time period. I understand the need to get the berm in. I understand the discussion that was going on. I'm just reflecting the fact that I also know what the construction schedule is. Our team does. And we wouldn't want to have that soil be an issue.

395 Mr. Stokes: It is not an issue. It is something you can easily manage from a construction standpoint.

R. Huftalen: If I might add in here, one of the provisions that we have added is that all planted vegetation as specified on the landscaping plan shall be replaced if it dies or becomes substantially

400 stressed after planting. This has been a problem in prior projects. It is something we are seriously
concerned about. In addition to Jim's points, we do want to have some screening up to the extent
that the neighbors will be impacted by construction and recognize that the timelines might be
aggressive. I am interested in any suggestions from members of the Board.

405 A. McDowell: I think it is important to follow the times that we stated.

R. Huftalen: From a practical point of view, I know that the later we go in the season, the more
likely it is that plantings will fail. It is in everybody's best interest to plant once. I don't know if the
sequence of events can be altered so that it's possible to achieve getting those plantings in and
assuring their success.

410 A. McDowell: Can you give us an idea of the size of the berm?

Ed Keplinger: The berm is about 3-4 feet high and about 20 feet wide. We will say it is 4 feet high
and it will have a 6-foot high fence on it. So the overall height will be about 10 feet.

415 R. Huftalen: I am not 100% interested in arguing about a six-week time span here. What I'm
concerned about is protecting the neighbors and creating a landscaping plan that will succeed and
thrive.

420 A. Walburger: I'm interested in a path to success. I know that we've had a couple of projects where
the end result is that people hold out hope beyond hope that this tree that is planted is going to
rebound the next year. On some of our projects, we are still waiting for that. We can stick with
May 1 or replant again in October.

425 S. McEntee: I'm not compelled to change the date. Part of it is to protect the neighbors during the
construction phase.

R. Huftalen: I'm inclined to leave the resolution as May 1 and move on from there.

430 *6 That all operations of the facility, including but not limited to food and/or
beverage service and patron entertainment, and regardless of any
classification as an "event" or otherwise, shall occur within the building
and the patio area adjoining the westerly side of the building. No tents or
other temporary structures or facilities are permitted on lawns and/or in
435 parking areas. Aesthetically appropriate signage to be approved by this
Board shall be installed to remind and encourage patrons outside these
areas to remain within the parking areas and designated pedestrian trail
access areas.*

440 R. Huftalen: Via email, we discussed different approaches to this and harmonizing it with the
Western Gateway. I think the decision to put this in the resolution in this form was intentional and
trying to limit the impact.

445 A. Walburger: I have no issue with that.

Jeff Davis: I have a question. If there was an occasion where somebody wanted to do something that required a tent, could they come before this Board to request a special permit to do that? Has that action happened in the Village? We understand the intent and we can't do that. But if there was something that was going to be held there, could they make application to the Planning Board?

450

R. Huftalen: I suspect we would make a determination at that time, given the nature of the circumstances.

455

Jeff Davis: I understand it would be a separate application to consider. If that mechanism exists in the Village, which I believe it does, then perhaps the second half of that statement should say: *Absent Village approval, no tents or other temporary structures . . .* Just in case it did need to happen in the future, I wouldn't want the intent to be read in as this Board is saying it can never happen. I just raise it to the Board to consider if somebody requested that to happen.

460

R. Huftalen: I'm glad to have the Board members consider that.

S. McEntee: The intent of the statement is to prohibit the temporary placement of tents or other structures. If that is the way it is written into the resolution, I don't think an application would be approved without coming before the Planning Board to change the resolution.

465

A. Walburger: We have had, in the Town, other difficulties in other event areas. I would like to see this get off the ground. I would like to stick with the language we have. If it needs to be modified in the future, there is a mechanism to come and put the case to the Board.

470

R. Huftalen: I will make a determination to leave that as drafted.

7 *Total patron seating capacity at any one time shall not exceed 360 seats, of which not more than 70 may be located in the expanded Phase II patio area and not more than 88 of which may be located in the proposed three season room.*

475

Jeff Davis: Can I go back to 6 for a second? I did not understand the Board's discussion. Does that mean you are saying the owners could not apply to the Village for a specific request?

