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January 18, 2019

**By Email and Hand Delivery**

Honorable Robert Greenstein, Supervisor  
and Members of the Town Board  
Town of New Castle  
200 South Greeley Avenue  
Chappaqua, New York 10514

Honorable Robert Kirkwood, Chairman  
and Members of the Planning Board  
Town of New Castle  
200 South Greeley Avenue  
Chappaqua, New York 10514

**Re: Request for Amendments to Conditions of Approval for  
Chappaqua Crossing – Retail**

Dear Supervisor Greenstein and Members of the Town Board, and  
Chairman Kirkwood and Members of the Planning Board:

We refer you to our prior letters dated January 7, 2019 and January 11, 2019. In further support of the request of SGP USPF V Chappaqua Retail Owner, LLC (the “Applicant”) to allow LifeTime Fitness, PetValu, and Fidelity Investments to open provided certain interim traffic improvements have been implemented in accordance with the Maintenance and Protection of Transportation (“MPT”) plan prepared by Maser Consulting, we respectfully submit the following revised information regarding the status of the conditions contained in the resolutions adopted by the Town Board (the “Town Board Resolution”) and Planning Board (the “Planning Board Resolution”) on December 13 and December 14, 2019 (collectively, the “Resolutions”), respectively:

<b>TB Resolution Condition No. / PB Resolution Condition No.</b>	<b>Condition</b>	<b>Current Status</b>
1.a-y / 1.a-y	Implementation of the Interim MPT Plan (Without Pole Removal) Phase 1 (“Interim MPT Plan”) last revised December 12, 2018, and satisfaction of	The Interim MPT Plan (including items 1.a-y of the Resolutions) has been fully

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<b>TB Resolution Condition No. / PB Resolution Condition No.</b>	<b>Condition</b>	<b>Current Status</b>
	<p>compliance with the conditions and notes set forth therein.</p>	<p>implemented. Modifications have been made at the direction of the Town police department to: 1) remove the “No Turn on Red” signs at the intersection of Route 117 and Roaring Brook Road; 2) reduce the hours of operation of temporary lighting to 4PM – 7:30PM; 3) remove temporary lighting at the HGHS crossing; 4) remove one VMS at Roaring Brook Road. Other modifications to certain signal timing as directed by the Town’s Traffic Consultant at the Town Board meeting of January 7, 2019 are anticipated to be completed during the week of January 21, 2019.</p>
<p>5./ 5.</p>	<p>At the Applicant’s expense, Town police officers shall be stationed at a) the western entrance to the Site; b) the entrance opposite the Horace Greeley High School; and c) the intersection of Rt. 117 and Roaring Brook Road, from the adoption of this Resolution until January 20, 2018, from 7am to 7pm, Mondays to Fridays and from 11:00 am to 6pm on weekends, except for the opening weekend when such officers shall be stationed from 8am to 6pm. Adjustments of times and locations and subsequent stationing of officers will be determined at the sole discretion of the New Castle Police Department and Traffic Engineer, based upon conditions observed in the field. Should traffic and</p>	<p>Town police officers have been stationed in accordance with the condition every day since the opening of Whole Foods on December 15, 2018. Since that time, Lt. Carroll has directed that the police officer stationed at the western entrance to the Site be eliminated.</p>

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	safety conditions observed during this period warrant an extension of the stationing of officers at the Applicant's expense beyond this initial period, such a request will be submitted by NCPD in its sole discretion and shall be granted by the Applicant.	
6. / 6.	The Applicant will provide flaggers to be stationed as requested by the Police Department.	The Applicant has provided flaggers as directed by the Town Police Department.
7./7.	Applicant will be responsible to maintain walking paths in a safe condition and free and clear of snow and ice	The Applicant has maintained walking paths as necessary.
8./8.	Applicant will check placement of barriers on both sides of Rt. 117, including the sand barrels, within two (2) hours of cessation of snowfall and reinstall barrier as necessary.	Since the Resolutions were adopted, there has been no snowfall event which required reinstallation of the barrier. In the event of snowfall, the Applicant will comply with this condition.
9./9	No construction by the Applicant shall occur at the intersection and approaches to the intersection at NYS 117 and Roaring Brook Road, unless directed by the Town. No construction at the intersection and approaches to the intersection at NYS 117 and Roaring Brook Road, unless directed by the Town, for a period of 60-days measured from the date of issuance of the initial TCO. Except, the Applicant may perform work that does not involve road closure and all such work occurs outside of the travel lanes.	The Applicant has complied with this condition and will continue to do so.
10./10.	That the opening of the Whole Foods store shall occur on a Saturday and Chase may commence its business on any day	As stated in our letter to the Boards dated January 7, 2019, Whole Foods opened on Saturday, December 15, 2018, and Chase Bank

