

TOWN OF MARBLETOWN PZC SUBCOMMITTEE MINUTES

Date: June 21, 2018
 Rondout Municipal Center, 1915-1925 Lucas Avenue
 Meeting Room M-1
 Cottekill, New York 12419

Dan Proctor (Chairman)	Present
Will Husta (Vice-Chairman)	Present
Daisy Foote	Present
Daniel Giessinger	Present
David Hodes	Present
Gary Johnson	Present
Harry Hansen	Present
Michael Wilcock	Present
Nancy Gagliardi	Present
Sally Dolan	Present
Staci Sindt	Absent
Tracey Dewart	Present
John Cirone	Present

Also present was Marbletown Attorney Tracy Kellogg.

Chairman Dan Proctor asked Subcommittee members to be mindful of Roberts Rules of Order and that each be recognized by the Chairman before speaking and called the meeting to order with the Pledge of Allegiance at 6:04 p.m. The Draft Meeting Minutes of June 7, 2018 had been distributed. Member Tracy Dewalt requested that further detail be given to comments and the approval of Minutes was tabled pending further review.

Chairman Proctor directed attention to the slides (Powerpoint annexed hereto and made a part hereof) and commenced review of the Agenda, what had transpired to date and what the next steps were to accomplish the task assigned. Michael Wilcock raised question as to the unanimous agreement of the Committee relative to the need to regulate special events. Chairman Proctor responded that the Sub-Committee was polled on the question of whether to regulate Special Event Venues in Marbletown and each member had responded affirmatively.

Regarding the level of interest within the community to pursue special events, Nancy Gagliardi requested that a list (the issue of need) for events with specificity as to whether they were commercial or private be provided for reference. ZBA/PZC Secretary was compiling list based upon requests received. Chairman Proctor expressed that it was clear from trend Statewide, there was an increasing demand for commercial venues activity and that mitigation strategies should

be instituted to regulate events if they were to occur. Staci Sindt noted that being reactive was a trend of the past and Sub-committee was formed to be proactive. Vice-Chairman Husta noted the proposed legislation had restrictions that could be put into place that would be compatible with nearby residences and would be a step-up from regulations in the past. Discussion kept recurring among members regarding where special events would be allowed versus the need to regulate special events and the disagreement among members as to which should come first – designation of locations versus drafting legislation. Chairman Proctor indicated that the question of where to regulate special event venues or not had been resolved at the previous meeting with a unanimous affirmative vote. The audience reacted strongly to this statement indicating that they disagreed with the previous meetings decision which prompted a debate within the committee on the question.. Gary Johnson spoke up to state that he felt it would be necessary to control what went on in an event space that would have been located very near to a residential area and this concern was important. He indicated that it was not whether event spaces are needed (they already exist), but what controls are necessary.

Chairman Proctor called upon Doug Adams to speak to his memorandum he had generated (which is annexed hereto and made a part hereof) that addressed the economic disadvantages of noise in a community. Extensive discussion thereafter ensued in which members of the public and members of the Sub-committee addressed issues of noise, mitigation and ways in which it could be monitored as well as the effect of noise volume and property values. Chairman Proctor called upon Vice-Chairman Will Husta to opine as to what measures had been taken regarding requests for special venues and what steps were taken to mitigate impact of noise on neighbors in the past. Vice-Chair Husta indicated that much of the information that could be taken from experiences gleaned from prior events venues could be built upon and incorporated into the proposed new legislation. Matter of band (music) location, size of property, type of structure housing event, weather, accountability for event and surveying neighbors all were items that came into the discussion.

Chairman Proctor stated that the question of noise – at what volume does sound become noise and how best to measure and control volume/noise – was a critical set of questions and that he believed that if the committee couldn't resolve that question then special events shouldn't be considered in any area but the most remote. He further opined that the questions on sound should be addressed by professionals and the town should seek out sound consultants for a professional opinion. He suggested that a solution to regulating noise should be tabled until sound professionals could be found, and their recommendations considered.

Chairman Proctor then asked the Sub-committee for feedback as to opinions relative event venues and lot size. He indicated that the question now on the table before the Board was how locations for events venues should be selected. Sally Dolan stated that size wasn't a concern as much as location but that properties with established services rather than vacant parcels should be considered for special event venues. She also stated an opinion that 25-50 acres would be acceptable. John Cirone had no comment about the actual lot size. Tracy Dewalt preferred to look at commercial locations and identify where the events could take place and that maybe the

Town was not ready to recognize events venues in residential areas. Michael Wilcock shared Tracy's opinion. Nancy Gagliardi echoed Tracy's viewpoint relative as to what areas were going to allow venues and the effect of neighbors, as well as the current land use and the size of the parcel. She was concerned about not vetting issue and bringing in experts. Daniel Giessinger believed there should be a minimum lot size as well as types of structures in which events would be allowed. Harry Hansen and Gary Johnson agreed with minimum lot size, with Mr. Johnson adding that it should be integrated with rules yet to be determined and that lots not meeting size requirement should not be disqualified merely on that basis and referenced a current Rhinebeck regulation. Dave Hodes stated sound played a larger part rather than one set minimum lot size. Daisy Foote stated that she believed that special event venues should be held only on commercial properties. She felt that the distinction on lot size was difficult for her to make at the time. When pressed, she stated that she would be opposed to venues in residential districts because of the noise and amount of disruptions in the neighborhood. Stacy Sindt agreed that each parcel of land was different, so it would be hard-pressed to make determination solely on lot size.