480

R. Huftalen: Without making a determination about any future modification, it is the intent of the Board to have this language remain as is and not add the clause: *without other approval*.

485

S. McEntee: It does not prohibit you from putting in an application. But with this language in the resolution, I'm not sure how the Code Officer would authorize you to put up a tent without bringing it back to the Planning Board to change what is allowed.

490

Jeff Davis: Right. But if somebody wanted to have a wedding with a tent outside, I assume it would be a special event-type application that would be made to the Village for a one-time approval of it. This resolution would stand at all times.

Mr. Stokes: There is no such mechanism in the Code for that type of one-event approval. Tents over a certain size under the State Code need Code Enforcement Officer approval. That is not what

495 we are talking about here. The specific intent of the resolution is that tents are not allowed. If you read the resolution as a whole, the intent is to keep the events confined to the building and the hard surface structures. You can always make an application to modify this resolution, an amended site plan.

Jeff Davis: We could also make the decision to open up tomorrow and keep operating.

500 Mr. Stokes: Actually, that’s not true. It is my understanding that you don’t have a farm brewery permit.

Jeff Davis: We need a liquor license, obviously.

505 Mr. Stokes: You need a farm brewery license.

Jeff Davis: But that is not transferable from the bankruptcy.

510 Mr. Stokes: Until you have that, you are not authorized to operate. So you can’t open tomorrow.

Jeff Davis: If we got it tomorrow, we could open tomorrow.

Mr. Stokes: Upon providing proof of that.

515 R. Huftalen: We appreciate the fact that you are entertaining this process and you are going through this. We have listened to a lot of input from neighbors. We have gone through the SEQR process. We have conferred among the members of the Board. It has been my determination in working with Jim and taking input from the rest of the members of the Board that this is the resolution we want to consider.

520

8 As proposed by the Applicant, operating hours shall end no later than 10:00 p.m. Sundays through Thursdays and no later than 11:00 p.m. on Fridays and Saturdays. These times shall apply without distinction between typical restaurant operations and/or special group events.

525

9 As proposed by the Applicant, all delivery trucks shall enter and exit the site between the hours of 8 a.m. and 5 p.m. on Monday through Friday, and between the hours of 9 a.m. and noon on Saturdays. There may be no Sunday deliveries.

530

R. Huftalen: This condition is one I know there will be discussion about. We have had discussion about it.

535

10 That the Phase II improvements affecting the exterior of the building and/or site shall be presented in detail for further approval by this Board prior to the issuance of any building permit or commencement of construction. Said application shall include detailed designs of the three season room enclosure, the expanded patio and “retaining wall” and all associated lighting. No “wall pack” lighting shall be permitted in this

540 *area. All lighting shall be directed downward and/or toward the main
brewery building, and shall be dark skies compliant, all subject to further
555 approval by this Board.*

R. Huftalen: I think Adam specifically highlighted the fact that we want to make sure that we have
545 drawings that depict your Phase II improvements. We have some detail on those phase
improvements. I'm not sure the Board feels that we have enough detail.

Jeff Davis: We have an application pending before the Madison County IDA (Industrial
Development Agency) as part of the transition of incentives from the prior owner to the new owner
550 and we need to have approval of our proposal, or at least part. What I don't want to do is have that
board say that we have approval for Phase I, but not approval for Phase II. Do you understand what
I'm saying? Then we can't proceed with Madison County IDA. Perhaps with your attorney, there is
a suggestion that it is a concept approval for Phase II and come back with the final details, such that
555 the attorneys at Madison County IDA do not believe, for some reason, that only half of the project
has been approved. Those are important aspects this project needs.

R. Huftalen: The concept you are describing is in keeping with the sentiment of this Board that we
are approving all phases. If we need to attest to that or make some tweak to the language in that
560 regard, I would be open to that.

Mr. Stokes: Certainly the intent of the resolution is to approve Phase II, at least conceptually. I'm
not sure where you see the ambiguity, quite frankly.

