

**Meeting of January 11, 2017**  
**Town of Orangetown Planning Board**

**MEMBERS PRESENT:** Kevin Garvey, Chairman; Bruce Bond, Vice Chairman; Thomas Warren; Michael Mandel and William Young

**MEMBERS ABSENT:** Stephen Sweeney and Robert Dell

**ALSO PRESENT:** John Giardiello, Director, Department of Building, Zoning, Planning Administration and Enforcement; Robert Magrino, Deputy Town Attorney; Ann Marie Ambrose, Stenographer and Cheryl Coopersmith, Chief Clerk.

Kevin Garvey, Chairman, called the meeting to order at 7:30 p.m.  
Mr. Garvey read the agenda. Hearings as listed on this meeting's agenda which are made a part of these minutes were held as noted below:

**New Items:**

<b>Paragon Motors Inc. Site Plan</b> Prepreliminary/ Preliminary Site Plan & SEQRA Review 64 Leber Road, Blauvelt Bradley Corporate Park, 70.06/1/50.4, LO zoning district	<b>CONTINUED: Needs Drainage</b>	<b>PB #17-01</b>
<b>Pearl Mont Corp Site Plan Sign Locations</b> Prepreliminary/ Preliminary Site Plan & SEQRA Review 164 Route 304, Pearl River 72.08/1/2; LIO zoning district	<b>Preliminary Site Plan Approval Subject to Conditions Neg. Dec.</b>	<b>PB #17-02</b>
<b>The Saloon Roof Plan</b> Final Site Plan Review 45-49 W. Central Avenue, Pearl River 68.16/1/9; CC zoning district	<b>Final Site Plan Approval Subject to Conditions</b>	<b>PB#17-03</b>
<b>Maria's Mexican Restaurant Site Plan</b> Prepreliminary/ Preliminary/ Final Site Plan and SEQRA Review 8 North Williams Street, Pearl River 68.16/6/60; CS zoning district	<b>Final Site Plan Approval Subject to Conditions Neg. Dec.</b>	<b>PB #17-04</b>
<b>62-76 Route 303, LLC Site Plan (Nicks Convenience Store)</b> Prepreliminary/ Preliminary Site Plan & SEQRA Review 62-76 Route 303, Tappan 77.15/1/42; CS zoning district	<b>Preliminary Site Plan Approval Subject to Conditions Neg. Dec.</b>	<b>PB #17-05</b>

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**Town of Orangetown  
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**J & M North Corp. Site Plan**

**PB #16-24**

Prepreliminary/ Preliminary/  
Final Site Plan, Internal Commercial  
Subdivision Plan and SEQR Review  
327 North Middletown Road, Pearl River  
68.08/1/4; CO zoning district

**Continued: Revise  
Plans**

**Maloney Subdivision Plan**

**PB #16-73**

Prepreliminary/ Preliminary  
Subdivision Plan and SEQRA Review  
60 Fisher Avenue, Pearl River  
68.11/2/70; R-15 zoning district

**Rescheduled to  
January 25, 2017  
Planning Board Meeting**

**Other Business:** The Board reviewed and approved the Consulting Fee Schedule for Brooker Engineering, PLLC for 2017; however, the Board requested that the Consultant provide the Drainage Report in a more timely fashion. A motion was made and moved by Michael Mandel and seconded by Bruce Bond and carried as follows: Kevin Garvey, Chairman, aye; Bruce Bond, Vice Chairman, aye; Michael Mandel, aye; William Young, aye; Robert Dell, absent; Stephen Sweeney, absent and Thomas Warren, aye.

The decisions of the December 14, 2016 Planning Board Meeting was reviewed, edited, and approved. The motion for adoption was made and moved by Michael Mandel and seconded by Thomas Warren and carried as follows: Kevin Garvey, Chairman, aye; Bruce Bond, Vice Chairman, aye; Michael Mandel, aye; William Young, aye; Robert Dell, absent; Stephen Sweeney, absent and Thomas Warren, aye.

The Decisions of the above hearings, as attached hereto, although made by the Board before the conclusion of the meeting are not deemed accepted and adopted by the Board until adopted by a formal motion for adoption of such minutes by the Board. Following such approval and adoption by the Board, the Decisions are mailed to the applicant. The verbatim transactions are not transcribed, but are available.

Since there was no further business to come before the Board, a motion to adjourn the meeting was made by Bruce Bond and seconded by Michael Mandel and agreed to by all in attendance. The meeting was adjourned at 9:15 p.m. The next Planning Board meeting is scheduled for January 25, 2017.

**DATED: January 11, 2017**

**Cheryl Coopersmith, Chief Clerk Boards and Commissions  
Town of Orangetown Planning Board**

*Cheryl Coopersmith*

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**PB#17-02: Pearl Mont Corporation Site Plan  
Preliminary Site Plan/ Sign Location  
Approval Subject to Conditions**

**Permit #45710**

**Town of Orangetown Planning Board Decision  
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TO: Ray Ahmadi, 227 South Mountain Road, New City,  
New York 10956  
FROM: Orangetown Planning Board

RE: Pearl Mont Corp. Site Plan – Sign Locations Plan: The application of Raymond Ahmadi, owner, for a Prepreliminary/ Preliminary Site Plan Review at a site known as **“Pearl Mont Corp. Site Plan – Site Locations Plan”** in accordance with Article 16 of the Town Law of the State of New York, the Land Development Regulations of the Town of Orangetown, Chapter 21A of the Code of the Town of Orangetown and to determine the environmental significance of the application pursuant to the requirements of the New York State Environmental Quality Review Act. The site is located at 164 South Pearl Street (Route 304), Pearl River, Town of Orangetown, Rockland County, New York, and as shown on the Orangetown Tax Map as Section 72.08, Block 1, Lot2 in the LIO zoning district.

Heard by the Planning Board of the Town of Orangetown at a meeting held **Wednesday, January 11, 2017**, at which time the Board made the following determinations:

Ray Ahmadi appeared and testified.

The Board received the following communications:

1. Project Review Committee Report dated January 4, 2017.
2. An interdepartmental memorandum from the Office of Building, Zoning, Planning Administration and Enforcement, Town of Orangetown, signed by John Giardiello, P.E., Director, dated January 11, 2017.
3. An Interdepartmental memorandum from the Department of Environmental Management and Engineering (DEME), Town of Orangetown, signed by Bruce Peters, P.E., dated January 5, 2017.
4. A letter from the Rockland County Department of Planning, from Douglas Schuetz, Acting Commissioner of Planning, dated January 3, 2017.
5. Letters from the Rockland County Department of Health, signed by Scott McKane, P.E., Senior Public Health Engineer, dated December 6, 2016.
6. A letter from the Rockland County Sewer District, signed by Joseph LaFiandra, Engineer II, dated December 5, 2015.
7. A letter from the Rockland County Drainage Agency, signed by Vincent Altieri, Executive Director, dated December 28, 2016.

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8. A letter from the Town of Orangetown Zoning Board of Appeals signed by Dan Sullivan, Chairman, dated December 7, 2016.
9. A Short Environmental Assessment Form signed by Rau Ahmadi, P.E., dated November 22, 2016.
10. Site Plan prepared by RA Associates dated November 6, 2007, last revised July 25, 2016.
11. Copy of the Building Permit Referral, dated August 24, 2016, signed by Michael Manzare, Building Inspector.

The Board reviewed the plan. The meeting was then open to the public.

A motion was made to close the Public Hearing portion of the meeting by Bruce Bond and seconded by Michael Mandel and carried as follows:  
Kevin Garvey, Chairman, aye; Bruce Bond, Vice Chairman, aye;  
Michael Mandel, aye; William Young, aye; Robert Dell, absent;  
Stephen Sweeney, absent; and Thomas Warren, aye.

#### **REAFFIRMATION OF SEQRA**

Pursuant to New York Code, Rules & Regulations (NYCRR) Section 617.7, the Town of Orangetown Planning Board, as lead agency, for the reasons articulated in this Board's analysis of all of the submissions by the applicant, interested agencies, departments and the public, with respect to this project including the Environmental Assessment Form, which reasons are summarized in the motion, hereby determines that the proposed action will not have a significant impact on the environment and a Draft Environmental Impact Statement (DEIS) will not be prepared.