Chairman Proctor directed attention back to the list of public concerns that should be taken into consideration when drafting recommendations relative to the proposed legislation.

The matter of venues currently operating under Special Use Permits within the Town was raised and Attorney Tracy Kellogg provided a general answer that they were to be considered pre-existing non-conforming uses if the proposed legislation is put into place. There were guidelines put into place by the ZBA and they are currently operating within those guidelines.

Jodi LoMarco of the Bluestone Press noted that New Beginnings SUP was to be reviewed annually but was not subject to renewal each year. The Chairman pointed out that this would not be the case if the proposed legislation was adopted. The legislation under review proposed a requirement that the applicant would have to renew the permit annually.

Chairman Proctor noted that the time allotted for the meeting (2 hours) was about to expire and he believed that meetings should be started and terminated punctually. He also thanked the Subcommittee and the audience for their patience and apologized for his interruptions, indicating his goal was only to keep the discussion focused to the issues on the table.

Michael Wilcock and Gary Johnson indicated they would not be able to attend the July 12, 2018 meeting. Chairman Proctor indicated that he would query the board on their availability for the next meeting. If too many members were not able to attend the July 12th meeting, he would schedule the next meeting for July 19th.

The meeting ended at 8:00 p.m.

Marbletown Planning & Zoning Subcommittee

SPECIAL EVENTS VENUE LEGISLATION REVIEW

Presentation Author: Dan Proctor

Sub Committee Agenda

6 PM June 21, 2018

Room M1 Marbletown Government Center

Agenda

- ▶ Opening Statement By Chairperson
- ▶ Review From Last Mtg
 - ▶ 7 Step Process Review and Results
- ▶ Decision Review
- ▶ Next Steps
 - ▶ Review laws from other communities (see handouts from Maggie)
- ▶ Review Handouts from Doug Adams
- ▶ Identify citizen concerns and create mitigations
- ▶ Generate legislative language to add to draft local law

Tasks:

1. Determine if the town supports the addition of Special Event Venue regulations in Zoning Code;
2. Provide a detailed review of the draft legislation and generate recommendations to improve the draft to the Town board.

7 Steps to Accomplish Tasks Assigned

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8/21/2018

1. Determine why we as a community should consider such legislation (beyond the interests of the individual applicant).
 1. Does it fit within the guidance of the Marbletown strategic plan? Yes.
 2. Does it fit within the agricultural protection planning guidance? Yes.

7 Steps to Accomplish Tasks Assigned (Continued)

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8/21/2018

3. Does it fit within our environmental guidelines?
Yes.
4. Are there economic advantages of allowing such legislation? Yes, (but there are also a potential for disadvantages if not regulated)
5. Is this type of land use regulation supported by state land use trends? Yes.
 1. Are there lessons learned from communities that have passed similar legislation? Yes.

7 Steps to Accomplish Tasks Assigned (Continued)

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8/21/2018

3. What are some alternative uses of the land considered for special events venue legislation?
4. What is the level of interest within our community for pursuing special events venue regulation?
 1. Can't answer definitively, but Planning Department receives 1 to 2 calls a week from individuals interested in holding special events on their property
2. Identify the benefits of enacting such legislation
3. Identify the disadvantages of enacting such legislation

7 Steps to Accomplish Tasks Assigned (Continued)

6

8/21/2018

4. Identify and list for each disadvantage mitigation strategies - if any
5. Decision on task one:
 1. Should the community allow the regulation of Special Event Venues? *(Determine if the Committee supports the addition of Special Event Venue regulations in Zoning Code).* Yes.

Subcommittee Charter. Tasks:

- ✓ Determine if the town supports the addition of Special Event Venue regulations in Zoning Code;
2. Provide a detailed review of the draft legislation and generate recommendations to improve the draft to the Town board.