Jeff Davis: It is the way it is written there: *That the Phase II improvements affecting the exterior of
565 the building and/or site shall be presented in detail for further approval by this Board . . .*

Jeff Davis: As I read this originally and knowing what meeting we have coming up and, quite
frankly, knowing the counsel we are working with at the Madison County IDA and working with
them in other areas and other projects here in the county, I want to make sure there is no ambiguity
570 there, that there is not going to be a concern that Phase II, by the statement it has to come back for
further approval, is somehow not yet approved.

Mr. Stokes: The word "further" means getting an approval and you are going to be asking for a
further approval.
575

Jeff Davis: If you were sitting in the room with me, Jim, when we were there, that would be great.
But I don't think you're going to be.

Mr. Stokes: Tell them to call me. Get me on the phone. I will talk to them.
580

R. Huftalen: Whether we call it a signing statement or maybe there are some language suggestions
you guys have. From a reasonable point of view, I think it is clear that it is the intent of this Board
to approve the entire scope of the presented application because of the segmentation issues. It is
approved to the extent that it does not materially deviate from what has been presented. I think that
585 is the concept we are trying to get to. Is that fair to say?

590 A. Walburger: When I read this prior to this discussion, my interpretation of Number 10 was that we are looking to approve the scope and intent of the expansion with details forthcoming. The other path to resolution is we could be provided with an entire detail plan set for the patio. There is a definite path to resolution here. If this clause is not sufficient, give me all the details.

595 Jeff Davis: Pride in authorship is significant, but maybe it is adding a whereas clause at the beginning that says: *Whereas, it is the intent of the Board to conceptually approve . . .* Or approve Phases I and II and keep the condition language as it is. Therefore, if a question were to come up, it would be laid out that that is as stated here by the Board. That may be a simple fix just so there is no ambiguity.

600 R. Huftalen: I am agreeable to that suggestion. I will add that as a final whereas as part of this resolution. *Whereas, it is the intent of this Board to approve the scope and concept of Phase I and Phase II.*

605 *11 The Phase II patio retaining wall/seating shall be at least as high as that shown in the photographic representation submitted under the Applicant's letter of March 2, 2020. There shall be no breaks in the wall or other means of patron access directly from the patio to the adjacent lawn areas except to the extent necessary to comply with applicable NYS fire and/or building codes. The final design and appearance of said retaining wall shall be as specifically approved by this Board upon further application.*

610 R. Huftalen: I think is similar in concept to the prior point. Hopefully the whereas clause will take care of that.

615 *12 All Phase I site lighting shall be dark skies compliant and shielded to direct light toward the interior of the site. All exterior lighting will be reviewed as part of the detailed evaluation of the proposed Phase II improvements. Modifications to achieve more effective mitigation of adverse lighting impacts may be required by this Board at that time.*

620 *13 As proposed by the Applicant, all buses transporting patrons to and/or from the site shall arrive no later than 4 p.m. and shall park only in the area designated on the Drawings. There shall be no idling of buses for longer than five minutes.*

625 *14 That there shall be no amplified music or sound of any type, whether live or recorded, permitted outside the brewery/restaurant building – specifically, no such sounds shall be permitted in the three seasons room, the patio, or upon the exterior grounds, and no such amplified sound within the brewery building shall be audible beyond the property lines of the Premises.*

630 Jeff Davis: That is different than the standard under the Village noise ordinance. Quite frankly, I'm not quite sure what that means. It could be 1 dB, it could be 2 dB. There is a Village noise ordinance that sets a limit. We have noted numerous times that we would be in compliance with

635 that. And that is the intent. But saying there will be no audible noise at the property line is something much more significant standard wise.

640 R. Huftalen: Yes, understood. Again, the language is written in contemplation of trying to contain the impacts and creating a mechanism to allow for enforcement that would be strict or in such a way that we could have more significant ability to mitigate those impacts. I know this is something the Board has discussed and commented on. The intent is to try to confine that amplified music. We certainly incorporate the Village regulations and 70 decibels is cited in the Code. This is intended to try to strengthen the ability of the Village to make sure it is not a nuisance.

