TOWN OF PALMER

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OFFICE OF THE PLANNING BOARD

SPECIAL PERMIT AND SITE PLAN APPROVAL DECISION/DETAILED RECORD

THE COMMONWEALTH OF MASSACHUSETTS
TOWN OF PALMER
DATE – December 17, 2007

File # SP 16-07/SPA 16-07

The members of the Special Permit Granting Authority hereby certify that the following is a detailed record of all the Board's proceedings regarding the application of NER Investments, 370 Chapin Road, Hampden, MA 01036 for a Special Permit and Site Plan Approval for the construction of a motor sports track on West Ware Road, Palmer, MA. This parcel is also known as Map 49 Parcel 4, Map 51 parcel 1, and Map 52 Parcel 8, and which are the properties affected by this request.

APPLICATION MATERIALS SUBMITTED:

The applicant filed an application with the Town of Palmer Planning Board for a Special Permit and Site Plan Approval for the construction of a 2.14-mile long, 40-foot wide motor sports road course/track with an access road and paddock area on 496 acres located on West Ware Road, Palmer. The property is zoned Rural Residential with commercial outdoor recreation allowed in this district with the granting of a special permit and site plan approval by the Planning Board. The application was filed with the Planning Board Office and the Office of the Town Clerk on July 16, 2007. The application included the following items:

- A completed application for special permit and site plan approval prepared by NER Investments, LLC, 370 Chapin Road, Hampden, MA 01036.
- 4-sets of 24" x 36" project plans dated July 16, 2007, prepared for NER Investments, LLC and prepared by Ecotec Environmental Associates, Inc. 180 Denslow Road, East Longmeadow, MA 01028
- 4-copies of a General Information booklet including a written project narrative and other necessary information for the review process.
- 4-copies of a Traffic Impact Study prepared by RAB Professional Engineers, Inc., dated February 2007, Revised June, 2007.
- 4-copies of the Stormwater Drainage Report, prepared by Gary Weiner of Ecotec Environmental Associates, Inc., dated July 2007.
- 4-copies of the Sound Analysis submitted by NER Investments, LLC, including an impact study prepared by Jim Cowan of RSG, Inc., White River Junction, VT.
- 4-copies of the Hazardous Material Procedures submitted by NER Investments, LLC, and

- ❖ A Certified List of Abutters

The applicant also submitted a check in the amount of $200.00 made payable to the Town of Palmer. This amount represents required filing fees associated with the application. In addition, a check in the amount of $10,125.00 was filed at that time. The $ 10,125.00 represents application review fees. This amount was deposited into a Special Account bearing the names of the Town of Palmer and NER Investments, LLC.

The Following plans were also submitted as part of this application:

1. Plans entitled Palmer Motor Sports Park West Ware Road, Palmer, MA, prepared for NER Investments, LLC prepared by Ecotec Environmental Associates, Inc 180 Denslow Road, P.O. Box 188, East Longmeadow, MA 01028.

2. Plans dated September 26, 2007 entitled Revised Palmer Motor Sports Park West Ware Road, Palmer, MA, prepared for NER Investments, LLC prepared by Ecotec Environmental Associates, Inc 180 Denslow Road, P.O. Box 188, East Longmeadow, MA 01028.

Additional Documents Received:

1. July 16, 2007-A copy of the Notice of Intent filing for the Conservation Commission prepared for NER Investments, LLC prepared by Pioneer Environmental, Inc.
2. August 1, 2007- A Department of Environmental Protection Notification of Wetlands Protection Act for NER Investments, LLC.
3. August 3, 2007- A proposal for professional services between Vanasse Hangen Brustlin, Inc. and Town of Palmer for the Site Plan Peer Review.
4. August 10, 2007- An Environmental Notification Form from the Executive Office of Environmental Affairs under the Massachusetts Environmental Policy Act (MEPA).
5. August 27, 2007-Review comments dated August 23, 2007 from Vanasse Hangen Brustlin, Inc. entitled Special Permit & Site Plan Review Palmer Motorsports Park.
6. August 27, 2007-Review comments dated August 22, 2007 from Vanasse Hangen Brustlin, Inc. entitled Professional Review Comments Motorsports Park West Ware Road, Palmer.
7. August 27, 2007-Review comments dated August 22, 2007 from Vanasse Hangen Brustlin, Inc. entitled Proposed Palmer Motorsports Park Hazardous Material Storage & Handling Submittal Review.
8. August 27, 2007-Powerpoint presentation from Richard Patullo for NER Investments, LLC entitled Special Permit Application and Site Plan Review.
9. August 28, 2007-Email from Holly Johnson dated August 28, 2007 regarding the MEPA Site Consultation Session for Palmer Motorsports Park.
10. September 4, 2007-Review comments dated August 30, 2007 from Vanasse Hangen Brustlin, Inc. entitled Peer Review of the Palmer Motorsports Park Noise Analysis.
11. September 5, 2007-Review comments dated September 4, 2007 from Vanasse Hangen Brustlin, Inc. entitled Palmer Motorsports Park.

12. September 27, 2007-5 Sets of Revised plans dated September 26, 2007 and response comments prepared for NER Investments, LLC prepared by Ecotec Environmental, LLC 180 Denslow Road, East Longmeadow, MA 01028.
13. October 1, 2007- Letter dated October 1, 2007 from Richard Patullo to Michael Marciniec requesting a continuation of the public hearing.
14. October 15, 2007-Letter dated October 15, 2007 from Richard Patullo requesting a continuation of the public hearing.
15. November 12, 2007-Review comments dated November 6, 2007 from Vanasse Hangen Brustlin, Inc. entitled Proposed Palmer Motorsports Park Hazardous Material Storage & Handling, Second Submittal Review.
16. November 13, 2007-Review comments dated November 13, 2007 from Vanasse Hangen Brustlin, Inc. entitled Peer Review of the Palmer Motorsports Park Noise Analysis.
17. November 19, 2007-Driver Registration and information packet for other SCCA events held in the Northeast Division.
18. November 19, 2007- Rules concerning environmental issues for events at the track in the Northeast Division.
19. November 19, 2007-Palmer Motorsports Park preventive policy for contamination of the soil.
20. November 28, 2007 – Email comments from John Furman of VHB to Gary Weiner of Ecotec regarding drainage concerns with Phase I of the project.
21. November 29, 2007 – Email comments from Jeffrey LeBeau of VHB to Gary Weiner of Ecotec regarding drainage concerns with Phase II of the site.
22. November 30, 2007 – Email from David Mazzarese to the Palmer Planning Board regarding concerns with noise.
23. December 3, 2007 - Review comments dated December 3, 2007 from Vanasse Hangen Brustlin, Inc. entitled Second Review for Special Permit & Site Plan Review Palmer Motorsports Park, prepared by Jeffrey N. LeBeau, Jr., PE and John J. Furman, PE.

In accordance with the Rules and Regulations of the Palmer Planning Board, the applicant paid an "Application Review Fee" and the Planning Board hired outside consultants to review certain aspects of the application. The Consultant used for review was Vanasse Hangen Brustlin, Inc, 1 Federal Street Building 103-3N Springfield, MA 01105. Planning Board staff and Board members also reviewed the plan and application.

The Public Hearing Process:

The Planning Board Office scheduled a Public Hearing on Monday, August 27, 2007 at 7:10 p.m. in the Town Hall Meeting Room. All departments, surrounding towns, and abutters were notified of the Public Hearing as required. The Planning Board specifically requested that any written comments of the Town Manager, Board of Health, Palmer Water Department, Palmer Fire Department, Wastewater Treatment Plant, Police Department and Highway Department be submitted prior to August 27, 2007. Notice of the Public Hearing was also posted with the Town Clerk. A legal notice was published in the Journal Register on August 9 and August 16, 2007. Planning Board members present were Chairman Michael Marciniec, and regular members James Haley, Jr., Joseph Slowick, Jr., Thomas Skowyra, and Norman Czech.