After having identified the relevant areas of environmental concern, namely drainage, surface water runoff, land clearing, vegetation, fauna, traffic and noise levels, and after having taken a hard look at said environmental issues, and after having deliberated regarding such concerns, and having heard from the applicant, the applicant's professional representatives, namely RA Associates and the Town of Orangetown's engineering consultant, and having heard from the following offices, officials and/or Departments: (Town of Orangetown): Project Review Committee, Office of Building, Zoning, Planning Administration and Enforcement and Department of Environmental Management and Engineering, and having heard from the following involved and interested agencies: Rockland County Health, Rockland County Drainage Agency, Rockland County Sewer District No. 1, Town of Orangetown Zoning Board of Appeals, and having reviewed the proposed Plans by prepared by RA Associates a summary of the reasons supporting this determination are, and the Planning Board finds that the proposed action:

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- Will not significantly affect existing air quality or noise levels;
- Will not significantly affect existing surface water quality or quantity or drainage;
- Will not significantly affect existing ground water quality or quantity;
- Will not significantly affect existing traffic levels;
- Will not create a substantial increase in solid waste production;
- Will not create a potential for erosion, flooding, leaching or drainage problems;
- Will not have a significant adverse impact on the environmental characteristics of our critical environmental area or environmentally sensitive sites or features;
- Will not have an impairment of the character or quality of important historical, archeological or architectural resources;
- Will not have an impairment of the character or quality of important aesthetic resources;
- Will not have an impairment of existing community or neighborhood character;
- Will not remove or destroy large quantities of vegetation or fauna;
- Will not remove or destroy large quantities of wildlife species or migratory fish;
- Will not have a significant adverse impact to natural resources;
- Is consistent with the Town of Orangetown's Comprehensive/Master Plan;
- Will not have adverse economic or social impacts upon the Town;
- Will not create a hazard to human health; and
- Will not create a substantial change in the use of land, open space or recreational resources.

On motion by Michael Mandel and seconded by William Young and carried as follows: Kevin Garvey, Chairman, aye; Bruce Bond, Vice Chairman, aye; William Young, aye; Robert Dell, absent; Stephen Sweeney, absent; Michael Mandel, aye and Thomas Warren, aye, the Board Reaffirmed the Negative Declaration pursuant to SEQRA.

**DECISION:** In view of the foregoing and the testimony before the Board, the application was **Granted Preliminary Approval Subject to the Following Conditions:**

1. The following note shall be placed on the Site Plan: "At least one week prior to the commencement of any work, including the installation of erosion control devices or the removal of trees and vegetation, a pre-construction meeting must be held with the Town of Orangetown Department of Environmental Management and Engineering, Superintendent of Highways and the Office of Building, Zoning and Planning Administration and Enforcement. It is the responsibility and obligation of the property owner to arrange such a meeting".

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2. The following note shall be placed on the Site Plan regarding Stormwater Management Phase II Regulations: Additional certification, by an appropriate licensed or certified design professional shall be required for all matters before the Planning Board indicating that the drawings and project are in compliance with the Stormwater Management Phase II Regulations.
3. The applicant is proposing eight new signs.
4. The height of the monument sign at the North entrance shall be labeled on the Site Plan. The sign detail does not include the double sided logo portion as part of the height and sign area. Please include that portion of the sign in the calculations.
5. Provide a sign table on the plan indicating sign number, type of sign, sign height, individual sign areas and total sign area.
6. It appears the total allowed sign area of 60 square feet will be exceeded; therefore a variance for total sign area will need to be sought from the Town of Orangetown Zoning Board of Appeals.
7. The applicant shall appear before the Town of Orangetown Architecture and Community Appearance Board of Review for the signs.
8. The Short Environmental Assessment Form (SEAF), items #13a & #13b need to be answered.
  - Item #13a shall be answered "Yes",
  - Item #13b shall be answered "No".
9. Rockland County Department of Planning had the following comments which are incorporated herein as conditions of approval:
  1. More details must be provided regarding the proposed signage. Specifically, sign dimensions must be provided, and the applicant must indicate whether the signs will be illuminated, either internally or by indirect lighting. This information is needed in order to determine if the proposed sign are in compliance with the Town's sign standards.
  2. All proposed signage shall conform to the Town's sign standards.
  3. A review shall be completed by the New York State Department of Transportation, any concerns addressed, and any required permits obtained.
  4. A review must be completed by the Rockland County Drainage Agency, any concerns addressed and all required permits obtained.

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**10.** Based on the information provided, there are no Rockland County Health Department approvals needed for this application.

**11.** The Rockland County Sewer District #1 does not object to the plan as shown. This project does not affect any sanitary sewers within the District and request no future correspondence for this site.

**12.** Based upon Rockland County Drainage Agency (RCDA) evaluation of available mapping and information submitted, the site has been determined to be within the jurisdiction of the RCDA. However, the current proposal appears to have minimal/ no site disturbance and/ or increase in impervious area. Therefore, a permit from the RCDA pursuant to the Rockland County Stream Control Act is not requested at this time. However, please be advised that any future improvements at this site will require a permit or a determination otherwise from the RCDA.

**13.** The applicant shall comply with all pertinent items in the Guide to the Preparation of Site Plans and Decisions prior to signing the final plans.

**14.** All reviews and approvals from various governmental agencies must be obtained prior to stamping of the Site Plan.

**15.** The following agencies do not object to the Town of Orangetown Planning Board assuming responsibilities of lead agency for SEQRA purposes:

- Town of Orangetown Zoning Board of Appeals
- Rockland County Department of Health
- Rockland County Department of Highways
- Rockland County Sewer District No. 1
- Rockland County Drainage Agency

**16.** All of the conditions of this decision, shall be binding upon the owner of the subject property, its successors and /or assigns, including the requirement to maintain the property in accordance with the conditions of this decision and the requirement, if any, to install improvements pursuant to Town Code §21A-9. Failure to abide by the conditions of this decision as set forth herein shall be considered a violation of Site Plan Approval pursuant to Town Code §21A-4.

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**17. TREE PROTECTION:** The following note shall be placed on the Site Plan: The Tree Protection and Preservation Guidelines adopted pursuant to Section 21-24 of the Land Development Regulations of the Town of Orangetown will be implemented in order to protect and preserve both individual specimen trees and buffer area with many trees. Steps that will be taken to reserve and protect existing trees to remain are as follows:

- a. No construction equipment shall be parked under the tree canopy.
- b. There will be no excavation or stockpiling of earth underneath the trees.
- c. Trees designated to be preserved shall be marked conspicuously on all sides at a 5 to 10 foot height.
- d. The Tree Protection Zone for trees designated to be preserved will be established by one of the following methods:
  - One (1) foot radius from trunk per inch DBH
  - Drip line of the Tree Canopy. The method chosen should be based on providing the maximum protection zone possible. A barrier of snow fence or equal is to be placed and maintained one yard beyond the established tree protection zone. If it is agreed that the tree protection zone of a selected tree must be violated, one of the following methods must be employed to mitigate the impact:
    - Light to Heavy Impacts – Minimum of eight inches of wood chips installed in the area to be protected. Chips shall be removed upon completion of work.
    - Light Impacts Only – Installation of ¾ inch of plywood or boards, or equal over the area to be protected.

The builder or its agent may not change grade within the tree protection zone of a preserved tree unless such grade change has received final approval from the Planning Board. If the grade level is to be changed more than six (6) inches, trees designated to be preserved shall be welled and/or preserved in a raised bed, with the tree well a radius of three (3) feet larger than the tree canopy.

**18.** All landscaping shown on the site plans shall be maintained in a vigorous growing condition throughout the duration of the use of this site. Any plants not so maintained shall be replaced with new plants at the beginning of the next immediately following growing season.

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**19.** Prior to the commencement of any site work, including the removal of trees, the applicant shall install the soil erosion and sedimentation control as required by the Planning Board. Prior to the authorization to proceed with any phase of the site work, the Town of Orangetown Department of Environmental Management and Engineering (DEME) shall inspect the installation of all required soil erosion and sedimentation control measures. The applicant shall contact DEME at least 48 hours in advance for an inspection.

**20.** The contractor's trailer, if any is proposed, shall be located as approved by the Planning Board.

**21.** If the applicant, during the course of construction, encounters such conditions as flood areas, underground water, soft or silty areas, improper drainage, or any other unusual circumstances or conditions that were not foreseen in the original planning, such conditions shall be reported immediately to DEME. The applicant shall submit their recommendations as to the special treatment to be given such areas to secure adequate, permanent and satisfactory construction. DEME shall investigate the condition(s), and shall either approve the applicant's recommendations to correct the condition(s), or order a modification thereof. In the event of the applicant's disagreement with the decision of DEME, or in the event of a significant change resulting to the subdivision plan or site plan or any change that involves a wetland regulated area, the matter shall be decided by the agency with jurisdiction in that area (i.e. Wetlands - U.S. Army Corps of Engineers).

**22.** Permanent vegetation cover of disturbed areas shall be established on the site within thirty (30) days of the completion of construction.

**23.** Prior (at least 14 days) to the placing of any road sub-base, the applicant shall provide the Town of Orangetown Superintendent of Highways and DEME with a plan and profile of the graded road to be paved in order that these departments may review the drawings conformance to the approved construction plans and the Town Street Specifications

**24.** The Planning Board shall retain jurisdiction over lighting, landscaping, signs and refuse control.

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**Override**

The Board made a motion to override Condition #5 of the January 3, 2017 letter from Rockland County Department of Planning, signed by Douglas Schuetz, Acting Commissioner of Planning, for the following reasons:

1. The Borough of Montvale, New Jersey is one of the reasons this proposal was referred to the Rockland County Department of Planning for review. The municipal boundary is approximately 80 feet south of the site. As required under Section 239nn of the State General Municipal Law, the Borough of Montvale, New Jersey must be given the opportunity to review the proposed sign plan and provide any concerns related to the project to the Town of Orangetown.