645 Jeff Davis: How do you determine audible noise level at the property line? There is a standard set right now in the Village Code that was thought about and that is the standard. You can go there with a meter and determine that. Any audible noise level at the property line is something that, I think, is going to lead to more issues than somebody that can stand there with a meter to decide whether you exceed the limit or not.

650 R. Huftalen: Again, from a practical point of view . . .

Jeff Davis: We want to be in compliance with the Village noise ordinance. We know we can do that. Saying that we need to now be in compliance with some standard that I don't know what that is, we cannot commit to doing that. There is no standard that you can go to a noise person and say, *our standard is no audible noise at the property line*. What does that mean?

655

S. McEntee: That's not what it says. It says *no such amplified sound*.

660 Jeff Davis: I understand. But any amplified sound still has to comply with the same 70 dB at the property line per the Village. It is the same sound whether you are doing something outside, doing construction, doing whatever. The limit doesn't change based upon the use.

665 Mr. Stokes: I would disagree with that, Jeff. You said from day one that you just intend to do what the prior owner was doing. Events were never part of the approval. This resolution is drafted in such a way so there doesn't need to be a distinction between what you consider an event and what you consider regular restaurant table service. No matter how you look at it, events were never part of this. You have openly stated that you want to have events. This is a recognition that that introduces another element to the use of the property. Going back to your argument of what you can and can't do tomorrow, events were never part of that original approval. Regardless of whether the prior owner was doing it in the basement or not, I'm not aware of it happening in tents or other places outside the building. This is a recognition. If you want, we can add audible to any human being standing at the property line. It is not that hard of a hill to climb. It is a recognition of the particular use that you have applied for in terms of events. You have to understand in this community that there has been a lot of dismay over the exact use that you are proposing. The intent of the resolution is to not go down that road that the community has been down with other instances. To the extent that you want to have music, you can adjust that volume within the building so it is not audible at the property line. 70 decibels, on one hand is not that loud, although if it is constant for two or three hours to the neighbor, it is still an impact. To the extent this Board is going to find there is not a noise impact, there have to be conditions that make that reasonable.

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Jeff Davis: I think you are holding us to a stricter standard than any other use in the Village. You have a Village Code that says this is the limit. And now you are saying for this particular owner on this property that the limit is a non-defined limit. Two different people standing at that property line could hear two different things. Whether they can hear a noise or whether they cannot hear a noise.

685 Mr. Stokes: We can take this all the way back to the original approval, of which events were never a part and which a restaurant use of this, although allowed, was not what was represented by the original owner. If you want to go back to the beginning, we can do that. But it will take events completely out of the equation.

690 Jeff Davis: I don't think this has anything to do with events.

Mr. Stokes: Of course it does.

695 Jeff Davis: No it doesn't.

R. Huftalen: There will be opportunity for litigation if we want to litigate this thing. I am not in a position where I want to play litigator or judge. Through discussion, deliberation, and consideration of the well documented concerns of all the neighbors, the Board decided that this is the language they would like to incorporate into this resolution. I am going to leave this language as it is. Your objections are noted.

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15 The loading dock area shall be for loading and unloading of trucks only. No long-term parking of vehicles, trailers or equipment shall be permitted in that area or any other outdoor area upon the site.

705
16 All planted vegetation as specified on the Landscaping Plan shall be replaced if it dies or becomes substantially stressed after planting. The Applicant shall enter into a landscaping maintenance agreement, in such substance and form as may be acceptable to the Village Engineer and Village Attorney, ensuring the continued future maintenance of the landscaping prior to the commencement of site work.

710
17 The Applicant shall enter into a maintenance agreement with the Village providing for the permanent maintenance of all stormwater management facilities as well as easement rights for the Village to enter the Premises and perform such maintenance in the event of the owner's failure to do so.

715
Mr. Stokes: I will just note that it doesn't have to be an easement. We can just say "access rights."

720 R. Huftalen: I'm going to modify that to say "access rights."

18 The Applicant shall present proof of a current license from the State of New York to operate a farm brewery upon the Premises prior to the issuance of a building permit.

725

730 R. Huftalen: These conditions are in place based on input from the public, based on our SEQR review, and based on the Madison County Planning Department’s recommendations. Are there any other substantial modifications the Board would like to consider after looking at this draft and hearing comments from the applicant?