At the August 27, 2007 meeting, Chairman Marciniec opened the public hearing at 7:10 p.m. Principal Clerk, Mary Watson read the public hearing notice. Richard Patullo, the applicant and representative for NER Investments, LLC, began with a Power Point Presentation. The presentation began with the history of the New England Region of the Sports Car Club of America (NER SCCA), and addressed site layout and issues regarding traffic, sound, the environment and impacts to the municipal infrastructure. Jim Cowan, of Resource Systems Group, Inc. was present and spoke on the applicant's behalf regarding the sound analysis that was conducted. John Furman of Vanasse Hangen & Brustlin, Inc. then addressed written comments on behalf of the Planning Board and stated that there were a number of outstanding issues including signage, lighting, utilities, landscaping, stormwater management, and parking. The Planning Board members asked questions following this presentation. The public was also given the opportunity to speak on issues of concern with the proposed project. A motion to continue this public hearing to October 1, 2007 at 7:00 PM was made by James Haley and seconded by Norman Czech seconded. A vote was taken and passed 5-0.

At the October 1, 2007 meeting of the Palmer Planning Board, Chairman Marciniec re-convened the hearing at 7:00 PM. Mr. Marciniec read an October 1, 2007 letter submitted by NER Investments, LLC and signed by Richard Patullo, requesting a continuation of the hearing due to additional time being needed to complete all necessary engineering. A motion to continue the public hearing to October 15, 2007 at 8:00 PM was made by Joseph Slowick, Jr. and seconded by Norman Czech. A vote was taken and passed 4-0. There was no new information discussed at this time.

At the October 15, 2007 meeting of the Palmer Planning Board, Chairman Marciniec re-convened the hearing at 9:05 PM. Mr. Marciniec read an October 15, 2007 letter from NER Investments, LLC and signed by Richard Paulo requesting a continuation of the hearing due to additional time being needed to complete all necessary engineering. A motion to continue the public hearing to November 19, 2007 at 7:45 PM was made by James Haley, Jr. and seconded by Norman Czech. A vote was taken and passed 5-0.

At the November 19, 2007 meeting of the Palmer Planning Board, Chairman Marciniec re-convened the hearing at 7:55 PM. The Board acknowledged receipt of the peer review comments that were provided by John Furman of Vanasse, Hangen, & Brustlin (VHB). J. Furman of VHB was present to answer questions based on his written comments. Also present was Gary Weiner of Ecotec who spoke on the applicant's behalf regarding drainage and trailhead parking. Questions were taken from the public who expressed concerns with the noise study. J. Furman stated that the project meets states regulations, but that all new questions raised would be thoroughly investigated. A motion to continue the public hearing until December 3, 2007 at 7:30 PM was made by Norman Czech and seconded by James Haley, Jr. A vote was taken and passed 5-0.

At the December 3, 2007 meeting of the Palmer Planning Board, Mr. Marciniec re-convened the meeting at 7:30 PM. Several pieces of correspondence concerning this application were acknowledged. Included in this correspondence were comments presented to the Board from VHB regarding the sites stormwater system. Also acknowledged was a letter from abutter David

Mazzarese, stating concerns with noise levels and the studies compliance with DEP regulations. Jim Cowan, the sound engineer for the applicant was present to provide the Board with additional comments based on the letter from David Mazzarese. Mr. Marciniec suggested that the permit could be conditioned on review of the actual sound levels once the track is in operation so as to verify the model. If readings were found to exceed state requirements, mitigation would be mandatory. The Planning Board then discussed the special permit aspects of the proposal and made the following findings:

Article V – Section 171.28 – Special Permits:

Required Findings:

(a) The Planning Board finds that the application presented does meet the requirements of §171-51 – Residential Zones. The property is located within a Rural Residential Zoning District (RR) and proposes the construction of a 2.14-mile long, 40-foot wide motor sports road course/track with an access road and paddock area, and associated buildings. This project is defined as an Outdoor Commercial Recreational Use, per §171-5 Definitions, and is permitted in the RR district with the issuance of a Special Permit and Site Plan Approval by the Planning Board.