The Board held that the New York State General Municipal Law does not require referral to the Borough of Montvale, New Jersey. This New York law is only applicable, and can be only applicable, to require circulation to municipalities only within New York State, not those located in another state, in this case the Borough of Montvale, New Jersey. The legislative history of the bill clearly states the justification for the law was to "...encourage intergovernmental cooperation and area planning for land use **among** neighboring municipalities in **New York state**". (Emphasis added) The New York State Attorney General also indicated in its report to the legislature that: "This bill would encourage the coordination of land use development and regulation **among adjacent municipalities throughout New York State**." (Emphasis added). Nevertheless, as a courtesy, in addition, the Borough of Montvale had been mailed a referral package for this application and had not provided any written comments for the meeting.

A motion to override the condition was made and moved by Michael Mandel and seconded by Thomas Warren and carried as follows: Kevin Garvey, Chairman, aye; Bruce Bond, Vice Chairman, aye; Michael Mandel aye; William Young, aye; Stephen Sweeney, absent; Robert Dell, absent and Thomas Warren, aye.

The foregoing Resolution was made and moved by Michael Mandel and seconded by William Young and carried as follows: Kevin Garvey, Chairman, aye; Bruce Bond, Chairman, aye; Michael Mandel, aye; William Young, aye; Stephen Sweeney, absent; Thomas Warren, aye; and Robert Dell, absent.

The Clerk to the Board is hereby authorized, directed and empowered to sign this **DECISION** and file a certified copy in the Office of the Town Clerk and the Office of the Planning Board.

Dated: January 11, 2017

Cheryl Coopersmith, Chief Clerk Boards and Commissions  
Town of Orangetown Planning Board

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**State Environmental Quality Review Regulations  
NEGATIVE DECLARATION  
Notice of Determination of Non-Significance**

**PB#17-02: Pearl Mont Corporation Site Plan  
Preliminary Site Plan/ Sign Location  
Approval Subject to Conditions**

**Permit #45710**

**Town of Orangetown Planning Board Decision  
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This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Regulation) of the Environmental Conservation Law.  
The PLANNING BOARD, TOWN OF ORANGETOWN, as Lead Agency, has determined that the proposed action described below will not have a significant impact on the environment and a Draft Environmental Impact Statement will not be prepared.

**NAME OF ACTION: Pearl Mont Corporation Site Plan - Preliminary Site Plan/ Sign Location; Approval Subject to Conditions**

SEQR STATUS:      Type I \_\_\_\_\_ Unlisted XXXXXX  
CONDITIONED NEGATIVE DECLARATION: Yes \_\_\_\_\_ No XXXXXX

**DESCRIPTION OF ACTION: Site and Sign Location Review**

**LOCATION:** The site is located at 164 South Pearl Street (Route 304), Pearl River, Town of Orangetown, Rockland County, New York, and as shown on the Orangetown Tax Map as Section 72.08, Block 1, Lot2 in the LIO zoning district.

**REASONS SUPPORTING THIS DETERMINATION:**  
The Orangetown Planning Board, as Lead Agency, determined that the proposed action will not have a significant impact on the environment and a Draft Environmental Impact Statement (DEIS) will not be prepared. The reasons supporting this determination are as follows:  
The project will not have a significant impact upon the environment and a DEIS need not be prepared because the proposed action does not significantly affect air quality, surface or ground water quality, noise levels or existing external traffic patterns. In addition, it will have no impact upon the aesthetic, agricultural or cultural resources of the neighborhood. No vegetation, fauna or wildlife species will be affected as a result of this proposed development. The proposed action is consistent with the Town of Orangetown's Master Plan and will not have any adverse economic or social impacts upon the Town or its businesses or residences.  
If Conditioned Negative Declaration, the specific mitigation is provided on an attachment.  
For Further Information contact:  
John Giardiello, P.E., Director, Office of Building, Zoning and Planning Administration and Enforcement; Town of Orangetown; 20 Greenbush Road Orangeburg, NY 10962; Telephone Number: 845-359-5100  
For Type I Actions and Conditioned Negative Declarations, a copy of this notice is sent: - Commissioner, New York State Department of Environmental Conservation, - Region 3 Headquarters, NYSDEC, - Town Supervisor, Applicant - Involved Agencies

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**PB #17-03: The Saloon Roof Plan  
Final Site Plan Approval Subject to Conditions**

**Permit #45024**

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TO: Bridget Killen, 45-49 West Central Avenue, Pearl River, New York  
FROM: Orangetown Planning Board

RE: The Saloon Roof Plan: The application of Bridget Killen, owner, for Final Roof Plan Review, at a site known as **"The Saloon Roof Plan"**, in accordance with Article 16 of the Town Law of the State of New York, the Land Development Regulations of the Town of Orangetown, Chapter 21A of the Code of the Town of Orangetown. The site is located at 45-49 West Central Avenue, Pearl River, Town of Orangetown, Rockland County, New York, and as shown on the Orangetown Tax Map as Section 68.16, Block 1, Lot 9 in the CC zoning district.

Heard by the Planning Board of the Town of Orangetown at a meeting held **Wednesday, January 11, 2017** at which time the Board made the following determinations:

Bridget Killen and Donald Brenner appeared and testified.

The Board received the following communications:

1. A Project Review Report dated January 4, 2017.
2. An Interdepartmental memorandum from the Office of Building, Zoning, Planning Administration and Enforcement, Town of Orangetown, signed by John Giardiello, P.E., Director, dated January 11, 2017.
3. An Interdepartmental memorandum from the Department of Environmental Management and Engineering (DEME), Town of Orangetown, signed by Bruce Peters, P.E., dated January 5, 2017.
4. A letter from the Rockland County Department of Planning, signed by Douglas Schutz, Acting Commissioner, dated January 3, 2017, with an attachment of a letter from Rockland County Department of Planning, signed by Douglas Schutz, Acting Commissioner, dated June 20, 2016.
5. Letters from Rockland County Highway Department signed by Sonny Lin, P.E., dated January 11, 2017 and April 13, 2016.
6. A letter from Rockland County Department of Health, signed by Scott McKane, P.E., Senior Public Health Engineer, dated December 6, 2016.
7. Copies of ACABOR #16-53, Approved as Presented, dated September 8, 2016, ZBA #16-57, Floor Area Ratio and Building Height Variances Approved, dated July 6, 2016 and PB #16-17, Preliminary Site Plan Approval Subject to Conditions, dated April 13, 2016.
8. A copy of the Building Permit Referral dated January 5, 2016, signed by Rick Oliver, Building Inspector.
9. Plans prepared by Barbara Marks, Architect, dated March 26, 2014:
  - Drawing BDO: Notes, Zoning and Plot Plan, revised. May 6, 2016
  - Drawing BD1: Exit/ Demo Basement, 1<sup>st</sup>, 2<sup>nd</sup> & Roof Plans, revised December 16, 2015
  - Drawing BD2: Proposed 1<sup>st</sup>, 2<sup>nd</sup> Floor Plans, revised January 13, 2015
  - Drawing BD3: Proposed Roof Plans & Details, revised March 8, 2016
  - Drawing BD4: Proposed Exterior Elevations, April 21, 2016

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10. Copy of Building Permit Referral, dated January 5, 2016, signed by Rick Oliver, Building Inspector.

The Board reviewed the plan. The meeting was then open to the public.

**Public Comment:**

Fernando Cabricaro, 3 South Serven Street, Pearl River; noted that he lives more than 200 feet away from the project site, however the noise from the site carries to his neighborhood. He held that the current situation in downtown Pearl River is out of control and requested that the operation of the roof bar be limited to daytime hours.

Tim Flood, 2 South Severn Street, Pearl River; protested against the placement of a rooftop bar on the project site, noting that Pearl River has over 11 bars within the train station area and an additional place to drink is not needed. The noise from the people and music of the existing bars carries up to Severn Street. He was against having music on the upper level of the Saloon.

Maria Cabricaro, 3 South Serven Street, Pearl River; requested the Board to take into consideration the people who live in the neighborhood and their quality of life. She stated that the present level of noise is very loud and disturbing to their environment.

A motion was made to close the Public Hearing portion of the meeting by Bruce Bond and seconded by Thomas Warren and carried as follows:  
Kevin Garvey, Chairman, aye; Bruce Bond, Vice Chairman, aye;  
William Young, aye; Robert Dell, absent; Stephen Sweeney, absent;  
Michael Mandel, aye and Thomas Warren, aye.