7 Steps to Accomplish Tasks Assigned (Continued)

7

8/21/2018

6. Examine the draft legislation and recommend (by majority vote) changes to the draft.
 1. Compile a list of community concerns and identify mitigation strategies
 2. Ensure draft legislation mitigates all concerns identified by citizens
7. Write and forward report and recommendations to the Town Board

Special Event Venue Regulation

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Public Concern	Requirement	Mitigation Recommendations
Noise	Identify Noise Standards and monitor	<ul style="list-style-type: none"> Set noise standards and method of enforcement. Ensure sound is measured from several locations and monitored during the event. Involve adjacent property owners.
Event Venue	Large enough to support fire/safety codes and minimize neighbor noise/view impact of event.	<ul style="list-style-type: none"> Establish minimal acreage and buffers (25 acres and 250' buffers)? Determine venue size based on based on sound studies and land/infrastructure surveys?
Tent and Floor/Band layout placed anywhere	Need specificity in site plan	<ul style="list-style-type: none"> Require specific location of tent and approved floor plan based on noise test and site visit by ZBA, CEO Property owner and any other relevant agencies. Require all events to be contained by closed shelters?

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How do we determine noise threshold s?

Special Event Venue Regulation (continued)

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Public Concern	Requirement	Mitigation Recommendations
Town doesn't care about number of vehicles at site	Develop limitations and enforce	<ul style="list-style-type: none">Require applicant to identify expected number of vehicles intended to use the property at one time and collectively (staff & attendees)Establish parking formulas (2.5 guests = 1 space
Town is liable	Town is not liable for issuing the permit.	The applicant must provide a certificate of general liability insurance

Special Event Venue Regulation (continued)

Public Concern	Requirement	Mitigation Recommendations
Site plan and review process not detailed enough	Increase detail	<ul style="list-style-type: none">• Identifying all structures and operations of the event• Site plan must have adequate parking, ingress, egress, traffic control and sanitary facilities.• Site survey required by BOH, Fire and Town officials• Site must meet Zoning Density Control Schedule requirements and be approved by CEO

Special Event Venue Regulation (continued)

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Public Concern	Requirement	Mitigation Recommendations
Public not informed of details and schedule of events	Notify public	Require notification to neighbors + emerg services 10 days prior to event. Anybody else?
Hours of operation too long and too late in evening	Limit hours of operation.	<ul style="list-style-type: none"> Limit to 5 hrs ending at 10 PM. (how about set up and take down? When?) Event must be held on acceptable dates/times
Multiple events in one area	Develop guidelines	Limit number of events in a certain area or in town
		How many?

Special Event Venue Regulation (Continued)

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Public Concern	Requirement	Mitigation Recommendations
Traffic Congestion	Limit congestion	No on-street parking. Require applicant to provide for parking and traffic control. Can use contracted parking.
Pedestrian Safety along roads adjacent to event space	Protect	Applicant must provide for pedestrian safety if potential for using local roads for foot traffic.
Too many attendees	Limit attendees	Limit attendees by the location of event and size of property and surrounding roads. Develop standards which can be used for other events (people per acre)
Permit will convey with the land	Place time limit on permit	Make renewable every year based on previous year's successes/failures

Special Event Venue Regulation (continued)

8/21/2018

Public Concern	Requirement	Mitigation Recommendations
Owner/operator responsibility (not well defined; no accountability or single point of conflict)	Ensure accountability	<ul style="list-style-type: none"> • Develop a check list of owner responsibilities. • Event must have an onsite manager accessible and accountable • Id triggers to pull permit.
Town not responsive to citizen's complaints	Improve requirements for permit and town oversight	Event must have an onsite manager accessible and accountable

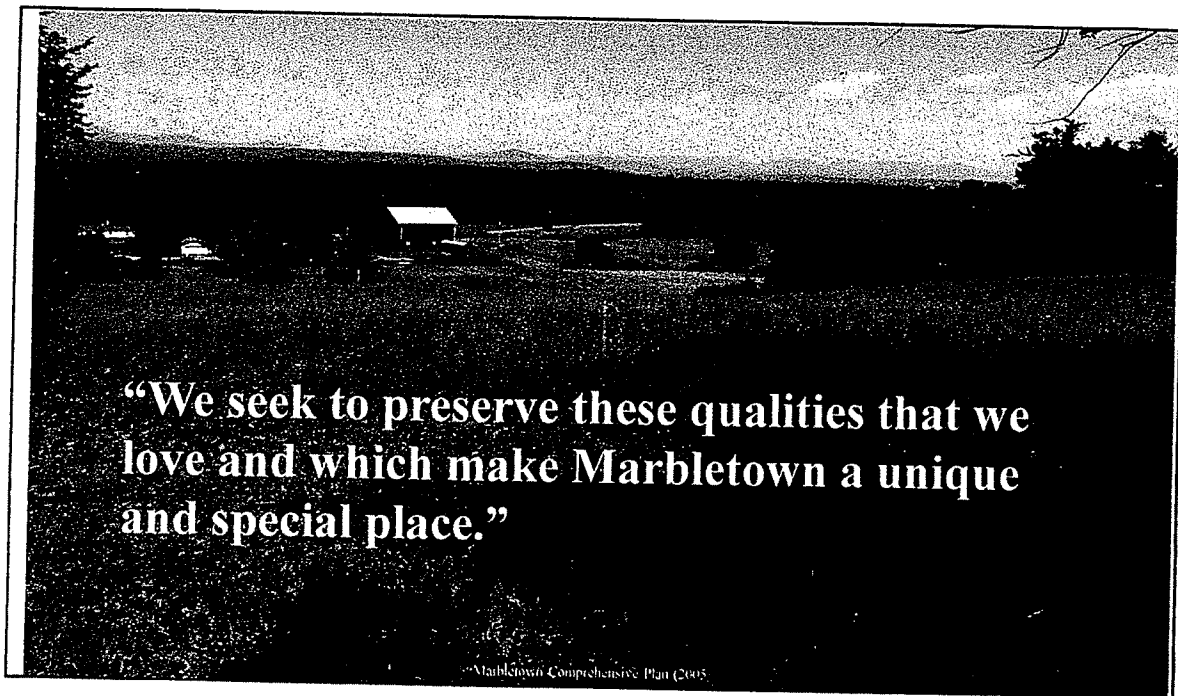
Special Event Venue Regulation (Continued)