(b) The Planning Board finds that the requested use is harmonious with the appropriate and orderly development of the zoning district in which it is proposed. The 496-acre wooded parcel is located within Palmer's Rural Residential District, which currently abuts existing outdoor recreational and residential uses. The intent of the Rural Residential district is to promote low-density development that maintains the town's rural character and preserves open space. This proposal will accomplish that goal, as it will leave 87% (431-acres) of the parcel undisturbed and permanently protect (through deed restriction) 81 acres. The project proposes to clear 13% (65-acres) of the site and due to the length of the access road and the site's topography, the developed area will remain hidden from the road and abutters.

(c) The Planning Board finds that the project will not create undue traffic or unduly impair pedestrian safety. A full engineering review by Vanasse Hangen Brustlin, Inc. determined the traffic study provided by the applicant to be valid and complete. However, the review also stated that "it is recommended that reflective markings, roadway lighting, and reflective curve warning signs be installed prior to the facility opening and that clear sight lines be maintained by clearing and grading and prohibiting plantings taller than 3.5' along the site's frontage".

(d) The Planning Board finds that the development will not adversely impact any public water, drainage or sewer system. The development will contain an on-site sanitary sewage collection system and private well. The stormwater from the proposed project will be adequately managed by the proposed stormwater management system whose design meets the DEP stormwater guidelines.

(e) The Planning Board finds that no special regulations as set forth in Article XV – Special Permit and Exceptions pertain to this application.

(f) The Planning Board finds that the proposed use does not derogate from the intended uses of this zoning district. The intended uses of this portion of the zoning district are low-density residential and outdoor recreational developments that promote "aesthetically pleasing environments, safety, privacy, energy conservation and recreational opportunities." The integrity and character of this portion of the RR District is dictated by the existing predominant land uses,

and the addition of a commercial outdoor recreational use located within a vastly wooded remote section of town proves to best secure the existing rural character within the district.

(g) The Planning Board finds that the project will not significantly deteriorate any natural resource. Four hundred thirty-one acres of the 496-acre, predominantly wooded site will remain undisturbed. Of the total area, only 65-acres (13%) will be cleared for development. Careful consideration went into site design so as to have the least negative impact on the wetland areas and extensive ledge outcroppings. The site is not located within a priority or estimated habitat, and the applicant has filed all appropriate paperwork with the Massachusetts Environmental Protection Agency. Strict environmental guidelines will be adhered to in regards to the hazardous wastes.

(h) The Board finds that the applicant has provided provision for the safe carrying and discharge of surface water drainage. The drainage system has been designed in accordance with sound engineering practices. Stormwater entering the existing catch basin along Route 32 (see letter dated January 10, 2008 amending to West Ware Road) does not exceed pre-construction volumes.

The remote location of the sight and it's unique "bowl-shaped" topography, as well as the submission and review of the necessary sound studies, substantiates that the project meets all state regulations, and verifies that the adjoining premises are protected against serious detriment by the provision of sound and sight buffers.

(i) The Planning Board finds that this condition has been met. As stated in above sections, and after extensive review of the plans by staff, board members and professional consultants, the project secures the integrity of the area's natural resources and environmental features.

The Planning Board further discussed the site plan approval aspects of the proposal and made the following findings:

Article V – Section 171.29 – Site Plan Review:

The town Ordinance allows for Outdoor Commercial Recreational uses within the Rural Residential Zone (See §171-55 – Table of Use Regulations – Residential Zones) subject to special permit and site plan approval. §171-29 (B) of the Ordinance further provides for site plan approval to insure compliance with the goals and objectives of the town and to minimize adverse impacts of development. In reviewing a site plan application the Planning Board shall take into consideration the health, safety and welfare of the public in general and to the immediate neighborhood in particular, and may prescribe reasonable conditions and safeguards to ensure the accomplishment of the general objectives as stated in the ordinance.