**DECISION: In view of the foregoing and the testimony before the Board, the application was Granted Final Site Plan Approval Subject to the Following Conditions:**

1. The following note shall be placed on the Site Plan: "At least one week prior to the commencement of any work, including the installation of erosion control devices or the removal of trees and vegetation, a Pre-construction meeting must be held with the Town of Orangetown Department of Environmental Management and Engineering, Superintendent of Highways and the Office of Building, Zoning and Planning Administration and Enforcement. It is the responsibility and obligation of the property owner to arrange such a Meeting."

2. The following note shall be placed on the Site Plan: "Stormwater Management Phase II Regulations: Additional certification, by an appropriate licensed or certified design professional shall be required for all matters before the Planning Board indicating that the drawings and project are in compliance with the Stormwater Management Phase II Regulations".

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3. The applicant shall comply with all previous and pertinent Board Decisions: ACABOR #16-53, Approved as Presented, dated September 8, 2016, ZBA #16-57, Floor Area Ratio and Building Height Variances Approved, dated July 6, 2016 and PB #16-17, Preliminary Site Plan Approval Subject to Conditions, dated April 13, 2016.

4. The Board required the following regarding use of the Roof top Bar:

**Friday and Saturday:**

The Roof top Bar and outdoor seating area shall close no later than 2:00 a.m.; No patrons shall be permitted in this area after closing. Live music or DJ music may not be played after 1:00 a.m.

**Sunday, Monday, Tuesday, Wednesday, Thursday:**

The Roof top Bar and outdoor seating area shall close no later than 12:00 midnight; No patrons shall be permitted in this area after closing. Live music or DJ music may not be played after 11:00 p.m.

**The above restrictions shall be in place for a period of One (1) Year from the date of the issuance of a Certificate of Occupancy. Prior to the expiration of the one year time period, the applicant must return to the Planning Board for review and approval of this condition. The review may require the applicant to curtail the above referenced hours, and/ or impose another review period. Failure of the applicant to apply for review of this condition shall be a violation of Site Plan Approval.**

5. The Rockland County Department of Planning had the following comments which are incorporated herein as conditions of approval:

- 1) An updated review must be completed by the County of Rockland Department of Highways and all required permits obtained.
- 2) An updated review must be completed by the New York State Department of Transportation and any required permits obtained.
- 3) Since outdoor seating is not proposed, exterior lighting will need to be provided on the rooftop. All lighting must be directed so as not to cause a glare to vehicles on either the State or County highway.

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**Continuation of Condition #5...**

- 4) The Site Plan now notes the parking requirements for the roof area, both for just the covered portion, and the entire roof area. However, the materials submitted with this application do not note that a parking variance is required or has been obtained. Variances were sought in July, 2016 for floor area ratio and building height, but not for parking. The last time a variance for parking was sought for this use was in 2014, but were not due to the roof expansion. The applicant may still need to obtain variances for parking for the roof expansion. The Town of Orangetown must clarify if a parking variance is required.
  - 5) The previously reviewed site plan dated 12/16/2016 showed that the two sheds in the northeastern corner were to be removed. This note is now removed from the plans. It must be noted if these sheds are to be removed or are to remain.
  - 6) As indicated, variances were sought in July, 2016 for floor area ratio and building height. However, the Bulk Table does not note that these variances have been granted by the Town of Orangetown Zoning Board of Appeals. The Bulk Table must be updated to reflect that these variances have been granted on July 6, 2016.
  - 7) If a parking variance is required, the Rockland County Department of Planning requests the opportunity to review the proposed variance, as required by New York State General Municipal Law, Section 239-m(3)(v).
- 6. Based on the information provided, there are no Rockland County Health Department approvals needed for this project.**
- 7. Based on the Site Plan and information submitted, the Rockland County Highway Department determined that the potential significant adverse impacts to drainage can be mitigated. The potential significant adverse impacts on county roads to structure and drainage can be mitigated. A Rockland County Highway Department Work Permit will be required prior to any constriction on site.**
- 8. The applicant shall comply with all pertinent items in the Guide to the Preparation of Site Plans and Board Decisions prior to signing the final plans.**
- 9. All reviews and approvals from various governmental agencies must be obtained prior to stamping of the Site Plan.**

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**10.** All of the conditions of this decision, shall be binding upon the owner of the subject property, its successors and /or assigns, including the requirement to maintain the property in accordance with the conditions of this decision and the requirement, if any, to install improvements pursuant to Town Code §21A-9. Failure to abide by the conditions of this decision as set forth herein shall be considered a violation of Site Plan Approval pursuant to Town Code §21A-4.

**11. TREE PROTECTION:** The following note shall be placed on the Site Plan: The Tree Protection and Preservation Guidelines adopted pursuant to Section 21-24 of the Land Development Regulations of the Town of Orangetown will be implemented in order to protect and preserve both individual specimen trees and buffer area with many trees. Steps that will be taken to reserve and protect existing trees to remain are as follows:

- a. No construction equipment shall be parked under the tree canopy.
- b. There will be no excavation or stockpiling of earth underneath the trees.
- c. Trees designated to be preserved shall be marked conspicuously on all sides at a 5 to 10 foot height.
- d. The Tree Protection Zone for trees designated to be preserved will be established by one of the following methods:
  - One (1) foot radius from trunk per inch DBH
  - Drip line of the Tree Canopy.

The method chosen should be based on providing the maximum protection zone possible. A barrier of snow fence or equal is to be placed and maintained one yard beyond the established tree protection zone. If it is agreed that the tree protection zone of a selected tree must be violated, one of the following methods must be employed to mitigate the impact:

- Light to Heavy Impacts – Minimum of eight inches of wood chips installed in the area to be protected. Chips shall be removed upon completion of work.
- Light Impacts Only – Installation of ¾ inch of plywood or boards, or equal over the area to be protected.

The builder or its agent may not change grade within the tree protection zone of a preserved tree unless such grade change has received final approval from the Planning Board. If the grade level is to be changed more than six (6) inches, trees designated to be preserved shall be welled and/or preserved in a raised bed, with the tree well a radius of three (3) feet larger than the tree canopy.

**12.** All landscaping shown on the Site Plans shall be maintained in a vigorous growing condition throughout the duration of the use of this site. Any plants not so maintained shall be replaced with new plants at the beginning of the next immediately following growing season.

**13.** Prior to the commencement of any site work, including the removal of trees, the applicant shall install the soil erosion and sedimentation control as required by the Planning Board. Prior to the authorization to proceed with any phase of the site work, the Town of Orangetown Department of Environmental Management and Engineering (DEME) shall inspect the installation of all required soil erosion and sedimentation control measures. The applicant shall contact DEME at least 48 hours in advance for an inspection.

TOWN OF ORANGETOWN  
CLERK'S OFFICE  
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**PB #17-03: The Saloon Roof Plan  
Final Site Plan Approval Subject to Conditions**

**Permit #45024**

**Town of Orangetown Planning Board Decision  
January 11, 2017  
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**14.** The contractor's trailer, if any is proposed, shall be located as approved by the Planning Board.

**15.** If the applicant, during the course of construction, encounters such conditions as flood areas, underground water, soft or silty areas, improper drainage, or any other unusual circumstances or conditions that were not foreseen in the original planning, such conditions shall be reported immediately to DEME. The applicant shall submit their recommendations as to the special treatment to be given such areas to secure adequate, permanent and satisfactory construction. DEME shall investigate the condition(s), and shall either approve the applicant's recommendations to correct the condition(s), or order a modification thereof. In the event of the applicant's disagreement with the decision of DEME, or in the event of a significant change resulting to the subdivision plan or site plan or any change that involves a wetland regulated area, the matter shall be decided by the agency with jurisdiction in that area (i.e. Wetlands - U.S. Army Corps of Engineers).

**16.** Permanent vegetation cover of disturbed areas shall be established on the site within thirty (30) days of the completion of construction.

**17.** Prior (at least 14 days) to the placing of any road sub-base, the applicant shall provide the Town of Orangetown Superintendent of Highways and DEME with a plan and profile of the graded road to be paved in order that these departments may review the drawings conformance to the approved construction plans and the Town Street Specifications

**18.** The Planning Board shall retain jurisdiction over lighting, landscaping, signs and refuse control.

The foregoing Resolution was made and moved by Bruce Bond seconded by Thomas Warren and carried as follows: Kevin Garvey, Chairman, aye; Bruce Bond, Vice Chairman, aye; William Young, aye; Robert Dell, absent; Stephen Sweeney, absent; Michael Mandel, aye and Thomas Warren, aye.

The Clerk to the Board is hereby authorized, directed and empowered to sign this **DECISION** and file a certified copy in the Office of the Town Clerk and the Office of the Planning Board.