Public Concern	Requirement	Mitigation Recommendations
Multiple events in one area	Develop guidelines	Limit number of events in a certain area or in town

Next Meeting: 6 PM July 12, 2018 Same Location

Tentative Agenda for Next Meeting

- Update draft legislation with language that reflects committee's mitigation strategies



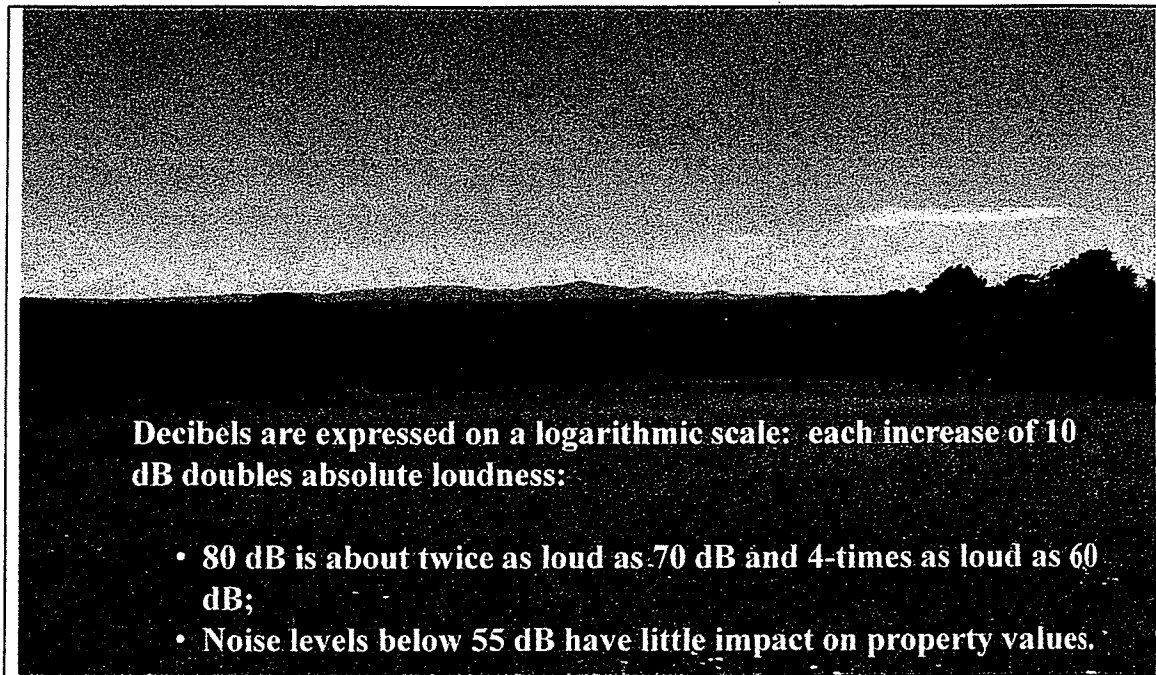
“We seek to preserve these qualities that we love and which make Marbletown a unique and special place.”

It remains curious why the Town would even consider such a law that clearly undermines many of the reasons why people buy houses in the area. We have now come full circle, perhaps with a little more insight into the issue than before we started.

There is clearly an economic argument against the proposal at hand. Existing home values would fall dramatically after the first season of outdoor venues. New home construction would simply cease within earshot of such enclaves. The Town's budget revenue would come under pressure over time as property values begin their slide. Similarly, the Rondout Valley Central School District, already struggling with the 2% cap would see further pressure on its budget with falling property values in the greater community.