Required Findings:

(a) The Planning Board finds that this general objective has been met. The Board did find that the applicant has provided for provisions of the safe carrying and discharge of surface water drainage. The drainage system was engineered in accordance with sound engineering practices as confirmed by the Board's consultants. The extensive sound analysis, combined with the remote location of the sight and its unique "bowl-shape" topography confirms that the adjoining premises are protected against serious detriment by the provision of sound and sight buffers. The location of the site also verifies that no light will leave the site. The Board finds that the

surrounding neighborhood will not be negatively impacted in any way by light, sight, sound, dust and vibration. The Planning Board also finds that after extensive review of the plans by staff, board members and consultants the project secures the integrity of the site's natural resources and environmental features.

(b) The Planning Board finds that appropriate provisions for convenience and safety of vehicular and pedestrian traffic have been made. Traffic studies verify that the project will not negatively impact vehicle circulation on West Ware Road, and all off-street parking requirements have been met as required in Article XVIII of the Town of Palmer's zoning ordinance. Designated areas within the development separating the pedestrian from vehicles will be clearly marked.

(c) The Planning Board finds that the project as designed adequately meets the safety needs of the pedestrian. Public parking areas are located within the park and pedestrian travel ways will be clearly marked and proximal to public buildings.

(d) The Planning Board finds that this general objective has been met by the application submitted. The amount of parking and off-street loading spaces provided meet the requirements of Article XVIII of the Palmer Zoning Ordinance.

(e) The Planning Board finds that applicant's proposal maintains a relationship of structures and open spaces to the natural landscape. The project will result in the permanent conservation of 81 acres and allow 431 acres to remain in its current, naturally wooded state. Due to the seclusion of the site, all development, including parking, refuse, and storage areas will be suitably screened during all seasons from the view of adjacent residential areas and public rights-of-way.

(f) The Planning Board finds that exterior lighting is adequate for the protection and safety of the public in regards to pedestrian and vehicular traffic and that the remoteness of the site will prohibit any light from leaving the site.

(g) The Planning Board finds that the development's utility systems are suitably located, adequately designed, and properly installed to serve the proposed uses and protect the property from adverse pollution. All utility systems are undergoing extensive reviews by the appropriate authorities and will be installed in accordance with all state and local requirements.

(h) The Planning Board finds that the project will not adversely impact the Town's resources, specifically the water supply and distribution system, sewage collection and treatment systems, fire protection, and streets. The development will contain an on-site sanitary sewage collection system and private well. The stormwater from the project will be adequately managed by the proposed system.

(i) The Planning Board finds that this proposal does conform with the intent of the ordinance as it pertains to the zoning district for the reasons as stated above.

Waivers Requested:

On a motion made by Norman Czech and seconded by Joseph Slowick, Jr., the following waivers were granted by a vote of **5-0**.

1. Full Property Survey - §171.29, D, 2.
2. Paving Material - §171.95. B.c.3
3. Paving Surface – §171.95.D.2.b
4. Landscaping Plan – §171.29,D, 4, VII
5. Lighting Plan – §171.95,D, 1,1:B

On a motion made by Joseph Slowick, Jr., seconded by Thomas Skowyra and voted **5-0**, the Planning Board finds that the application does meet the criteria as set forth in Section 171.28 – Special Permits of the Palmer Zoning Ordinance and Section 171.29 – Site Plan Review/Approval Process of the Palmer Zoning Ordinance for reasons noted above.

The approvals granted are subject to the following Conditions of Approval:

CONDITIONS OF APPROVAL

1. Prior to the commencement of any site work the applicant shall submit a set of updated Site Plans to the Planning Board for review and approval. Said plans shall contain final details of the drainage system, including stormceptor design and piping. Said Plan shall also include reconfiguration of trailhead parking parallel to Route 32 (see letter dated January 10, 2008 amending to West Ware Road) and detail of mechanical barriers necessary to prohibit public access to the site's driveway entrance. If the mechanical means are found to not be adequate, further mitigation shall be required and may include relocation of the trailhead and parking areas.

2. Prior to the commencement of any site work, written approval from the DPW Director granting permission to connect to the existing municipal storm drain located on Route 32 (see letter dated January 10, 2008 amending to West Ware Road), south of the site's access road, shall be provided by the applicant.