**Dated: January 11, 2017**  
**Cheryl Coopersmith, Chief Clerk Boards and Commissions**  
**Town of Orangetown Planning Board**

*Cheryl Coopersmith*

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**PB #17-04: Maria's Mexican Restaurant Site Plan  
Final Site Plan Approval Subject  
to Conditions/ Neg. Dec.**

**Permit #45930**

**Town of Orangetown Planning Board Decision  
January 11, 2017  
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TO: John McDarby, 8 North Williams Street, Pearl River, New York  
FROM: Orangetown Planning Board

RE: Maria's Mexican Restaurant Site Plan: The application of BDJM Inc., applicant, for Bright Summer Realty, LLC, owner, for Prepreliminary/ Preliminary/ Final Site Plan Review at a site to be known as "**Maria's Mexican Restaurant Site Plan**" in accordance with Article 16 of the Town Law of the State of New York, the Land Development Regulations of the Town of Orangetown, Chapter 21A of the Code of the Town of Orangetown and to determine the environmental significance of the application pursuant to the requirements of the New York State Environmental Quality Review Act. The site is located at 8 North Williams Street, Pearl River, Town of Orangetown, Rockland County, New York, and as shown on the Orangetown Tax Map as Section 68.16, Block 6, Lot 60 in the CS zoning district.

Heard by the Planning Board of the Town of Orangetown at a meeting held **Wednesday, January 11, 2017** at which time the Board made the following determinations:

John McDarby appeared and testified.

The Board received the following communications:

1. A Project Review Report dated January 4, 2017.
2. An Interdepartmental memorandum from the Office of Building, Zoning, Planning Administration and Enforcement, Town of Orangetown, signed by John Giardiello, P.E., Director, dated January 11, 2017.
3. An Interdepartmental memorandum from the Department of Environmental Management and Engineering (DEME), Town of Orangetown, signed by Bruce Peters, P.E., dated January 5, 2017.
4. A letter from the Rockland County Department of Planning, signed by Douglas Schuetz, Acting Commissioner, dated January 3, 2017.
5. A letter from the Rockland County Highway Department, signed by Sonny Lin, P.E., dated January 10, 2017.
6. Letters from Rockland County Department of Health, signed by Scott McKane, P.E., Senior Public Health Engineer, dated December 6, 2016.
7. A letter from the Rockland County Sewer District, signed by Joseph LaFiandra, Engineer II, dated December 8, 2016.
8. A letter from the New York State Department of Environmental Conservation, signed by Mike Grosso, Region 3, Division of Environmental Permits, dated December 14, 2016.
9. A letter from the Town of Orangetown Zoning Board of Appeals, signed by Daniel Sullivan, Chairman, dated December 7, 2016.
10. A Short Environmental Assessment Form signed by William Drewes, dated November 23, 2016.
11. A Narrative submitted by the applicant.

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12. Site Plan entitled Maria's Mexican Rest. Plot Plan, prepared by Thomas Jude Mesuk, Registered Architect, dated November 29, 2016.
13. Survey of Property for Bright Summer Realty, LLC, prepared by John Robert Nelting Surveying and Mapping, PLLC, dated May 12, 2016, signed by John Nelting, LS.
14. Hand drawn Storefront Elevations of Maria's Mexican.
15. Copy of the Building Permit Referral, dated October 21, 2016, signed by Mike Manzare, Building Inspector.

The Board reviewed the plan. The meeting was then open to the public.

A motion was made to close the Public Hearing portion of the meeting by Thomas Warren and seconded by William Young and carried as follows: Kevin Garvey, Chairman, aye; Bruce Bond, Vice Chairman, aye; William Young, aye; Robert Dell, absent; Stephen Sweeney, absent; Michael Mandel, aye and Thomas Warren, aye.

The proposed action is classified as an "unlisted action" as defined by Section 617.2 (ak) of the New York State Environmental Quality Review Regulations (SEQRR). No agency, other than the Orangetown Planning Board will have any significant involvement in the review process, pursuant to Section 617.6 of SEQRA.

On motion by Bruce Bond and seconded by Michael Mandel and carried as follows: Kevin Garvey, Chairman, aye; Bruce Bond, Vice Chairman, aye; William Young, aye; Robert Dell, absent; Stephen Sweeney, absent; Michael Mandel, aye and Thomas Warren, aye; the Board declared itself Lead Agency.

Pursuant to New York Code, Rules & Regulations (NYCRR) Section 617.7, the Town of Orangetown Planning Board, as lead agency, for the reasons articulated in this Board's analysis of all of the submissions by the applicant, interested agencies, departments and the public, with respect to this project including the Environmental Assessment Form, which reasons are summarized in the motion, hereby determines that the proposed action will not have a significant impact on the environment and a Draft Environmental Impact Statement (DEIS) will not be prepared.

After having identified the relevant areas of environmental concern, namely drainage, surface water runoff, land clearing, vegetation, fauna, traffic and noise levels, and after having taken a hard look at said environmental issues, and after having deliberated regarding such concerns, and having heard from the applicant, the applicant's professional representatives, namely by Thomas Jude Mesuk, R.A., and having heard from the following offices, officials and/or Departments: (Town of Orangetown): Project Review Committee, Office

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**Town of Orangetown Planning Board Decision  
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of Building, Zoning, Planning Administration and Enforcement and Department of Environmental Management and Engineering, and having heard from the following involved and interested agencies: Town of Orangetown Zoning Board of Appeals, Rockland County Department of Health, Rockland County Sewer District #1, New York State Department of Environmental Conservation, *and* having reviewed a Plan by prepared by Thomas Jude Mesuk, R.A., a summary of the reasons supporting this determination are, and the Planning Board finds that the proposed action:

- Will not significantly affect existing air quality or noise levels;
- Will not significantly affect existing surface water quality or quantity or drainage;
- Will not significantly affect existing ground water quality or quantity;
- Will not significantly affect existing traffic levels;
- Will not create a substantial increase in solid waste production;
- Will not create a potential for erosion, flooding, leaching or drainage problems;
- Will not have a significant adverse impact on the environmental characteristics of our critical environmental area or environmentally sensitive sites or features;
- Will not have an impairment of the character or quality of important historical, archeological or architectural resources;
- Will not have an impairment of the character or quality of important aesthetic resources;
- Will not have an impairment of existing community or neighborhood character;
- Will not remove or destroy large quantities of vegetation or fauna;
- Will not remove or destroy large quantities of wildlife species or migratory fish;
- Will not have a significant adverse impact to natural resources;
- Is consistent with the Town of Orangetown's Comprehensive/Master Plan;
- Will not have adverse economic or social impacts upon the Town;
- Will not create a hazard to human health; and
- Will not create a substantial change in the use of land, open space or recreational resources.

On motion by Bruce Bond and seconded by Michael Mandel and carried as follows: Kevin Garvey, Chairman, aye; Bruce Bond, Vice Chairman, aye; Robert Dell, absent; Thomas Warren, aye; William Young, aye; Michael Mandel, and Stephen Sweeney, absent, the Board made a Negative Declaration pursuant to SEQRA.

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**PB #17-04: Maria's Mexican Restaurant Site Plan  
Final Site Plan Approval Subject  
to Conditions/ Neg. Dec.**

**Permit #45930**

**Town of Orangetown Planning Board Decision  
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**DECISION: In view of the foregoing and the testimony before the Board, the application was Granted Final Site Plan Approval Subject to the Following Conditions:**

1. The following note shall be placed on the Site Plan: "At least one week prior to the commencement of any work, including the installation of erosion control devices or the removal of trees and vegetation, a Pre-construction meeting must be held with the Town of Orangetown Department of Environmental Management and Engineering, Superintendent of Highways and the Office of Building, Zoning and Planning Administration and Enforcement. It is the responsibility and obligation of the property owner to arrange such a meeting".
2. The following note shall be placed on the Site Plan: "Stormwater Management Phase II Regulations: Additional certification, by an appropriate licensed or certified design professional shall be required for all matters before the Planning Board indicating that the drawings and project are in compliance with the Stormwater Management Phase II Regulations" .
3. The application is requesting a new use in an existing building and therefore requires Site Plan approval. Since there are no exterior changes requested to the site, the Planning Board waives the requirement of Site Plan Approval and accepts the plan as submitted.
4. The total square footage of 1,560 square feet requires 16 parking spaces and 12 are shown on the plan, therefore a variance for parking needs to be sought from the Town of Orangetown Zoning Board of Appeals.
5. The applicant shall provide a handicap parking space and show handicap access to the building on the plan.
6. There are no exterior changes to the building and appearance at the Town of Orangetown Architecture and Community Appearance Board of Review is waived.
7. A proposed new sign will require a separate Building Permit Application.
8. The Short Environmental Assessment Form (SEAF) appears to be in order.

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**Town of Orangetown Planning Board Decision  
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**9.** The existing sanitary sewer building connection shall be shown on the plan, including all inverts.

**10.** The applicant is advised that the Town of Orangetown has a new F.O.G. (Fat, Oil and Grease) program, which must be complied. The applicant shall contact the Town's F.O.G. Coordinator to determine if this criteria is applicable.

**11.** The Rockland County Department of Planning had the following comments which are incorporated herein as conditions of approval:

1) The proposed sign must conform to the Town's sign standards.