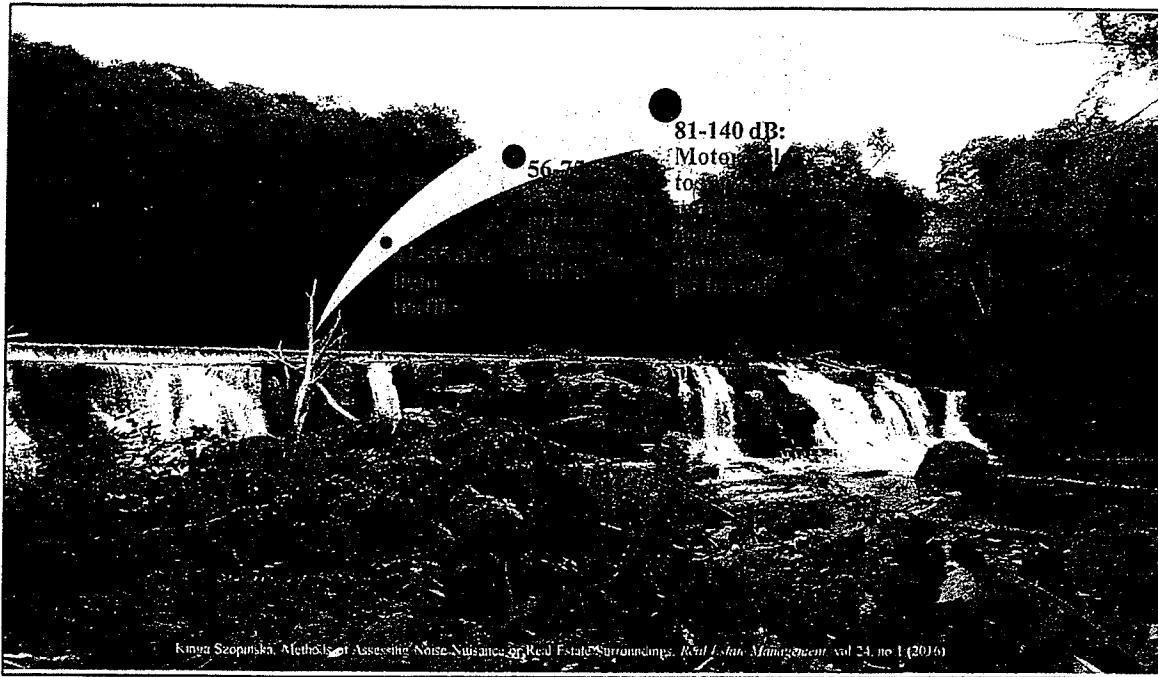
Carried to its logical conclusion, an open air events venue in residential areas poses clear downside financial and political risks to both the Town and the Rondout Valley School District that have not to date been neither anticipated, let alone appreciated.

Property owners on the downside of this equation will vote in droves in a effort to reverse any move forward position on open air events venue that sees the light of day. The simple question to ask: Is this a value proposition for the Town, or for the few?



Decibels (dB) are the usual unit of measure when describing sound. The literature is replete with studies on transportation noise—planes, trains, cars, busses, trucks, as well as industrial and infrastructural noise that bombard every day living. Most studies define the threshold between tolerable sound and outsized noise with a measure of 55 dB. Beyond this threshold, sustained noise levels become highly problematic to sensory expectations of most people.

The interesting point of this slide is that dBs are measured on a logarithmic rather than a linear scale. Ambient noise levels above the national average of 55 dB increase twofold for each uptick of 10 dB units. A measure of 70 dB is twice the absolute noise level than a measure of 60 dB; 80 dB is twice the absolute level of noise as a reading of 70 dB and 4-times the level of noise as a reading of 60 dB. Importantly, noise levels below the national average of 55 dB are considered normal for most living conditions. Existing and new home property values are largely reflective of this national average with home prices exhibiting little impact to the downside from such low ambient noise levels. Conversely, low ambient levels of noise are more apt to attract premium rather than discount pricing in most housing markets across the country. Given the existence of high noise carve-outs in Marbletown, low ambient noise enclaves would come with outsized price premiums, depending entirely on the pervasiveness of the outdoor venues across the Marbletown market. The greater the pervasiveness of these projected outdoor venues, the higher the premium for low-noise sections of town. Here, a delicate balance emerges between high and low-noise enclaves. Given the physical dimensions of Marbletown and the range of sound travel, it would not be long before high-noise enclaves overwhelm competing low-noise enclaves to the ruin of Marbletown's pastoral qualities as we currently know it.