3. Prior to the commencement of any site work, the applicant shall provide written approval to discharge stormwater from the project site onto private property.

4. All drainage is to be controlled and managed within the proposed stormwater system.

5. The use, location, and construction of the proposed buildings, and all improvements shall be in conformance with the plans submitted. Any deviations from or modifications of the plan shall require further approval from the Planning Board.

6. All parking areas are to be provided as shown on the approved plan

7. Any exterior lighting of or from the buildings, and all lighting erected within the development shall be subdued, shaded from the view of abutters and shall not be directed so as to extend above ground level onto the property of abutters.

8. Adequate trash containment and removal is to be provided by the owner.

9. All vegetation located outside the "limit of work" area shall not be removed and shall remain in its existing natural state.

10. Within 90 days of the commencement of operation, the applicant shall record actual noise readings (receptors shall have the same location as in the original study), to validate the project model and confirm compliance with state regulations. New information shall be submitted to the Board for professional review, at the applicant's expense, and proper mitigation measures shall be implemented, if needed.

11. Within the first six months of operation, the applicant shall submit a Hazmat Manual and Training Guidelines to the Planning Board for review and approval.

12. This facility shall be operated as a private club, and shall not be accessible to the general public. If at anytime spectators are considered to attend any events, a new special permit shall be required.

13. Prior to beginning construction of the facility, the applicant shall fulfill all safety recommendations as stated in the September 12, 2007 Vanasse, Hangen and Brustlin Inc review, specifically that reflective pavement markings, roadway lighting, and reflective curve warning signs be installed along Route 32 (see letter dated January 10, 2008 amending to West Ware Road). In addition, clear sight lines shall be maintained along the site's frontage by clearing and grading, and regular pruning of roadway vegetation to prohibit plantings taller than 3.5'.

14. "High sound events" shall be limited to ten (10) weekends per calendar year. All events shall have a maximum of one thousand (1,000) attendees and shall have no more than forty (40) cars racing simultaneously.

15. Fueling and maintenance shall be limited to the pit and paddock areas, and the fueling facility shall be properly located, fenced, and inaccessible to attendees.

16. This special permit is not transferable without prior consent of the Planning Board.

17. A permit must be obtained for any signs to be erected and the location of the sign shall be shown on the revised plans, which shall be submitted to the Planning Board.

18. All state and local building codes and zoning ordinances are to be adhered to.

19. A set of As-built plans shall be submitted to the Planning Board office. The As-built drawings shall show the location of all improvements including utilities.

20. Project completion date: December 30, 2009.

CONCLUSION:

Chapter 40A, M.G.L. grants towns the authority to enact zoning by-laws for the purpose of promoting the health, safety and overall aesthetic and scenic quality of life for the inhabitants of the Town. The purpose of zoning is also to conserve natural resources and prevent blight and

pollution of the environment, and to encourage the most appropriate uses in the town. This Board seeks to preserve and enhance appropriate uses throughout the town. The Board has reviewed this application with that in mind as well as the criteria set forth in our zoning ordinance and regulations.

The Board did find that this proposal reasonably met the criteria of the Town of Palmer Zoning Ordinance. Throughout the review process, it has been demonstrated that this use is consistent with and will not derogate from the surrounding area. The Board did find that this project could be approved without substantially derogating from the integrity and character of the zoning district wherein the property is situated and for the reasons set forth in this document and by the votes indicated herein voted to grant the special permit and site plan approval requested.

The decision of the Planning Board, together with a detailed record of its proceedings stating the reasons for the decision shall be filed within 14 days after hearing in the office of the Town Clerk. Date of decision filed with city (town) Clerk; December 17, 2007.

IMPORTANT: Any appeal from the decision of the Planning Board can be made only to the Court and must be filed pursuant to Section 17, Chapter 40A (MGL) as amended, and must be filed within twenty (20) days after the date of filing of the decision with the Town Clerk.

THE PALMER PLANNING BOARD

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CLERK