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<b>TB Resolution Condition No. / PB Resolution Condition No.</b>	<b>Condition</b>	<b>Current Status</b>
		opened on Tuesday December 18, 2019.
11./11.	The Applicant shall continue to use commercially reasonable efforts to have the utility companies remove the single utility pole at the intersection of Rt. 117 and Roaring Brook Road and shall provide weekly updates to the Town Board as to the status of this effort.	The Applicant has continued to work with utility companies and now anticipates that removal of the remaining utility pole will be completed on or before January 31, 2019. The Applicant has provided updates regarding the status of the removal of the utility pole to the Town Supervisor on a regular basis since the adoption of the Resolutions.
12./12.	Until all off-site road improvements required by the Town Board's Amended Fifth Findings Statement are completed, no special events or promotions that would create potential spikes in peak morning and afternoon hour traffic patterns in the vicinity of the project site are permitted.	The Applicant has complied with this condition and will continue to do so.
14. / 14.	The occupancy of the Office Use on the site must be maintained at no more than 50% of the office space square footage, excluding the space deferred pursuant to the Town Board's Findings Statement. The Applicant shall provide documentation of such to the satisfaction of the Town Building Inspector, prior to the issuance of a TCO.	Occupancy is currently at less than 50%; documentation has been provided to the Town Building Inspector.
15. / 15.	Applicant shall use best efforts to obtain additional property rights to create a pedestrian walkway on the eastern side of NYS 117 from the pedestrian crosswalk to Annandale Road. It is expected that work on this item will begin immediately.	As discussed at the public hearing of the Boards on January 15, 2019, the Applicant is currently conducting a feasibility study of whether a pedestrian walkway can be installed.

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<b>TB Resolution Condition No. / PB Resolution Condition No.</b>	<b>Condition</b>	<b>Current Status</b>
		<p>The Applicant will contact property owners to discuss obtaining additional property rights for the creation of a pedestrian pathway in due course.</p>
<p>16. / 16.</p>	<p>Applicant shall use best efforts to relocate the Westchester County Bee-Line Bus Stop to a location within the Chappaqua Crossing Site. It is expected that work on this item will begin immediately.</p>	<p>As discussed at the public hearing of the Boards on January 15, 2019, the Applicant has met with Westchester County, and has had direct communication with the County Executive and Deputy County Executive regarding this request. The request is under consideration. Upon receipt of any new information regarding our request, we will advise the Boards.</p>
<p>17./17.</p>	<p>Implementation of the approved pathway along the western side of NYS 117 in a northern direction from the site access driveway to Cowdin Lane on a schedule to be provided by December 19, 2018 to and approved by the Town Engineer.</p>	<p>Installation of the approved pathway was completed on January 11, 2019.</p>
<p>18. / 18.</p>	<p>The Applicant shall provide insurance in such forms and amount as are acceptable to the Town Attorney and Special Counsel to the Planning Board. At a minimum, SG shall obtain and maintain a general liability policy with limits of not less than \$25M in any single occurrence and with a \$25M per location aggregate. These requirements may be met with a combination of excess or umbrella policies. Coverage should be provided by insurers with an AM Best rating of not less A- VIII.</p>	<p>The Applicant has provided the required insurance.</p>

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<b>TB Resolution Condition No. / PB Resolution Condition No.</b>	<b>Condition</b>	<b>Current Status</b>
	<p>The Town of New Castle and all interested Town parties should be named as additional insureds on a primary and non-contributory basis on all liability policies required to satisfy the \$25M limit requirement for all operations, including completed operations. The GL policy shall include a waiver of subrogation as respects the Town of New Castle and interested Town parties. SG shall obtain and maintain statutory workers compensation insurance and employer's liability coverage, and said policy shall contain a waiver of subrogation as respects the Town of New Castle and all interested Town parties. Additionally, each contractor or subcontractor employed directly or indirectly by SG shall obtain and maintain a general liability policy with limits of not less than \$5M in any single occurrence and with a \$5M per project aggregate. These requirements may be met with a combination of excess or umbrella policies. Coverage should be provided by insurers with an AM Best rating of not less A- VIII. The Town of New Castle and all interested Town parties should be named as additional insureds on a primary and non-contributory basis on all liability policies required to satisfy the \$5M limit requirement for all operations, including completed operations. The GL policy shall include a waiver of subrogation as respects the Town of New Castle and interested Town parties. Contractors shall obtain and maintain statutory workers compensation insurance and employer's liability coverage, and said policy shall contain a waiver of subrogation as respects the Town of New Castle and all interested Town parties.</p>	
<p>19./ 19.</p>	<p>To the fullest extent permitted by law, SG</p>	<p>The Applicant has provided</p>