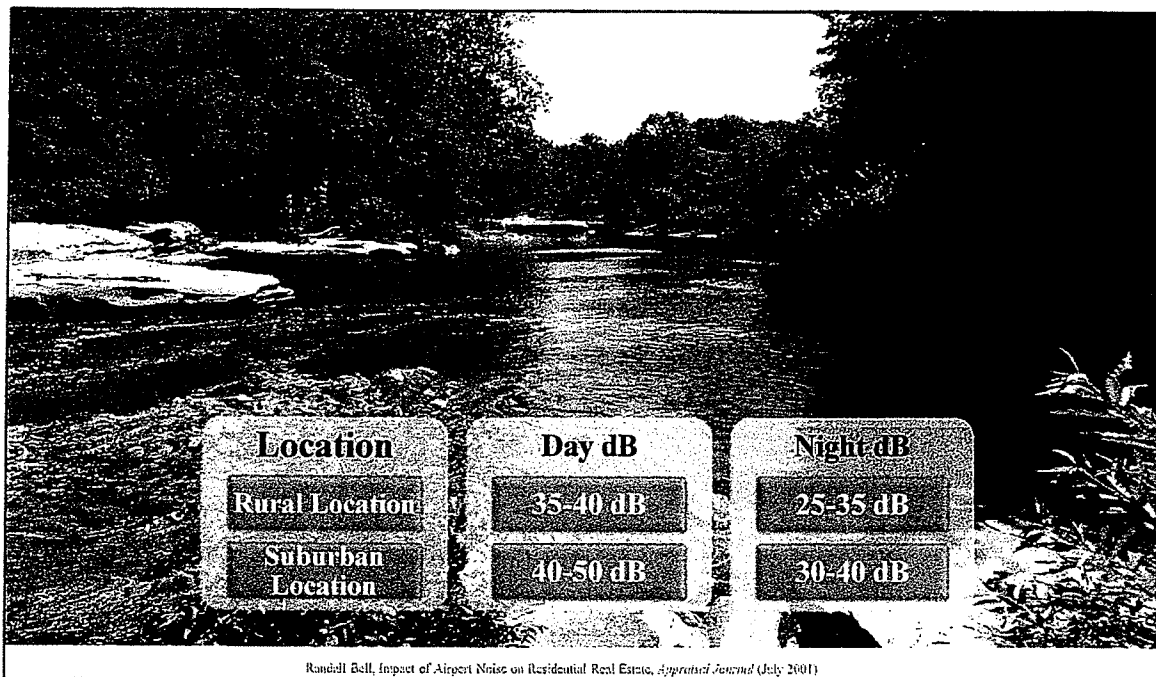


Sound levels with dB measures from 0 to 20 dB capture the rustling of leaves, one's heartbeat, a low whisper. Levels at 20 dB to 45 dB largely measure rural, country roads with little traffic. A sound level of 35 dB or less is optimal for sleep. A sound level of less than 50 dB is ideal for most work. As we have seen, an ambient sound level of 55 dB captures a national noise average, below which remains optimal for most activities. Above this threshold is where our story now begins.

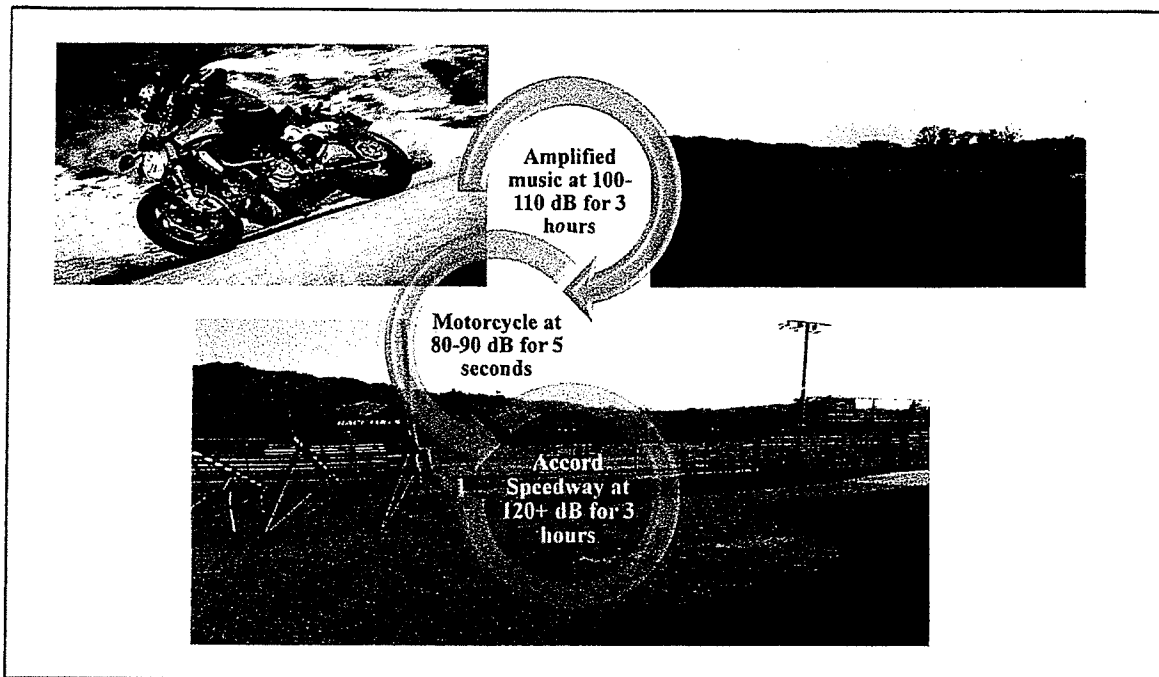
A sound level of 55 to 60 dB is best represented by the din of overlapping conversation in most restaurant environments. Freeway and thruway traffic is at the upper end of this noise category at 65 to 70 dB, a level where now property values begin to succumb to market discounts on noise. A noise level of 80 to 100 dB is now very loud, where motorcycle and heavy truck traffic is prevalent. At the upper end of the noise category, the roar of a helicopter at 100 feet is center stage.