735 S. McEntee: One important point on the SEQR, the points after the SEQR resolution. On Page 4, about half way down, on point 6. Based on the applicant’s projections that it will not use any more water than the prior owner. I think that is not true based on some of the projections. You guys are planning on using more water than the prior owner. I would propose that be changed. Based on the applicant’s projections, it will use more water than the prior owner.

740 R. Huftalen: The water utilization that looked like it was going to be double, I think then went down from that upon further consideration. But they were higher than the prior use.

S. McEntee: Just to make sure it is a true statement. I don’t think it matters because there is sufficient capacity in the Village water system. I just want it to read what we know.

745 Mr. Stokes: I will change it to: “Even though the applicant projects that it will use more water than the prior owner” and then from there.

A. McDowell: In the Madison County Planning Department report, that last sentence: “Water demands/wastewater generated by the restaurant will exceed that of the brewery use.”

750 R. Huftalen: Yes. That is a good modification, a good catch.

D. Raleigh: On the conditions, Number 15 about the loading dock. When you say “No long-term parking of vehicles,” everybody could have a different definition of long term.

755 R. Huftalen: Right. Once again, this was an issue with the prior occupant of the facility. It is something that is difficult to put into enforceable terms. If we want to put something more specific there. I know from my own personal experience in my business, there is a trailer at the loading dock all the time. I don’t find that objectionable. I know from other members of the Board and input from the public, that was a concern.

760 S. McEntee: The first sentence kind of qualifies the meaning of this. Either the docks are free for loading and unloading or they’re not. If parking something there that is not for the intent for loading and unloading . . .

765 R. Huftalen: Here’s the situation we run into. In my business, we collect pallets on an accumulation basis and they load pallets into the truck. Over the course of 7 weeks they load a trailer. It goes from 20 pallets on the trailer to 50 pallets on the trailer, to 90 pallets on the trailer, to 180 pallets. Then it is full. We not only remove that trailer, but we place another one in its stead. To me, that is loading and unloading, but yet there is always a trailer there. It is easy to say that’s what you can do and that’s what you can’t do, but that’s the practical reality. I’m very sympathetic to the fact that
770 that is a legitimate business practice because of my business.

S. McEntee: Does the applicant see a need for something like Rich describes—parking a trailer?

775 Nate Hickey: I think I would like the flexibility. Production. You don't know what is going to happen. Not that it is going to be there for a long term, but if it is used for the purpose of loading and unloading . . .

Colby Clark: It was there for, what, six months before?

780

S. McEntee: That was unacceptable. In our eyes that was unacceptable.

Nate Hickey: And that was one of the first items we took care of was removing that trailer. We don't want a trailer there either, but for business purposes, you don't know.

785

R. Huftalen: Again, on this point I am quite sympathetic to the applicant, but I don't know how to enforce it otherwise.

A. Walburger: And I can't come up with better language for intent without having arbitrary quantification of time.

790

R. Huftalen: You pull one trailer out and put an empty trailer back in. That is why there are dock doors there. That is why light industrial was approved as a use. It is a fact of life at a brewery.

795 A. McDowell: What timeframe do you feel you would need to have it there? You said six months would be unacceptable to you, right? Did you say that?

Colby Clark: You can't quantify it. We don't know.

800 R. Huftalen: I am going to propose leaving that language unchanged. That is the resolution before the Board. In conjunction with our clarification on the SEQR questionnaire, the EAF, and given the modification that we are adding: "Whereas, it is the intent of this Board to approve the entire scope, Phase I and Phase II." And that we have incorporated a Negative Declaration SEQR determination as part of this resolution.

805

Jeff Davis: Condition 14 still remains an issue for us. I understand the Board and I understand your counsel's position, but that likely will be the condition, specific to the noise limit, that may make us decide not to proceed with the project. We can't have a condition which we believe we can't comply with and having something there that is . . . I disagree with a standard that is no audible sound at the property line. It goes well beyond the Village Code.

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S. McEntee: It is specific to amplified sound.