2) Since this is a new use, a Bulk Table must be provided that lists the standards for a restaurant use. This information must include parking requirements. This information is necessary to determine if any variances are required to permit the new use.

3. A review must be completed by the County of Rockland Department of Highways all concerns addressed and all required permits obtained.

**12.** The Rockland County Highway Department reviewed the site plans and information submitted and found that the existing 12 parking spaces are shown to be within own property line and have no impacts on county roads. The proposed work lies within 500 feet from closes county roads, a Rockland County Highway Department Work Permit will be required for the proposed development.

**13.** Based on the information provided, there are no Rockland County Health Department approvals needed for this project.

**14.** The Rockland County Sewer District #1 does not object to the plan as shown. This project does not affect any sanitary sewers within the District and request no future correspondence for this site.

**15.** The following agencies do not object to the Town of Orangetown Planning Board assuming responsibilities of lead agency for SEQRA purposes:

- Town of Orangetown Zoning Board of Appeals
- Rockland County Department of Health
- New York State Department of Environmental Conservation
- Rockland County Sewer District #1
- Rockland County Highway Department

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**16.** The applicant shall comply with all pertinent items in the Guide to the Preparation of Site Plans and Board Decisions prior to signing the final plans.

**17.** All reviews and approvals from various governmental agencies must be obtained prior to stamping of the Site Plan.

**18.** All of the conditions of this decision, shall be binding upon the owner of the subject property, its successors and /or assigns, including the requirement to maintain the property in accordance with the conditions of this decision and the requirement, if any, to install improvements pursuant to Town Code §21A-9. Failure to abide by the conditions of this decision as set forth herein shall be considered a violation of Site Plan Approval pursuant to Town Code §21A-4.

**19. TREE PROTECTION:** The following note shall be placed on the Site Plan: The Tree Protection and Preservation Guidelines adopted pursuant to Section 21-24 of the Land Development Regulations of the Town of Orangetown will be implemented in order to protect and preserve both individual specimen trees and buffer area with many trees. Steps that will be taken to reserve and protect existing trees to remain are as follows:

- a. No construction equipment shall be parked under the tree canopy.
- b. There will be no excavation or stockpiling of earth underneath the trees.
- c. Trees designated to be preserved shall be marked conspicuously on all sides at a 5 to 10 foot height.
- d. The Tree Protection Zone for trees designated to be preserved will be established by one of the following methods:
  - One (1) foot radius from trunk per inch DBH
  - Drip line of the Tree Canopy.

The method chosen should be based on providing the maximum protection zone possible. A barrier of snow fence or equal is to be placed and maintained one yard beyond the established tree protection zone. If it is agreed that the tree protection zone of a selected tree must be violated, one of the following methods must be employed to mitigate the impact:

- Light to Heavy Impacts – Minimum of eight inches of wood chips installed in the area to be protected. Chips shall be removed upon completion of work.
- Light Impacts Only – Installation of ¾ inch of plywood or boards, or equal over the area to be protected.

The builder or its agent may not change grade within the tree protection zone of a preserved tree unless such grade change has received final approval from the Planning Board. If the grade level is to be changed more than six (6) inches, trees designated to be preserved shall be welled and/or preserved in a raised bed, with the tree well a radius of three (3) feet larger than the tree canopy.

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**20.** All landscaping shown on the Site Plans shall be maintained in a vigorous growing condition throughout the duration of the use of this site. Any plants not so maintained shall be replaced with new plants at the beginning of the next immediately following growing season.

**21.** Prior to the commencement of any site work, including the removal of trees, the applicant shall install the soil erosion and sedimentation control as required by the Planning Board. Prior to the authorization to proceed with any phase of the site work, the Town of Orangetown Department of Environmental Management and Engineering (DEME) shall inspect the installation of all required soil erosion and sedimentation control measures. The applicant shall contact DEME at least 48 hours in advance for an inspection.

**22.** The contractor's trailer, if any is proposed, shall be located as approved by the Planning Board.

**23.** If the applicant, during the course of construction, encounters such conditions as flood areas, underground water, soft or silty areas, improper drainage, or any other unusual circumstances or conditions that were not foreseen in the original planning, such conditions shall be reported immediately to DEME. The applicant shall submit their recommendations as to the special treatment to be given such areas to secure adequate, permanent and satisfactory construction. DEME shall investigate the condition(s), and shall either approve the applicant's recommendations to correct the condition(s), or order a modification thereof. In the event of the applicant's disagreement with the decision of DEME, or in the event of a significant change resulting to the subdivision plan or site plan or any change that involves a wetland regulated area, the matter shall be decided by the agency with jurisdiction in that area (i.e. Wetlands - U.S. Army Corps of Engineers).

**24.** Permanent vegetation cover of disturbed areas shall be established on the site within thirty (30) days of the completion of construction.

**25.** Prior (at least 14 days) to the placing of any road sub-base, the applicant shall provide the Town of Orangetown Superintendent of Highways and DEME with a plan and profile of the graded road to be paved in order that these departments may review the drawings conformance to the approved construction plans and the Town Street Specifications

**26.** The Planning Board shall retain jurisdiction over lighting, landscaping, signs and refuse control.

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**Override**

The Board made a motion to override Condition #1 of the January 3, 2017 letter from Rockland County Department of Planning, signed by Douglas Schuetz, Acting Commissioner of Planning, for the following reasons:

"1) The application materials indicate that the site is located on Tax parcel 68.16-6-20. However, it appears that this is only a portion of the site. Tax lots 68.6-61.1 and 68.16-6-61.2 also seems to be part of the proposed restaurant site. If this is the case, then the application must be updated to include all parcels, and the public hearing notice re-issued if it did not include all pertinent parcels."

The Board held that the public hearing notice was re-issued with the correct tax lot information in sufficient time to hear the item for the meeting.

A motion to override the condition was made and moved by Bruce Bond and seconded by Michael Mandel and carried as follows: Kevin Garvey, Chairman, aye; Bruce Bond, Vice Chairman, aye; William Young, aye; Robert Dell, absent; Stephen Sweeney, absent; Michael Mandel, aye and Thomas Warren, aye.

The foregoing Resolution was made and moved by Bruce Bond, Vice Chairman seconded by Michael Mandel and carried as follows: Kevin Garvey, Chairman, aye; Bruce Bond, Vice Chairman, aye; William Young, aye; Robert Dell, absent; Stephen Sweeney, absent; Michael Mandel, aye and Thomas Warren, aye.

The Clerk to the Board is hereby authorized, directed and empowered to sign this **DECISION** and file a certified copy in the Office of the Town Clerk and the Office of the Planning Board.

Dated: January 11, 2017  
Cheryl Coopersmith, Chief Clerk Boards and Commissions  
Town of Orangetown Planning Board  
attachment

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**State Environmental Quality Review Regulations  
NEGATIVE DECLARATION  
Notice of Determination of Non-Significance**

**PB #17-04: Maria's Mexican Restaurant Site Plan  
Final Site Plan Approval Subject  
to Conditions/ Neg. Dec.**

**Permit #45930**

**Town of Orangetown Planning Board Decision  
January 11, 2017**

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Regulation) of the Environmental Conservation Law.

The PLANNING BOARD, TOWN OF ORANGETOWN, as Lead Agency, has determined that the proposed action described below will not have a significant impact on the environment and a Draft Environmental Impact Statement will not be prepared.

**NAME OF ACTION: Maria's Mexican Restaurant Site Plan – Final Site Plan Approval Subject to Conditions/ Neg. Dec.**

SEQR STATUS: Type I \_\_\_\_\_  
Unlisted XXXXXX

CONDITIONED NEGATIVE DECLARATION: Yes \_\_\_\_\_  
No XXXXXX

**DESCRIPTION OF ACTION: Site Plan Review**

**LOCATION:** The site is located at 8 North Williams Street, Pearl River, Town of Orangetown, Rockland County, New York, and as shown on the Orangetown Tax Map as Section 68.16, Block 6, Lot 60 in the CS zoning district.

**EASONS SUPPORTING THIS DETERMINATION:**

The Orangetown Planning Board, as Lead Agency, determined that the proposed action will not have a significant impact on the environment and a Draft Environmental Impact Statement (DEIS) will not be prepared. The reasons supporting this determination are as follows:

The project will not have a significant impact upon the environment and a DEIS need not be prepared because the proposed action does not significantly affect air quality, surface or ground water quality, noise levels or existing external traffic patterns. In addition, it will have no impact upon the aesthetic, agricultural or cultural resources of the neighborhood. No vegetation, fauna or wildlife species will be affected as a result of this proposed development. The proposed action is consistent with the Town of Orangetown's Master Plan and will not have any adverse economic or social impacts upon the Town or its businesses or residences.

If Conditioned Negative Declaration, the specific mitigation is provided on an attachment.