Above a sound level of 100 dB we get into the uncomfortably loud noise category that includes amplified music, an overhead clap of thunder and the roar of jet engines in takeoff.

Here in Marbletown, the engine roar of off-road racing at the Accord Speedway carries similar dB noise levels.



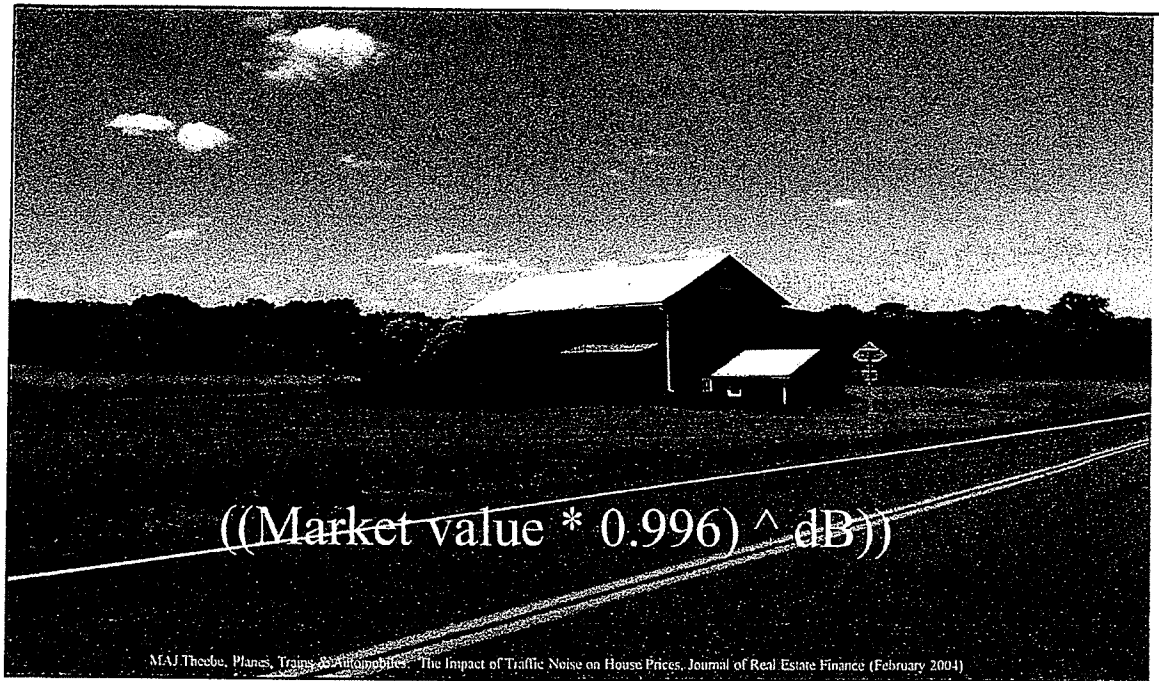
The tolerance threshold for noise, unsurprisingly, differs in rural versus suburban settings. In a rural setting, a day-time dB range falling between 35 and 40 dB and a night-time range of 25 to 35 dB are in accord with the sentiment of most rural residents. Suburban noise tolerance levels are slightly higher with a day-time range of 40 to 50 dB and a night-time range of 30 to 40 dB.



Given most residents' tolerance levels to unwanted noise irrespective to location, the sustained noise level of 100 to 110 dB is more than double the linear rural tolerance threshold and almost 7-times the absolute noise level on a logarithmic scale.