Jeff Davis: I completely understand that it is specific to amplified sound. If patio noise is still at the 70 dB level and people talking is still at the 70 dB level, and everything else is still at the 70 dB level. It is the amplified sound. That base of an amplified sound can be very low and you can still hear it. You can be at 40 dB at the property line, which is next to nothing. It is a whisper or less than a whisper in a library. That is still technically an audible sound at the property line. You can have somebody there who has really good hearing. You can have somebody there, like me, who can hardly hear anything.

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825 R. Huftalen: Yes, I totally understand that. As you know, as a practical matter, we have a Board and are trying to get votes to approve a resolution. And there is a matter of enforcement. If someone said you can't possibly expect to have a 30 mph speed limit because people will go 31 mph. As a practical matter, we have to take into consideration the language that we put into this resolution and understand the implications that maybe we lose this project because . . .

Jeff Davis: I just don't see how it's enforceable. No audible noise at the property line.

830 R. Huftalen: Yes, I think you might be exactly onto the point. Do you want to argue about trailer parking? Because we could talk about that one. That's not enforceable either. I'm glad to further discuss it. In fact, I'm going to make a motion to adjourn to executive session to confer with counsel.

835 A. McDowell: Second. (The motion carried with 5 in favor, 0 opposed.)

The Board went into executive session at 8:16 p.m.

840 R. Huftalen called the meeting back to order at 8:23 p.m.

845 R. Huftalen: Upon conferring with counsel and the rest of the Board members, we are going to leave the language as written in the resolution with regard to amplified noise. The other consideration is that we are in receipt of the Madison County Planning Department recommendations to consider the impact on the view from Route 13 based on the new parking alignment. We are open to any thoughts or suggestions on that. I am not inclined to ask for any modifications to the landscaping plan based on the fact that it is some distance from the road and there are hops trellises and existing vegetation. I am open to suggestions in response to the Madison County Planning Department.

850 A. Walburger: I did not see that as an issue. Let that lie.

A. McDowell: I agree.

855 R. Huftalen: That being the case, we have considered the Madison County Planning Department. We have considered feedback from the public and the applicant. I am going to make a motion to approve this resolution granting the application of Rocale, LLC, for the amended site plan approval and architectural approval as amended, specifically, with the whereas incorporating the intent of the Board to approve all phases of the project and the other noted amendments including Steve's regarding the water usage and the access for the Village to enter the premises.

860 A. McDowell: I second that. (The motion carried with 5 in favor, 0 opposed.)

R. Huftalen: The resolution is approved. Application approval is granted.

* * * * *

865

Housing Visions, The Landing at Burke Meadows, Site Plan Review

870 R. Huftalen: We had a public hearing and closed the public hearing. I have asked Jim (Stokes) to
prepare a resolution for us to consider the approval of the final development plan for Housing
Visions Unlimited. There is a certain set of conditions. I think everybody has had a chance to
review the whereas conditions. I will go through the conditions of the resolution.

*AND IT IS HEREBY FURTHER RESOLVED that the approval of the final development
plan and Drawings shall be, and is hereby approved subject to the following conditions:*

- 875
- 1 *To the extent not modified by this approval, all conditions of approval of
the PDD zoning by the Board of Trustees as set forth in the approval
resolution dated November 4, 2019 and Village of Cazenovia Local Law
2019-5 shall be applicable to the development as approved.*
 - 880 2 *Final approval by the Village Engineer of the stormwater pollution
prevention plan prepared by Passero Associates dated December 2019
prior to any ground disturbance. The stormwater management facilities
shall be modified to the extent required by the Village Engineer.*
 - 885 3 *The monument sign depicted near Burton Street in the drawings shall be
subject to further review and approval by this Board.*
 - 890 4 *Prior to any vegetation removal or ground disturbance, the Applicant
shall meet with the Village Engineer and Code Enforcement Officer to
mark all areas of existing vegetation to remain with clearly visible stakes
and gps coordinates. The Code Enforcement Officer shall be notified prior
to the commencement of removal of any existing vegetation.*
 - 895 5 *All planted vegetation as specified on the Landscaping Plan shall be
replaced if it dies or becomes substantially stressed after planting. The
Applicant shall enter into a landscaping maintenance agreement, in such
substance and form as may be acceptable to the Village Engineer and
Village Attorney, ensuring the continued future maintenance of the
900 landscaping prior to the commencement of site work.*
 - 905 6 *No construction or land disturbance shall occur beyond the improvements
shown in the Site Plan except public walking trails and associated
improvements and amenities. The undeveloped portion of the Premises
shall be maintained as “forever wild” through such permanent recorded
covenants and/or legally enforceable means as may be approved by the
Village Attorney.*
 - 910 7 *That all utilities to serve the proposed subdivision, along with all other
plan details, shall be constructed at Applicant’s expense based upon
contract drawings (in the case of water, sewer, roads, sidewalks and
streetlights) approved by the Village DPW Superintendent, the Village
Water Superintendent and the Village Engineer. All proposed dedication*