For Further Information contact:

John Giardiello, P.E., Director, Office of Building, Zoning and Planning  
Administration and Enforcement  
Town of Orangetown  
20 Greenbush Road  
Orangeburg, NY 10962  
Telephone Number: 845-359-5100

For Type I Actions and Conditioned Negative Declarations, a copy of this notice is sent: - Commissioner, New York State Department of Environmental Conservation, - Region 3 Headquarters, NYSDEC, - Town Supervisor, Applicant - Involved Agencies

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**PB#17-05: 62-76 Route 303, LLC Site Plan  
(Nicks Convenience Store) - Preliminary Site Plan  
Approval Subject to Conditions Neg. Dec.**

**Permit #45791**

**Town of Orangetown Planning Board Decision  
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**TO:** Donald Brenner, 4 Independence Avenue, Tappan, New York  
**FROM:** Orangetown Planning Board

**RE:** 62-76 Route 303, LLC Site Plan (Nicks Convenience Store): The application of Shailesh Patel, applicant for 62-76 Route 303, LLC, owner, for Prepreliminary/ Preliminary Site Plan Review at a site to be known as **“62-76 Route 303, LLC Site Plan (Nicks Convenience Store)”**, accordance with Article 16 of the Town Law of the State of New York, the Land Development Regulations of the Town of Orangetown, Chapter 21A of the Code of the Town of Orangetown and to determine the environmental significance of the application pursuant to the requirements of the New York State Environmental Quality Review Act. The site is located at 62-76 Route 303, Tappan, Town of Orangetown, Rockland County, New York, and as shown on the Orangetown Tax Map as Section 77.15, Block 1, Lot 42 in the CS zoning district.

Heard by the Planning Board of the Town of Orangetown at a meeting held **Wednesday, January 11, 2017**, the Board made the following determinations:

Donald Brenner appeared and testified.

The Board received the following communications:

1. Project Review Committee Report dated January 4, 2017.
2. An Interdepartmental memorandum from the Office of Building, Zoning, Planning Administration and Enforcement, Town of Orangetown, signed by John Giardiello, P.E., Director, dated January 11, 2017.
3. An Interdepartmental memorandum from the Department of Environmental Management and Engineering (DEME), Town of Orangetown, signed by Bruce Peters, P.E., dated January 5, 2017.
4. A letter from the Rockland County Department of Planning, signed by Douglas Schuetz, Acting Commissioner of Planning, dated January 5, 2017.
5. Letters from the Rockland County Department of Health, signed by Scott McKane, P.E., Senior Public Health Engineer, dated December 15, 2016.
6. A letter from the Rockland County Drainage Agency, signed by Vincent Altieri, Executive Director, dated January 9, 2017.
7. A letter from the Rockland County Sewer District No.1, signed by Joseph LaFindra, Engineer I, dated December 15, 2016.

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8. A Short Environmental Assessment Form, signed by Shailesh Patel, dated October 28, 2016.
9. Survey Map prepared for 62-76 Route 303, LLC prepared by Azzolina & Feury Engineering Inc., dated August 21, 2015, last revised July 27, 2016.
10. Architectural Plans prepared by Barbara Hess, R.A., dated July 27, 2016:
  - Sheet 1: Floor Plan – Proposed/Demo  
Rear Elevation- Proposed/ Demo  
Typical Building Section - Proposed
  - Sheet 2: Foundation and Roof Framing Plans
  - Sheet 3: Details
  - Sheet 4: Notes
11. A copy of the Building Permit Referral dated September 22, 2016, signed by Glen Maier, Building Inspector.

The Board reviewed the plans. The hearing was then opened to the Public.

There being no one from the Public, a motion was made to close the Public Hearing portion of the meeting by Michael Mandel and seconded by Thomas Warren and carried as follows: Kevin Garvey, Chairman, aye; Bruce Bond, Vice Chairman, aye; Michael Mandel, aye; William Young, aye; Robert Dell, absent; Thomas Warren, aye and Stephen Sweeney, absent.

The proposed action is classified as an "unlisted action" as defined by Section 617.2 (ak) of the New York State Environmental Quality Review Regulations (SEQRR). No agency, other than the Orangetown Planning Board will have any significant involvement in the review process, pursuant to Section 617.6 of SEQRA. On motion by Thomas Warren and seconded by Michael Mandel and carried as follows: Kevin Garvey, Chairman, aye; Bruce Bond, Vice Chairman, aye; Michael Mandel, aye; William Young, aye; Robert Dell, absent; Thomas Warren, aye and Stephen Sweeney, absent, the Board declared itself Lead Agency.

Pursuant to New York Code, Rules & Regulations (NYCRR) Section 617.7, the Town of Orangetown Planning Board, as lead agency, for the reasons articulated in this Board's analysis of all of the submissions by the applicant, interested agencies, departments and the public, with respect to this project including the Environmental Assessment Form, which reasons are summarized in the motion, hereby determines that the proposed action will not have a significant impact on the environment and a Draft Environmental Impact Statement (DEIS) will not be prepared.

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After having identified the relevant areas of environmental concern, namely drainage, surface water runoff, land clearing, vegetation, fauna, traffic and noise levels, and after having taken a hard look at said environmental issues, and after having deliberated regarding such concerns, and having heard from the applicant, the applicant's professional representatives, namely Azzolina & Feury Engineering Inc., and Barbara Hess R.A., and having heard from the following offices, officials and/or Departments: (Town of Orangetown): The Office of Building, Zoning, Planning Administration and Enforcement and Department of Environmental Management and Engineering; and having heard from the following involved and interested agencies: Rockland County Sewer District No.1, Rockland County Department of Health, and having reviewed proposed Plans by prepared by Azzolina & Feury Engineering Inc., and Barbara Hess R.A., a summary of the reasons supporting this determination are, and the Planning Board finds, that the proposed action:

- Will not significantly affect existing air quality or noise levels;
- Will not significantly affect existing surface water quality or quantity or drainage;
- Will not significantly affect existing ground water quality or quantity;
- Will not significantly affect existing traffic levels;
- Will not create a substantial increase in solid waste production;
- Will not create a potential for erosion, flooding, leaching or drainage problems;
- Will not have a significant adverse impact on the environmental characteristics of our critical environmental area or environmentally sensitive sites or features;
- Will not have an impairment of the character or quality of important historical, archeological or architectural resources;
- Will not have an impairment of the character or quality of important aesthetic resources;
- Will not have an impairment of existing community or neighborhood character;
- Will not remove or destroy large quantities of vegetation or fauna;
- Will not remove or destroy large quantities of wildlife species or migratory fish;
- Will not have a significant adverse impact to natural resources;
- Is consistent with the Town of Orangetown's Comprehensive/Master Plan;
- Will not have adverse economic or social impacts upon the Town;
- Will not create a hazard to human health; and
- Will not create a substantial change in the use of land, open space or recreational resources.

On motion by Thomas Warren and seconded by Michael Mandel and carried as follows: Kevin Garvey, Chairman, aye; Bruce Bond, Vice Chairman, aye; Michael Mandel, aye; William Young, aye; Robert Dell, absent; Thomas Warren, aye and Stephen Sweeney, absent, the Board made a Negative Declaration pursuant to SEQRA.

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**DECISION:** In view of the foregoing and the testimony before the Board, the application was **Granted Preliminary Site Plan Approval Subject to the Following Conditions:**

1. The following note shall be placed on the Site Plan: "At least one week prior to the commencement of any work, including the installation of erosion control devices or the removal of trees and vegetation, a Pre-construction meeting must be held with the Town of Orangetown Department of Environmental Management and Engineering, Superintendent of Highways and the Office of Building, Zoning and Planning Administration and Enforcement. It is the responsibility and obligation of the property owner to arrange such a Meeting".
2. Stormwater Management Phase II Regulations: Additional certification, by an appropriate licensed or certified design professional shall be required for all matters before the Planning Board indicating that the drawings and project are in compliance with the Stormwater Management Phase II Regulations.
3. The applicant is proposed a 360 square foot addition to the rear of the building. The applicant shall request from the Planning Board a waiver from all of the requirements of Site Plan approval.
4. The Short Environmental Assessment Form is appears to be in order.
5. The existing sanitary sewer building connection shall be shown on the plan, including all inverts.
6. Rockland County Department of Planning had the following comments which are incorporated herein as conditions of approval:
  - A review shall be completed by the New York State Department of Transportation, any concerns addressed, and any required permits obtained.
7. The Rockland County Department of Health (RCDOH), Environmental Health Program reviewed the submission and found that there are no Rockland County Department of Health approvals needed for this application.
8. The Rockland County Sewer District #1 does not object to the plan as shown. This project does not affect any sanitary sewers within the District and request no future correspondence for this site.
9. Based upon Rockland County Drainage Agency (RCDA) evaluation of available mapping and information submitted, it has been determined that the proposed activity is outside the jurisdiction of the RCDA. Therefore, a permit from the RCDA pursuant to the Rockland County Stream Control Act, Chapter 846, is not required.