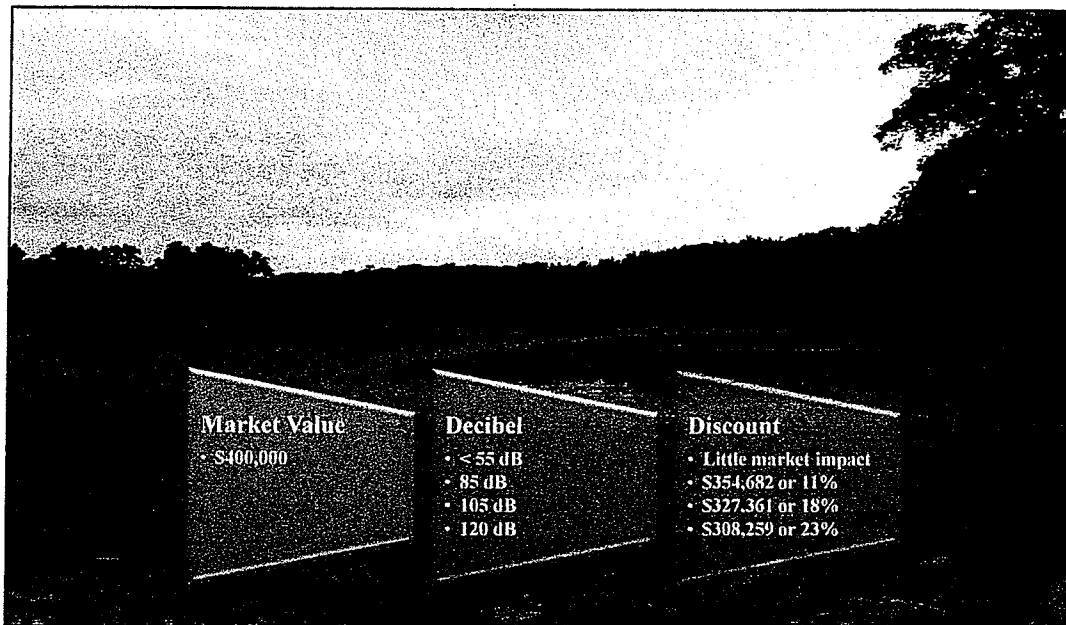
The impact of such noise levels of property values is by no means lost on housing markets. As we saw earlier, would-be existing and new home buyers are prepared to pay premiums for lower ambient noise environments, while homes in high noise environments command stiff discounts to attract would-be buyers proportionate to local dB levels in any given market.

New home construction would simply dry up in identified high-noise enclaves.



The standard equation for determining market discounts for existing homes selling in high ambient noise environments uses a 0.4% discount applied to the market value of a property which then applies a multiple number of dB units above the 55 dB threshold. The calculations of course vary from market to market as home purchases remain arm's length transactions and different markets have myriad factors governing the clearing price on property in addition to noise.

New home construction activity in a known high-noise enclave is more predictable. Few builders or financial institutions would commit capital to these areas as margins would strongly dictate building elsewhere.



Using the formula in the last slide, a \$400,000 existing home in an ambient noise environment of less than the 55 dB threshold will likely not be discounted due to unwanted noise. On the contrary, low ambient noise environments often command price premiums. At 60 dB, the market discount begins to kick in. At a noise level of 85 dB, that discount produces a selling price in the range of \$354,600, or a discount of just over 11%. This would be a home too close to the thruway or any other major arterial and/or industrial facility. This level is 6-times the national noise threshold of 55 dB.

At 100 dB, the market implied discount jumps to 18% or in the range of \$327,000. This is the level of ambient noise likely to be produced by outdoor amplified music venues for the duration of the typical outdoor months of late spring, summer and early fall. With a proposed summer-fall season of 10 venues per applicant for the first year, property values of homeowners in earshot will likely see the market value—though not their assessed property values for tax purposes—decline.

The spread between a market valuation and a tax assessment poses an interesting dilemma. If a high ambient noise environment reduces a prospective asking price in a potential sale, comparable properties would be expected to suffer similar reductions in market valuations in any future sales. Tax assessments would have to fall proportionately, producing a negative ripple through the Town's revenue stream over time. Real property taxes comprise 45% of the Town's budget through the end of 2017, making the Town's budget highly sensitive to downward pressure on property values in the community. The NYS mortgage tax revenue stream would also experience downward pressure as mortgage values decline with property valuations being adjusted to the downside. The NYS mortgage tax came to 10% of the Town's total revenue over the same period.

Another consideration for decision makers is the impact on Rondout Valley Central School District, whose budget derives 60% of its annual revenue from property taxes. Declining property values in Marletown would apply upward pressure on the school levy to make up revenue shortfalls.

While the final market price for a home situated within earshot of an open air musical venue remains an arm's length transaction between a buyer and a seller, a known outsized noise factor becomes material to the sale, pushing the asking sale price clearly to the downside.

New home construction would simply avoid such enclaves.