- 915 *instruments and descriptions are subject to the approval of the Village Attorney. The Applicant shall reimburse the Village for all legal and engineering fees and expenses associated with construction and dedication of the public streets, sidewalks, streetlights and utilities.*
- 920 8 *The Applicant shall enter into a maintenance agreement with the Village providing for the permanent maintenance of all stormwater management facilities as well as easement rights for the Village to enter the Premises and perform such maintenance in the event of the owner’s failure to do so.*
- 925 9 *The exterior architectural appearance of the senior building and townhouses shall be substantially as presented in colored elevations, sheet 02 and 05, dated March 2019, except as otherwise approved by this Planning Board.*

930 Mr. Stokes: On Number 8, I would change “easement” to “access.” On Number 9, I caught the change in the description of the drawings on Page 2. Those two elevation drawings are dated September 2019 and August 2019, respectively, as far as that last condition.

935 R. Huftalen: I will modify those conditions. For the record, we are in receipt of the GML recommendation from the Madison County Planning Department with an enthusiastic return for determination. They mentioned the connection to the Village, the number of units, and eliminating the clubhouse, which were all viewed positively. The connectivity to the rest of the Village was a favorable aspect of the project. One of the things I’m not sure about, even when looking at the minutes, was the position of the sidewalk. It is depicted on the eastern side of the road.

940 S. McEntee: The Emick Lane sidewalk is supposed to come in on the other side.

945 R. Huftalen: I know we have Mr. Cox’s statement on the record that he will make sure that the sidewalks meet up. I just wanted to make sure, prior to construction, that we have a condition that will coordinate the position of the sidewalks with the Public Works Administrator, Bill Carr, to ensure that it is meeting continuously with the sidewalk that will be in place on Emick Lane.

D. Raleigh: Do we know when Emick is going to do their sidewalk? If Housing Visions puts their sidewalk in first, how do we ensure that Emick connects?

950 R. Huftalen: That would be the authority of the Public Works Administrator. Bill Carr should coordinate both projects. I don’t know what the current status is of Emick Lane. It needs to be dedicated to the Village at some point.

955 Mr. Stokes: The sidewalk should be shown on the plan. I have not looked at the plan that was approved for Emick.

960 R. Huftalen: According to Bill Carr, the approved plan depicts the sidewalk on the western side of the connecting road from Emick Lane to Housing Visions. We will confirm that and make it a condition.

David Cox: Or we can just move it. It is not a problem at all.

965 R. Huftalen: It should also be noted that the Planning Board made a State Environmental Quality Review (SEQR) determination in a coordinated review as lead agency. We made a Negative Declaration. There are no adverse environmental impacts.

970 R. Huftalen: Unless I hear any other clarifications or questions, or comments from the applicant, I will make a motion to approve the resolution approving the final development plan for Housing Visions Unlimited as amended.

S. McEntee: I second. (The motion carried with 5 in favor, 0 opposed.)

* * * * *

975 R. Huftalen: Is there any other business to be brought before the Board tonight? Hearing no other business, I will make a motion to adjourn the meeting.

A. McDowell: I second. (The motion carried with 5 in favor, 0 opposed.)

980 The meeting was adjourned at 8:35 p.m.

Respectfully submitted,

985 Marlene A. Westcott
Recording Secretary