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<b>TB Resolution Condition No. / PB Resolution Condition No.</b>	<b>Condition</b>	<b>Current Status</b>
	<p>Chappaqua B, LLC, SG Retail, LLC, and Summit Development (collectively, "SG") hereby agrees to indemnify, defend and hold harmless the Town of New Castle, together with its employees, elected and appointed officials, contractors, subcontractors, agents and invitees (collectively, the "Town Indemnitees") from and against all claims, liabilities, suits, obligations, fines, penalties, damages, losses and expenses (including, without limitation, reasonable attorneys' fees and disbursements) that may be imposed upon, incurred by or asserted against the Town Indemnitees, by reason of, or arising out of, injuries to or death of persons or damage to property resulting from or allegedly occurring by reason of: (i) the implementation of all off-site roadway improvements and modifications, temporary or otherwise, to Roaring Brook Road and/or N.Y.S. Route 117 in connection with the Chappaqua Crossing retail development (the "Retail Development"), (ii) the use or deployment, temporary or otherwise, of traffic control devices, signage and barriers on Roaring Brook Road and/or N.Y.S. Route 117 in connection with the Retail Development, and (iii) the Maintenance and Protection of Traffic (MPT) for the Retail Development.</p>	<p>the required indemnification.</p>
<p>20./20.</p>	<p>SG has voluntarily agreed to task its traffic and engineering consultants with collaborating with the Town to study site conditions along the west side of Route 117 to the north of Whippoorwill Road to develop a plan for modifying the existing embankment in that area to improve sight lines for southbound traffic.</p>	<p>The Applicant's consultant has been engaged to collaborate with the Town and its consultants, as well as NYSDOT, to study the site conditions and to develop a plan for improvement to this area.</p>

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In addition and at the request of the Boards, we have also enclosed the most recent schedule for completion of the work under the NYSDOT permit.

We look forward to meeting with the Boards again at our next meeting on January 22, 2019. In the meantime, please feel free to contact me if you have any questions or if you need any additional information.

Very truly yours,

*Mark P. Weingarten*  
(*MP*)

MARK P. WEINGARTEN

Enclosure

cc: Sabrina Charney- Hull, AICP  
Robert Cioli, P.E.  
Nicholas M. Ward-Willis, Esq.  
Lester Steinman, Esq.  
Felix Charney  
Andrew Tung, Esq., ASLA  
John T. Collins, Ph.D., P.E.  
Janet J. Giris, Esq.

**CHAPPAQUA CROSSINGS NYSDOT ROUTE 117**

Task Name	Duration	Start	Finish	2nd Quarter		
				Feb	Mar	Apr
<b>Bedford Road/No. of Roaring Brook Rd.</b>	0 days					May
Drainage Structures and Piping	5 days	Mon 2/4/19	Fri 2/8/19			
<b>Bedford Road/ So. Of Roaring Brook Rd.</b>						
Drainage Structures and Piping	5 days	Mon 2/11/19	Fri 2/15/19			
Retaining Wall Installation	25 days	Mon 2/18/19	Fri 3/22/19			
Full Depth Sub-base (Turning Lane)	10 days	Mon 3/25/19	Fri 4/5/19			
Guide Rail Installation	5 days	Mon 4/8/19	Fri 4/12/19			
Asphalt Truing & Leveling (So. Of RBR)	10 days	Mon 4/8/19	Fri 4/19/19			
Mill and Overlay Roaring Brook Road	5 days	Mon 4/22/19	Fri 4/26/19			
Asphalt Top Course Rt. 117	5 days	Mon 4/29/19	Fri 5/3/19			
Striping And Signage	5 days	Mon 5/6/19	Fri 5/10/19			
Punch List	5 days	Mon 5/13/19	Fri 5/17/19			

**Traffic Sequencing Narrative:**

Commencing February 1st:  
 In accordance with the Maser drawings P11-14 (Pin: AW08.02.700) Montesano will conduct lane closures during normal work hours as shown to perform installation of the drainage systems and pavement.  
 In addition, in accordance with the Maser drawings P11-14 (Pin: AW08.02.700) Montesano will conduct lane closures during normal work hours as shown to perform installation of the Redi-Rock retaining wall.  
 All traffic control, flagging, and signage will be conducted/ installed in accordance with Maser drawing P14 (Pin: AW08.02.700). Montesano will adjust as needed to changing conditions.