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**10.** The following agencies do not object to the Town of Orangetown Planning Board assuming responsibilities of lead agency for SEQRA purposes:

- Rockland County Sewer District No. 1
- Rockland County Department of Health
- Rockland County Drainage Agency

**11.** The applicant shall comply with all pertinent items in the Guide to the Preparation of Site Plans and Board Decisions prior to signing the final plans.

**12.** All reviews and approvals from various governmental agencies must be obtained prior to stamping of the Site Plan.

**13. TREE PROTECTION:** The following note shall be placed on the Site Plan: The Tree Protection and Preservation Guidelines adopted pursuant to Section 21-24 of the Land Development Regulations of the Town of Orangetown will be implemented in order to protect and preserve both individual specimen trees and buffer area with many trees. Steps that will be taken to reserve and protect existing trees to remain are as follows:

- a. No construction equipment shall be parked under the tree canopy.
  - b. There will be no excavation or stockpiling of earth underneath the trees.
  - c. Trees designated to be preserved shall be marked conspicuously on all sides at a 5 to 10 foot height.
  - d. The Tree Protection Zone for trees designated to be preserved will be established by one of the following methods:
    - One (1) foot radius from trunk per inch DBH
    - Drip line of the Tree Canopy. The method chosen should be based on providing the maximum protection zone possible. A barrier of snow fence or equal is to be placed and maintained one yard beyond the established tree protection zone. If it is agreed that the tree protection zone of a selected tree must be violated, one of the following methods must be employed to mitigate the impact:
      - Light to Heavy Impacts – Minimum of eight inches of wood chips installed in the area to be protected. Chips shall be removed upon completion of work.
      - Light Impacts Only – Installation of ¾ inch of plywood or boards, or equal over the area to be protected.
- The builder or its agent may not change grade within the tree protection zone of a preserved tree unless such grade change has received final approval from the Planning Board. If the grade level is to be changed more than six (6) inches, trees designated to be preserved shall be welled and/or preserved in a raised bed, with the tree well a radius of three (3) feet larger than the tree canopy.

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**14.** All landscaping shown on the site plans shall be maintained in a vigorous growing condition throughout the duration of the use of this site. Any plants not so maintained shall be replaced with new plants at the beginning of the next immediately following growing season.

**15.** Prior to the commencement of any site work, including the removal of trees, the applicant shall install the soil erosion and sedimentation control as required by the Planning Board. Prior to the authorization to proceed with any phase of the site work, the Town of Orangetown Department of Environmental Management and Engineering (DEME) shall inspect the installation of all required soil erosion and sedimentation control measures. The applicant shall contact DEME at least 48 hours in advance for an inspection.

**16.** The contractor's trailer, if any is proposed, shall be located as approved by the Planning Board.

**17.** If the applicant, during the course of construction, encounters such conditions as flood areas, underground water, soft or silty areas, improper drainage, or any other unusual circumstances or conditions that were not foreseen in the original planning, such conditions shall be reported immediately to DEME. The applicant shall submit their recommendations as to the special treatment to be given such areas to secure adequate, permanent and satisfactory construction. DEME shall investigate the condition(s), and shall either approve the applicant's recommendations to correct the condition(s), or order a modification thereof. In the event of the applicant's disagreement with the decision of DEME, or in the event of a significant change resulting to the subdivision plan or site plan or any change that involves a wetland regulated area, the matter shall be decided by the agency with jurisdiction in that area (i.e. Wetlands - U.S. Army Corps of Engineers).

**18.** Permanent vegetation cover of disturbed areas shall be established on the site within thirty (30) days of the completion of construction.

**19.** Prior (at least 14 days) to the placing of any road sub-base, the applicant shall provide the Town of Orangetown Superintendent of Highways and DEME with a plan and profile of the graded road to be paved in order that these departments may review the drawings conformance to the approved construction plans and the Town Street Specifications

**20.** The Planning Board shall retain jurisdiction over lighting, landscaping, signs and refuse control.

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**21.** All of the conditions of this decision, shall be binding upon the owner of the subject property, its successors and/or assigns, including the requirement to maintain the property in accordance with the conditions of this decision and the requirement, if any, to install improvements pursuant to Town Code §21A-9. Failure to abide by the conditions of this decision as set forth herein shall be considered a violation of Site Plan Approval pursuant to Town Code §21A-4.

**Override**

The Board made a motion to override Conditions #2 and #3 of the January 5, 2017 letter from Rockland County Department of Planning, signed by Douglas Schuetz, Acting Commissioner of Planning, for the following reasons:

**#2.** A vicinity map that contains a north arrow and scale must be provided.

The Board held that the applicant submitted 2 types of plans and that the Survey Map prepared by Azzolina & Feury Engineering provided sufficient information such as a vicinity map, north arrow and scale.

A motion to override the condition was made and moved by Thomas Warren and seconded by Michael Mandel and carried as follows: Kevin Garvey, Chairman, aye; Bruce Bond, Vice Chairman, aye; Michael Mandel aye; William Young, aye; Stephen Sweeney, aye; Robert Dell, absent and Thomas Warren, aye.

**#3.** Map notes that contain district and other pertinent information must be provided.

The Board held that the applicant submitted 2 types of plans and that the Survey Map prepared by Azzolina & Feury Engineering provided sufficient information such as a vicinity map, north arrow and scale.

A motion to override the condition was made and moved by Thomas Warren and seconded by Michael Mandel and carried as follows: Kevin Garvey, Chairman, aye; Bruce Bond, Vice Chairman, aye; Michael Mandel aye; William Young, aye; Stephen Sweeney, absent; Robert Dell, absent and Thomas Warren, aye.

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PB#17-05: 62-76 Route 303, LLC Site Plan  
(Nicks Convenience Store) - Preliminary Site Plan  
Approval Subject to Conditions Neg. Dec.

Permit #45791

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The foregoing Resolution was made and moved by Thomas Warren and seconded by Michael Mandel and carried as follows: Kevin Garvey, Chairman, aye; Bruce Bond, Vice Chairman, aye; Michael Mandel aye; William Young, aye; Stephen Sweeney, absent; Robert Dell, absent and Thomas Warren, aye.

The Clerk to the Board is hereby authorized, directed and empowered to sign this **DECISION** and file a certified copy in the Office of the Town Clerk and the Office of the Planning Board.

Dated: January 11, 2017  
Cheryl Coopersmith, Chief Clerk Boards and Commissions  
Town of Orangetown Planning Board  
attachment



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**NEGATIVE DECLARATION**  
**Notice of Determination of Non-Significance**  
**Town of Orangetown Planning Board Decision**

**PB#17-05: 62-76 Route 303, LLC Site Plan (Nicks Convenience Store) - Preliminary Site Plan Approval Subject to Conditions Neg. Dec.** **Permit #45791**

**Town of Orangetown Planning Board Decision**  
**January 11, 2017**

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Regulation) of the Environmental Conservation Law.

The PLANNING BOARD, TOWN OF ORANGETOWN, as Lead Agency, has determined that the proposed action described below will not have a significant impact on the environment and a Draft Environmental Impact Statement will not be prepared.

**NAME OF ACTION: Route 303, LLC Site Plan (Nicks Convenience Store) - Preliminary Site Plan Approval Subject to Conditions Neg. Dec.**

SEQR STATUS: Type I \_\_\_\_\_ Unlisted XXXXXX  
CONDITIONED NEGATIVE DECLARATION: Yes \_\_\_\_\_ No XXXXXX

**DESCRIPTION OF ACTION: Site Plan Review**

**LOCATION:** The site is located at 62-76 Route 303, Tappan, Town of Orangetown, Rockland County, New York, and as shown on the Orangetown Tax Map as Section 77.15, Block 1, Lot 42 in the CS zoning district.

**REASONS SUPPORTING THIS DETERMINATION:**

The Orangetown Planning Board, as Lead Agency, determined that the proposed action will not have a significant impact on the environment and a Draft Environmental Impact Statement (DEIS) will not be prepared. The reasons supporting this determination are as follows:

The project will not have a significant impact upon the environment and a DEIS need not be prepared because the proposed action does not significantly affect air quality, surface or ground water quality, noise levels or existing external traffic patterns. In addition, it will have no impact upon the aesthetic, agricultural or cultural resources of the neighborhood. No vegetation, fauna or wildlife species will be affected as a result of this proposed action. The proposed action is consistent with the Town of Orangetown's Master Plan and will not have any adverse economic or social impacts upon the Town or its businesses or residences.

If Conditioned Negative Declaration, the specific mitigation is provided on an attachment.

For Further Information contact:

John Giardiello, P.E., Director, Office of Building, Zoning and Planning  
Administration and Enforcement  
Town of Orangetown  
20 Greenbush Road  
Orangeburg, NY 10962  
Telephone Number: 845-359-5100

For Type I Actions and Conditioned Negative Declarations, a copy of this notice is sent: - Commissioner, New York State Department of Environmental Conservation, - Region 3 Headquarters, NYSDEC, - Town Supervisor, Applicant, Involved Agencies

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